

HIGH QUALITY LEGAL REPRESENTATION AND ADVOCACY

PRACTICE GUIDE

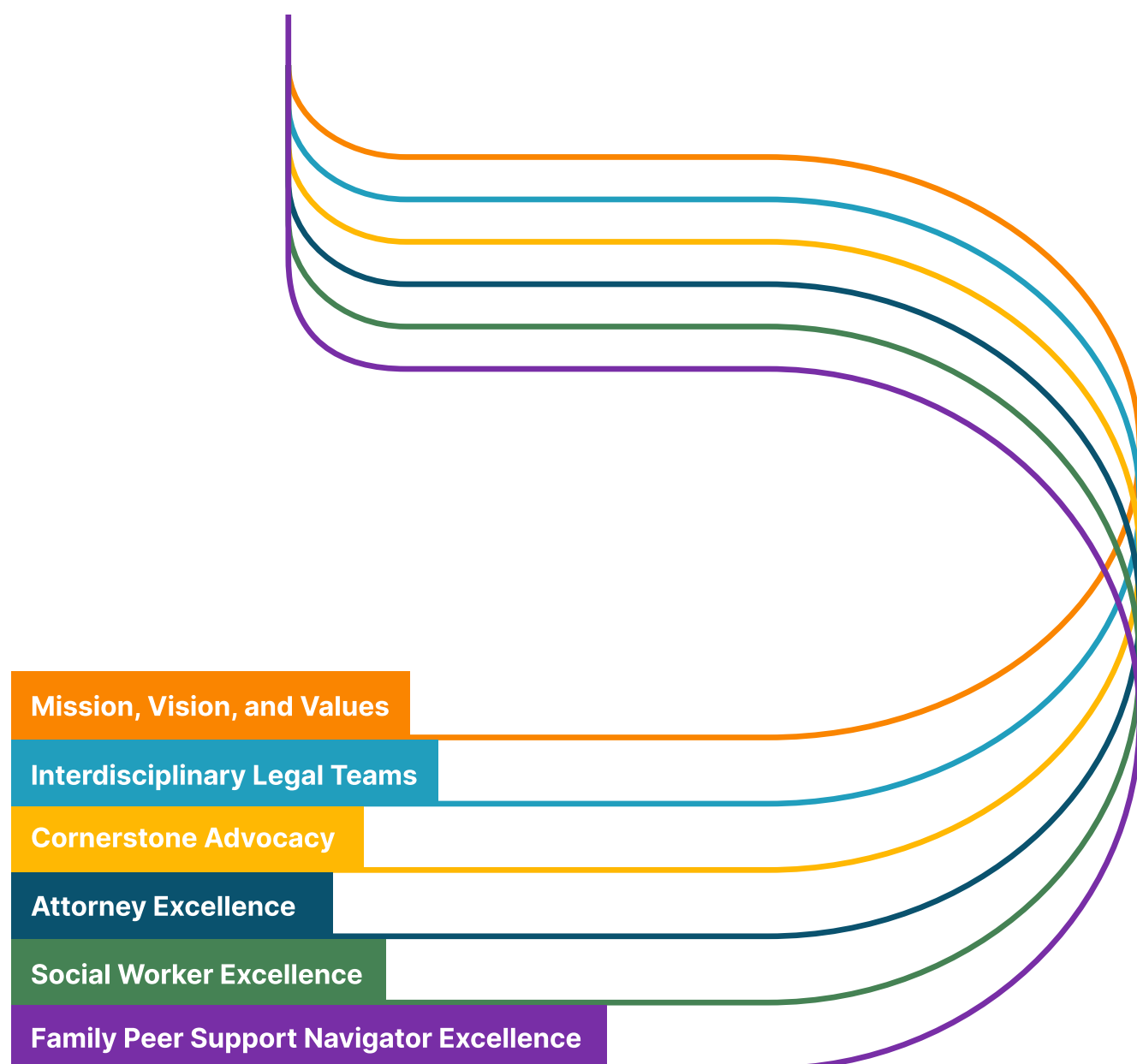


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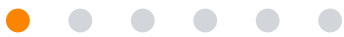
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PART ONE



MISSION, VISION, AND GUIDING PRINCIPLES

The Office of Family Representation and Advocacy

The Office of Family Representation and Advocacy was created by statute in the 2022 New Mexico Legislative session. The Office provides high quality legal representation and advocacy for New Mexico children and parents in the child abuse and neglect system.

As funding allows, the Office will provide Interdisciplinary Legal Teams (a lawyer, a social worker, and a family peer support navigator) to advocate and help children and parents successfully access the resources, services, and concrete supports they need to stay together safely whenever possible.

The current funding allows for Interdisciplinary Legal Teams for only a small portion of the parents served by the Office. Interdisciplinary Legal Teams will begin with parents and when those are fully funded, the Office will expand Interdisciplinary Legal Teams for children. This will undoubtedly take several years.

Mission

To hear families, respect their culture and their choices, and provide the interdisciplinary advocacy needed to create the best possible outcomes for children and their families. With humility, respect, and compassion, OFRA promotes diversity, equity, inclusion, and belonging for all whose lives we touch.

Vision

We envision an equitable society of strong families where culture is honored and dignity is respected.

Guiding Principles

We are committed to strengths-based advocacy and representation of our clients, understanding that children and families do best when we recognize their unique strengths, they define their own needs, and their self-defined interests drive the representation and services they receive. To provide the zealous and tenacious representation children and families deserve, we embrace and uphold the following guiding principles:

- **We respect families.** Parents have a right to parent their child, and children have a right to be raised by their parent; children, whenever possible, belong with their families.
- **We respect children and their right to be safe.** We also recognize and promote the importance of a child's emotional, psychological, educational, and overall well-being.
- **We raise up the voices of children and families.** Children and families must have meaningful input into the services and resources in their case plans.
- **We know that children and parents are more than just their child and family welfare case.** Children and parents are whole people with talents, interests, feelings, histories, and communities.
- **We see the obstacles for children and families of color.** We are committed to equity in our work with children and families of color.
- **We affirm and respect the diversity of families and cultures** by encouraging, fostering, and maintaining cultural connections.
- **We respect and protect the rights of children and parents** regardless of race, gender, religion, sexual orientation, national, ethnic, or social origin, socioeconomic status, language, political or other opinion, disability, or other status.
- **We continuously and systematically improve the quality of our services.** We employ rigorous evaluation and quality monitoring.
- **We follow family-centered best practices** that promote child safety, well-being, dignity, equity, and permanence.
- **We provide a platform for the voices of children and parents** in our policy and system reform efforts.
- **We create and support highly qualified interdisciplinary legal teams.** We build skills, commitment, hope, and well-being through professional development and hold all staff and contractors to the highest standards.

- **We engage the community at large** to help shape our policy, advocacy, and system improvement efforts.
- **We serve as a participative and transformational leader** promoting the importance of parent and child representation, the unique and essential role our advocates play, and the need to respect and value their work.

OFRA is a member of the Family Justice Initiative whose mission and vision we endorse: “To ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families. FJI’s vision is that children will not be damaged by the system set-up to protect them, that families will not be destroyed by the system set up to heal them, and that every parent and every child will have high-quality legal representation and support so they can succeed.”

FJI History

PART TWO



INTERDISCIPLINARY LEGAL TEAMS PRACTICE COMPONENTS

Introduction

Interdisciplinary Legal Teams, along with Cornerstone Advocacy, are the two core components of our practice model. Interdisciplinary Legal Teams are widely recognized as best practice.

The model is based in part on the work of the Center for Family Representation (CFR) and the subsequent national movement in interdisciplinary representation. This model protects the rights of children and parents while saving millions in publicly funded foster care and related costs.

Interdisciplinary Legal Teams, led by attorneys, use multiple tools to address the issues contributing to the family's involvement in the legal case, as well as issues that limit successful resolution of the legal case, including legal advocacy and peer mentoring that connect clients to appropriate and targeted services. Legal Team members support clients in successfully accessing these resources.

Interdisciplinary Legal Team members actively participate in meetings and conferences where case plans are developed, monitored, and revised. In these meetings, Legal Team members advocate for the services that should be provided for the particular needs and circumstances of the family, and clarify the tasks the parent must perform to keep or regain custody of their child. Legal Team members also visit parents in their homes, and children in their placements, and talk to them and their service providers on a regular basis.

"The most authentic thing about us is our capacity to create, to overcome, to endure, to transform, to love and to be greater than our suffering."

*Ben Okri,
The Famished Road*

OFRA Interdisciplinary Legal Teams include the attorney, a social worker and/or a family peer support navigator. Other staff could include interpreters, specialized attorneys, experts, investigators, and paralegals. Legal Team members are covered by attorney-client privilege pursuant to NMRA 16-106. Legal Team members are also bound by the rules of confidentiality pursuant to the New Mexico Children's Code, by all rules of attorney-client confidentiality pursuant to the Rules of Professional Conduct for attorneys, by the obligations of the National Association of Social Workers (NASW) Code of Ethics, the New Mexico Social Work Practice Act, and all rules and regulations of the New Mexico Board of Social Work.

OFRA Interdisciplinary Legal Teams promote the four Cornerstones in order to expedite safe and lasting family reunification whenever possible and to shorten lengths of stay for children in foster care. The four Cornerstones include quality family time (visiting) in the least restrictive setting; familial and kinship placements; active participation of the client in meetings and conferences; and services that are well-tailored to strengths and needs.

OFRA's practice model is consistent with, and even exceeds the Best Practice Considerations identified by the Administration on Children and Families.

*Best Practice Considerations,
Children's Bureau, ACF*

Overall, our Interdisciplinary Legal Teams are first and foremost a system for delivering high quality legal representation and advocacy. OFRA is beginning with Legal Teams for parent clients, and over time, will build the funding and staff to expand to child and youth clients. Given this eventual expansion, this Practice Manual refers to "client." This Practice Manual also refers to "Legal Teams" as the intent is that the client will identify with and relate to "their Legal Team."

This section describes the Practice Components for Interdisciplinary Legal Team Services. Subsequent sections discuss how Cornerstone Advocacy is to be used throughout the case and also delineate the Performance Standards for Attorneys, Social Workers, and Family Peer Support Navigators.

The Team

The Legal Team includes the attorney, the social worker, and the family peer support navigator. The attorney leads the Legal Team and provides the legal representation, consultation and collaboration with the other Legal Team members to incorporate their expertise and information. The attorney does all the legal work like preparing for and attending hearings, making motions, presenting and cross-examining witnesses, requesting orders, and much more as delineated in the attorney standards and expectations (Part Three).

We need to be clear about everyone's roles in these cases. Be alert when we, or others, start stepping out of their roles and try to right the course.

The social worker's role varies depending on the client and the circumstances of the case, but it always includes providing support and guidance to the family peer support navigator. That support could include reviewing the client's social services; psychological, medical, and other assessments and records; and court files and case-related records from CYFD and other service providers. It could also include providing guidance on making referrals to, and following up with, service providers. In some instances, the social worker might take the lead on working with a client who has high needs, answering questions about types of treatment, or conducting an emergency safety assessment. (See Part Four for more detail on social worker standards and expectations.)

As the title implies, the family peer support navigator is a person with lived experience who has the dual role of peer support and system navigator. The family peer support navigator provides mentoring and peer-to-peer emotional support to the client. The family peer support navigator also assists the client in identifying needs and then working with CYFD to secure the services and supports needed to pursue reunification and to resolve the legal issues in the case. The family peer support navigator makes referrals to, and follows up with, service providers, while also mentoring the client in their own navigation of community resources to address their needs. The family peer support navigator, working with others on the Legal Team, helps prepare the client for hearings and conferences. (See Part Five for more detail on family peer support navigator standards and expectations.)

Individually and as a Legal Team, the attorney, social worker, and family peer support navigator advocate for the four Cornerstones of placement, family time, services, and conferencing, especially in the first 60 days.

“We find that the ILO [Interdisciplinary Law Office] approach significantly reduces the length of time children spend in foster care; increases rates of timely permanency, reunification, and guardianship; and does so without increasing repeat maltreatment. These results align with the stated goals not only of children, parents, and parent defenders, but of family courts, child welfare agencies, and other advocates.

“When children’s parents received the interdisciplinary representation and those children did enter foster care, children spent 118 fewer days on average in foster care during the four years following the abuse or neglect case filing. Subsequent competing risk models show that children whose parents received the interdisciplinary law office model achieved overall permanency, reunification, and guardianship more quickly. These results provide evidence that interdisciplinary law office parental representation is an effective intervention to promote permanency for children in foster care.”

Effects of an interdisciplinary approach to parental representation in child welfare
Gerber, Pang, Ross, Guggenheim, Pecora, Miller

1. Voluntary Participation

A client’s participation in Legal Team Services is entirely voluntary. The client may refuse the Legal Team’s social worker and/or family peer support navigator services at the outset or decide to discontinue participation at any time. This is clearly explained to the client at the initial meeting. It is also described in relevant Interdisciplinary Legal Team Services brochures and other materials. If the client, after having been offered counsel on the matter, decides to discontinue, the attorney continues representation until the client is dismissed or the case closes. [See more on suspension of services below.]

2. Informed Consent and Releases of Information

It is essential that the client has fully informed choices about their participation with their Legal Team. A Legal Team member obtains all necessary signed consents and releases of information, using the designated OFRA Informed Consent and OFRA Release of Information forms. As part of this process, the client is fully informed, verbally and in writing in their primary language, about the following:

- Voluntary participation and discharge
- The roles of Legal Team members
- Mandated reporter responsibilities
- Timeframes covered by consent
- Client's right to confidentiality
- Client's right to actively participate in all aspects of the case
- Client's right to make informed decisions regarding case planning, provider choices and service options
- Client's right to ask questions
- Client's right to refuse or withdraw consents
- Client's right to services at no cost
- Client's right to services free from bias and discrimination
- Client's complaint/grievance procedures
- Client's responsibility to maintain contact with the Legal Team
- Client's responsibility to participate in services agreed to
- Client's responsibility to maintain confidentiality of other parties

3. Confidentiality, Attorney-Client Privilege, & Non-Disclosure Agreements

Confidentiality means that all Legal Team members have an obligation to keep all information confidential during the course of their representation of the client. All Legal Team members are bound by the rules of confidentiality pursuant to the New Mexico Children's Code. Attorneys are bound by all rules of attorney-client confidentiality pursuant to the Rules of Professional Conduct for attorneys. Social Workers are bound by the obligations of the National Association of Social Workers (NASW) Code of Ethics, the New Mexico Social Work Practice Act, and all rules and regulations of the New Mexico Board of Social Work.

Attorney-Client Privilege refers to the client's right to have their communications with their Legal Team protected from disclosure to anyone outside the Legal Team. All Legal Team members are bound by all rules of attorney-client privilege pursuant to the Rules of Professional Conduct for attorneys. This means that if Legal Team members have information about a client that CYFD does not, they cannot share this information unless authorized by the Legal Team's attorney.

Give the client maximum autonomy in deciding about how to make a SCI report - will the client report? Will the OFRA Legal Team member report? Will we report together?

One important exception to these requirements is mandated reporting of suspected child abuse or neglect, and mandated reporting of threats of imminent harm to another person or to the client. These limits to confidentiality are discussed with the client at the outset of case assignment. Under New Mexico law, every person who knows or has a reasonable suspicion that a child is being abused and/or neglected must report the matter immediately to CYFD, law enforcement, or the appropriate

tribal entity. Mandated reports about a client can be made by any Legal Team member after consultation with others on the Legal Team. Whenever possible, the Legal Team should work with the client to self-report or to report with a Legal Team member.

In court, all Legal Team members sit with the client at the counsel's table. The attorney states their appearances, and Legal Team members may be asked to clarify information or speak to the court but do not testify for or against clients in contested court hearings.

A Non-Disclosure Agreement is a legally binding contract that establishes a confidential relationship. The party or parties signing the agreement agree that sensitive information they may obtain not be made available to any others. For every case involving non-lawyer Legal Team members, the member signs a Non-Disclosure Agreement stating that any information or records obtained during the course of the case is protected by attorney/client privilege and is confidential.

4. Intake, Review, and Case Assignment

When OFRA receives a request for a consultation in the absence of a legal case, the Consultation Form is completed in LegalServer. The Legal Services Division Director reviews the request and, if accepted, assigns an attorney to provide the consultation. Requests for consultation may also be referred to another agency when appropriate.

When the court appoints OFRA to the case, the Legal Services Division Director conducts a conflict check and makes attorney assignments. The New Case Intake Form is completed in LegalServer and a copy of that form is provided to each attorney assigned to a client in the case.

If the assigned attorney makes a referral for Interdisciplinary Legal Team Services, the Legal Services Division Director and the Interdisciplinary Services Division Director review the information on the referral form (see Attachment X) and determine if the client should be assigned a social worker and/or a family peer support navigator. The determination is recorded along with a summary of the factors from the referral form favoring the decision.

The Interdisciplinary Services Division Director then identifies the social worker and/or a family peer support navigator and does a conflict check. Until we are fully funded and staffed, priority is given to those who would benefit from extra support and are reasonably likely to reunify.

Following the conflict check the Interdisciplinary Services Division Director makes the assignment. Until we are fully funded and staffed, only one respondent per case is assigned a Legal Team. Once assigned to a client, Legal Team members may not work with any other parties in the case.

All available case and client information is provided to assigned Legal Team members. Requests are made by the assigned attorney to CYFD for any assessments, screenings, and intakes it completed with any parties to the case. This information assists the Legal Team in its assessment process and in advocating for client needs and relevant case plans.

5. Conflict of interest

Every member of the Legal Team is prohibited from providing any aspect of representation or advocacy to a client with whom there is a previous adverse relationship or when there is a conflict of interest. The Legal Services Division Director conducts a conflict check for attorneys before assigning the case. The Interdisciplinary Services Division Director conducts a conflict check for social workers and family peer support navigators before assigning the case.

Attorneys and social workers should also conduct their own conflict checks - look at your records, think back on your history - do you recognize a name?

6. Client Engagement

Practice active listening - it helps build rapport and engages the client. Some tips:

- Face the speaker and have eye contact
- Pay attention to non-verbal cues
- Don't interrupt
- Listen without judging or jumping to conclusions
- Don't start planning what to say next
- Show that you are listening
- Don't impose your opinions or solutions
- Stay focused
- Ask questions
- Paraphrase and summarize

The social worker and/or family peer support navigator meets with the client within three business days of assignment to explain the roles of the attorney and other Legal Team members and to begin to build rapport. Consents and Releases are also obtained. From this point forward, Legal Team members focus, especially in the first 60 days, on the four Cornerstones (placement, family time, services, and conferences/ meetings). The social worker and/or family peer support navigator also assist the client in understanding all CYFD processes and timelines as well as all Court processes and timelines.

The frequency of contact with the client varies by Legal Team member role. Monthly or more frequent contact (office, in-home, community, other) is maintained. The Legal Team meets with the client 1-5 days prior to any hearing and attends all hearings. The Legal Team ensures that one or more Legal Team members attends all meetings and conferences with the client. In addition, Legal Team members (and particularly the family peer support navigator, if assigned) provides mentoring, emotional support, and assistance to help the client develop self-advocacy and coping skills. On an ongoing basis, Legal Team members assist the client in navigating community resources. [See Part Three of this manual for a delineation of client engagement duties throughout the case.]

7. Cornerstone Advocacy

All staff who participate on Legal Teams are trained in the principles and practices of Cornerstone Advocacy. Members advocate for placement, family time, services, and conferencing (especially in the first 60 days) as outlined in Part Three, Cornerstone Advocacy. As noted above, the principles underlying the four Cornerstones are as follows:

Placement – the Legal Team advocates for arrangements that support a child’s relationship to their family, community, and the people and institutions connected to the child.

Family time - the Legal Team advocates for family time that enables parents, children, and siblings to spend time together in ways that mirror their family life.

Services - the Legal Team advocates for services and supports that build on a family’s strengths as well as their needs.

Conferences and meetings - the Legal Team advocates for opportunities for parents to meaningfully participate in service planning for themselves and their children.

These cornerstones are and always have been areas ripe for litigation and advocacy, but we expect concerted effort on them now. We encourage the legal team to make small changes in these areas that will yield big impacts.

This means that at every stage of the process, and especially in the first 60 days, Legal Team members advocate for familial/kinship placement; frequent family time in the least restrictive setting that includes siblings; client participation in all meetings and conferencing; and services that are culturally appropriate and tailored to the client’s needs and strengths, consistent with client requests and relevant to the allegations put forth in the petition or indicated by appropriate assessments. [See Part Six of this manual for a delineation of duties for each of the four Cornerstones for each stage of the case.]

8. Trauma-Responsive Services

“It is not necessary to personally experience trauma firsthand to develop trauma exposure response. Trauma exposure responses evolve through working with clients who have experienced trauma, listening to traumatic stories or testimony, reading case files and materials about a client’s traumatic experience, and other ways in which you might indirectly or directly touch trauma.”

Staff are trained on trauma-informed and trauma-responsive practice as part of the onboarding process and encouraged to participate in professional development opportunities related to trauma-responsive care. Legal Team members avoid retraumatizing clients throughout the legal representation process by, for example collaborating with and collecting collateral information from CYFD to avoid over-assessment of clients. The Interdisciplinary Services Division Director consults with staff members on specific trauma-responsive practices.

When funded for facilities, OFRA will set up its office space from a trauma-responsive lens and will work to ensure a physical environment that promotes a sense of safety and comfort. OFRA will provide a space for children.

OFRA will support staff addressing secondary trauma through consultations with lead and supervisory social workers, parent navigators, and attorneys.

9. Diversity and Cultural Humility

OFRA makes every effort to ensure diversity in staff members to best serve our clients. This includes recruiting and hiring bilingual staff and staff with similar cultural backgrounds to children and parents represented by the program. All staff are also required to complete ongoing trainings on cultural humility and other culturally relevant topics. Language translation and interpretation services are available. OFRA makes referrals to culturally relevant services whenever possible. OFRA consults on practices and materials with other organizations that promote diversity, equity, and inclusion.

“[W]e believe that as legal practitioners we have a duty to continually learn and educate ourselves on the topics of race, racism, bias, gender and sexual orientation discrimination, and how these topics and issues are manifested in the court system and workplace, in various systems (child welfare, carceral, health care, housing, etc.), and how these ideas and behaviors show up within ourselves and those we are in relationships with.

“[W]e encourage you to “walk in the shoes” of the narrators; the children and parents that have been involved and impacted by child welfare. What would they have wanted from their attorneys and interdisciplinary teams?

“Those of us who have worked with children and parents for many years, in our busyness as practitioners, often do not stop to consider the short and long-term impact that being in the system has on children, the people that brought them into this world, or the people that love those children dearly. For example, how would it feel to be taken to a stranger’s home and dropped off? What if you and your sibling(s) were dropped off in separate places? As a young child, how might you process the different smells of that home? The different foods? The different words, language, behaviors, and routines? What happens over time with those feelings and the tears and pain of being separated from the things and people most important to a child, parent, or relative?

“As practitioners in our rushed practice, when we use legalese and acronyms which have no meaning to our clients, how dismissive must this feel to them?

“[B]efore engaging in conversations regarding race and before ‘litigating race’ in your cases, it is important to spend time thinking about your own cultural beliefs and racial identity, often called ‘reflective work’. How and when did you learn what you know about American history and child welfare history or about the laws that now shape child welfare concepts and legal decisions?”

Also see FJI’s sample motions and briefs.

FJI: Anti-Racist Lawyering in Practice

10. Service Planning and Monitoring

These factors may be especially relevant when the agency (or other parties) suggests that the client has not engaged in or has failed to comply with the case plan.

Things like racism, sexism, historical trauma, shame, client-provider mismatch, and too many, inappropriate, or culturally irrelevant service requirements can create barriers to accessing services. Working with the client to identify alternatives may help the client overcome these barriers to engagement, for example:

- finding a provider closer to home can eliminate the need to take public transportation where a woman of color may be subjected to racial and sexual harassment, and
- using a provider with the same cultural background as the client may allow more candid conversations and greater affinity.

The OFRA social worker and/or the family peer support navigator participate in initial assessment planning meetings. They support the client in the development of their case plan and advocate with CYFD so case plans link goals to specific concerns identified in the petition. The Legal Team monitors progress toward goals during their regular check-ins with the client, during monthly meetings with CYFD and the client, and as needed throughout the case. The Legal Team works to ensure the client has the resources necessary to engage in services identified in the case plan. The Legal Team works with the client and others involved in the case to overcome the barriers created by institutional racism, historical trauma, shame, too many service requirements, and other barriers.

11. Transporting Clients

Legal Team members help the client find appropriate transportation options whenever possible. When all options have been exhausted, and on a case-by-case basis, employed staff who have completed the State of New Mexico Defensive Driving course may transport the client using a state vehicle on case-related matters with prior approval from a supervisor. Contractors are not permitted to transport clients under any circumstance. No one is permitted to transport a client in a personal vehicle.

12. Assisting Clients with Activities

In general, clients shall be coached and assisted with finding outside resources to complete personal activities such as moving, cleaning a household, shopping for groceries, etc.

13. Stakeholder Collaboration and Communication

Children

The social worker and/or family peer support navigator observe family time at the beginning of the case and periodically thereafter. The purpose of this is to record and encourage positive family interactions as well as note any issues that arise in order to address concerns or plan needed services with the parent(s).

Because of attorney-client privilege and confidentiality concerns, when a Legal Team member is observing family time, they are never the supervising entity for that visit. The supervising entity is typically a vetted family member, staff member of a children's services agency, or another contractor employed by CYFD. During unsupervised visits, the parent remains responsible for their child(ren) at all times.

Foster (Resource) Parents

The Legal Team typically has limited interaction with foster (resource) parents. Legal Team members most often interact with foster (resource) parents during family times, some CYFD meetings, or at court hearings. The Legal Team never discloses any confidential information about the case to the foster (resource) parents. In any communications, the Legal Team positively frames the client and conveys the importance of frequent and meaningful family time opportunities for both the child and parent to the foster (resource) parents unless this would be inappropriate under the circumstances of a specific case.

Children, Youth and Families Department (CYFD)

The Legal Team communicates primarily with CYFD's Permanency Planning Workers (PPWs), permanency unit supervisors, County Office Managers, and Children's Court Attorneys (CCAs).

The Legal Team attorney interacts with Children's Court Attorneys (CCAs) in and out of court, advocating for the client. The attorney assures that full and timely communication occurs between CYFD and other Legal Team members; attends CYFD meetings that are specifically called to address legal issues; obtains information from CYFD about the client, the status of home studies on relatives or fictive kin; and advocates for case plan items and the four Cornerstones.

Non-attorney Legal Team members never discuss the legal issues of the case, such as change of permanency plan, with CYFD staff members, but may discuss factual issues related to services.

These matters include whether or not the client is receiving the right type of services; a client's progress in the case plan and ability to access services; family time issues with the child; and any barriers to the family's current and future success for safety, permanency, and well-being.

These communications may occur without attorneys present and are documented in the case file. The Legal Team attorney must be present in any communication with the CCA. Communications between non-attorney Legal Team members and CYFD must be communicated to the rest of the Legal Team.

Conflicts between a CYFD worker and a Legal Team member should always be communicated to the other members of the Legal Team so that issues can be dealt with collaboratively. If the conflict is due to personality or behavior of the Legal Team member or CYFD staff, individuals first try to meet and resolve the conflict directly. If that effort is unsuccessful, the next step is resolution between the appropriate OFRA Division Directors and the CYFD supervisor. If the conflict is due to differences of opinion about case plans or services, the best practice is to resolve those differences in formal meetings, mediations, or in court hearings.

Youth Attorneys and Guardians ad Litem

A child who is the subject of an abuse or neglect proceeding is a party to the case and is entitled to court appointed representation by a Guardian ad Litem (GAL), if the child is under 14, or a Youth Attorney (YA), if the child is 14 and over. The dual role of a guardian ad litem is to represent the best interests of a child while also presenting the child's wishes to the court even if they conflict with the position of the guardian ad litem on best interests. The YA works under the traditional client-directed model of representation in which the attorney advocates for the young person's position after counseling them on their choices.

A Legal Team member explains to the parent-client that the GAL/YA attends CYFD Status Meetings, Family Centered Meetings (FCMs), and Treatment Foster Center (TFC) monthly treatment team meetings; and that GAL /YAs are required to visit the home during the Trial Home Visits (THV). A Legal Team member for the parent-client informs the GAL /YA that a Legal Team

member may be present when the GAL/YA visits the child in the parent's home. Legal Team members help the parent-client understand that the GAL/YA is required to see the child at home and to have confidential conversations with the child.

The GAL/YA's conversation with the child-client during a home visit are limited to the child's routine, sleeping space, interactions with other members of the household, favorite activities, new school/daycare, etc. The GAL/YA should not discuss legal or case matters with the parent-client.

Court Appointed Special Advocates

A Court Appointed Special Advocate (CASA) is a trained community volunteer who is appointed to assist the judge in determining the best interests of the child. The CASA program's mission is to provide effective and impartial advocacy for the child and to ensure that every child has a safe, supportive, and permanent home. Legal Team communication with CASAs should focus primarily on family time, educational issues, and/or providing information about the parent that can promote the interaction and bond between the parent and child. All case-specific communication is shared with the whole Legal Team. If possible, a member of the Legal Team should be present in any parent-client contact with the CASA.

It is critical that the GAL and the youth attorney visit the child/youth client in their placement. Nothing is better than "eyes on."

Service Providers

The term "service providers" includes every individual, agency, educational or vocational program that meets the client's needs and goals as identified in the case plan. These include psychiatrists, psychologists, and other mental health workers; schools and daycare providers; doctors, community support workers, hospitals, and other health care personnel; parenting coaches/classes; rehabilitation centers and outpatient substance abuse facilities; wellness/drug courts and programs; and Medicaid, Medicare, and Social Security.

A Legal Team member meets or communicates with service providers a minimum of once a month, focusing primarily on the client's progress on their case plan, their ability to access services, and the extent to which the services are relevant to the case plan. The Legal Team member advocates for appropriate treatment that furthers the client's goals and addresses barriers to the family's future safety, permanency, and well-being. In discussions with service providers, the Legal Team member emphasizes the strengths of the client and the progress they have made. The Legal Team member speaks with the client prior to and after communications with service providers as appropriate. All case-specific communication is shared with the entire Legal Team.

We listen to everyone involved in the case - the CASA, service providers and so forth.
BUT we do our own research and draw our own conclusions.

14. Interdisciplinary Legal Team Communication and Collaboration

The Legal Team must all work from the same deck and keep each other informed to avoid missteps and so the client feels supported.

Legal Team members maintain regular and frequent contact with one another in person or by phone or video at least every two weeks. The Legal Team reviews the client's progress, concerns, and any other matters that should be addressed at an upcoming meeting or hearing. The Legal Team meetings and communications may include additional people, such as service providers or support people, at the client's request or approval.

Legal Team members inform the attorney's advocacy by providing increased insight into the client's current situation and emotional state, the client's ability to process information, and any psychological or developmental limitations that may implicate NMRA 16-114 regarding a client with diminished capacity and possible actions needed to protect the client's rights.

The Legal Team attorney keeps the team informed in the following ways:

- ensures that parents complete and sign valid releases of information to allow Legal Team members to have access to relevant information. Releases conform to the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- gives prompt notice of all court hearings and of all CYFD or provider meetings of which the attorney is aware; and
- monitors communication between CYFD, service providers and Legal Team members to ensure that all members are aware of emails and other written communication.

Legal Team members:

- listen to one another and acknowledge the respective expertise of each member of the legal team;
- read, acknowledge, and respond to regular communication, including emails and text messages within 24 hours;
- respond to crises no later than 6 hours from the first notification. Crises are extreme events and can include things like getting expelled from a rehabilitation program, becoming evicted from a residence, violating conditions of a trial home visit, relapsing from a period of recovery, and mental health emergencies; and

Legal representation systems can help address biased decision making in child welfare by supporting attorneys to:

1. Become aware of their own biases;
2. Raise consciousness—be aware of how bias impacts clients' experience with the child welfare system and be prepared to advocate for individualized and unbiased assessments of clients' strengths and needs;
3. Deliberate, reflect, and educate—reflect on the reasoning of decisions to ensure bias is not impacting legal representation;
4. Change perspectives—view systems through the perspective of the client; and
5. Welcome and embrace diversity among practitioners.

FJI - Attribute 3: Diversity and Inclusion/Cultural Humility

- ensure that all emails between Legal Team members and CYFD and service providers are copied or forwarded to the whole Legal Team.

In the event of a disagreement among Legal Team members, the Legal Team attorney facilitates a meeting to clarify the disagreement, request all Legal Team members to describe their positions, and seek a solution to resolve the disagreement. In the event resolution is not achieved, the Legal Team attorney requests that the Legal Team meet with the Legal Services Division Director and the Interdisciplinary Services Division Director. The Division Directors then determine the appropriate course of action and resolution.

15. Administration, Supervision, and Oversight

The Management Team consists of the Executive Director who reports to the Oversight Commission; the Legal Services Division Director; the Administrative Services Division Director; and the Interdisciplinary Services Division Director. Directors report to the Executive Director. The Legal Services Division Director manages and monitors contract attorneys and supervises staff attorneys. The Interdisciplinary Services Division Director manages and monitors contract social workers and family peer support navigators and supervises staff social workers and family peer support navigators. The Interdisciplinary Services Division Director also provides supervision to staff social workers for licensure. When we are fully funded, OFRA will have lead social workers and lead family peer support navigators in each region who will monitor contractors, supervise staff, and report to the Interdisciplinary Services Division Director.

*You are here for your clients
and for each other. We have
each other's backs always.*

The Interdisciplinary Services Division Director leads monthly Division team meetings with social workers and family peer support navigators. The Interdisciplinary Services Division Director leads weekly consultation sessions with social workers and family peer support navigators and is available as needed for additional support. All Directors provide administrative support and perform annual performance evaluations of employees in accordance with the State of New Mexico requirements. All Directors monitor contractors in accordance with the terms of their contracts.

16. Conflicts and Grievances

If conflicts arise between or among Legal Team members, the OFRA policy and practice on internal conflict resolution is followed. Grievances filed by clients and other external sources follow the OFRA policy and practice on complaints and grievances. In these instances, the grievant completes the OFRA Grievance Form and submits it to the Administrative Services

*Work to resolve these matters
with the utmost respect.*

Division Director. The Administrative Services Division Director forwards the grievance to the person complained of and provides a response form. When the time for response has

ended, the Administrative Services Division Director shares the Grievance and Response with the Legal Services Division Director and the Interdisciplinary Services Division Director. The Division Directors then meet to review the information and develop a resolution whenever possible. The Administrative Services Division Director shares the proposed resolution with the Executive Director, who may approve, disapprove, or modify the proposed resolution. Decisions on the grievance are communicated to the complainant and to the OFRA staff or contractor who is the subject of the complaint.

17. Substitute Coverage Case Assignment

When the assigned attorney is unable to attend a meeting, a court hearing, or any other required case event, the attorney may request that another attorney attend in their place. If in the judgment of the Legal Team it is necessary for a social worker or family peer support navigator to be available to assist the client, the social worker or family peer support navigator may request coverage from another practitioner in their place. The following protocol applies.

- Legal Team members should provide the substitute with only the information about the case and client that is absolutely necessary to provide the coverage requested.
- Information should be provided verbally, or in written or electronic form if it can be safely encrypted and should not include access to the client's complete physical or electronic case file.
- A substitute practitioner does not typically need to know a client's complete history in order to provide services. However, in certain cases, it may be necessary to provide information about the client's behaviors and effective interventions in order to provide effective coverage.
- Substitute practitioners should promptly notify the Legal Team member of all verbal, written, or electronic information gathered during their absence about the case once the requested coverage has been completed. The written information shall be sent back to the practitioner and deleted/destroyed, as appropriate.

18. Suspension of Interdisciplinary Services

We never suspend services unless there is no other pathway. When we must suspend, we are transparent and respectful, and leave the door open to reengage when the client is ready.

Interdisciplinary Legal Team Services may be suspended when the Legal Team determines that the client can no longer be effectively served. This decision is made at the discretion of the Legal Team and may include circumstances such as:

- The Legal Team is unable to locate the client after multiple attempts within a 30 day period.
- The client moves more than 300 miles from the judicial district and cannot participate.
- The Legal Team finds that the client will be serving a long-term criminal justice sentence throughout the term of the case.
- The Legal Team finds that the client is not the father of the child and will no longer be a respondent in the case.
- The Legal Team finds that there is a dispute regarding paternity.
- The client disregards a judge's orders and disobeying a judge's order placing the client or child in immediate danger.
- The client insists that a Legal Team member act in such a way that violates ethical or practice standards.
- The client fails to have contact with any member of the team for at least 30 days.

Before suspending interdisciplinary services, Legal Team members consult with the Legal Services Division Director and Interdisciplinary Services Division Director to explore possible alternatives to suspension. A decision to suspend services must be a Legal Team decision. In the event Legal Team members do not agree, the Legal Team should consult with the Legal Services Division Director and Interdisciplinary Services Division Director.

After suspension of services, the social worker or the family peer support navigator should send two emails. One email should be sent to the Legal Services Division Director and Interdisciplinary Services Division Director, noting the date and reason for suspension. The second email should include the Legal Team, CYFD, and any other relevant parties informing them that social worker and/or family peer support navigator services are suspended and that the social worker and/or family peer support navigator should be removed from all correspondence with respect to the client/case number.

Reinstatement of interdisciplinary services for a client is possible after suspension of services. Requests for reinstatement are reviewed on a case by case basis taking into account the availability of the previously assigned Legal Team members and the affirmation of the client that they are willing and able to actively participate.

19. Practitioner Withdrawal

An attorney request to withdraw from a case must first be discussed with the Legal Services Division Director. If the attorney seeking to withdraw is under contract, they shall make diligent efforts to identify substitute counsel. If they are not able to identify substitute counsel, the attorney submits a request in writing that OFRA identify substitute counsel. Once substitute counsel is identified, the withdrawing attorney submits a proposed order of withdrawal and substitution for approval by the court. In the event that OFRA is unable to identify substitute counsel within 30 days, the attorney may file a motion to withdraw and submit a proposed order requiring OFRA to assign substitute counsel. The withdrawing attorney shall continue to represent the client until substitute counsel enters their appearance.

You have an obligation to the client. And to the court, so any withdrawal should be for a truly significant reason. You don't want to negatively impact the client or any other party by withdrawing. You want to preserve the attorney-client relationship whenever possible.

When a social worker or family peer support navigator believes they can no longer continue in their capacity to provide services to the client and are considering requesting withdrawal, they shall immediately notify the assigned attorney and the Interdisciplinary Services Division Director to discuss options for continuing services, appointment of a new practitioner, or suspension of services. The Interdisciplinary Services Division Director discusses the options with the Legal Services Division Director and then makes the determination.

20. Record-keeping and Data Sharing

OFRA will utilize the LegalServer case management system as soon as it is operational. LegalServer will maintain client information, legal information, billing information, contractor information and case notes. Information in LegalServer is segregated by firewalls so that each client's information is accessible only by their Legal Team members. Division Directors have access to case pleadings and shall only have access to client-specific information for the purpose of contract monitoring and continuous quality improvement, not for the purpose of directing representation. Client specific information is de-identified when data are aggregated for program evaluation and administrative reports.

The assigned attorney, social worker and family peer support navigator meet regularly to discuss their assigned cases. In accordance with the Rules of Professional Conduct citing attorney-client privilege and the National Association of Social Workers Code of Ethics, the Legal Team does not disclose any identifying information or case information outside of the Legal Team. OFRA social workers also maintain record of any emergency safety assessments in case notes in LegalServer. Until LegalServer is fully operational, all Legal Team members have an ongoing responsibility to upload pleadings, reports, and any other relevant information to the Sharepoint case file as soon as information is received.

21. Accountability and Practice Evaluation

Client information and case data will be managed and tracked through LegalServer. Data will be generated

What gets measured gets managed.

from LegalServer in accordance with OFRA's evaluation plan. Legislative Finance Committee required performance measures are provided to the Oversight Commission and the Legislative Finance Committee. Additional data may be collected via client and practitioner surveys and other methods for purposes of accountability and evaluation. All data are analyzed by the OFRA leadership team with assistance from outside consultants as needed. Data collected are utilized internally by OFRA for continuous improvement efforts.

The OFRA Executive Director completes performance evaluations with the Division Directors annually. Division Directors complete performance evaluations with permanent staff and submit them to the Executive Director for final review.

22. Staff Qualifications

Qualifications for each permanent interdisciplinary staff position are listed on the individual State of New Mexico job classifications (see <https://www.spo.state.nm.us/compensation-and-classification/classification-descriptors/>). At minimum, attorneys have a Juris Doctorate degree and have a license to practice law in New Mexico. Social workers have a Master of Social Work degree and are, at minimum, a Licensed Master of Social Work (LMSW). They practice according to the National Association of Social Workers (NASW) Code of Ethics. Family peer support navigators have lived experience with public systems in New Mexico relevant to the needs of OFRA's clients. These include, for example, child welfare, behavioral health, and juvenile and criminal justice. No Legal Team member may have current involvement with the criminal justice system or probation/parole. Family peer support navigators are required to complete Peer Support Worker (PSW) training or Family Peer Support Worker (FPSW) training as well as Community Support Worker/Navigator training within one year of hire.

23. Professional Development

Attorneys complete 14 hours of Continuing Legal Education (CLE) annually, ten hours of which must be related to child and family welfare law. Social Workers are licensed as LCSWs or LMSWs. Social workers complete 30 hours of Continuing Education Units (CEUs) every two years with six of those units being in the subject area of cultural awareness. Family peer support navigators complete at least 25 hours of relevant training every two years (40 hours if certified).

24. Ethics and Values

OFRA staff and contract attorneys abide by the Rules of Professional Conduct. Staff and contract social workers abide by the National Association of Social Workers Code of Ethics. Staff and contract family peer support navigators who are trained as peer support workers or family peer support workers abide by the New Mexico Peer Support Worker Code of Ethics. All staff and contractors act in accordance with OFRA's stated mission, vision, guiding principles, and performance standards.

“We have been moved by the calls . . . to create a system that centers family, a system that is built on a foundation of justice and healing. Evidence, and our experience, shows that an interdisciplinary model of parent representation works to meet these calls by centering the voices and lived experiences of our clients and working to honor their family bonds.”

Why High-Quality Interdisciplinary Legal Representation for Parents is Essential to Keeping Kids with Family. Kathleen Creamer and April Lee

PART THREE



CORNERSTONE ADVOCACY

Cornerstone Advocacy: An Overview

The Office of Family Representation and Advocacy practice model is based in large part on the “Cornerstone Advocacy” model first perfected by the Center for Family Representation in New York City and since replicated in multiple jurisdictions nationally.

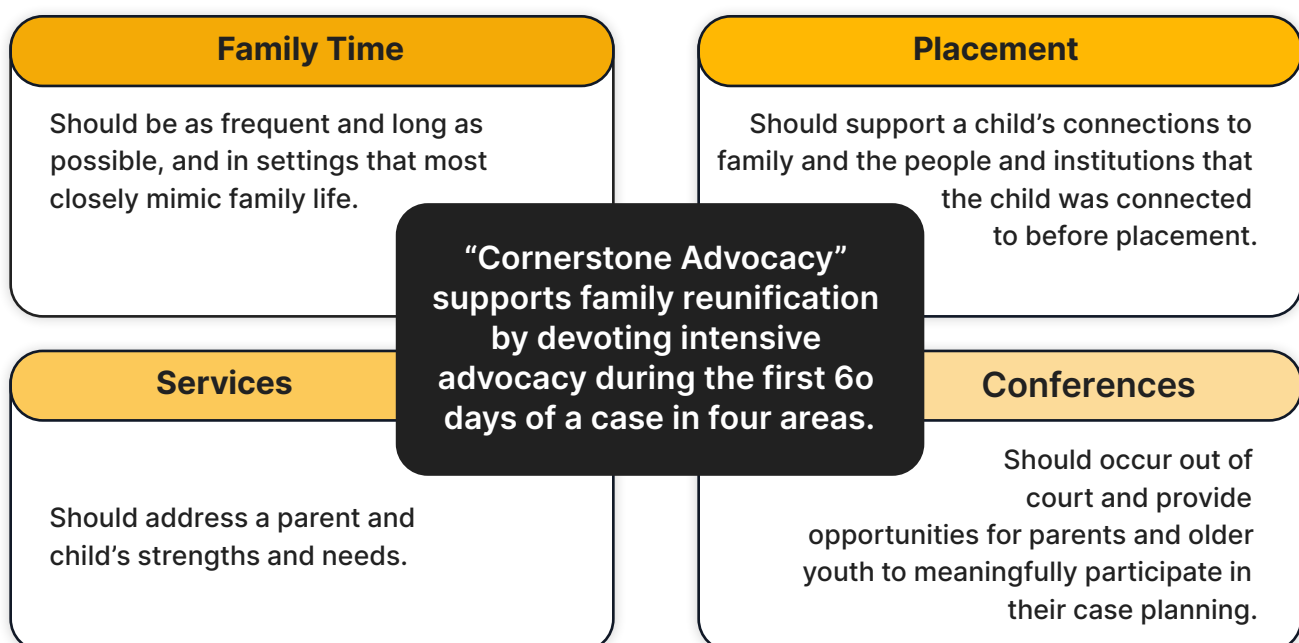
The model supports family reunification, when possible, by devoting intensive advocacy during the first 60 days of a case in the following areas, i.e., cornerstones:

Placement arrangements that support a child’s connection to their family, community, and the people and institutions connected to the child;

Family time (visitation) that enables parents and children to spend time together in ways that mirror their family life;

Services that builds on a family’s strengths as well as their needs; and

Conferences and meetings that provide opportunities for parents to meaningfully participate in service planning for themselves and their children.



“The most significant and central question in most dependency cases is not whether or not a parent committed ‘neglect’ but whether and when a child can return home safely. Cornerstone Advocacy attempts to answer this question and bring advocacy skills to bear as soon as possible in every case.

Cornerstone Advocacy does not replace preparing for trial, but if used with equal intensity, it has the following advantages:

- maintains a child’s significant attachments to parents and family that can reduce the emotional stress for a child in foster care and increases the likelihood that a parent will stay engaged in planning;
- speeds reunification and avoids protracted foster care stays;
- ensures services are tailored to the problem that led to placement, hopefully achieving stability that avoids future child protective involvement;
- makes it easier for practitioners to make accurate, informed decisions about the ultimate permanency question in the case, whether a family can reunify safely.

When you meaningfully pursue the Cornerstones, it is easier to be confident that a goal change to a permanency option other than reunification is appropriate, instead of the result of poor agency casework, delayed and missed opportunities for family connection and healing, overburdened professionals, or inadequate assessments about a family’s potential.”

Cornerstone Advocacy in the First 60 Days, by Jillian Cohen and Michele Cortese

Duties by Cornerstone

Cornerstone Advocacy is an essential part of the Practice Model and all staff are trained on this approach. The model calls for intense focus, especially in the first 60 days of the case, on placement, services, conferencing, and family time (including siblings). This focus also requires efforts to engage the client at each step. The material that follows suggests the steps to be taken, and matters to be attended to, throughout the case for each Cornerstone and for engaging the client.

As described elsewhere in this manual, upon notification of case appointment, the attorney shall review the initial pleadings and client information and perform a conflict check. If no conflicts are found, the attorney takes the case. Interdisciplinary Legal Team members may be assigned, depending on resources available and family eligibility. If assigned, the Legal Team determines how and by whom the duties listed below will be carried out. Legal Team assignments could include a Social Worker and/or a Family Peer Support Navigator. A conflict of interest check is completed for all assigned Legal Team members. When a Legal Team is assigned, a notice is filed with the court that a Social Worker and/or a Family Peer Support Navigator are assigned to the case as part of the client’s legal team. Whether a Legal Team is assigned or not, there are key roles required of Cornerstone Advocacy as follows.

FIRST CORNERSTONE: PLACEMENT

Appropriate placement eases the child's transition to foster care

A placement that helps children stay connected to teachers, friends, and other community supports like therapists or physicians minimizes the disruption in a child's life.

Appropriate placement keeps parents engaged

Foster parents who are willing to support a parent and child's relationship play a critical role in maintaining family ties that inspire parents to stay engaged in services.

Appropriate placement supports reunification

A placement which appropriately supports a child's connection to family promotes reunification and eases the transition home.

OFRA'S ROLE

CLIENT

- Discuss cultural needs for placement, including preferred placements under ICWA and IFPA, spoken language, religion, dietary needs, access to cultural activities and practices, school stability, etc.
- Discuss and identify relative or fictive kin placement options.
- Continue discussion on familial placement options if needed. If requested, assist client in reaching out to their family to discuss possibility of placement, requirements, and availability.
- Role-play these discussions with the client.

CYFD

- Discuss placement options with CYFD including preferred placements under ICWA and IFPA and active efforts to prevent removal.
- For children subject to ICWA or IFPA, discuss contacts made with the child's tribe about placement.
- Monitor progress on CYFD's efforts to locate and contact relatives and fictive kin as possible placements and advocate for placement with those relatives or fictive kin, if appropriate.
- Provide CYFD any new details about possible familial/kinship placement options and cultural needs, as identified by the client.
- Assess CYFD's perception of the need for continued out-of-home placement and provide additional information to counter any misperception.

HEARINGS, MEETINGS, AND CONFERENCES

- Make note of placement indicated in pleadings: relative or non-relative, and preferred placements under ICWA and IFPA.
- Advocate for placement with identified relatives or fictive kin if not currently placed with same, if appropriate.
- Discuss current placement and any need to advocate for change, if needed, at hearings and external meetings and conferences.
- Request a case conference if needed to address delays and barriers.

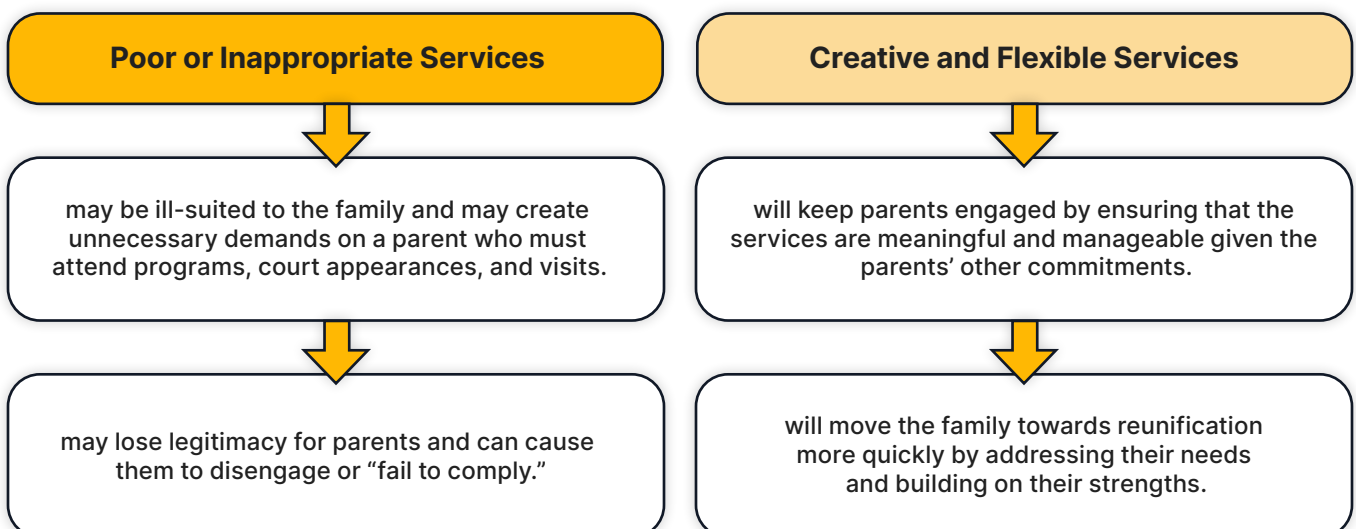
TRIAL HOME VISIT (THV) AND REUNIFICATION

- Support parents and children in preparing for THV and reunification.
- Assist client in establishing an ongoing network of family and community who can support parents and children during THV and after reunification.

RELINQUISHMENT OR TPR

- If the child(ren) are not already placed with relative/fictive kin, obtain an update on efforts to locate and contact relatives and fictive kin and advocate for placement with those relatives or fictive kin, if appropriate under the circumstances.
- If the client wants post adoption contact, assist the client in preparing for the Post Adoption Contact Mediation.

SECOND CORNERSTONE: SERVICES



OFRA'S ROLE

- At the outset of the case, anticipate the services CYFD will propose for the client based on the allegations in the Petition.
- Discuss with the client what services or supports they feel they need. Make referrals as appropriate.
- Advocate for referrals to services requested by client.
- Assist client in advocating for services tailored to the family's needs.
- Advocate against any proposed services not supported by allegations in the petition or plea agreement.
- Assess CYFD's Initial Assessment Plan and all subsequent plans to evaluate whether services appropriately address why the child(ren) came into custody and include the four Cornerstones.
- Provide any new information about appropriate or unnecessary assessments and services and provide justification.
- Review any completed assessments/progress reports to determine if recommended case plan is adequate, tailored to client's needs, and accessible to the client.
- Monitor efficacy, relevance, and barriers to progress or compliance with case plan.
- Request modifications to the case plan as needed to remove items not supported by assessments or current behavior.
- Ensure all items are relevant, tailored, culturally appropriate, and reasonable.
- Discuss parent and/or child(ren)'s progress and address any needs or barriers with client and team, if assigned.
- Request case conference to address the need for fewer, different, or additional services for client.

The OFRA Social Worker, in their capacity as a member of the team, takes into account how every action impacts the legal case.

THIRD CORNERSTONE: CONFERENCES

Many important decisions about a family's life are made outside court in family conferences.

- Will the family remain together?
- Will a family member become a foster parent?
- How often will the parent and child visit each week?
- Is the family ready for unsupervised visits?

However, historically there has been a disconnect between the social work sphere and the legal sphere.

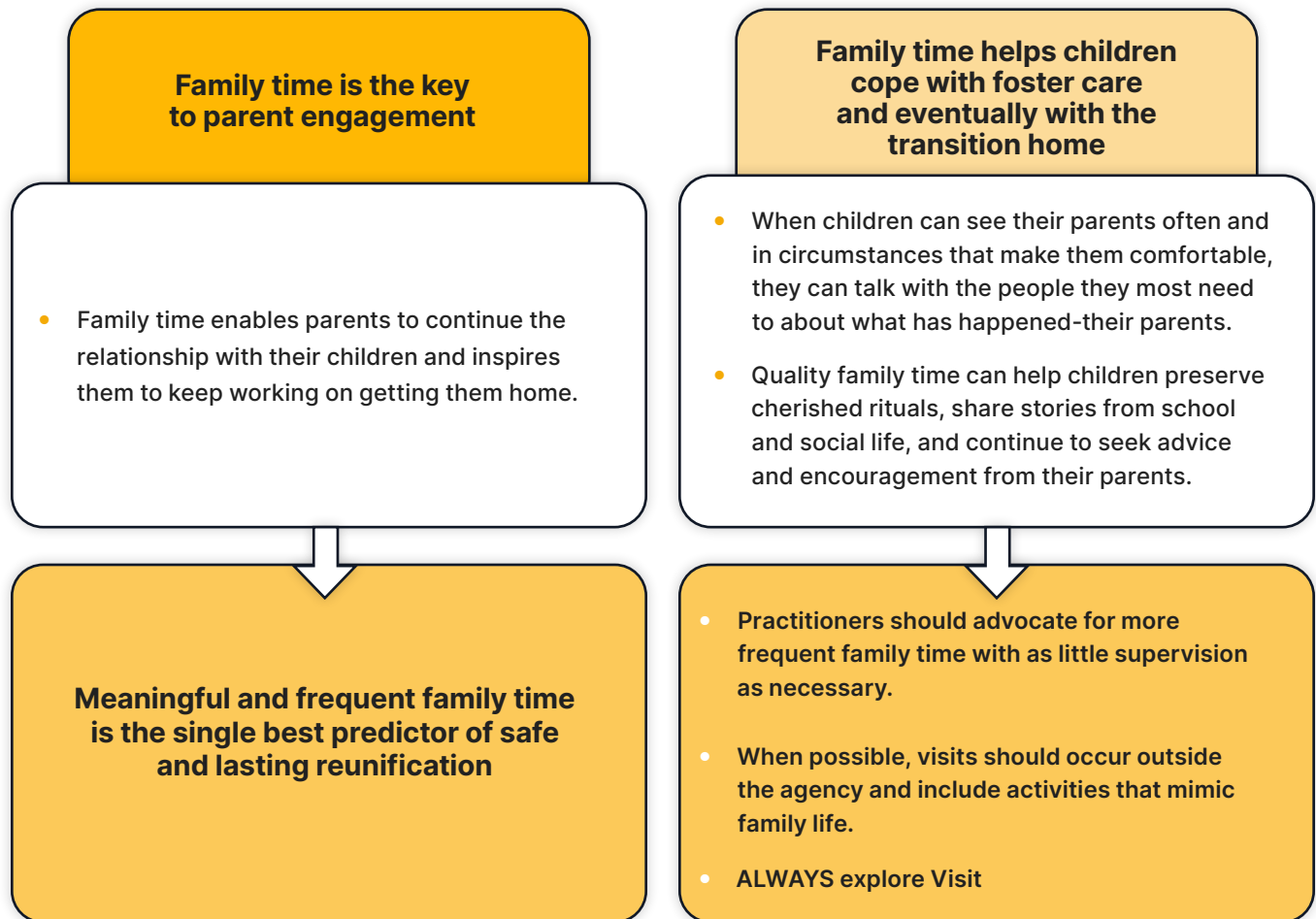
- An attorney who is not aware of decisions made at a family conference may have inaccurate information or be unaware of issues arising from these conferences.

OFRA'S ROLE

- Contact CYFD to find out when each conference is scheduled to take place including initial planning and assessment conference, icebreaker; client, PPW, and Interdisciplinary Legal Team meeting; pre-adjudication meeting/mediation; pre-permanency meeting/mediation; and other case conferences/external meetings.
- Review purpose of each conference/external meeting/mediation and help client to prepare to participate.
- As necessary, role-play to prepare for an upcoming conference/external meeting/mediation.
- Attend and support the client's participation in each conference/external meeting/mediation.
- Request additional conferences/external meetings with CYFD if needed to discuss parent and/ or children's progress and to address any ongoing disagreements about plans, family time, or other matters.
- As needed, request scheduling of regular case conferences, at least one every 60 days, to review progress, assess needs, and adjust services and family time.
- If an Interdisciplinary Team is assigned, meet with CYFD PPW and their supervisor in order to explain the interdisciplinary legal services model, gain collateral information, understand their perception of the case, areas of needs for parent and children, and how the Team can assist.

- Review all information on monthly home visits attended with CYFD; review other contacts and discussions with CYFD.
- If a motion for TPR is not granted, request a case conference to develop a case plan for reunification to present to the Court.

FOURTH CORNERSTONE: FAMILY TIME (VISITING)



OFRA'S ROLE

- Advocate for child/parent family time from the onset of the case, including telephone, video, and other contact.
- Continually advocate for frequent family time in the least restrictive setting necessary to ensure the safety of the child(ren).

When advocating for family time, be creative. Use naturally occurring opportunities such as the school conference, the visit to the dentist.

- Review family time schedule or lack of family time and identify any barriers. Be in contact with CYFD to find out if, when, and where family time is scheduled to take place.
- Identify possible family time host options, if needed; share and discuss with CYFD any information as to possible family time hosts.
- If a potential family time host has been identified, present that information to the court.
- Assist client in planning appropriate family time.
- Review family time notes/reports for information on possible family time hosts, frequency of family time, restrictions on current family time, and any potential for increase in frequency, duration, or location.
- If applicable, advocate for more time and establish benchmarks for moving from supervised family time to unsupervised family time. Work with client on a plan for meeting established benchmarks.
- Request a case conference if needed to address barriers to increased, less restrictive family time.

If CYFD is recommending a plan of reunification:

- If the plan is reunification but a Trial Home Visit (THV) has not begun, advocate for a transition calendar with increased, unsupervised family time, to include overnights.
- Review family time plan for maintaining child and family connections such as scheduled family time with other parents, siblings, or family members, as appropriate and approved by CYFD and/or as ordered by the Court.

If CYFD is recommending a plan other than reunification:

- Advocate for continued frequent, least restrictive family time until court ordered otherwise.
- If the plan is guardianship, relinquishment, or termination of parental rights, advocate for continued frequent, least restrictive family time.
- If the plan is guardianship, advocate for a referral for a post-guardianship contact mediation with prospective guardian.
- If TPR is granted, request continued family time consistent with therapeutic recommendations, and monitor the referral for post-adoption contact mediation with prospective adoptive parents.
- If there is no agreement for post-adoption or post-guardianship contact, assist client in arranging a transition visit with their child(ren).

ENGAGING WITH THE CLIENT

(Not technically a “Cornerstone” but equally important)

OFRA'S ROLE

At the outset of the case:

- Meet with the client and explain the roles of the attorney and other team members (if assigned); explain the limits of confidentiality as appropriate; and begin to build rapport. *Strive to preserve the worth and dignity of the client.*
- Ensure all communication is developmentally appropriate and in a language the client understands.
- Review expectations with the client including how the Legal Team will communicate with the client and how the client will communicate with the Legal Team.
- Secure initial Releases of Information (ROIs) and Informed Consent and complete the initial intake. Continue to secure ROIs as the case proceeds.
- Discuss with client and make initial service referrals if indicated.

No two cases are the same so the support we provide may be different.

Throughout the case:

- Assist the client in navigating community resources.
- Assist the client in understanding all CYFD processes and timelines.
- Meet with the client to review the purpose of every external meeting/conference/mediation.
- Attend every external meeting/conference/mediation and support the client by asking and answering questions, making suggestions, and providing information as appropriate. *See the person in front of you for who they are, not what society has labeled them.*
- Advocate that every external meeting/conference/mediation occurs in a timely manner and at a time and in a place the client can attend.
- Assist the client in understanding all Court processes and timelines.
- Meet with the client to review the purpose of every hearing, who will be present, what evidence might be presented, what issues might be raised, etc.
- Explain the client's options and rights at every stage of the legal case and advise client of the pros and cons of each possible course of action.

- Discuss what issues are most important to the client and brainstorm possible requests or resolutions to suggest.

- Attend every hearing and advocate on behalf of client regarding all issues.

- For respondents, youth, and eligible adults, proceed as the client wishes after legal advice is given. For children under 14, assess the best interests of the child taking into account the child's legal rights and expressed wishes.

- Discuss with a parent client the possible consequences of entering a plea.

- Provide client with copies of all orders and notices of hearing entered at or after hearings and make sure the client understands what has been ordered and what is expected of them.

- Prepare for hearings/trial i.e., identify witnesses, exhibits, and other evidence, prepare pleadings and/or motions, and prepare the client, etc.

- Debrief with the client after hearings, external meetings, conferences, and mediations.

- Advocate for individually tailored case plan items, preferred placement, quality family time, and other relevant matters.

- Inform the Court of services in which the client is already engaged.

Use a trauma responsive lens with all clients.
Some tips:

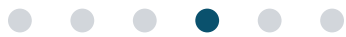
- Use person first language: instead of referring to someone as a “trauma victim,” you could say “a person who has experienced trauma.”
- Avoid blaming language: instead of asking “What’s wrong with you?” you could say “How can I help you?”
- Avoid triggering language: avoid words or phrases that can trigger traumatic memories or emotions. If you’re unsure what that might be, ask the client.
- Respect boundaries: clients may have specific boundaries around touch, personal space, or certain topics of conversation.
- Provide options: instead of telling someone what to do, offer a range of options and allow them to choose what feels most comfortable for them.

NOTE: There’s more detail about client engagement on the Hearing Checklists.

We worry that we might err in supporting children to go home but if everyone does their job, the chances of making that mistake are essentially nil. A study of parents represented by interdisciplinary law offices [ILO] “backed up the notion that safety would not be jeopardized with more robust legal representation of parents. Measuring the existence of a subsequent report of confirmed maltreatment within two years, ‘the data did not detect any difference in safety outcomes when families received ILO representation as compared to panel representation.’”

*The Imprint: New York’s Parent Defender Model Study
by John Kelly and Michael Fitzgerald*

PART FOUR



ATTORNEY STANDARDS AND EXPECTATIONS

The organization of this section is by six overarching standards (duties). These draw on material from the National Association of Counsel for Children’s (NACC) recommendations, extrapolated to apply to all clients, not just children. The expectations under each were derived by combing and combining ABA Standards for Representing Children, ABA Standards for Representing Parents, NACC Standards for Representing Children, recent NM Supreme Court Standards for GALs, Youth Attorneys, Respondent Attorneys, and Attorneys for Eligible Adults, and FJI Attributes of High Quality Representation.

These standards and expectations assume full compliance with the letter and spirit of the Rules of Professional Conduct, the Children’s Code, and the OFRA mission, vision, and guiding principles.

I. Establish and Support an Attorney-Client Relationship

Attorneys provide zealous representation and maintain frequent contact and intentional communication, tailored to the client’s individual circumstance

Expectations

- Take time in initial meetings to build rapport with the client
- Zealously represent the expressed interests of the client.
 - » **NOTE:** The GAL is appointed by the court to present the child’s expressed interests and also advocate for the child’s best interests. The attorney alerts the court if there is a conflict between the client’s expressed wishes and the attorney’s best interest position.
 - » The GAL determines the best interests of the child through an objective evaluation that takes into account such factors as age, sense of time, level of maturity, culture and ethnicity, degree of attachment to family members including siblings; continuity, consistency, and sense of belonging and identity; and the child’s legal rights.

- Be alert to and avoid potential conflicts of interest that would interfere with the competent representation of the client.
- Provide the client with contact information in writing and establish a message system that allows regular attorney-client contact (office hours, telephone, voicemail, fax, text, or email).
- Provide the client with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding other parties unless expressly prohibited by law, rule, or court order.
- Understand how trauma, the client's specific trauma history, and historical trauma impact the client's experience with the child and family welfare system and ability to engage in child and family welfare services.
- Reflect on one's own trauma history and how it might impact your responses to the client or others in the case.
- Be aware of the client's mental health status as well as any special needs.
- Approach the case with a sense of urgency with an immediate focus on the four Cornerstones.

"As an attorney for children or parents in child welfare proceedings, you have the same ethical duty as all attorneys to be diligent when pursuing your clients' case goals. You must be equally comfortable with and skilled at using out-of-court and in-court advocacy to achieve those goals. You must also be able to adjust your legal theory and strategy to account for ever-evolving facts.

"Deciding whether to handle an issue out of court (using teaming, negotiation, and client counseling) or to handle it using the court (filing a motion, filing a report, asking for a court order) is strategic."

FJI Tips & Tools for Providing High-Quality Legal Representation to Children and Parents in Child Welfare Proceedings In-Court Advocacy

II. Offer Legal Counsel and Advice

Attorneys have an ongoing duty to advise clients of their rights, educate them about the legal process, inform them of their options, and counsel their decision-making.

Expectations

- Provide clear information and counsel the client in a manner understandable to the client.
- Inform clients of all applicable rights under state and federal law, including any relevant bill of rights, and options that may be pursued if their rights are violated.

- Keep client informed about all legal matters related to the case, including allegations, timelines, orders entered, the service plan, and the potential consequences of failing to obey court orders or cooperate with service plans.
- Describe the purpose of each hearing and out-of-court meeting, who may or may not attend, and the information likely to be shared.
- Notify clients of their right to take other legal actions or file an appeal.
- Advise clients of the attorney's specific scope of representation, responsibilities, and applicable privileges including those of an Interdisciplinary Legal Team if assigned.
- Offer the client the attorney's best judgment as to how the judge is likely to rule and the attorney's opinion, if any, of the best course of action.

III. Ensure Opportunity for Full Participation:

Attorneys proactively ensure opportunities for meaningful client participation in court hearings and other case events.

- Assess one's personal competence, recognize personal boundaries and limitations, and do not offer services that exceed one's skill, training level, or role.
- Give the client actual and timely notice of every hearing and other court proceedings, case conference, or other meeting.
- Set clear and appropriate professional boundaries with the client.
- Honor the client's cultural norms and expectations.
- Support and encourage the client to engage in their case plan.
- Advise the client of their right to be present at every hearing, other court proceedings, case conferences, and other meetings.
- Ensure the court provides the client an opportunity to be heard at every hearing and other court proceeding.
- Prepare the client before each hearing and other court proceedings, case conference, or other meeting and debrief afterward.
- Discuss with the client which participants are likely to attend each hearing, other court proceeding, case conference, or other meeting.

- Preview case details that are likely to be shared during the proceeding, case conference, or other meeting and review reports and/or relevant pleadings that have been filed.
- Advocate to ensure that hearings and case events are scheduled at dates and times conducive for the client to attend.
- Facilitate the client's participation in every hearing and other court proceedings, case conference, or other meeting including language access, transportation, and so forth.

Children and youth should be in court; even young children can tell an important story.

IV. Provide Competent Legal Representation

Attorneys provide competent legal representation.

Expectations

Basic

- Obtain copies of all pleadings and relevant notices.
- Participate in depositions, negotiations, discovery, pretrial conferences, mediations, and hearings.
- Attend treatment, placement, and other case conferences or staffings concerning the client as needed.
- Attempt to reduce case delays and ensure that the court recognizes the need to speedily promote permanency for the child.
- Develop a theory and strategy of the case to implement at hearings, including factual and legal issues.
- Cooperate and communicate regularly with other professionals in the case.

Investigation

- Conduct thorough, continuing, and independent investigations and discovery at every stage of the proceeding including reviewing the CYFD case file.
- Interview the client before each hearing.
- Obtain necessary authorizations for the release of information.

- Review the client's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case.
- Review existing assessments and the service plan to assure needs are being attended to and unnecessary assessments are not being ordered.
- Interview individuals involved with the client including school personnel, child welfare case workers, resource parents and other caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses.
- Contact attorneys for other parties and court-appointed special advocates (CASA) for background information.

The attorney can't advocate without information. The social worker and family peer support navigator will help fill in the information, helping the attorney be a better advocate.

File Pleadings and Prepare for Court

- Timely file petitions, motions, responses, and/or objections as necessary to represent the client.
- Research applicable legal issues and advance legal arguments when appropriate.
- Zealously advocate for regular family time (parents and siblings) in the least restrictive and family-friendly setting as appropriate to your client's needs.
- With the client's permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.
- Identify, secure, prepare and qualify expert witnesses when needed; interview opposing counsel's experts.
- Request relief including but not limited to:
 - » Use immunity order
 - » Home study of relative or fictive kin for possible placement
 - » A mental or physical examination of a party
 - » A parenting, custody, or family time evaluation
 - » An increase, decrease, or termination of contact or family time
 - » Enjoining a change of placement
 - » Contempt for non-compliance with a court order
 - » Termination of the parent-child relationship

- » Child support
- » A protective order concerning the client's privileged communications or tangible or intangible property
- » Request for services
- » Dismissal of petitions or motions

Where and how people sit in court matters. Have the Legal Team and the client sit up front and together.

Request Services

- Review any completed assessments/progress reports, engage in case planning, and request services (by court order if necessary) to meet the client's needs, to protect the client's interests, and to ensure a service plan that is tailored to client's needs and accessible.
- Request culturally appropriate services; these may include but are not limited to:
 - » Family preservation and reunification services
 - » Family and sibling family time
 - » Screenings and diagnostics
 - » Medical and mental health care
 - » Drug and alcohol treatment
 - » Domestic violence prevention, intervention, or treatment
 - » Home-based services
 - » Parenting education
 - » Income support services
 - » Community-based services
 - » Recreational services
 - » Housing
 - » Semi-independent and independent living services
 - » Grief and loss counseling
 - » Adoption-related services
 - » Immigration services
 - » Education, special education and related services
 - » Supplemental security income (SSI) to help support needed services.

- Monitor implementation of the case plan.
- Request modifications to the case plan as needed to remove items not supported by current assessments or behavior. Ensure all items are relevant, tailored, and reasonable.

Hearings, Post-hearings, Appeals.

- Prepare for and attend all hearings and court conferences, including pretrial conferences with the court.
- Make all appropriate motions and evidentiary objections.
- Present and cross-examine witnesses, offer exhibits, and provide independent evidence as necessary.
- Request the opportunity to make opening and closing arguments.
- Be prepared to respond to reports on the client's compliance with prior court orders and case plans.
- Report to the court on CYFD's and other parties' compliance with prior court orders and the child/parent interaction during family time.
- Present evidence of the reasonableness or unreasonableness of CYFD's efforts and on alternative efforts that could have been made.
- Present evidence related to active efforts when the case involves an Indian child.
- Request orders that are clear, specific, and where appropriate, include a timeline for assessment, provision of services, and evaluation.
- Review all written orders to ensure they conform with the court's verbal orders and statutorily required findings and notices.
- 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.
- Cooperate and communicate regularly with client's other legal service providers to ensure dependency proceedings and other legal proceedings benefit client.
- Review court orders with the client so that the client understands what is required of them.
- Consider and discuss the possibility of appeal with the client.
- 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 Rules of Appellate Procedure.

- Request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending.
- Communicate the results of the appeal and its implications to the client.

“Children in foster care possess foundational constitutional rights. These well-recognized rights . . . include the right to safety, family integrity, emotional security, timely permanency, and an adequate education. Children in foster care, who find themselves removed from their homes through no fault of their own, need lawyers to fight for and protect their constitutional rights. We encourage and empower attorneys who represent children in foster care to root their everyday arguments in the soil of children’s constitutional rights. . . . Lawyers who represent children in foster care must lead a cultural change by pleading and preserving constitutional arguments in trial courts and then, when appropriate, presenting appellate courts with arguments regarding children’s constitutional rights.”

Tim Keller, *A Practice Manual for Lawyers Representing Abused and Neglected Children*

V. Advance Equity in Legal Representation

Attorneys engage in culturally humble representation and actively challenge inequitable treatment.

Expectations¹

- Actively work to minimize the impact of bias and discrimination based on race, ethnicity, religion, disability status, socioeconomic status, immigration status, sexual orientation, gender identity, worldview, and values in individual cases.
- Educate oneself regarding how inequity, systemic racism, implicit bias, and explicit bias shape and perpetuate the systems where attorneys practice.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status on child welfare outcomes.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status in order to provide services and information sensitive to these factors.

1. This section borrows heavily on the recommendations of the National Association of Counsel for Children. Their work was extrapolated herein to apply to OFRA Legal Teams. <https://naccchildlaw.org/standards-of-practice/>

“The child welfare system often perpetuates racism, bias, poverty, and the trauma of family separation against children and families of color. NACC [and OFRA] encourage advocates and practitioners to resist these injustices by demonstrating cultural humility, pursuing antiracist practices, confronting personal privilege and bias, utilizing a race equity lens when making decisions, and promoting diversity and inclusion.”

NACC: Race Equity Resource Hub

- Respect the dignity and worth of all people.
- Inquire about the client’s cultural and other identities to support the client’s goals, fulfilment of the case plan, and health and well-being while a child is in out-of-home care.
- Consult with experts who can provide culturally informed recommendations.
- Represent and protect the client’s cultural needs in a culturally competent manner.
- Endeavor to uncover what triggers one’s biases and develop a process that uses

objective criteria to guide advocacy and decision-making; continually reflect on and work to mitigate one’s own biases.

- Exercise restraint to avoid inserting personal desires, values, and beliefs into one’s advocacy.
- Consult with supervisors and colleagues to ensure there is adequate training and support to mitigate bias and to advance equity.
- Challenge white supremacy culture and implicit and explicit biases when they occur during casework, including values and beliefs held by case professionals and the court about what is in the best interest of children. This may include raising and litigating evidence of bias or discrimination that impacts the case or the client.
- Ensure equitable access to the court system for the client, including language translation and other accessibility measures.

The US Supreme Court recognizes that child and family welfare proceedings can be fraught with inequities. It’s our job to strenuously resist judgments based on anything but the clearly proven facts.

“Because parents subject to termination proceedings are often poor, uneducated, or members of minority groups, such proceedings are often vulnerable to judgments based on cultural or class bias.”

Santosky v. Kramer, 455 U. S. 745, 763 (1982)

VI. Preserve Continuity of Legal Representation

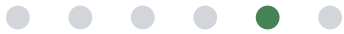
Attorneys provide uninterrupted legal representation

Expectations²

- Maintain continuity of representation at all times and avoid unnecessary case transfers.
- Attend to self-care practices and address compassion fatigue.
- Plan for possible unavailability (e.g., due to sickness, vacation, or family leave); ensure that a trained attorney is available to provide case coverage during any absence.
- Ensure that the covering attorney and Legal Team have access to case files, electronic information, and other systems necessary to effectively advocate for the client.
- Provide notice of unavailability to OFRA, the Legal Team, the Court, and other counsel.
- If a case transfer is unavoidable, make efforts to find substitute counsel and communicate with OFRA on the need to substitute counsel.
- If a case transfer is unavoidable, inform the client of the impending change, introduce the client to incoming counsel, and ensure that incoming counsel is provided a full, organized file that includes information about immediate needs and next steps and current client contact information.
- In the event of a change of venue, remain on the case, absent good cause to change, until a new attorney is assigned by OFRA in the new venue and the new attorney has communicated with the former attorney.
- If there is an appeal, provide representation through the filing of the docketing statement and request the appointment of an appellate attorney.
- If there is no appeal, continue representation through dismissal, unless removed or relieved by the court.
- At cessation of representation, discuss the end of the legal representation and determine what contact, if any, will continue.
- Debrief the case with the CYFD Permanency Planning Worker, Supervisor, the Children's Court Attorney, and others as appropriate.
- Ensure that the client has all pertinent case information as well as clear instructions about how to access case files in the future.

2. This section also borrows heavily on the recommendations of the National Association of Counsel for Children. Their work was extrapolated herein to apply to attorneys representing all parties.

PART FIVE



SOCIAL WORKER STANDARDS AND EXPECTATIONS

Introduction

The OFRA Practice Model is based on Interdisciplinary Legal Teams and Cornerstone Advocacy. The Legal Team always includes the Attorney and the Family Peer Support Navigator. In some cases, a Social Worker is also assigned. As the Center for Family Representation points out (paraphrased): While Legal Team members have distinct responsibilities by discipline, there is often overlap in the delegation of case related tasks. For example, the Social Worker or Family Peer Support Navigator might explain a hearing to a client; the Social Worker or Family Peer Support Navigator might prepare the client for court; and either one of them could call ancillary contacts as part of preparing the case.

At the end of the day, it's a team working collaboratively on behalf of the client. The Center for Family Representation nails it:

“Ultimately, the model only works if the different disciplines acknowledge that each family requires something a little different and that our teams must be flexible, communicate often, and help each other to identify ways to help each parent reach his or her goal. While the teams often come together when there is a crisis, it is just as important to establish regular routines where the team is discussing next steps on a case that is not in crisis, like a father whose visiting schedule hasn’t progressed in three months or a mother who has dropped out of two drug programs, these cases require team strategizing for court and out of court interventions. In addition to regular communication and meetings, it’s nice to know your team appreciates your work, is able to vent when moments are frustrating, and that you always have someone to help you out when you need it. All of these goals require a commitment to the team model. CFR’s teams will tell you: the benefits will make the efforts worthwhile every day.”

Building a ‘Best Practices’ Interdisciplinary Practice: Shared Ownership, Shared Authorship, 2010

The Family Peer Support Navigator

The OFRA Practice Model provides for Family Peer Support Navigators to be assigned to every client receiving Interdisciplinary Legal Team Services (unless the client declines). Family Peer Support Navigators provide critical mentoring, coaching, and peer support, as well as assistance navigating the child and family welfare system. Family Peer Support Navigators also identify resources and make referrals, in coordination with CYFD, to meet the needs of the client and family. They accompany clients to court hearings, meetings, and conferences, and provide support.

The Social Worker as Case Manager

In some cases, the Interdisciplinary Services Division Director and Legal Services Division Director will determine that the client has needs that would be best served by assigning a Social Worker to the Legal Team in addition to the Family Peer Support Navigator. These are cases where the client's needs require the specialized knowledge, skill, and ability of a Social Worker.

The assigned Social Worker provides case management and, when needed, crisis intervention. The Social Worker maintains regular contact with the client, monitors progress, speaks with service providers and, with the Family Peer Support Navigator, offers encouragement and feedback. The Social Worker reviews the results of available formal assessments, conducts informal assessments, and when needed completes a safety assessment. The Social Worker also conducts research on available community resources and makes appropriate recommendations and referrals that will meet the needs for which the Social Worker was assigned.

The Social Worker does not duplicate the work of the CYFD Permanency Planning Worker. Instead, the Social Worker is best understood as the "Legal Team Social Worker."

The Social Worker as Consultant

The Social Worker has additional duties and expectations that are consultative in nature. The Social Worker will, when requested, provide consultation to the Attorney and/or the Family Peer Support Navigator on their shared cases. The Social Worker will, when requested, also provide consultation to an Attorney and/or a Family Peer Support Navigator on cases to which the Social Worker is not assigned. In these latter instances, when the Social Worker is not assigned to the case, the client must remain anonymous (de-identified) to avoid any chance of future conflict of interest. Examples include consultation about:

- how to develop client relationships, e.g. how to provide encouragement, peer-to-peer support, mentorship, modeling, advice to clients, etc.;
- how to encourage and secure clients' participation in hearings and other case events;

- how best to approach clients with news and information;
- how to interpret and understand behavioral, medical, and other assessments, services, and records;
- how to meet the needs of a particular client, de-identified if the Social Worker is not assigned;
- how to understand the client's progress and wishes, particularly where development, substance abuse, cognitive delays, or other behavioral health issues may interfere with a client's ability to communicate;
- how to understand and use relevant child welfare research;
- how to understand and use relevant CYFD policies and procedures;
- how and where to locate expert services for a particular client need, including referring and collaborating with OFRA's Access Coordinator; and
- how to manage client behavior

“A key attribute of high-quality legal representation for families is access to a legal representation team that includes social workers, peer parents or youth advocates, and experts. Non-attorney team members play a key role in out-of-court advocacy and can be as impactful, if not more so, than attorneys' advocacy in court.

“Underlying all of this work is the fact that a family's future is at the heart of the case, and your clients—parents and children—need additional connections with you and the support team outside of litigation preparation.”

FJI Tips & Tools for Providing High-Quality Legal Representation to Children and Parents in Child Welfare Proceedings Out-of-Court Advocacy

The Standards

The organization of this section is also by six overarching standards (duties). These were intentionally drawn to parallel the Attorney Standards above. The expectations under each reflect the Social Worker components of each of these duty areas. They also include material derived from a review of the National Association of Social Workers (NASW) Code of Ethics, the New Mexico Social Work Practice Act and all rules and regulations of the New Mexico Board of Social Work.

NOTE: these standards and expectations apply to those instances when the Social Worker is assigned to a specific client. Expectations and standards for Social Workers in a consultative role can be found immediately above.

I. Establish and Support a Client Relationship

Social Workers establish a supportive relationship with the client when assigned to their case.

Expectations

- Take time in initial meetings to build rapport with the client.
- Speak in straightforward terms, use people first language, use active listening, and avoid clinical jargon.
- Be alert to and avoid potential conflicts of interest that would interfere with serving and supporting the client; discuss concerns about potential conflicts with the supervisor.
- Meet with the client initially and maintain contact throughout the case.
- Meet with the client 1-5 days prior to custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings.
- Meet with the client 1-5 days prior to mandatory pre-adjudicatory and pre-permanency meetings and other external meetings and conferences scheduled with CYFD.
- Participate in training on trauma-informed and trauma-responsive practice.
- Understand how trauma, the client's specific trauma history, and historical trauma impact the client's experience with the child and family welfare system and ability to engage in child and family welfare services.
- Reflect on your own trauma history and how it might impact your responses to the client or others in the case.
- Be aware of, and responsive to, the client's mental health status as well as any special needs.
- Approach the case with a sense of urgency with an immediate focus on the four Cornerstones.
- Provide the client with contact information in writing and establish a message system that allows regular contact.

II. Ensure Opportunity for Full Participation:

Social Workers support the client in fully participating in court hearings and other case events.

Expectations

- Attend and support the client in hearings, other court proceedings, case conferences, and other meetings.
- Work with the client to prepare them for hearings, other court proceeding, case conferences, and other meetings.
- Advocate that hearings and case events are scheduled at dates and times conducive for the client to attend.
- Facilitate language access, transportation, and other accommodations.
- With others on the Legal Team as needed, meet with the client to debrief after each hearing, other court proceeding, case conference, or other meeting.

*We cannot do this work
unless we believe in the
capacity of families to change,
to transform.*

III. Offer Social Worker Support and Guidance:

Social Workers provide support and guidance to the client as needed.

Expectations

- Assess one's personal competence, recognize personal boundaries and limitations, and not offer services that exceed one's skill, training level, or role.
- Acknowledge limits to one's knowledge and expertise to the client as needed and appropriate. Model asking for more information for the client.
- Promote interdisciplinary and intra- and inter-organizational collaboration (beyond just the Legal Team) to support, enhance, and deliver effective services to clients.
- Set clear and appropriate professional boundaries with the client.
- Honor the client's cultural norms and expectations.
- Support and encourage the client to engage in their case plan.

Social workers help clients achieve their goals. As we do in any setting, the social worker engages the client and supports them in advocating for themselves.

- Participate in and contribute to decisions that affect the well-being of the client by drawing on the perspectives, values, and experiences of the social work profession.
- Assist the client in developing self-advocacy and coping skills.
- Help the client identify their goals, strengths, and challenges.
- Work to ensure that the client is an informed consumer, fully understanding what is expected of them, the services that are available, and the consequences of their action or inaction.
- Assist and advise others on the Legal Team on how best to approach the client with news and information

IV. Provide Competent Social Work Services and Supports

Social Workers effectively assist clients in securing services and supports.

Expectations

1. Basic

- Adhere to all OFRA training and mentoring requirements.
- Serve and support clients in accordance with OFRA's stated mission, vision, and guiding principles.
- Serve and support clients in accordance with the National Association of Social Workers (NASW) Code of Ethics, the New Mexico Social Work Practice Act and all rules and regulations of the New Mexico Board of Social Work.
- Serve and support clients in accordance with the confidentiality requirements of the New Mexico Children's Code, Section NMSA 1978, 32A-4-33.
- Work with Legal Team members as needed to obtain consents and necessary authorizations for the release of information.
- Review existing assessments and the service plan to assure needs are being attended to and unnecessary assessments are not being ordered.

Prevent re-traumatization whenever you can. Be mindful about what questions you ask and how you ask them, especially about difficult and delicate topics.

- Review and interpret the biopsychosocial assessment and other available information with the client and the Legal Team.
- Review the client's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case.
- Review court files, case-related records of CYFD, and records from other service providers.
- Complete Emergency Safety Assessments when needed.
- Observe family time as needed.

2. Services

- Review the client's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, progress reports and other records relevant to the case to determine if the recommended case plan is adequate, tailored to client's needs, and accessible.
- Conduct additional assessments and information gathering as needed to assure the service plan is appropriate for the client's goals and focuses on the behaviors or conditions that prevent a child from returning home safely.
- Collaborate with CYFD to avoid duplicative and excessive assessment of the client.
- Work with CYFD's Permanency Planning Worker (PPW) and others involved in the case in a professional and positive manner.
- Assist the client and CYFD in identifying an appropriate placement.
- Engage in case planning and with others on the Legal Team, and request services to meet the client's needs, to protect the client's interests, and to ensure a comprehensive but not unnecessarily burdensome service plan.
- Advocate to CYFD for individualized case plans tailored to client's needs and strengths.
- Advocate for culturally appropriate services as well as services that fit a client's schedule, location, and needs.
- Discuss with the client any progress and/or challenges in working on the case plan.
- Suggest referrals to CYFD and follow up with CYFD and service providers.
- Work with others on the Legal Team to monitor implementation of the case plan.
- Work with others on the Legal Team to request modifications to the case plan as needed to remove items not supported by assessments or current behavior. Ensure all items are relevant, tailored, and reasonable.

- Work with others on the Legal Team to report to the court on the client's progress with prior court orders and case plans.
- Work with others on the Legal Team to report to the court on CYFD's and other parties' compliance with prior court orders and the child/parent interaction during family time.
- Assist the client in complying with court orders and obtaining court-ordered services.
- Support the client in their own navigation of community resources in order to address their own needs. This could include assisting with applications and/or attending various appointments, intakes, and meetings (e.g., housing, employment, school, Medicaid, Social Security, Vital Statistics, Motor Vehicle Department, DD Waiver, medical appointments, transportation, other court hearings, probation or parole, appointments or meetings for their child(ren) as needed, and any other needed supports).
- Assist the client with identifying transportation assistance including, but not limited to, learning to identify bus and train routes, locating community passes, and use of Medicaid transportation services.
- Cultivate relationships with community programs and social service providers.
- When requested, work with the Family Peer Support Navigator to identify and request services to address the needs for which the Social Worker was assigned. These include, for example:
 - » screenings and diagnostics
 - » medical and mental health care
 - » drug and alcohol treatment
 - » domestic violence prevention, intervention, or treatment

3. Family time

- Assist the client, CYFD, and the Legal Team in identifying an appropriate and qualified family time host.
- Advocate with CYFD for appropriate family time, addressing frequency, duration, siblings, location (the most natural, family-like setting) and for unsupervised family timewhenver possible.
- Serve and support the client to assertively self-advocate for frequent family time in the most natural setting that is unsupervised whenever possible.
- Attend and observe family time between client and children with the Family Peer Support Navigator when requested.

4. Other

- Assist client in locating and obtaining concrete supports, services, and benefits (clothing, food, furniture, household goods, government benefits, and/or supports for related legal issues, e.g., custody, guardianship, paternity, domestic violence, personal injury, etc.).
- Ensure that documentation in electronic and paper records is entered in a timely manner, is accurate and reflects the services provided.

V. Advance Equity in Legal Representation

Social Workers engage in culturally humble delivery of services and supports and actively challenge inequitable treatment.

Expectations³

- Actively work to minimize the impact of bias and discrimination based on race, ethnicity, religion, disability status, socioeconomic status, immigration status, sexual orientation, gender identity, worldview, and values in individual cases.
- Educate oneself regarding how inequity, systemic racism, implicit bias, and explicit bias shape and perpetuate the systems where social workers practice.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status on child welfare outcomes.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status in order to provide services and information sensitive to these factors.
- Educate oneself about the impact of historical trauma on clients.
- Respect the dignity and worth of all people.
- Inquire about the client's cultural and other identities to support the client's goals, fulfillment of the case plan, and health and well-being while a child is in out-of-home care.
- Consult with experts who can provide culturally informed recommendations.
- Represent and protect the client's cultural needs in a culturally competent manner.

3. This section borrows heavily on the recommendations of the National Association of Counsel for Children. Their work was extrapolated herein to apply to OFRA Legal Teams. <https://naccchildlaw.org/standards-of-practice/>

- Endeavor to uncover what triggers one's biases and develop a process that uses objective criteria to guide advocacy and decision-making; continually reflect on and work to mitigate one's own biases.
- Exercise restraint to avoid inserting personal desires, values, and beliefs into one's advocacy.
- Consult with supervisors and colleagues to ensure there is adequate training and support to mitigate bias and to advance equity.
- Challenge white supremacy culture and implicit and explicit biases when they occur during casework, including values and beliefs held by case professionals and the court about what is in the best interest of children. This may include collaboration with the attorney to raise and litigate evidence of bias or discrimination that impacts the case or the client.
- Ensure equitable access to the court system for the client, including language translation and other accessibility measures.

“Family separation is an extraordinary trauma to inflict on both a child and a parent, and the grief and loss that we’ve borne witness to ripples across generations.

“The child welfare system has a shameful, and ongoing, legacy of dismantling Black, Brown and Indigenous families, and entire communities have felt the impact of a system that has relied heavily on ineffective strategies of surveillance, control, and separation, with disastrous consequences for the well-being of children.”

Why High-Quality Interdisciplinary Legal Representation for Parents is Essential to Keeping Kids with Family. Kathleen Creamer and April Lee

VI. Preserve Continuity of Services and Supports

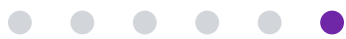
Social Workers provide uninterrupted services and supports

Expectations

- Maintain continuity of service at all times and avoid unnecessary case transfers.
- Attend to self-care practices and address compassion fatigue.
- Plan for possible unavailability (e.g., due to sickness, vacation, or family leave); ensure that a trained Social Worker is available to provide case coverage during the absence.
- Ensure that the covering Social Worker has access to case files, electronic information, and other systems necessary to effectively advocate for the client.

- If a case transfer is unavoidable, inform the client of the impending change, introduce the client to the new Social Worker, and ensure that the incoming Social Worker is provided a full, organized file that includes information about immediate needs and next steps.
- At the closure of the legal case, discuss the end of the Legal Team's representation and advocacy, and determine what contact, if any, will continue.
- Debrief the case with the CYFD Permanency Planning Worker, Supervisor, the Children's Court Attorney, and others as appropriate
- Ensure that the client has all pertinent case information as well as clear instructions about how to access case files in the future.

PART SIX



FAMILY PEER SUPPORT NAVIGATORS STANDARDS AND EXPECTATIONS

The organization of this section is also by six overarching standards (duties). These were intentionally drawn to parallel the Attorney Standards and Social Worker Standards above. The expectations under each reflect the Family Peer Support Navigator components of each of these duty areas. They also include material derived from a review of the New Mexico Peer Support Worker Code of Ethics to the extent it applies to working in the child and family welfare system.

Mentor parents are perhaps the most transformational element of the team: They bring their personal experience with the child welfare system or the criminal justice system (or both) and their grounding in the community to provide support to parents. More than just a sympathetic listening ear—although this is also a crucial part of their role—they are powerful advocates because of their intimate understanding of what parents in these systems are experiencing.

*Dependency Advocacy Center: Cornerstones of
Interdisciplinary Prevention Advocacy*

I. Establish and Support a Client Relationship

Family Peer Support Navigators maintain frequent contact with the client and provide mentoring and emotional support.

Expectations

- Take time in initial meetings to build rapport with the client.
- Maintain minimum weekly or monthly contact with the client (office, in-home, community, and other).
- Meet with the client 1-5 days prior to custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings.

- Meet with the client prior to mandatory pre-adjudicatory and pre-permanency meetings and other external meetings and conferences scheduled with CYFD.
- Speak in straightforward terms, use people first language, and avoid clinical jargon.
- Maintain high standards of personal conduct and model accountable relationships.
- Provide mentoring and peer-to-peer emotional support to the client.
- Be alert to and avoid potential conflicts of interest that would interfere with serving and supporting the client.
- Participate in training on trauma-informed and trauma-responsive practice.
- Understand how trauma, the client's specific trauma history, and historical trauma impact the client's experience with the child and family welfare system and ability to engage in child and family welfare services.
- Reflect on one's own trauma history and how it might impact your responses to the client or others in the case.
- Be aware of the client's mental health status as well as any special needs.
- Approach the case with a sense of urgency with an immediate focus on the four Cornerstones.
- Provide the client with contact information in writing and establish a message system that allows regular contact.

II. Ensure Opportunity for Full Participation:

Family Peer Support Navigators support the client in fully participating in court hearings and other case events.

Expectations

- Make sure the client knows about every hearing, other court proceeding, case conference, or other meeting.
- With others on the Legal Team, help prepare the client before each hearing, other court proceeding, case conference, or other meeting; role play if appropriate.
- With others on the Legal Team, discuss with the client who is likely to attend; what case details are likely to be shared; and what reports and pleadings have been filed. Help prepare client to manage their reactions when in court, case conferences, or other meetings.

- With others on the Legal Team, advocate to ensure that hearings and case events are scheduled at dates and times conducive for the client to attend.
- Facilitate the client's participation in every hearing and other court proceeding, case conference, or other meeting including language access, transportation, and other accommodations.
- Attend each hearing, other court proceeding, case conference, or other meeting with the client if possible.
- With others on the Legal Team, meet with the client to debrief after each hearing, other court proceeding, case conference, or other meeting

Our clients have a voice; our job is to support them to use it.

III. Offer Peer Support and Guidance

Family Peer Support Navigators provide peer support and mentorship, and information and advice, as appropriate.

Expectations

- Assess one's personal competence, recognize personal boundaries and limitations, and not offer services that exceed one's skill, training level, or role.
- Set clear and appropriate professional boundaries with the client.
- Honor the client's cultural norms and expectations.
- Support and encourage the client to engage in their case plan.
- Acknowledge limits to one's knowledge and expertise to the client as needed and appropriate. Model asking for more information for the client.
- Speak in direct terms, provide clear information, use people first language, and avoid clinical jargon.
- Work to ensure that clients are informed consumers who fully understand what is expected of them, the services that are available, and the consequences of their actions or inaction.
- Provide encouragement, support, mentorship, and coaching to the client.
- Assist the client in developing self-advocacy and coping skills.

- Debrief the parent/child interactions following family time.
- Review court and meeting etiquette and options for appropriate attire as needed and appropriate.
- Assist and advise others on the Legal Team how best to approach the client with news and information

Treat everyone with respect and compassion.

IV. Provide Competent Peer Support and Resource Navigation

Family Peer Support Navigators effectively assist clients in securing services and supports.

Expectations

1. Basic

- Adhere to all OFRA training and mentoring requirements.
- Serve and support the client in accordance with OFRA's stated mission, vision, and guiding principles.
- Serve and support the client in accordance with the New Mexico Peer Support Worker Code of Ethics to the extent it applies to working in the child and family welfare system.
- Serve and support the client in accordance with the confidentiality requirements of the New Mexico Children's Code, Section NMSA 1978, 32A-4-33.
- Work with others on the Legal Team to obtain consents and necessary authorizations for the release of information.
- Review the CYFD case file.
- Review the client's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case.
- Review court files, case-related records of the social service agency and other service providers.
- Review existing assessments and the service plan to assure needs are being attended to and unnecessary assessments are not being ordered.
- Attend CYFD home visits with the client.

2. Service

- Review any completed assessments/progress reports to determine if recommended case plan is adequate, tailored to client's needs and accessible.
- Engage in case planning and request services and concrete supports to meet the client's needs. These may include but are not limited to:
 - » family preservation and reunification services;
 - » family and sibling family time;
 - » child support;
 - » screenings and diagnostics;
 - » medical and mental health care;
 - » drug and alcohol treatment;
 - » domestic violence prevention, intervention, or treatment;
 - » home-based services;
 - » parenting education;
 - » education and training;
 - » recreational or social services;
 - » housing;
 - » semi-independent and independent living services;
 - » adoption-related services;
 - » education;
 - » housing and assistance with utilities;
 - » food, clothing, furniture; and
 - » special education and related services
- Supplemental security income (SSI) to help support needed services.
- Advocate for culturally appropriate services as well as services that fit a client's schedule, location, and needs.
- Advocate for individualized case plans tailored to client's needs and strengths.

- Discuss with the client any progress or challenges in working on the case plan.
- Suggest referrals to CYFD and follow up with CYFD and service providers.
- Work with others on the Legal Team to monitor implementation of the case plan.
- Work with others on the Legal Team to request modifications to the case plan as needed to remove items not supported by assessments or current behavior. Ensure all items are relevant, tailored, and reasonable.
- Work with others on the Legal Team to report to the court on the client's progress on case plans.
- Work with others on the Legal Team to report to the court on CYFD's and other parties' compliance with prior court orders and the child/parent interaction during family time.
- Assist the client in understanding court orders and completing case plans.
- Support the client in their own navigation of community resources in order to address their own needs. This could include assisting with applications and/or attending various appointments, intakes, and external meetings (e.g., housing, employment, school, Medicaid, Social Security, Vital Statistics, Motor Vehicle Department, DD Waiver, medical appointments, transportation, other court hearings, probation or parole, appointments or external meetings for their child(ren) as needed, and any other needed supports).
- Assist the client with identifying transportation assistance including, but not limited to, learning to identify bus and train routes, locating community passes, use of Medicaid transportation services, etc.
- Cultivate relationships with community programs and social service providers.

3. Family time

- Assist the client with identifying an appropriate and qualified family time host.
- Advocate to CYFD for appropriate family time, addressing frequency, duration, siblings, location (the most natural, family-like setting) and the opportunity for unsupervised family time whenever possible.
- Serve and support the client to assertively self-advocate for frequent family time in the most natural setting that is unsupervised whenever possible.
- Attend and observe family time between client and children.

4. Other

- Work with others on the Legal Team to assist parents in locating and obtaining concrete supports, services, and benefits (clothing, food, furniture, household goods, government benefits, and/or supports for related legal issues, e.g., custody, guardianship, paternity, domestic violence, personal injury, etc.).

When the client feels heard by the court, the outcome can be more readily accepted. Our job is to help the client get heard.

V. Advance Equity in Legal Representation

Family Peer Support Navigators engage in culturally humble delivery of services and supports and actively challenge inequitable treatment.

Expectations⁴

- Actively work to minimize the impact of bias and discrimination based on race, ethnicity, religion, disability status, socioeconomic status, immigration status, sexual orientation, gender identity, worldview, and values in individual cases.
- Educate oneself regarding how inequity, systemic racism, implicit bias, and explicit bias shape and perpetuate the systems where social workers practice.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status on child welfare outcomes.
- Educate oneself about the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status in order to provide services and information sensitive to these factors.
- Educate oneself about the impact of historical trauma on clients.
- Respect the dignity and worth of all people.
- Inquire about the client's cultural and other identities to support the client's goals, fulfillment of the case plan, and health and well-being while a child is in out-of-home care.

“Given the ongoing and well-documented history of racism in the child welfare system, the legal team should, at a minimum, actively identify and interrupt racially biased and non-humanizing language and interactions and reframe them to preserve and amplify the client’s voice, dignity, and humanity.”

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4. This section borrows heavily on the recommendations of the National Association of Counsel for Children. Their work was extrapolated herein to apply to OFRA Legal Teams. <https://naccchildlaw.org/standards-of-practice/>

- Consult with experts who can provide culturally informed recommendations.
- Represent and protect the client's cultural needs in a culturally competent manner.
- Endeavor to uncover what triggers one's biases and develop a process that uses objective criteria to guide advocacy and decision-making; continually reflect on and work to mitigate one's own biases.
- Exercise restraint to avoid inserting personal desires, values, and beliefs into one's advocacy.
- Consult with supervisors and colleagues to ensure there is adequate training and support to mitigate bias and to advance equity.
- Challenge white supremacy culture and implicit and explicit biases when they occur during casework, including values and beliefs held by case professionals and the court about what is in the best interest of children. This may include raising and litigating evidence of bias or discrimination that impacts the case or the client.
- Ensure equitable access to the court system for the client, including language translation and other accessibility measures.

VI. Preserve Continuity of Services and Supports

Family Peer Support Navigators provide uninterrupted services and supports

Expectations²

- Maintain continuity of representation at all times and avoid unnecessary case transfers.
- Attend to self-care practices and address compassion fatigue.
- Plan for possible unavailability (e.g., due to sickness, vacation, or family leave); ensure that a trained attorney is available to provide case coverage during any absence.
- Ensure that the covering attorney and Legal Team has access to case files, electronic information, and other systems necessary to effectively advocate for the client.
- Provide notice of unavailability to OFRA, the Legal Team, the Court, and other counsel.
- If a case transfer is unavoidable, make efforts to find substitute counsel and communicate with OFRA on the need to substitute counsel.

2. This section also borrows heavily on the recommendations of the National Association of Counsel for Children. Their work was extrapolated herein to apply to attorneys representing all parties.

- If a case transfer is unavoidable, inform the client of the impending change, introduce the client to incoming counsel, and ensure that incoming counsel is provided a full, organized file that includes information about immediate needs and next steps and current client contact information.
- In the event of a change of venue, remain on the case, absent good cause to change, until a new attorney is assigned by OFRA in the new venue and the new attorney has communicated with the former attorney.
- If there is an appeal, provide representation through the filing of the docketing statement and request the appointment of an appellate attorney.
- If there is no appeal, continue representation through dismissal, unless removed or relieved by the court.
- At cessation of representation, discuss the end of the legal representation and determine what contact, if any, will continue.
- Debrief the case with the CYFD Permanency Planning Worker, Supervisor, the Children's Court Attorney, and others as appropriate.
- Ensure that the client has all pertinent case information as well as clear instructions about how to access case files in the future.

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