



Leveraging Federal IV-E Funding to Support Child and Parent Representation

ABA Center on Children and the Law

National Council of Juvenile and Family Court Judges

Quick Overview

This alert highlights:

- ✓ the importance of this new source of federal funding,
- ✓ requirements for accessing IV-E funding,
- ✓ who is covered by this funding,
- ✓ judges' roles in leveraging IV-E funding for children's and parent's counsel, and
- ✓ practical considerations for accessing IV-E funding to improve parent and child representation.

A new federal funding source for legal representation of parents and children in child welfare cases aims to improve representation quality. A December 2018 federal policy change allows states to seek federal reimbursement under Title IV-E of the Social Security Act for the cost of providing legal representation to eligible children and parents.¹ Before the policy change, these funds were only available for legal representation provided to child welfare agencies. In April 2020, the U.S. Children's Bureau clarified that federal IV-E matching funds may also be claimed for multidisciplinary team members who support legal representation provided to children and parents.²

Why is IV-E funding for children's and parents' counsel important?

The purpose of the new IV-E funding for children's and parents' counsel is to invest in improving legal representation for children and parents.³ High-quality legal representation for children and parents has many benefits, among them:

- promotes timely family reunifications and use of kinship care,
- ensures a well-functioning child welfare system,
- gives judges the information they need to make informed decisions in court cases involving children and families,
- ensures parties' rights are protected, their voices are heard in court, and the legal system treats them fairly,
- promotes greater understanding of the court process by parties,
- saves the system money, and
- produces positive case outcomes for parties by increasing their presence and participation in court.⁴

(See *Judge's Action Alert: Ensuring High-Quality Legal Representation for Parents and Children*).

Leveraging IV-E funding can help promote high-quality legal representation of children and parents in child welfare proceedings in your jurisdiction. A recent assessment⁵ of the impact of funding changes on the quality of legal representation in California found changes in funding for attorneys directly affected factors that influence representation quality, such as attorney recruitment and retention, multidisciplinary legal practice, caseloads, workload per case, and case delays. A landmark 2019

Child Welfare Policy Manual, 8.1B¹

Question 30

Allows the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home.

Question 31

Allows a title IV-E agency that has an agreement with a tribe or any other public agency under section 472(a)(2)(B)(ii) of the Act to claim title IV-E administrative costs for legal representation provided by tribal or public agency attorneys under the agreement in all stages of foster care related legal proceedings.

Question 32

Allows a title IV-E agency to claim title IV-E administrative costs of paralegals, investigators, peer partners or social workers that support an attorney providing independent legal representation to a child who is a candidate for title IV-E foster care or is in title IV-E foster care, and his/her parent, to prepare for and participate in all stages of foster care legal proceedings, and for office support staff and overhead expenses.

¹See U.S. Dep't of Health & Human Servs., Admin. For Children & Families, Children's Bureau. [Child Welfare Policy Manual 8.1B # 30-32. TITLE IV-E, Administrative Functions/Costs, Allowable Costs—Foster Care Maintenance Payments Program](#), December 12, 2019.

study⁶ found providing parents multidisciplinary representation in child welfare proceedings significantly improved case outcomes Adequately funding legal representation can positively influence these and other factors that may be preventing attorneys from representing clients at the highest level.

How much funding is available for parents' and children's representation?

States can now seek administrative cost reimbursement from the federal government to pay half the cost of attorneys for children who are eligible for Title IV-E foster care benefits, and half the cost for attorneys for their parents. The formula for calculating the IV-E reimbursement rate is specific to representation of IV-E eligible parents and children. States can use their "penetration rate," which is the percentage of children who are IV-E eligible compared to the total foster care population in the state. The amount of money the state is paying for representation is multiplied by the penetration rate then multiplied by 50%.⁷ (For detailed guidance on calculating the reimbursement rate, see Mark Hardin's [article](#).)

What are the requirements for accessing this funding?

For a court or legal organization to receive funds, it must enter into an agreement with a state child welfare agency that administers the IV-E plan and receives federal matching funds. The agreement would allow the agency to claim and receive the funds from the federal government and then pass them through to the court or legal organization providing representation to IV-E eligible children or their parents. Agreements would require courts or legal organizations requesting the funds to document attorneys' costs in a way that meets federal reimbursement requirements.⁸

Who is covered by the funding?

The funding covers *legal representation* for children who are IV-E eligible and their parents,⁹ including:

- Lawyers for parents
- Lawyers for children
- Attorney guardians ad litem (GALs)

Note: When an Indian tribe is a IV-E participating tribe, it can draw down IV-E funding for the representation of Indian children and parents just like a state can.

The funding also covers individuals who support attorneys providing independent legal representation to IV-E eligible children and their parents,¹⁰ including:

- Paralegals
- Investigators
- Peer mentors
- Social workers

The funding does not cover:

- Court appointed special advocates (CASAs)
- Nonlawyer volunteer GALs

Key Resources

Federal policy

U.S. Dep't of Health & Human Servs., Admin. For Children & Families, Children's Bureau.

[8.1B TITLE IV-E, Administrative Functions/Costs, Allowable Costs - Foster Care Maintenance Payments Program \(Questions 30-32\)](#), December 12, 2019.

Children's Bureau, [IM-17-02: High Quality Legal Representation for All Parties in Child Welfare Proceedings](#), January 17, 2017.

Interpretative guidance

Hardin, Mark. "[Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview](#)." *Child Law Practice Today*, January 30, 2019.

Family Justice Initiative. Webinar: [Federal IV-E Reimbursement for High-Quality Legal Representation for Children and Parents](#).

Implementation resources

FAQs and MOUs from several states: [FJI federal funding website page](#)

- Representation for kin caregivers

What is my role? How can I help leverage IV-E funding for children's and parents' counsel in my jurisdiction?

Think creatively about how to improve quality legal representation. The purpose of the federal funding is to invest in high-quality representation that leads to improved outcomes for children and parents in the child welfare system. This provides an opportunity for each state to define what high-quality representation of children and parents means and to leverage the funding to pursue activities that support that vision. As a judge, you can lead your stakeholders in determining the best ways to invest the federal resources in your jurisdiction. Examples of ways states might use the funding to promote high-quality representation include:

- expanding multidisciplinary legal representation (the costs of the full team can be used to claim IV-E funding);
- implementing pre-removal legal representation for parents; and
- in some instances increasing salaries for children's or parent's attorneys.¹¹

Partner with IV-E agencies on the logistics of drawing down IV-E dollars. If your court contracts with attorneys to represent children or parents in child welfare proceedings, accessing IV-E funding requires entering into an agreement with the state child welfare agency that receives IV-E administrative funds. The agreement can be in the form of a Memorandum of Understanding (MOU), interagency agreement, or other agreement in which the court agrees to document the costs of providing legal representation for parents and children in a way that meets the requirements of the IV-E state child welfare agency.¹² Your court's administration should work with the state child welfare agency that receives IV-E funds to draw up the agreement and ensure it meets state and federal requirements for claiming the funds.¹³ State child welfare IV-E agencies know how to pull down IV-E dollars and can look to the reimbursement process for agency representation for guidance when seeking reimbursement for representing children and parents.¹⁴

Encourage legal representation programs that provide parent and child representation to seek IV-E funding. If children and parents are represented by attorneys through a legal representation program or institutional provider, make sure the programs are aware of the availability of IV-E funds for parent and child representation. The program would similarly need to reach an agreement with the state child welfare agency that receives IV-E funds and develop a process that meets federal requirements for receiving funds.

What are some practical considerations related to accessing IV-E funding?

IV-E is an open entitlement reimbursement plan. This means the funding for children's and parents' representation does not take away from money the IV-E agency is using for another purpose. For any IV-E eligible service, the federal government will provide reimbursement at

Funding for this report was provided by the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention through Award #2018-CT-BX-K001 to the National Council of Juvenile and Family Court Judges. Points of view or opinions expressed are those of the report contributors and do not necessarily represent the official position or policies of the funder or the National Council of Juvenile and Family Court Judges.

50% multiplied by the state's penetration rate (the percent of children who are IV-E eligible in comparison to the total foster care population) as long as the state provides a match.¹⁵

State or county dollars used to pay for parent's and children's attorneys can be used as the state match when seeking IV-E reimbursement for legal representation. Almost every state pays for child or parent representation through public money. This may be state money, county money, or state money channeled through the judicial branch, for example. In these states, state and county dollars spent on parent and child representation may be used as a match to draw down the federal IV-E funding for legal representation. In states that do not pay for parent or child representation, this new federal funding opportunity may prompt them to start to do so.¹⁶

IV-E funding applies to all child and parent representation models.

This new source of federal funding covers parents' and children's attorneys regardless of the representation model. Whether attorneys work for institutional providers, legal representation offices, or are panel or solo attorneys appointed by the court, IV-E reimbursement may be sought to improve representation.¹⁷

Endnotes

1. U.S. Dep't of Health & Human Servs., Admin. For Children & Families, Children's Bureau. [Child Welfare Policy Manual 8.1B #30-32 TITLE IV-E, Administrative Functions/Costs, Allowable Costs - Foster Care Maintenance Payments Program](#), December 12, 2019.
2. Child Welfare Policy Manual 8.1B #32.
3. Family Justice Initiative Webinar: [Federal IV-E Reimbursement for High-Quality Legal Representation for Children and Parents](#), 2019.
4. See Children's Bureau, [IM-17-02: High Quality Legal Representation for All Parties in Child Welfare Proceedings](#), January 17, 2017.
5. ABA Center on Children and the Law. *Effects of Funding Changes on Legal Representation Quality in California Dependency Courts* (2020).
6. Guggenheim, Martin & Susan Jacobs. "[Providing Parents Multidisciplinary Legal Representation Significantly Reduces Children's Time in Foster Care.](#)" *Child Law Practice Today*, June 4, 2019.
7. Hardin, Mark. "[Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview.](#)" *Child Law Practice Today*, January 30, 2019.
8. Ibid.
9. Child Welfare Policy Manual 8.1B #30-32.
10. Ibid., #32.
11. Family Justice Initiative Webinar, 2019.
12. The Family Justice Initiative's [federal funding website page](#) has several examples of Memorandums of Understanding.
13. See Hardin, Mark. "[Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview](#)" for detailed guidance.
14. Family Justice Initiative Webinar, 2019.
15. Ibid.
16. Ibid.
17. Ibid.