



Out of Sight, Out of Mind

*When Children in Foster
Care in California
Don't Meet Their Court-
Appointed Attorneys*



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Table of Contents



Executive Summary	2
Introduction	4
Key Terms and the Legal Framework for Representation of Children and Youth in Foster Care	6
Definitions	7
Legal Framework for Dependency Counsel	8
Law, Rules, and Standards Guide Appointed Attorneys to Meet With and Get to Know Their Child-Clients	8
Appointment and Compensation of Counsel and Enforcement of Competency Requirements Depend Upon County Rules	10
Research Methodology	12
Research Findings	14
Summary of Findings	14
A. Survey Results – Statewide	15
B. Key Findings by County	19
C. Former Foster Youth and Caregiver Assessments of the Impact of Representation Quality	20
D. Evaluation of County Contracts with Appointed Attorneys	24
Research Conclusions	26
A. Most Children in Foster Care Have Never Met Their Attorneys	26
B. Mechanisms for Enforcement of Competency Standards Are Inadequate	26
C. Caregivers and Youth Perceive Better Results at Court Hearings When Children in Foster Care Have a Relationship with their Attorneys	27
Recommendations for Change	28
Recommendation 1. Create a New Statewide Office of Dependency Counsel	28
Recommendations 2–6. Make Interim Improvements in Advance of Creation of Statewide Office of Dependency Counsel	29
Conclusion	32
List of Appendices	33
Appendix A – Findings from Public Records Act Requests	Appendix G – County contracts
Appendix B – Caregiver Survey	Appendix H – Local rules regarding contact with client
Appendix C – Former Foster Youth Survey	Appendix I – Local rules regarding complaints
Appendix D – Interview Guides	Appendix J – Recommended legislation: California Office of Dependency Counsel
Appendix E – Research Limitations	Appendix K – Recommended amendments to California Welfare and Institutions Code
Appendix F – DRAFT contract	

Executive Summary



Every day in California, children in the foster care system are represented by court-appointed attorneys attending proceedings in which judges make critical decisions about their placement, safety, families, and future. This report details important research revealing that many of these attorneys fail to meet the minimum standards of competent representation, including providing their contact information, and meeting with their child clients. This first-of-its-kind study presents findings from surveys of more than 1,000 caregivers and former foster youth that highlight the extent of the incompetent and ineffective representation of children in foster care by the very attorneys appointed to represent them in the neglect and abuse court hearings that determine so much about their lives.

The data collected suggest that most children in foster care in California have likely never met with the lawyer appointed to advocate for their protection, safety, and physical and emotional well-being. The surveys and in-depth interviews conducted in this study highlight the real dangers to children in care who do not receive the quality of legal advocacy promised under California law. To illustrate the ramifications, the study captures the experiences and perceptions of former foster youth and caregivers — both positive and negative — stemming from the different attorney-client relationships that take shape across the state.

The study makes findings related to the likelihood that a child in foster care will meet with the attorney who is appointed to represent them, meet with their attorney’s agent in lieu of meeting with their attorney directly, or that they will not meet with anyone involved in their legal representation. It also explores the differing experiences, in the context of legal representation, of children in foster care living in different counties throughout the state.

Key findings from the study’s survey of 879 caregivers and 190 former foster youth include:

43%	reported that the appointed attorney never provided their name and contact information.
65%	reported that the appointed attorney never met with their child/youth client.
80%	of survey respondents in Butte, Fresno, Kern, Riverside, and Stanislaus counties reported that the appointed attorneys never met with the children in their care.

Finally, the study makes a series of recommendations for improving the attorney-appointment system and the rules governing the practice of representing abused and neglected children. Those recommendations include:

- Creating a California Office of Dependency Counsel that would:
 - ensure that all attorneys appointed to represent children in foster care are properly trained;
 - establish consistent and fair compensation and caseloads; and
 - ensure periodic review of attorney performance and corrective action if an attorney fails to meet performance standards.
- Amending state law to clarify that court-appointed attorneys are required to meet with the children they represent regardless of their age, provide contact information and information on complaint procedures to children and caregivers, and maintain an attorney-client relationship with the children.
- Enshrining in law the right of children in foster care to competent counsel.
- Raising standards of and procedures for accountability of court-appointed counsel.

Introduction

From the moment the child welfare system intervenes, everything in a child's life is at stake — their home, their belongings, their bonds with parents and siblings, their education, their community, their future. To journey through this system — which spans across branches of government and agency bureaucracies and is governed by federal, state, and local law — can be complicated, protracted, and deeply traumatic. High-quality legal representation is essential to help children and youth navigate these complex processes, advance their legal rights, ensure their voices are heard, and reach better outcomes.

— National Association of Counsel for Children (NACC)¹

Marisa² was 8 years old when she entered foster care, having suffered severe physical abuse and neglect. She was already in her fourth foster home after only five months in the foster care system. After two months with a new caregiver — a schoolteacher named Stacey — Marisa finally felt safe, experiencing fewer night terrors, and catching up at school. Then, Stacey received a call from Marisa's social worker to alert her that Marisa would be moved once again. But Marisa did not want to move, and her caregiver and her therapist believed that another move would be damaging.



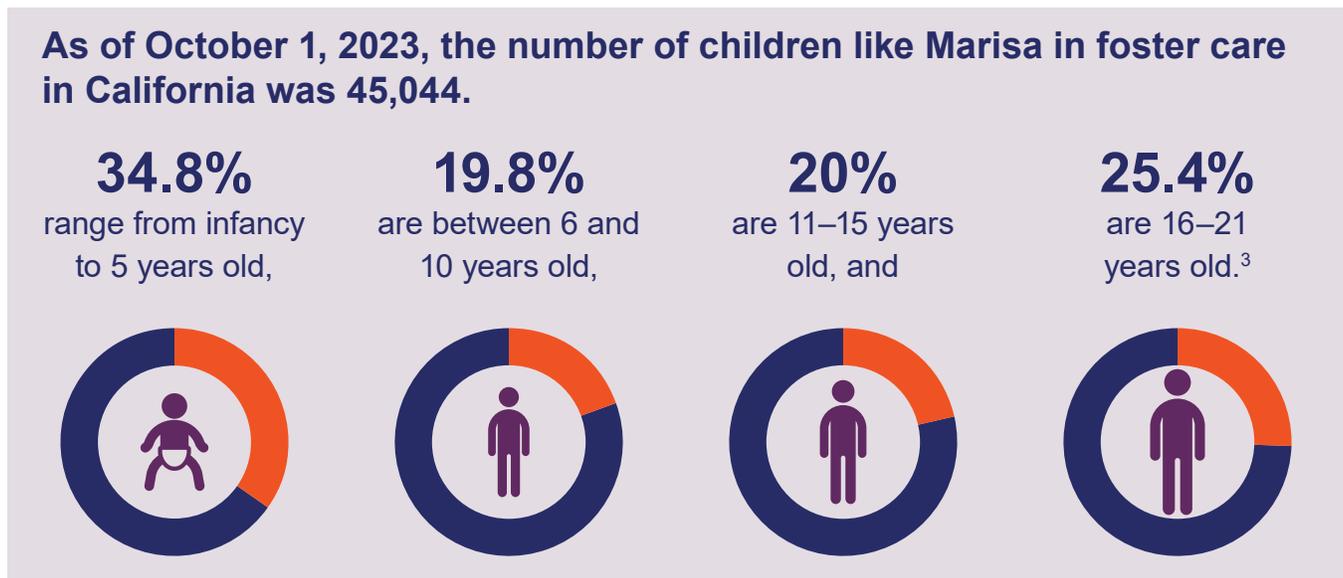
Stacey wanted to speak up for Marisa and make sure that her well-being was front and center in the decisions being made on her behalf. However, Stacey had never been provided with Marisa's attorney's name or contact information, and no attorney, or anyone from the attorney's office, had met with Marisa while she was in Stacey's care. Stacey found the attorney's telephone number and left messages, but her calls were not returned.

Looking for help about how to best advocate for Marisa, Stacey contacted Advokids, a legal advocacy nonprofit organization serving California children in foster care. A staff attorney at Advokids was able to find an email address for Marisa's court-appointed attorney and suggested that Stacey email the attorney to ask her to seek a court order to prevent the move. Marisa's attorney did not even know that Marisa had experienced multiple placements and was facing yet another. However, after hearing from Stacey, the attorney was able to prevent the planned move. As a result, Marisa stayed with Stacey until it was appropriate, safe, and in her best interest to return home, after her mother had completed the requirements of her reunification case plan. Now 9 years old, Marisa still spends time on the weekends with Stacey.

1 National Association of Counsel for Children (NACC), Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings (2022) ("Recommendations"), at p. 2; <https://nacccchildlaw.org/wp-content/uploads/2024/01/NACC-Recommendations-Final.pdf> as of September 15, 2023.

2 Names of children and caregivers used throughout this study have been changed to protect their identity.

Marisa’s story is emblematic of the fragility of California’s county-based systems that provide and oversee legal representation for children in foster care.



Too many of these children lack an advocate like Stacey to step in at just the right time to call to Advokids or another organization to help navigate the legal system. As the research contained in this study reveals, too many children and their caregivers never have any direct and meaningful engagement with the attorney. Others may meet with an agent of the attorney, but, in court, the appointed counsel provides no report on the child’s well-being or wishes. Worse still, many children in foster care never meet with anyone even associated with the lawyer appointed to be their advocate in court.

Advokids operates the only free telephone hotline in the state providing legal information, legal tools, and support for anyone seeking to advocate for a child in foster care. Caregivers, relatives, doctors, concerned adults, and child welfare professionals call the Advokids Hotline every day, affording Advokids the opportunity to gather data about child welfare practices in every county in California. Since establishing its Hotline in 2005, Advokids has heard from tens of thousands of caregivers who, like Stacey, were desperate to figure out how to ensure that the foster care system and the appointed dependency counsel would effectively protect the children in their care. Advokids’ internal Hotline data indicated a wide range of attorney practices across the state. Time and again, it revealed significant failures by lawyers to meet statutory and ethical obligations of sufficient contact with their child-clients such that they would be able to adequately protect that child’s interests and competently advocate for the child’s safety, protection, and physical and emotional well-being. Advokids concluded that a broader investigation was needed. In collaboration with the nonprofit organization Western Center on Law and Poverty and Akin Gump Strauss Hauer & Feld LLP, Advokids surveyed California caregivers, including relatives, and former foster youth about their experiences with court-appointed attorneys.

³ Webster, D., et al, “Children in Foster Care” California Child Welfare Indicator Project (CCWIP) Reports (2024) Retrieved February 12, 2024, from University of California, Berkeley, CCWIP Project website, <https://ccwip.berkeley.edu/childwelfare/index/r> [Click “In Care” link under “Fundamentals” for latest available statistics.]



This study is, first, an attempt to understand and quantify the scale of the problem of inadequate legal representation for children and youth in care. It examines the engagement of appointed attorneys with the children in foster care that they are contracted to represent in court and the laws, rules, and ethical standards that govern attorneys' responsibilities to their child clients. In addition, this study reports the impressions of caregivers and former foster youth about the impact on court hearings when attorneys fail to meet with the children and youth they represent.

The study also highlights county-level differences in survey responses regarding the contracting and oversight of appointed attorneys, and the level of compliance with the standards of representation that children and youth in the foster care system have a right to expect. The report ends with a vision for a statewide agency responsible for ensuring high-quality representation for children in foster care in every county, as well as near-term reforms aimed at improving outcomes for these vulnerable, young Californians.

Key Terms and the Legal Framework for Representation of Children and Youth in Foster Care

The legal representation of children and youth in foster care is an integral and essential aspect of the state's and counties' responsibilities to protect the interests, and support the well-being of abused and neglected children. Before presenting our findings, we define and summarize key terms, laws, and rules that are used and cited in this report for context and clarity in the presentation of our research findings about this critical node of our foster care system.

Definitions	
Agent	A person working for an appointed attorney who meets with and checks on a child-client and/or caregiver of a child-client. Other names used to describe the agent role in the foster care system include <i>investigator</i> and <i>legal assistant</i> . No statewide standard has been established regarding the educational attainment, training, or other professional requirements of agents. Agents are generally expected to gather information about the appointed attorney’s child-client and provide that information to the attorney.
Appointed Attorney	<i>Attorney, appointed attorney, counsel, dependency counsel, and lawyer</i> all refer to the attorneys who are appointed to serve as the legal representative of abused or neglected children whom the juvenile court has removed from the custody of their parent(s) in all court proceedings related to their status as children in foster care. The child in foster care — not the caregiver, parent, county, or state — is the client of the appointed attorney.
Caregiver	Any of the following types of caregiver: The most common, traditionally called a foster parent but now referred to as a <i>resource family</i> or <i>resource parent</i> , is a person who cares for children in foster care but does not have a familial relationship with them. <i>Non-related extended family member</i> is an adult caregiver who has an established familial relationship with a relative of the child or a familial or mentoring relationship with the child. <i>A kin caregiver, kinship caregiver or relative caregiver</i> is a relative or family member who provides foster care.
Child in Foster Care	A child who has been removed from their home due to abuse or neglect and is deemed a dependent of the state. The term <i>youth in foster care</i> is used when referring to older children in foster care.
Court	Unless otherwise specified, the court cited in this study refers to county-based juvenile dependency courts in California.
DRAFT	An acronym for “Dependency Representation, Administration, Funding and Training.” It is a program under which the California Judicial Council directly contracts with individuals, law firms, nonprofit organizations, and other legal organizations to provide court-appointed dependency representation for parents and children in 20 participating California counties.
Former Foster Youth	Individuals aged 18 years or older who are no longer in the foster care system and non-minor dependents aged 18–21 years who are still in foster care.

Legal Framework for Dependency Counsel

The bodies of law governing the representation of children in juvenile dependency cases in California are the Welfare and Institutions Code, the California Rules of Court, and local Rules of Court. The following brief overview of the law and rules as well as the guidance and ethical standards set out by the relevant legal professional associations serves as an evaluative framework for interpreting the research findings of this study.

Under California Welfare and Institutions Code Section 317, the court must appoint counsel for a child who is the subject of a dependency petition alleging abuse or neglect,⁴ which initiates a proceeding that could lead to a placement in foster care. A primary responsibility of an attorney appointed to this role is “to advocate for the protection, safety, and physical and emotional well-being of the child,”⁵ and the attorney is “charged in general with the representation of the child’s interests.”⁶ The law establishes that children in foster care are “entitled to competent counsel.”⁷

Law, Rules, and Standards Guide Appointed Attorneys to Meet With and Get to Know Their Child-Clients

Attorneys who have been appointed to represent children aged 4 and older in foster care are required under California law to “interview the child to determine the child’s wishes and assess the child’s well-being,” and to “advise the court of the child’s wishes.”⁸ Rule 5.660 (d) of the California Rules of Court establishes a competency requirement that children’s counsel “or their agents” meet regularly with their clients, regardless of their age. However, the same rule requires attorneys themselves to “have sufficient contact with the child to establish and maintain an adequate and professional attorney-client relationship.”⁹ The rule also mandates that attorneys provide their contact information to their client’s caregiver as well as to children who are aged 10 years or older. In several of the state’s 58 counties, local Rules of Court have more explicit and expansive requirements for meeting with children in foster care. Beyond the laws and rules, guidelines and standards developed by the American Bar Association (ABA) and the National Association of Counsel for Children (NACC) highlight the ethical obligation to have a relationship with a child-client. The ABA explains that:



[My appointed counsel] didn't really listen to anything that I asked, they spent five minutes with me to tell me what they think should happen. It's like they didn't care. There was no connection there.

Roberto, Southern California Former Foster Youth

4 This requirement has two exceptions: an appointment is not necessary if the child already has counsel or if the court finds that the child would not benefit from the appointment of counsel. Because most children lack the skills to represent themselves in legal proceedings, almost every child who is subject to a dependency proceeding is entitled to be represented by appointed counsel.

5 California Welfare and Institutions Code Section 317(c)(2)

6 California Welfare and Institutions Code Section 317(e)(1)

7 California Welfare and Institutions Code Section 317.5

8 California Welfare and Institutions Code Section 317(e)(2)

9 California Rules of Court Rule 5.660 (d)(4)

The lawyer should visit the child in the child’s home, school, or other appropriate place where the child is comfortable. The lawyer should observe the child’s interactions with parents, foster parents, and other caregivers. The lawyer should maintain regular and ongoing contact with the child throughout the case.¹⁰

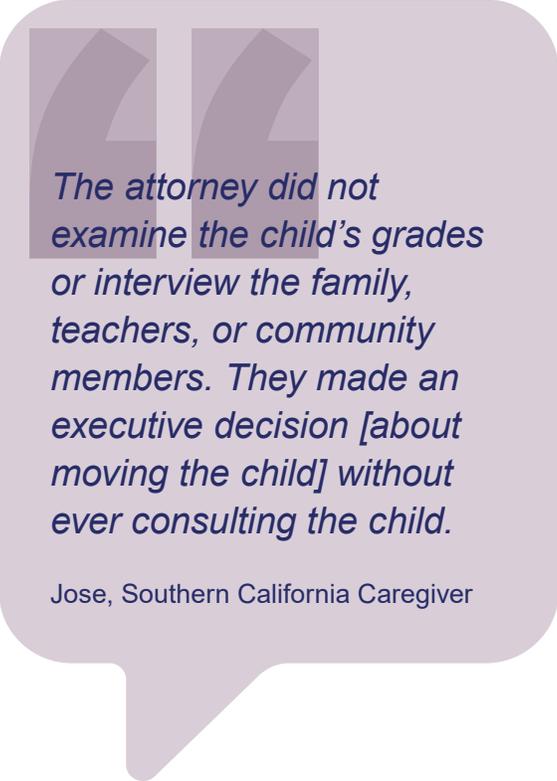
The NACC guidance is even more prescriptive:

Attorneys should make initial client contact as soon as possible, and no later than 48 hours after appointment as counsel (preferably in person, but at least by phone or video chat if necessary). At the beginning of the relationship, counsel should provide the client and their caregiver with the attorney’s contact information in both paper and electronic format and offer clear information about expected timelines for the attorney to respond....

It is the attorney’s responsibility to ensure the judicial officer and all parties in the case understand the client’s individuality and the unique context for their needs and requests. To effectively do so, they should seek to understand their client as a whole person, including not only the needs and concerns that prompted the initiation of the court proceeding but also their unique strengths, family story and protective factors, hobbies, support systems, aspirations, and cultural identity. For an attorney representing children and youth, the best source of information about the case is usually the client (including observation for clients of diminished capacity).¹¹

Similarly, in 2021 the federal Administration for Children and Families, Children’s Bureau updated its 2017 best practices information memorandum identifying the importance and characteristics of high-quality legal representation for parents, children, and child welfare agencies. As with the ABA and NACC guidance, the centrality of building a client relationship with the child is evident in the Children’s Bureau memorandum:

Parents’ and children’s attorneys must spend significant time with clients to build a trusting and supportive relationships, to understand the clients’ goals, and to counsel clients on all legal matters. This relationship building can require expertise in child development, trauma, motivational interviewing, and cultural humility.”¹²



The attorney did not examine the child’s grades or interview the family, teachers, or community members. They made an executive decision [about moving the child] without ever consulting the child.

Jose, Southern California Caregiver

10 ABA Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings (2011) §7, p. 8 (“Model Act”); https://www.americanbar.org/content/dam/aba/administrative/child_law/aba_model_act_2011.pdf as of September 7, 2023.

11 National Association of Counsel for Children (NACC), Recommendations for Representation of Children and Youth in Neglect and Abuse Proceedings (2022) (“Recommendations”), at pp. 10–11; <https://nacccchildlaw.org/wp-content/uploads/2024/01/NACC-Recommendations-Final.pdf> as of September 15, 2023.

12 U.S. Dept of Health and Human Services, Administration for Children and Families, Information Memo ACYF-CB- IM-06 (1/14/21) p. 8 https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf as of November 7, 2023

Appointment and Compensation of Counsel and Enforcement of Competency Requirements Depend Upon County Rules

The California Judicial Council is responsible for the administration of the state court system, and the costs of appointed attorneys are part of the Judicial Council's budget, with the funding passing directly from the Judicial Council to the 58 county-based trial courts. Under the Dependency Representation, Administration, Funding and Training (DRAFT) program, in which 20 counties participate, the Judicial Council directly selects and appoints attorneys for children in those jurisdictions and uses a standard contract for all attorney appointments. In the remaining 38 counties, the local courts are responsible for the selection, appointment, compensation, and contract terms for dependency counsel.

Irrespective of the appointment process, oversight of appointed attorneys is the responsibility of the juvenile courts in each county. While the California Rules of Court require counties to maintain a process for reviewing and resolving complaints about appointed counsel,¹³ the processes are generally lackluster. More than half the state's counties do not allow caregivers or other concerned adults involved in a child's life to file a complaint about an appointed attorney on behalf of a child in foster care. In those counties that allow adults to complain on behalf of a child, few require notice to caregivers of their right to complain or the process for doing so.

As the research in this study shows, despite the clear legal framework and strong professional guidelines for the representation of children in foster care — and, specifically, the critical importance of meeting and knowing the child-client — it is evident that these requirements are not being met in practice. Thousands of children in foster care are poorly represented and consequently less protected.



¹³ California Rules of Court 5.660(e)

Siri and Eddie

Siri (4 years old) and her brother Eddie (17 months old) had been placed together with resource parents Em and Mario for almost one year. This was the second foster care placement for both children. Siri had trouble with sleeping and toilet training and needed lots of attention and patient caregiving. Eddie was happy and thriving. Em and Mario were in close contact with the children's mother and hopeful that they would eventually be returned to her care.



To their surprise, Em and Mario received a text from the children's social worker telling them that the following week, Siri and Eddie would go on a five-day visit out of the county with an aunt the children had met only once. If the visit went well, the children would stay with the aunt permanently.

Siri and Eddie had never been away from Em and Mario overnight since their placement and were now facing yet another potential placement change. Em and Mario worried Eddie would suffer emotionally and developmentally from the sudden loss of his primary caregivers — and he was too young to understand why or where he was going. Siri was also going to abruptly lose her therapist and entire support network of teachers, classmates, and friends.

Em and Mario asked the social worker for a gradual transition period to allow the children to adjust to a new caregiver. Instead, the following day the social worker took the children on a planned visit with their mom, then placed them in the care of their aunt. They went to a strange home with a caregiver who had no experience with their sleeping and eating habits, comfort toys, fears, or stressors. They did not have their belongings. They had no preparation or understanding of why they would never see Em and Mario again.

Em and Mario contacted the children's court-appointed attorney for help. They wanted to slow down a permanent move to allow the children and the aunt to get to know each other and prevent the children from suffering additional trauma and feelings of abandonment. But the attorney did not appreciate the emotional risks for Siri and Eddie, as she had never visited the children in their foster home to “observe them and their interactions with others in the placement” as required by the county Local Rules of Court. She did not intervene to seek a transition plan that would have helped to protect the children from unnecessary trauma and feelings of abandonment.

Research Methodology

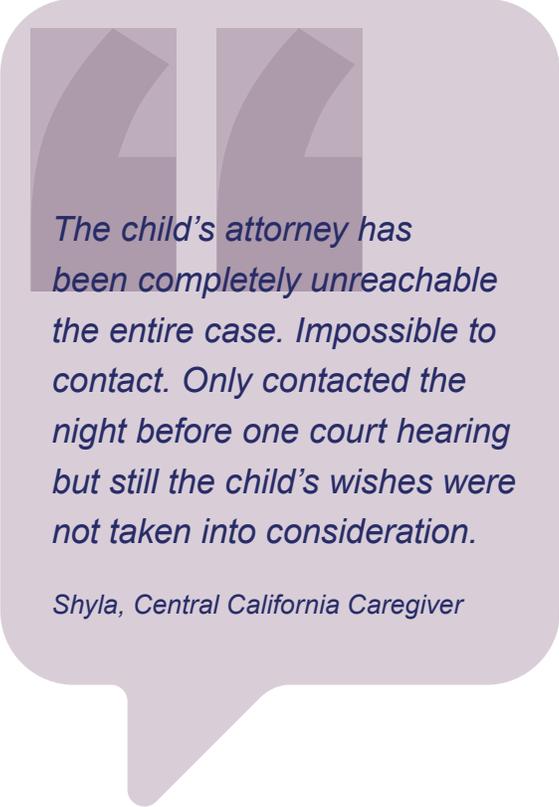
This study — inspired by Advokids’ Hotline data indicating that the nature and quality of children’s legal representation and local court rules governing standards of practice varied greatly from county to county — uses survey data, interview responses, and public information to assess the current state of child representation in California. Specifically, project personnel sought to answer the following research questions:

- How do counties administer and operate contracts for the provision of child representation?
- What proportion of children’s attorneys meet minimal standards of representation (providing contact information and meeting with their clients), as reported by children’s caregivers and former foster youth?
- To what extent does the likelihood that attorneys meet with their child-clients vary across age differences and county jurisdictions?
- What impacts do former foster youth and caregivers report arising from the quality of representation in the child’s individual case?

In Appendix A, we present a high-level summary of the contracts received in response to Public Records Act requests related to each county’s approach to contracting with dependency counsel. Appendices B through D provide the survey instruments and semi-structured interview guides that were used to collect the responses from caregivers and former foster youth used in this study.¹⁴ In Appendix E, we provide a discussion of the limitations of the survey instrument.

Caregivers were recruited for participation in the survey through foster family agencies, kinship organizations, foster parent associations, Facebook groups, and directly to relative and non-relative caregivers who had contacted Advokids’ Hotline seeking legal information. The youth surveys were distributed through organizations serving current and former foster youth and to those who had contacted Advokids for assistance. The participating youth were compensated for their time with a choice of a gift card to either Target, Chipotle, or Chevron.¹⁵

As Figure 1 indicates, the two overarching categories of survey respondents are caregivers and former foster youth. Significant majorities of the 879 caregivers surveyed are resource families, caregivers of young children, and those of children currently in foster care. Among the 190 former foster youth surveyed, respondents were much more likely to have entered foster care as older children compared to



The child’s attorney has been completely unreachable the entire case. Impossible to contact. Only contacted the night before one court hearing but still the child’s wishes were not taken into consideration.

Shyla, Central California Caregiver

¹⁴ Participants provided their responses to the survey through an online questionnaire using the cloud-based SurveyMonkey software.

¹⁵ The sample of youth formerly in foster care included any adult aged 18 or older who experienced foster care placement in California after the year 2000. The sample included a limited number of non-minor dependents, which are young adults over the age of 18 who are receiving extended foster care services.

all children in foster care in California. Of the 879 caregiver responses, 146 (16.6%) were recorded by caregivers who, prior to participating in the survey, had called the Advokids Hotline seeking assistance. Further, 54 caregivers recorded responses for multiple children in their care which constituted 126 responses (14.3%) in the final sample.¹⁶

The maps in Figure 2 illustrate that the responses represent experiences across the state of California, including survey data from 48 of the state's 58 counties. The majority of former foster youth responses came from residents of Los Angeles County.

After the surveys were completed, 19 caregivers and five former foster youths (three of whom had not participated in the survey) engaged in semi-structured interviews with project researchers. While the survey sought to quantify the experiences of children and youth in foster care regarding the relationship with their appointed attorneys, the interviews aimed to center discussions on interviewees' subjective experiences with the appointed counsel, the specific harms or benefits they attributed to counsel's representation quality, and the interviewees' experiences of and recommendations for holding systems accountable for providing appropriate legal advocacy for children. Themes and quotes from these interviews are discussed alongside the quantitative results set forth below, with particular emphasis on interview responses explaining the impacts of representation quality.

In addition to the survey and interviews, researchers reviewed local court rules and the terms of county contracts with appointed attorneys. These contracts were retrieved through Public Records Act requests to the Judicial Council for the 20 DRAFT counties and to the courts of the other 38 counties.

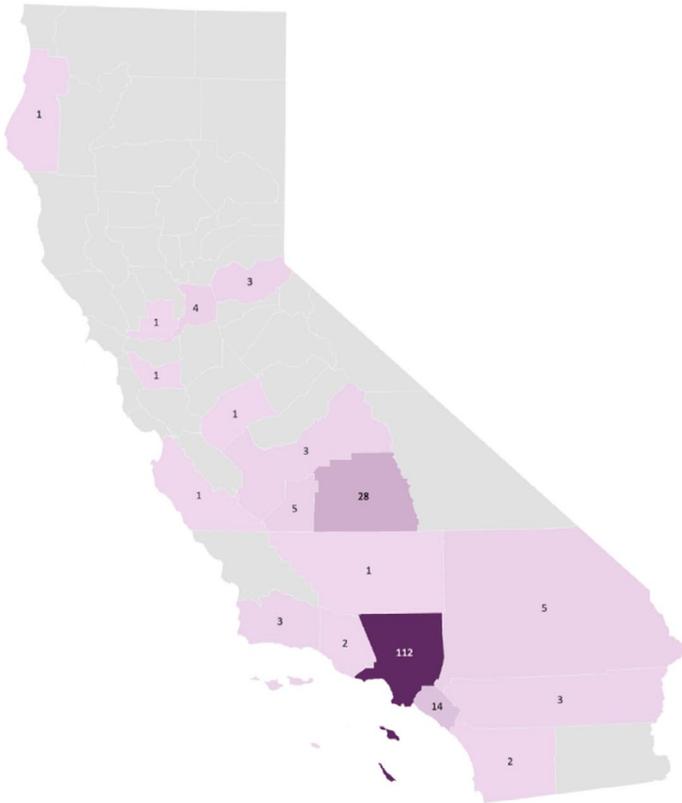
Figure 1 Characteristics of Survey Respondents Caregiver Survey (n = 879)	
Relationship	
Resource Parent	730 (83%)
Relative or NREFM	149 (17%)
Child Age at Placement	
0-3 Years	560 (63.7%)
4-11 Years	210 (23.9%)
12-18 Years	109 (12.4%)
Case Status	
Open	583 (66.3%)
Closed	191 (21.7%)
Did Not Say	105 (11.9%)
Child Time in Foster Care	
< 14 Months	369 (42%)
14-24 Months	184 (20.9%)
> 24 Months	311 (35.4%)
Unknown	15 (1.7%)
Former Foster Youth Survey (n = 190)	
Age at Placement	
0-5 Years	31 (16.3%)
6-11 Years	52 (27.4%)
12-18 Years	107 (56.3%)
Age at Survey	
18-24 Years	131 (68.9%)
25-30 Years	50 (26.3%)
31-37 Years	9 (4.7%)
Time in Foster Care	
Less Than 14 Months	40 (21.1%)
14-24 Months	24 (12.6%)
More Than 24 Months	126 (66.3%)
Permanency Outcome	
Reunification	59 (31.1%)
Aged Out/Emancipation	45 (23.7%)
Guardianship	22 (12.6%)
Adoption	18 (9.5%)
Did Not Say	46 (24.2%)

¹⁶ Survey responses were filtered to exclude duplicate responses and survey attempts that were abandoned prior to the completion of substantive questions (61 caregiver responses and 51 youth responses), and the responses of 36 youths also were excluded because they may have been in foster care prior to the year 2000.

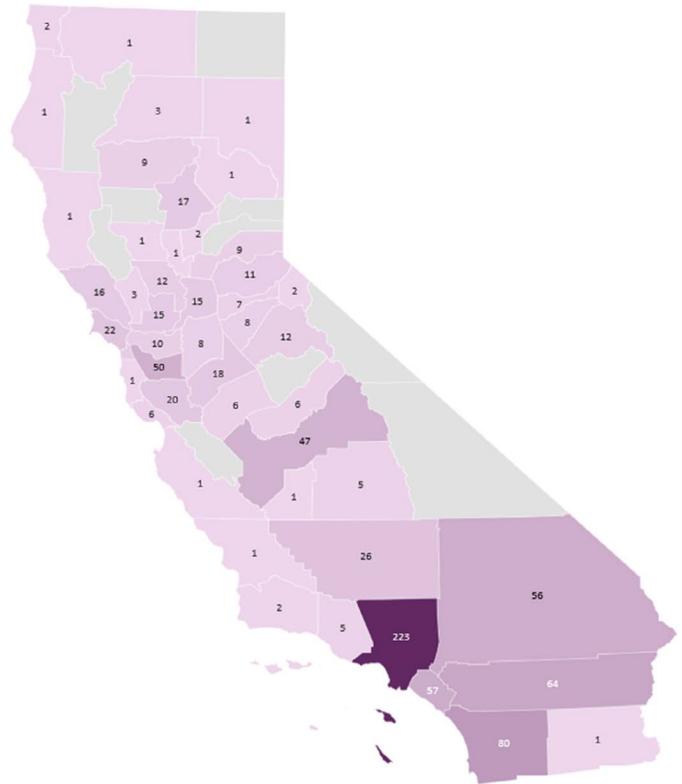
Figure 2

Geographic Distribution of Survey Respondents

Former Foster Youth Survey



Caregiver Survey



Research Findings

Summary of Findings

As the survey data show, a large proportion of youth and caregivers never receive contact information for the attorney appointed to represent the child in court; many never have a meeting with the attorney who represents the child; and those children who do meet with someone are more likely to meet with an agent of the attorney than with the lawyer who will speak on their behalf at court hearings. The surveys and follow-up interviews also found that participants who reported that children had meetings with their attorneys perceived that the legal advocacy of the attorney helped to prevent harmful outcomes at court hearings. Those who reported children had no meetings with attorneys were more likely to believe that their legal representation led to harmful outcomes at court hearings. In addition to a statewide analysis, the surveys provide instructive data about different experiences of respondents with appointed attorneys by age and by county.

In foster care, an attorney is a mystical creature, we've been told they exist. Unless we go on a scavenger hunt while navigating a dysregulated child in the trenches, they continue to escape us. Baffled an attorney can take funds without ever knowing their clients.

Teresa, Northern California Caregiver

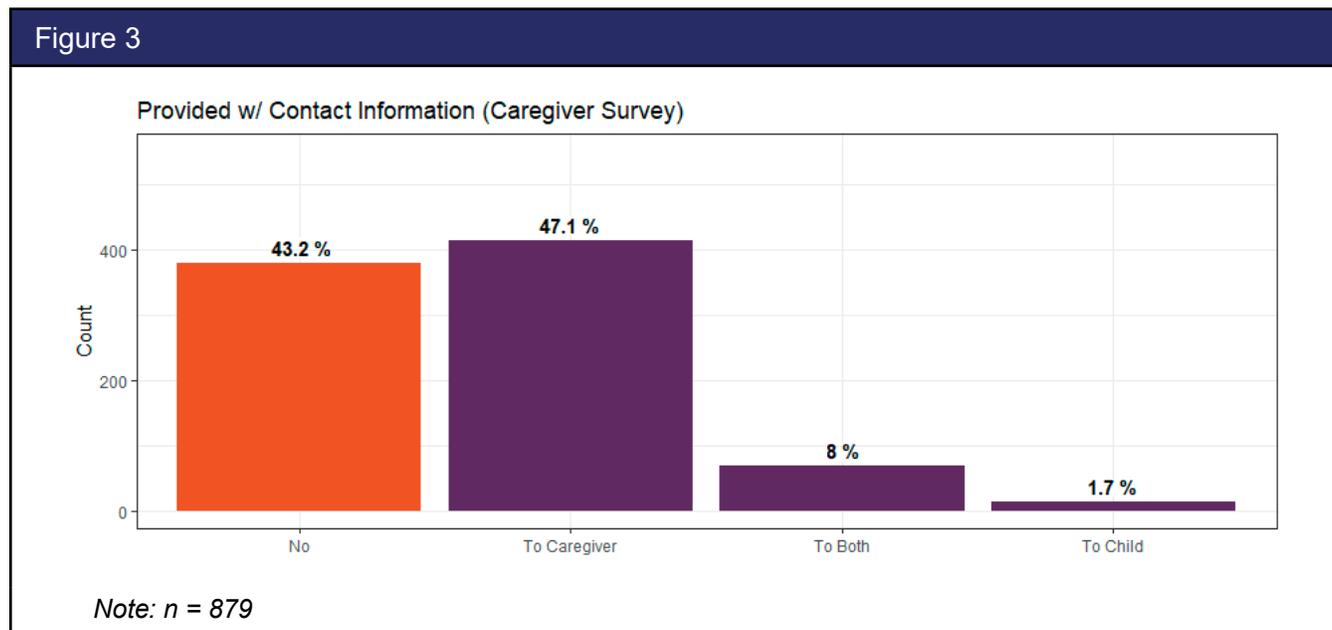
It was always a different name that went to court. So, when I called the representative from the law office, who I thought was the attorney at the time, I said, 'Hey, this is what's going on and she was like, I don't even know what you're talking about, I'm not the attorney, no baby has a specific attorney.' Whoever shows up that day, and whoever pulls the name from the pot and wishes on a damn star is who goes to court.

Davina, Southern California Caregiver

A. Survey Results – Statewide

1. Contact Information to Child and/or Caregiver

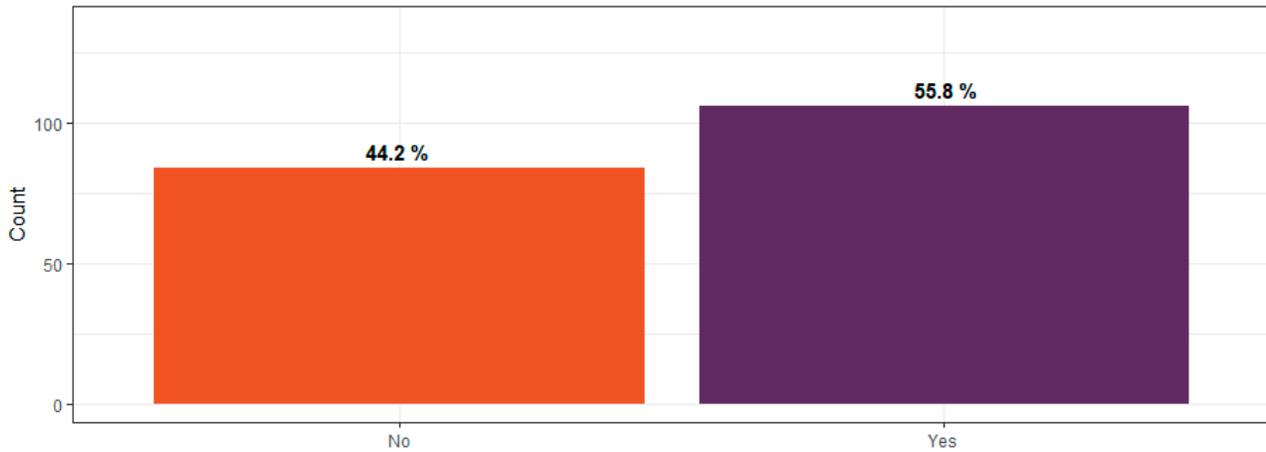
Figures 3 and 4 document respondents' recollection of whether they received contact information for the appointed attorney representing the child in their care. More than four out of 10 caregivers and former foster youth said that children were never provided contact information for their attorney. We also found that among the 57% of caregivers who did receive attorney contact information, more than one-third of the time the information was not provided until at least one month after the child was placed with the caregiver, as Figure 5 reveals.¹⁷ As we learned from Marisa's and Stacey's story, knowing how to reach a child's attorney at a critical moment can be an essential component of ensuring the safety and well-being of the child.



¹⁷ The survey data underlying this calculation is as follows: 380 of the 879 caregiver respondents report never receiving contact information. Of the 499 who did receive contact information, 154 received the information between one and six months after the foster placement and 25 did not receive it until more than six months after placement. Combined, 35.9% of respondents who received contact information did not get it for at least one month.

Figure 4

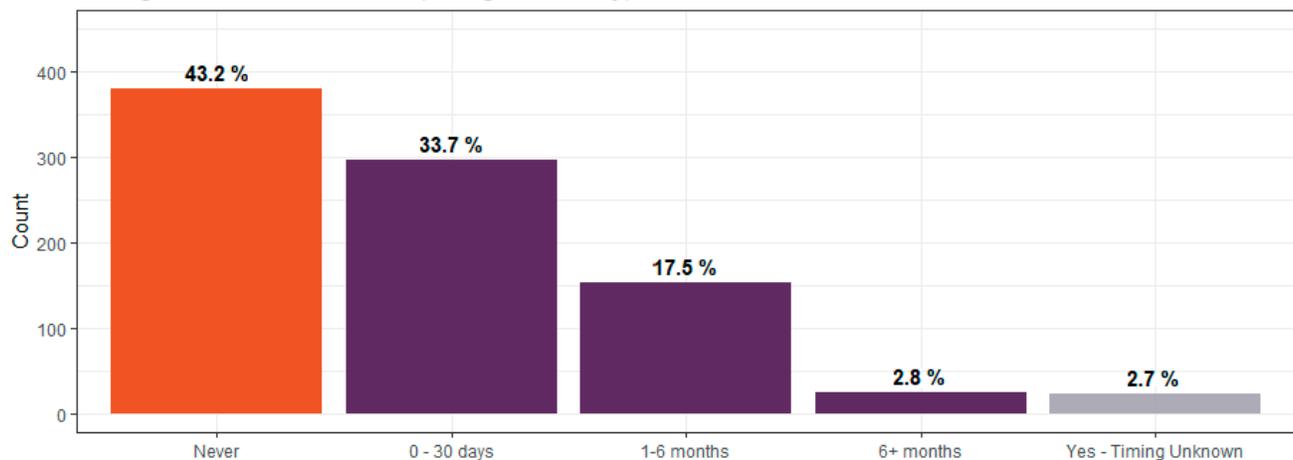
Provided w/ Contact Information (Youth Survey)



Note: n = 190

Figure 5

Timing of Contact Information (Caregiver Survey)



Note: n = 879

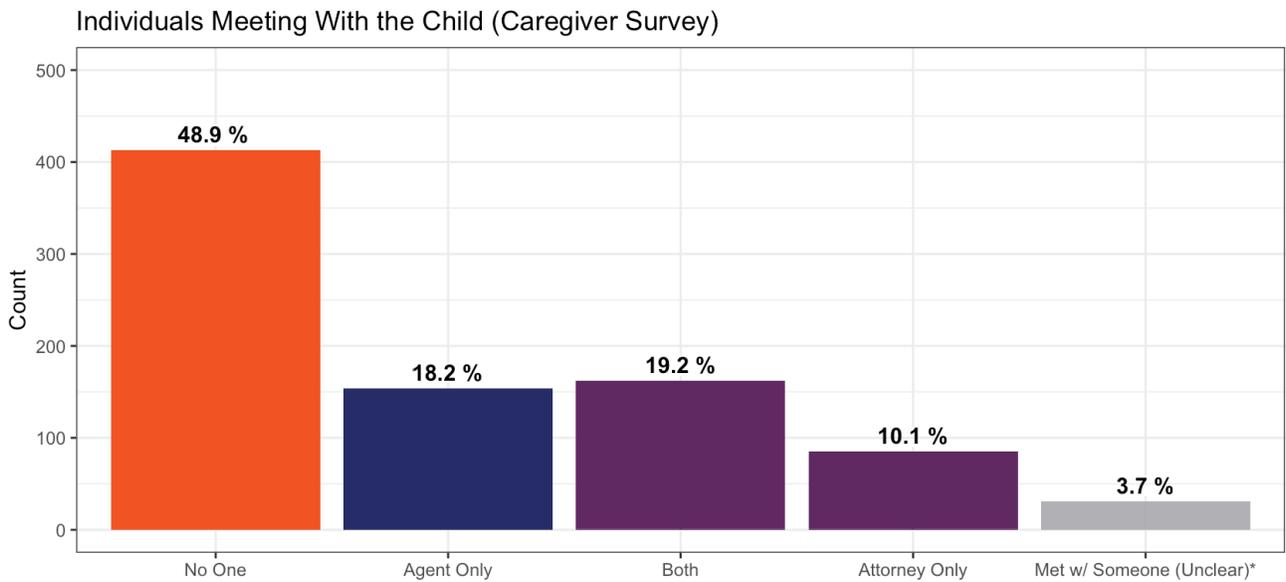
2. Who Met With the Child/Youth

According to caregivers, as shown in Figure 6, nearly 50% of children in foster care were never seen by an attorney or by anyone representing the attorney. Approximately 30% of children met with their attorney (10.1% with their attorney only; 19.2% with both an attorney and their agent), and about 18% of children met only with the attorney’s agent. For 3.7% of survey respondents, it was unclear whether they met with an attorney only, an agent only, or both.

Former foster youth reported a higher likelihood of having met with someone — 73.7% — than was reported by caregivers regarding children in their care. However, fewer former foster youth (5.9%) reported meeting exclusively with their appointed attorney, as shown in Figure 7. Notably, 110 of the 186

former foster youth whose responses were captured in this portion of the survey (59%) were from Los Angeles County, which has a well-established joint attorney and investigator model.

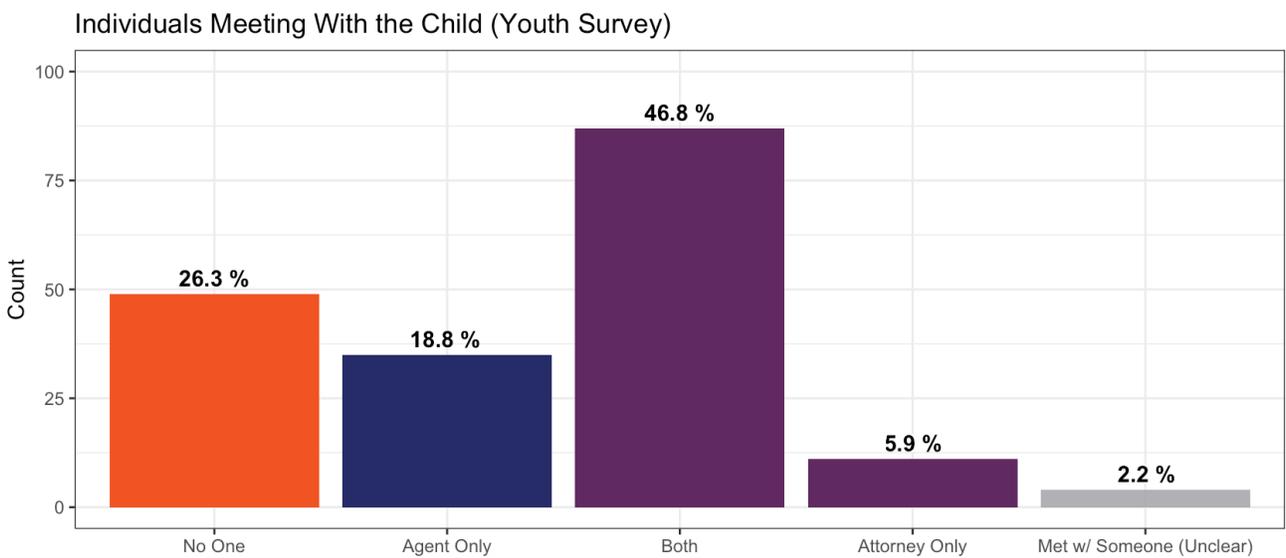
Figure 6



Note: n=845

*Respondents in this category did not provide sufficient information to determine the person with whom they met.

Figure 7



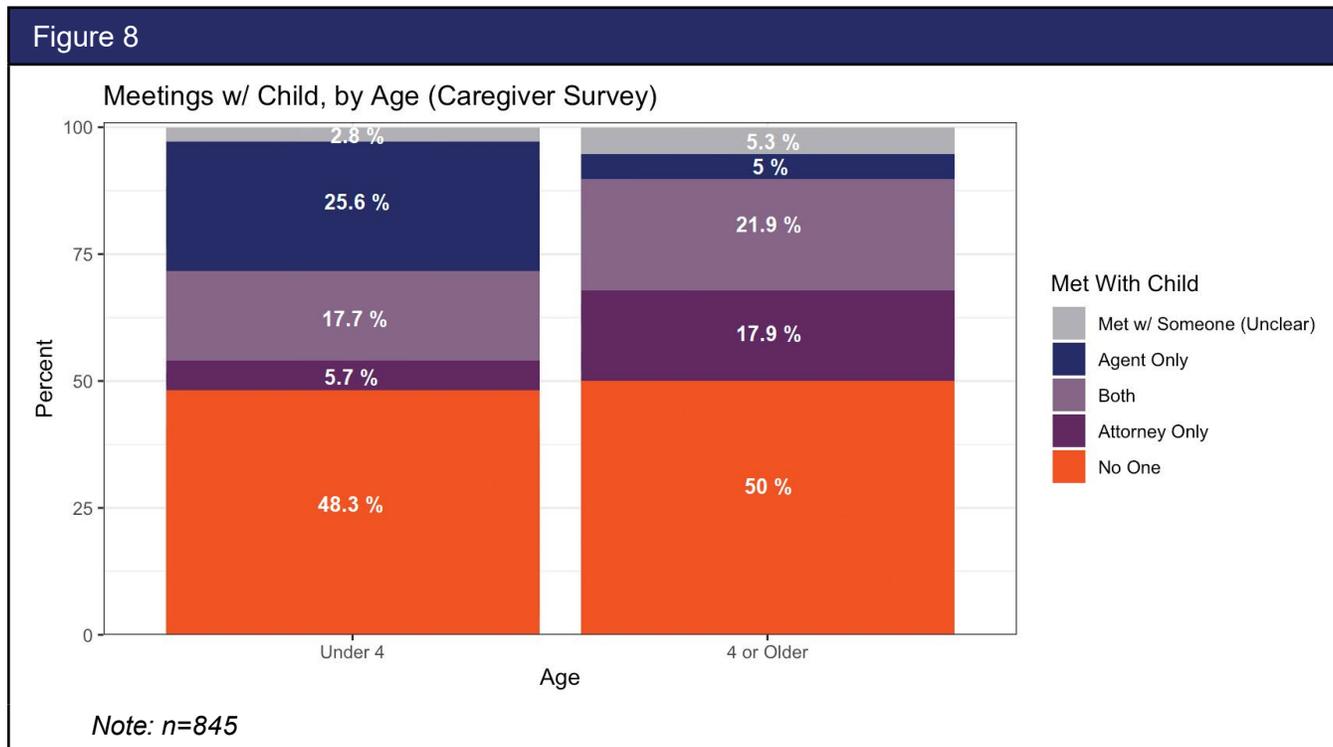
Note: n=186

3. Attorneys Are Less Likely to Meet With Children Under the Age of 4

Caregivers reported that attorneys were less likely to see children in foster care under the age of 4 than those who were at least 4 years old. As shown in Figure 8, fewer than 24% of the attorneys for these very young children ever met the child, compared to approximately 40% of children aged 4 or older.

Children under 4 years old were significantly more likely than older children to have met only with an attorney’s agent (25.6% compared with 5%), which is why the surveys show only a small difference between the youngest children and others when assessing the likelihood that they will have a meeting with anyone (agent or attorney) associated with their appointed counsel. But the findings of this research and the ethical standards make it clear that even for the youngest children, the client relationship between attorney and child in foster care is critically important to the child’s well-being, in addition to being required under the law. The American Bar Association’s commentary explaining its Model Act emphatically guides attorneys to meet with their very young clients whom they represent in abuse, neglect, and dependency proceedings:

In formulating a substituted judgment position, the child’s lawyer’s advocacy should be child-centered, research-informed, permanency-driven, and holistic. The child’s needs and interests, not the adults’ or professionals’ interests, must be the center of all advocacy. For example, lawyers representing very young children must truly see the world through the child’s eyes and formulate their approach from that perspective, gathering information and gaining insight into the child’s experiences to inform advocacy related to placement, services, treatment, and permanency. The child’s lawyer should be proactive and seek out opportunities to observe and interact with the very young child client. It is also essential that lawyers for very young children have a firm working knowledge of child development and special entitlements for children under age 5.¹⁸



18 American Bar Association, August 2011. Commentary on ABA Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings, p. 10. Internal footnotes removed. Retrieved from https://www.americanbar.org/content/dam/aba/administrative/child_law/aba_model_act_2011.pdf

B. Key Findings by County

Across California counties caregivers reported dramatically different experiences regarding whether the court-appointed counsel ever met with the children in their care. (See Figure 9.) Survey respondents reported as high a meeting rate as 64% (Alameda County) and as low as single-digit percentages (Fresno and Kern counties). As the map in Figure 10 details, in Butte, Fresno, Riverside, Stanislaus, and Kern counties at least 80% of caregivers reported that the children in their care never met their attorney. In fact, more than three out of every four caregivers surveyed in these five counties, which have a combined foster care population of over 8,000 children, reported that neither the attorney nor an agent from the attorney’s office ever met with the child. Among the 14 counties with at least 15 survey respondents, there were only three in which at least two-thirds of children met with either an attorney or an agent: Alameda (80%), San Diego (80%), and Los Angeles (72%). The survey identified only two counties — Alameda and Sonoma — where at least half of the children in foster care met with their court-appointed attorney.

The child’s rights are not being advocated for and the child is currently anxious, pulling out eyelashes and hair and picking at her skin. She has called the attorney’s office numerous times begging for a call back.

Jessica, Southern California Caregiver

Figure 9

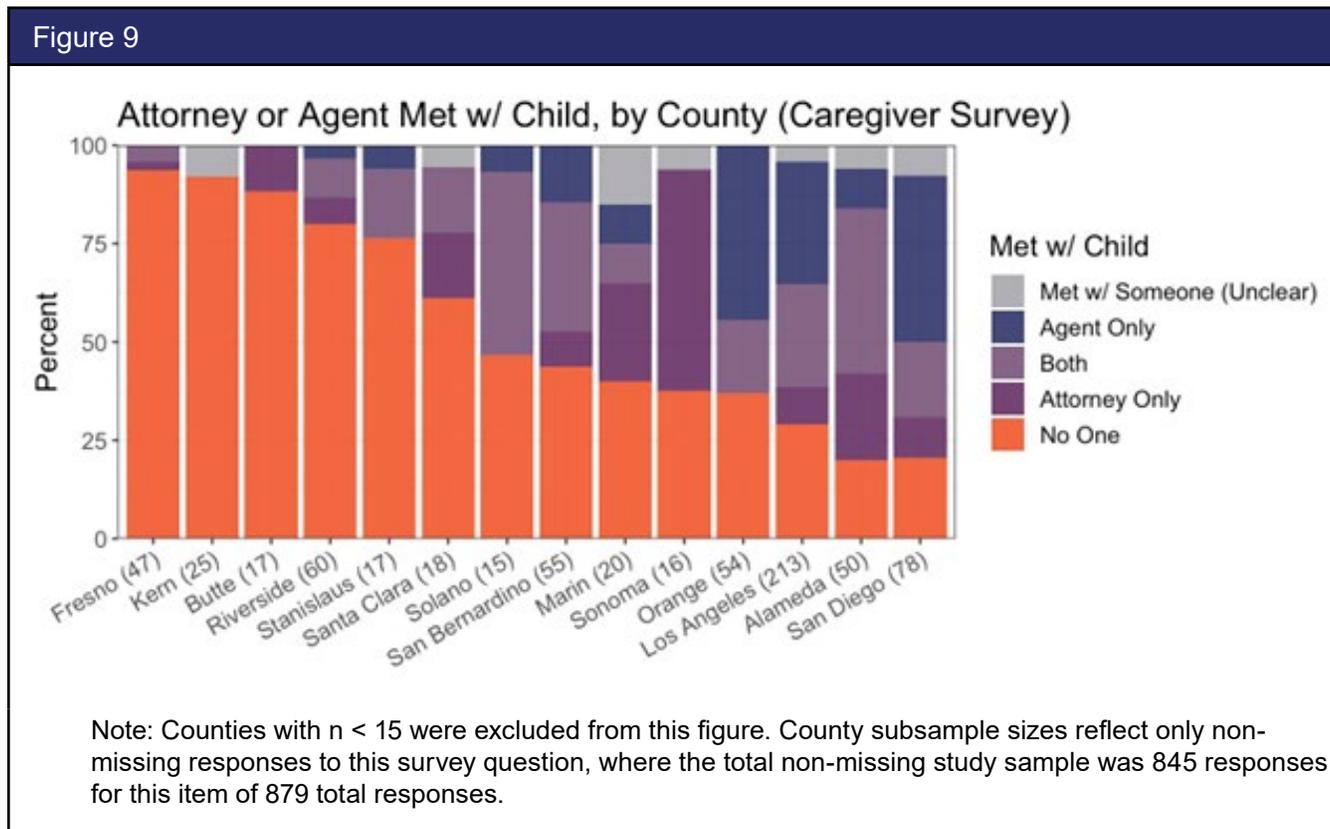
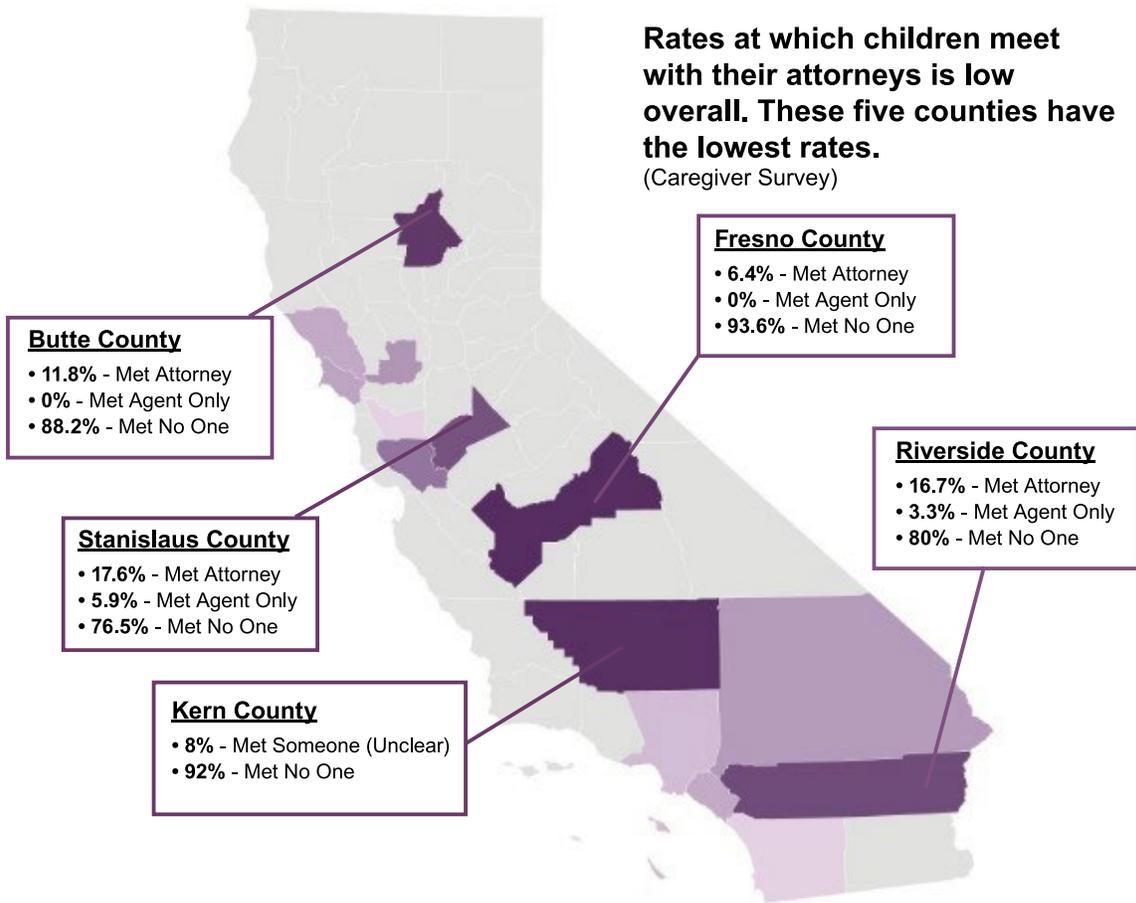


Figure 10



Note: Counties with n < 15 were omitted from this figure. County subsample sizes reflect only non-missing responses to this survey question, where the total non-missing study sample was 845 responses for this item of 879 total responses.

C. Former Foster Youth and Caregiver Assessments of the Impact of Representation Quality

Former foster youth and caregivers who attended court hearings (141 of 190 youth, 489 of 879 caregivers) were asked whether they witnessed the child’s counsel presenting information on behalf of the child. Those respondents also were asked whether they thought the attorneys’ presentation of information (or decision not to present information) in the hearing prevented harm, caused harm, or neither prevented nor caused harm stemming from a ruling at the hearing.¹⁹ The most common types of harm reported were emotional, developmental, physical,

They advocated for the children to be with family. This prevented further emotional harm, as being away from the parents was very traumatic for the babies. They benefited both developmentally, socially, and educationally as they were surrounded by love in a multi-generational household.

Maria, Northern California Relative Caregiver

¹⁹ Although researchers reviewed the data on the perception of harm stemming from court rulings, we do not present a statistical analysis of that data here, due to the subjectivity inherent in caregiver and youth responses. Instead, we provide our observations regarding respondents’ perceptions and stories provided by respondents to highlight the consistent impression of caregivers and youth that court outcomes were better when appointed counsel had met with their child clients.

and educational in nature. Interviews and open-ended survey responses elicited more detail about the specific harms that caregivers and former foster youth attributed to an attorney who did not present information on the child’s behalf or took a position that was not supported by the child or the facts of the case, such as those described below.

<p>Types of Harm Reported</p> 	<ul style="list-style-type: none"> • Improper placement disruptions • Emancipation without support • Separation from family or siblings • Case delays 	<ul style="list-style-type: none"> • Harmful visitation experiences • Unnecessary or lengthy appeals • Loss of age-appropriate activities • Revictimization
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1. Respondents’ Perceived Better or Worse Court Rulings Depending Upon Client Contact

In survey comments and interviews, foster youth and caregivers reported experiencing better outcomes in court hearings when an attorney had met with the child or youth prior to the hearing. They perceived that when attorneys met with the children and youth they represent, they were both more likely to speak on their child client’s behalf in court in ways that prevented harm and less likely to perceive harms to the child through a lack of advocacy. Additionally, a decision by an attorney against speaking on behalf of their client during the hearing was much more likely to result in a perceived negative outcome if a meeting with an attorney or agent had never occurred. With hearings that can be as brief as only a few minutes long, in which a judge receives the report and recommendation of the county social worker and asks if the appointed attorney has anything to add, it is not surprising that lawyers who have never met their clients do not contribute meaningfully on the child’s behalf.



The attorney effectively communicated to the court the child’s wishes for a restraining order against their abuser.

Jamar, Southern California Caregiver

2. Differentiating Between Meetings With Attorneys and Agents

Another interesting difference distilled from the impressions of respondents regarding the efficacy of lawyers at court hearings relates to the assessment of rulings concerning children who met with attorneys’ agents rather than directly with their attorneys. We observed that participants were more likely to report a perception of better outcomes for children who met with agents than for those who met with no one, and better outcomes still for those who met with both agents and attorneys, but it was the respondents who reported that children in their care had *met only with their attorney* who shared positive experiences most consistently.

Among its other goals, this study sought to explore (1) the rates at which foster children met with an attorney’s agent rather than directly with their attorneys, and (2) any impacts that this may have had on respondents’ assessments of the child-client’s outcomes. Several concerns motivated these questions. By rule, the child’s attorney must have training in child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation, reasonable efforts, and best practices for providing adequate care to LGBTQ youth in out-of-home placements.²⁰ However, state rules do

²⁰ California Rules of Court Rule 5.660(d)(3)(A)

not even establish standards for who can serve as an attorney's agent, let alone impose any relevant training requirements. Some firms may use agents with no training or education in the development of young children, which could result in failures to recognize or communicate relevant information to the attorney.

Of course, many agents and investigators have been properly trained to work with children in foster care on behalf of appointed attorneys, and some respondents spoke highly of the agents with whom they worked. But the reported perception of better results for children who met only with attorneys stands out. Although the limitations of the scope of this study preclude us from hypothesizing about the reasons for these differences, we believe that the impressions of these respondents raise concerns about the substitution of agents for trained attorneys with regard to protecting the interests of the system's most vulnerable children, and we contend that this issue merits further exploration.



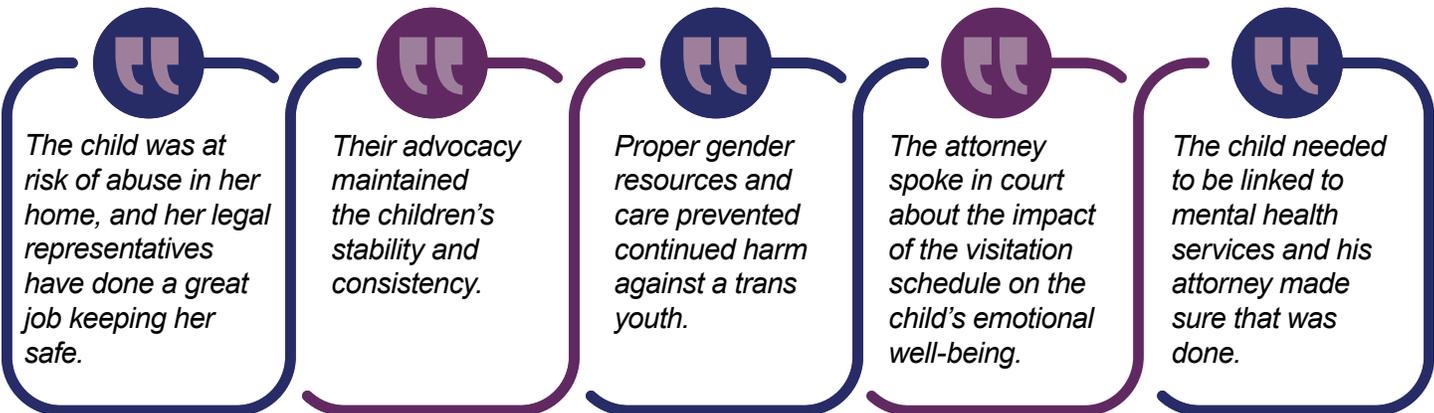
I received absolutely NO training on what I should be looking for when interviewing the child.

Maria, Southern California Attorney's Agent

3. Benefits of High-Quality Representation

Open-ended survey responses and interviews amplified perceptions about harm and harm-prevention resulting from decisions at court hearings. The research, for example, revealed that attorneys rarely observed younger children in their placements or conducted an independent investigation by contacting the child's doctors, therapist, and other treatment providers, leaving such attorneys unaware of the needs or desires of children who were assigned to them. To many caregivers and former foster youth who reported never meeting the appointed counsel or seeing them only at court hearings, the attorneys were simply "rubber-stamping" the social worker's findings and recommendations.

However, respondents who reported deeper engagement between the attorney and child in foster care also enriched the research with compelling and uplifting success stories. Effective attorneys were described as communicating often; making themselves available to proactively resolve issues such as protective orders, visitation concerns, and educational issues; and frequently explaining court processes. In open-ended responses, caregivers provided the following insights:



The child was at risk of abuse in her home, and her legal representatives have done a great job keeping her safe.

Their advocacy maintained the children's stability and consistency.

Proper gender resources and care prevented continued harm against a trans youth.

The attorney spoke in court about the impact of the visitation schedule on the child's emotional well-being.

The child needed to be linked to mental health services and his attorney made sure that was done.

Bianca was 14 years old when she entered foster care with her younger brother, Juan. They were placed in a new and unfamiliar neighborhood. This meant changing schools and losing friends, teachers, and support, and the move was especially difficult for Juan, who has autism.

Always very particular about food, in the first week following the move, Juan hardly ate. He was struggling and Bianca felt helpless. On their first day of school, fear and anxiety washed over Bianca as she walked around an unfamiliar school building that felt scary to her. She broke down crying because she did not know how to help Juan adjust to this new school and new home. She called their attorney and asked if there was anything he could do.

Their attorney took her concerns seriously and sent someone to pick them up within minutes. This made all the difference for Bianca and Juan; they were immediately placed in a new foster home in their old neighborhood and near their grandmother, who was eventually approved to become their caregiver.

“My attorney is amazing, and he really is my superhero. I was made to feel like my voice is important and my life as well. I wish he could see how much his willingness to listen and fight for me really impacted me. Right away he gave my brother and I his business card. He told us anything we needed ... any questions that we had.... It was constant communication and him focused on what we wanted.”



The intensity of appreciation for attorneys (and their agents and investigators, as well) that comes through in the responses of caregivers and former foster youth who experienced high-quality representation serves to illustrate the efficacy and importance of lawyers who follow the legal requirements and best practice guidance for dependency counsel. Children who received dismissive or insufficient representation portray stories of pain and harm, but in these success stories, in which appointed attorneys develop strong client relationships with the children they represent, we find a counterpoint of safety and well-being.



D. Evaluation of County Contracts With Appointed Attorneys

In addition to the survey and interviews, the research project sought information about the structure of the relationship and the mechanisms of accountability between counties and appointed counsel. Researchers used the Public Records Act (PRA) to request from counties and Judicial Council all administrative judicial records created by any entity responsible for administering child welfare legal services. The requests sought copies of contracts with individuals and organizations to provide legal services to parents and minors in juvenile dependency proceedings, proposals from counties and courts to procure these legal services, reports analyzing the effectiveness and cost of legal services, the performance requirements for counsel, investigations about complaints, and descriptions of the overall operation of these legal services.

In response to a PRA request, Judicial Council produced appointed attorney contracts for all 20 of the DRAFT counties (see Appendix F). The PRA results for the other 38 counties were mixed. While many counties produced contracts that allowed for meaningful analysis, several did not. Five counties submitted contracts for Public Defender services that included dependency representation but did not contain any dependency-specific performance standards.²¹ Ten courts did not respond at all to the PRA requests or responded but produced documents that were something other than contracts for court-appointed dependency representation.²² In three of those counties, children's counsel is provided through county agencies, which may not formally contract with the court to provide representation.²³ Appendix G presents relevant excerpts from several of the county contracts.

While more research is needed to determine whether the specific content of contracts significantly affects the experience of children in foster care and the outcomes of court hearings, some observations can be made. All of the Judicial Council contracts produced in response to the PRA requests included language requiring compliance with Section 317 of the California Welfare and Institutions Code and Rule 5.660 of California Rules of Court. Nine non-DRAFT counties produced contracts that included specific language requiring compliance with the statute and rule.²⁴ Five non-DRAFT counties imposed a general requirement that contract attorneys comply with all state and federal laws or meet

21 Calaveras, Inyo, Mariposa, Mono, San Benito

22 Alpine, Lassen, Merced, Modoc, Napa, Orange, San Bernardino, San Francisco, Sierra, Siskiyou.

23 Kern (Public Defender), Kings (County Government Office), Tuolumne (District Attorney).

24 Contra Costa, Fresno, Glenn, Humboldt, Nevada, San Mateo, Shasta, Tehama, and Yuba.

all constitutional, statutory, and case law requirements, without specific reference to Welfare and Institutions Code §317 or Rule of Court 5.660.²⁵ Eight non-DRAFT county contracts²⁶ include detailed requirements for appointed-dependency counsel beyond the mandates required by the statute and the rule, obliging these attorneys to, for example:



- personally visit with the child in a non-court setting before each court hearing;²⁷
- determine the child's interests and desires and advocate for those interests and desires;²⁸
- visit child clients at each new placement, whenever feasible;²⁹
- establish and maintain an attorney-client relationship;³⁰
- observe the child's interaction with the parents or other caretakers;³¹ and
- advise the child on a continuing basis of his or her possible courses of action and the risks and benefits of each course of action, using age-appropriate language.³²

In Butte Fresno and Riverside — three out of five of the worst offending counties in this research — court-appointed attorneys were bound by specific contractual language that requires them to meet regularly with their clients, specifies frequency of meetings with the child, and imposes additional responsibilities beyond the mandates of section 317 and the rules of court. However, the survey data reported above indicate that in these counties, children in foster care rarely, if ever, even have a single meeting with their attorney, let alone an attorney-client relationship that involves the level of interaction or achieves the standards of representation demanded by these contracts. This raises additional concerns about the lack of effective oversight and enforcement of the contractual language included in their agreements with the firms and individual attorneys the court employs to represent children in foster care.

In addition to the contractual language, Rule 5.660(a) requires each juvenile court to adopt local rules regarding standards of representation of parties in juvenile dependency proceedings. Each court's local rule must address representation of children in accordance with other provisions of Rule 5.660. Consequently, most juvenile courts have adopted local rules. Some merely require counsel for the child to comply with section 317 and Rule 5.660. Others are much more specific and, like some of the contractual language cited above, impose greater obligations and prescribe client contact requirements for children's attorneys. Twenty counties have rules of court that specifically require the child's counsel to directly meet and communicate with the child, although some counties condition the requirement on feasibility or practicability or limit the requirement to children who are age 4 or older. But, again, in the five counties with the poorest performance indicators, all but Kern have local rules that require specific meeting requirements and responsibilities beyond section 317 and Rule 5.660. See Appendix H for citations to counties' relevant rules. As with the lack of contract enforcement, enforcement of the legal standards and obligations imposed on children's attorneys under the local rules appears to be inadequate.

25 Colusa, Inyo, Modoc, San Benito, and Ventura

26 Butte, Fresno, Monterey, Placer, Riverside, Trinity, Tulare, and Yolo

27 Butte, Monterey, Placer, Trinity, Tulare, and Yolo

28 Butte, Fresno, Riverside, and Tulare

29 Butte, Monterey, Placer, Riverside, Trinity, Tulare, and Yolo

30 Butte, Fresno, Riverside, and Trinity

31 Monterey, Placer, and Yolo

32 Placer, Riverside, Tulare, and Yolo



Research Conclusions

A. Most Children in Foster Care Have Never Met Their Attorneys

Attorneys for children in foster care are required by Rule 5.660(d)(4) to have sufficient contact with the child to establish and maintain a professional attorney-client relationship. Attorneys in many counties are also bound by contract or local rules to have a professional client relationship with the children they represent. While the rule permits attorneys' "agents" to meet with the child, it does not allow "agents" to replace the attorney as the child's only point of contact.

Despite those rules, the survey data clearly indicate that the majority of children and youth never meet with their attorney. Nearly half never meet with anyone associated with the attorney who will represent them in court. Those children who do meet with someone are far more likely to have direct contact only with an agent or investigator rather than with the appointed attorney responsible for speaking on their behalf.

Members of the child welfare legal community generally acknowledge that poor compensation and overwhelming caseloads interfere with court-appointed attorneys' ability to provide adequate legal representation. Compensation is often in the form of a flat monthly or yearly fee that does not consider caseloads or the amount of work that needs to be done in any particular case. Heavy caseloads require children's counsel to be in court all day and leave them no time to meet privately with their clients. While this research does not investigate the financial drivers of the problems identified in this report, these are indisputably major systemic problems that must be recognized and resolved.

B. Mechanisms for Enforcement of Competency Standards Are Inadequate

The survey data clearly show that competency standards for children's counsel are not being enforced consistently and uniformly among California's 58 counties. Juvenile courts are responsible

for enforcing their own local rules as well as the rules adopted by the Judicial Council, including the standards of practice applicable to the attorneys whom the court appoints to represent children who come before the court.

Enforcement by local juvenile courts may be lenient or disregarded because very few complaints about appointed counsel are filed with the courts. While juvenile courts are required to have a procedure to review complaints from parties to a juvenile dependency case who have appointed counsel if the “party” is a child, that child rarely possesses the ability to understand or exercise the right to lodge a complaint against the appointed attorney. A majority of counties do not allow caregivers or other concerned adults to file complaints on behalf of the children. Even in counties that have local rules allowing a complaint to the court to be filed on behalf of a child by certain designated adults, usually no legal requirements have been established mandating those designated adults to be notified of their right to lodge a complaint. Only eight counties in the state require the child’s attorney to tell the child’s caregiver that they can lodge a complaint about the child’s attorney on behalf of the child. Whatever the reason for the widespread lack of enforcement of the competency requirements, currently no other official mechanism, other than the juvenile court complaint process, has been enacted to hold deficient children’s counsel accountable for failing to do their jobs. See Appendix I for a list of counties that allow an adult to complain on behalf of the child.

C. Caregivers and Youth Perceive Better Results at Court Hearings When Children in Foster Care Have a Relationship With their Attorneys

This research also yields the important observation that caregivers and former foster youth perceived better court outcomes when attorneys had met previously with the children they represent. Caregivers of children whose attorneys had not engaged directly with their child-clients were more likely than others to report the view that the court issued rulings that resulted in emotional, physical, developmental, or educational harm to the child. This, and the inverse finding that children whose attorneys built client relationships with them were perceived to have achieved better outcomes in court, are intuitively obvious and a core reason for the professional guidance toward such engagement. The surveys and interviews conducted for this study shed new light on how advocacy by lawyers who know their clients can improve the outcomes for children in California foster care.

Recommendations for Change



The research findings of this study identify not only areas of concern and stories of success, but also indicate pathways toward reform that would improve the safety and well-being of children in foster care in California. Below we identify six recommendations that could lead to these critically needed improvements.

Recommendation 1. Create a New Statewide Office of Dependency Counsel

Considering the substantial differences in the quality of representation for children from county to county — which may stem from a combination of differing contract requirements, differing local rules, and a lack of enforcement and oversight of the standards of representation, among other differences — California should create a statewide office to oversee the appointment and accountability of dependency counsel. In 24 other states, laws mandate representation for children in abuse and neglect cases through state government-based agencies that employ counsel for children throughout the entire state.³³ Centralizing representation in one agency allows for assurances that all attorneys are properly trained, establishes consistent compensation and caseloads, and ensures periodic review of attorney performance and corrective action if an attorney fails to meet performance standards.

In 2000, Colorado established a state agency to ensure representation for all children across its 64 counties. The NACC named the Colorado Office of the Child’s Representative (OCR) its 2023 “Outstanding Children’s Law Office/Agency,” honoring it for making significant contributions to the rights

³³ CounselforKids.org., Implementation of Children’s Right to Counsel in Child Protection Proceedings, <https://counselforkids.org/wp-content/uploads/2023/08/Models-of-Representation-2023-Poster-Map-1.png>, retrieved October 18, 2023.

and well-being of children and families through excellence in legal representation. The model institutes uniformity in compensation and caseloads, as well as robust statewide accountability and enforcement mechanisms.

The key stipulations of Colorado system include:



a limit of 100 clients for each appointed lawyer;



a uniform pay schedule for all attorneys;



a pay structure that allows attorneys to bill for every hour they are working, including visiting their clients in various environments;



a rigorous recruitment process and robust training for all children's attorneys, with each lawyer going through a contract renewal process every three years that includes a review by their clients; and



provision for child-clients and their representatives to fill out a complaint form or call the agency to file a complaint.

Creating a state agency, supervised by an independent board, to administer the funding, training, and supervision of dependency counsel would address many of the disparities in the quality of dependency representation across California. The budget and some oversight responsibilities for counsel representing children and parents in the dependency system that are currently assigned to the Judicial Council would be transferred to this new agency. Separating this budget and these functions from the Judicial Council would represent a significant step toward improving the independence and competence of dependency counsel. An independent administrative structure, achieved by investing the dependency bar itself with responsibility and accountability, promises improved quality of representation and fiscal advantages. See Appendix J for proposed legislation to create the California Office of Dependency Counsel.

Recommendations 2–6. Make Interim Improvements in Advance of Creation of the Statewide Office of Dependency Counsel

Recognizing that a Statewide Office of Dependency Counsel will take several years to establish, the following recommendations should be implemented in the interim to improve the quality of representation. See Appendix K for the legislative amendments proposed below.

2. Amend California Dependency Statutes to Specify That Court-Appointed Counsel for Children Must Meet With Clients of All Ages

California Welfare and Institutions Code Section 317(e) requires attorneys who are appointed to represent children to “interview” children aged 4 or older to determine their wishes. This language is taken by some attorneys as excusing them from meeting with children younger than 4, or only sending an “agent” to see children under 4 and never meeting them in person. Although Rule 5.660 requires attorneys to have sufficient contact with the child, regardless of the child's age, the language in the Code is clearly insufficient.



Section 317(e)(2)³⁴ should be amended to remove the exception for children under 4 years of age. To further enhance and clarify the expectations for dependency counsel, the law should be amended further to require that attorneys meet regularly with child clients, and in the child's placement, whenever feasible, to ascertain whether the child's needs are being met and rights are respected, and to set a standard for "regular" contact based on the stage of the case.

3. Amend California Law to Require Counsel to State for the Record the Date of Counsel's Last Contact With the Child at Any Hearing at Which the Child is Not Present

California Welfare and Institutions Code Section 349 addresses the rights of children to be present and represented by counsel at hearings in their own dependency cases and in those of their siblings. It presently requires the court to inquire why a child age 10 or older is not present in court and to continue the matter to secure the child's right to be present, unless the court finds that a continuance is not in the best interests of the child.

Amending the statute to similarly require an inquiry concerning counsel's last personal contact with any child who is not present and authorizing a continuance when necessary to provide for counsel to contact the child, except when a continuance is not in the best interests of the child, would provide some judicial oversight and enforcement with respect to whether counsel has personal knowledge of the child's current wishes, needs, and circumstances.

4. Amend California Law to Specify That Children in Foster Care Have the Right to Competent Counsel by an Attorney Who Knows Them and Who Responds to Their Requests for Contact

Welfare and Institutions Code Section 16001.9 specifies certain rights for children and non-minor dependents in foster care. Subsection 16001.9(a)(33) asserts that children in foster care have the right to be represented by an appointed attorney who advises the court of their wishes and advocates for them, but the statute says nothing about attorney competence, nor does it mandate that appointed attorneys have an attorney-client relationship with the children they represent. Amending subsection (a)(33) to specify that all children in foster care have a right to be represented by competent counsel, explicitly including the right to meet with counsel and the right to a response from counsel when counsel is contacted, would enshrine a higher standard of representation for children in foster care.

³⁴ See Appendix K for proposed legislation.

5. Amend California Dependency Statutes to Improve Transparency and Access to the Names and Contact Information of Children’s Counsel

California rules of court require an attorney to provide contact information to caregivers and child-clients over the age of 10. The rules also require informing the child or youth of the procedure for lodging a complaint about their appointed attorney. However, both rules are weakly enforced and should be buttressed by clear legal requirements and an additional mandate to inform the caregiver about the procedure for lodging a complaint. Subdivision (e)(5)(A) should be added to Welfare & Institutions Code section 317 to require the appointed attorney to supply contact information to the caregiver and to every child age 10 or older, to specify that the name and contact information for the child’s attorney is not confidential, and to authorize the social worker, court clerk, or others involved in the dependency proceedings to distribute that information to the caregiver, relatives, or youth upon request. That subdivision also would specify that while supplying contact information, counsel also would be required to notify child-clients and caregivers of the procedures for filing a complaint with the court about the performance of the appointed counsel.

6. Amend California Law to Specify That the Juvenile Court Has the Responsibility to Respond to Complaints Concerning the Performance of Appointed Counsel Lodged by Child-Clients and Designated Adults on Behalf of a Child

State law authorizes only child-clients to lodge a complaint with the court about the performance of their appointed attorney, while providing no mechanism for other adults to lodge a complaint on behalf of the child. Moreover, no specific standards of review or enforcement have been established concerning complaints about attorney neglect and misconduct. Subdivision (c) should be added to Welfare and Institutions Code Section 317.5 to require juvenile courts to have a procedure set forth in local rules for the court to review and resolve complaints made about the performance of appointed counsel. In addition, this amendment would require the court to take appropriate action when it has determined that an attorney has acted improperly or contrary to the rules or policies of the court, or failed to provide competent representation. Subdivision (c) would specify possible actions, including removing the attorney from the case and, if appropriate, reporting the court’s findings to the State Bar.³⁵ Additionally, this new subdivision would add the following subsections:

- 317.5(c)(i) to authorize designated concerned adults — including a social worker, a relative, a court-appointed special advocate (CASA), or a caregiver — to lodge a complaint with the court about the appointed attorney’s performance on behalf of children who are too young to file their own complaint or need help initiating communication with the court.
- 317.5(c)(ii) to authorize the use of a section 388 petition to bring issues concerning the child’s attorney’s performance to the attention of the court.
- 317.5(c)(iii) to require each appointed attorney to give written notice to the attorney’s client and to the child’s current caregiver of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. Evidence that a copy of said notice was given or mailed to the client must be filed within ten (10) days of the attorney’s appointment.

35 See Appendix K.

Conclusion

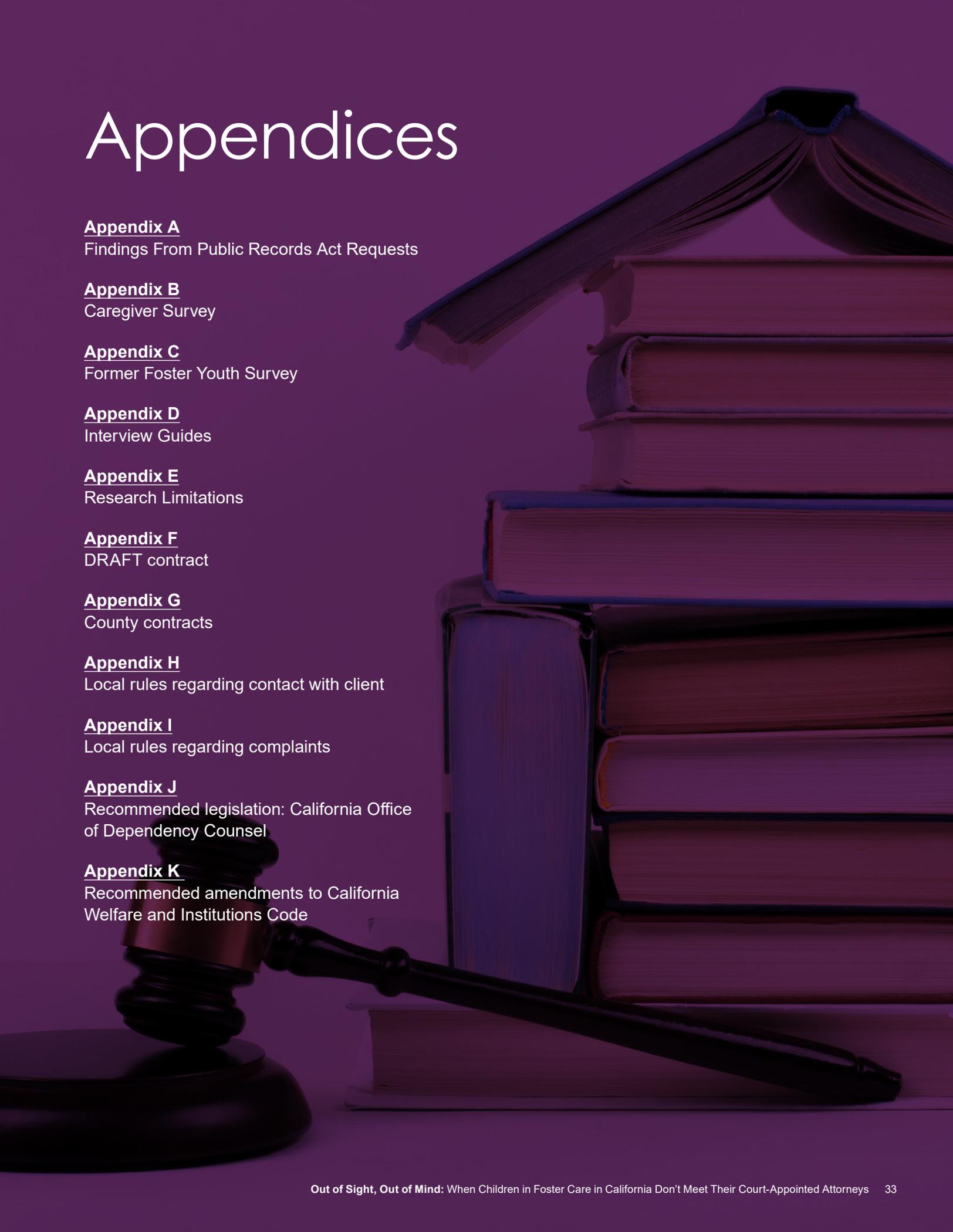
California law and rules of court require attorneys for abused and neglected children to meet with those children and develop an attorney-client relationship with them. However, the survey responses from more than 1,000 caregivers and former foster youth reveal that two-thirds of children in care have never met with their attorney. This finding exposes a disturbing level of non-compliance by attorneys appointed to represent children in foster care in California. The surveys also provide insights about the perception of caregivers and youth that harmful court rulings result when attorneys do not meet the children who are depending upon them to advocate for their protection, safety, and well-being. Conversely, children in foster care who have met with their attorneys were seen to experience better outcomes in court hearings than children whose attorneys have never met them.

California needs to do more to ensure that the lawyers who are appointed to represent children in foster care meet with their child-clients. Solving this deficiency requires resolution of overarching structural impediments, including the insufficient allocation of funds to reduce the caseloads of appointed counsel. However, today, too little is being done to even monitor and enforce attorneys' ethical and legal obligations to their child-clients, and the need for reform is clear. Children cannot protect themselves from incompetent representation.

The reforms proposed in this study would significantly increase the likelihood that all children in foster care in California will each have an attorney who knows them and can provide informed advocacy concerning their safety, well-being, and wishes. These changes would assure children of their basic rights and could greatly improve the trajectory of their lives.



Appendices



Appendix A

Findings From Public Records Act Requests

Appendix B

Caregiver Survey

Appendix C

Former Foster Youth Survey

Appendix D

Interview Guides

Appendix E

Research Limitations

Appendix F

DRAFT contract

Appendix G

County contracts

Appendix H

Local rules regarding contact with client

Appendix I

Local rules regarding complaints

Appendix J

Recommended legislation: California Office of Dependency Counsel

Appendix K

Recommended amendments to California Welfare and Institutions Code

Appendix-A

County	Contract requires compliance with WIC 317 and CRC 5.660	General language requiring compliance with the law	No dependency specific language on standards of practice	Specific standards of practice requiring attorney to have contact with the child	No dependency contract provided
Alameda	X				
Alpine					X
Amador	X				
Butte				X	
Calaveras			X		
Colusa		X			
Contra Costa	X				
Del Norte	X				
El Dorado	X				
Fresno	X				
Glenn	X				
Humboldt	X				
Imperial	X				
Inyo		X			
Kern					X
Kings					X
Lake	X				
Lassen					X
Los Angeles	X				
Madera		X			X
Marin	X				
Mariposa			X		
Mendocino	X				
Merced					X
Modoc		X			
Mono			X		X
Monterey				X	
Napa					X
Nevada	X				
Orange					X
Placer				X	
Plumas	X				
Riverside				X	
Sacramento	X				
San Benito		X	X		X
San Bernardino					X
San Diego	X				
San Francisco					X
San Joaquin	X				
San Luis Obispo	X				
San Mateo	X				
Santa Barbara	X				
Santa Clara	X				
Santa Cruz	X				
Shasta	X				
Sierra					X
Siskiyou					X
Solano	X				
Sonoma	X				
Stanislaus	X				
Sutter					
Tehama	X				
Trinity				X	
Tulare				X	
Tuolumne					X
Ventura		X			
Yolo				X	
Yuba	X				



Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

Thank you for participating in [Advokids'](#) Caregiver Survey. **Your responses to this survey will be kept confidential.**

Advokids, in partnership with Western Center on Law and Poverty, is investigating the performance of children's attorneys. We are specifically interested in their compliance with their legal obligations to provide their contact information to children and their caregivers and to meet regularly with the children they are appointed to represent. The information you provide is vital to our investigation and reform efforts.

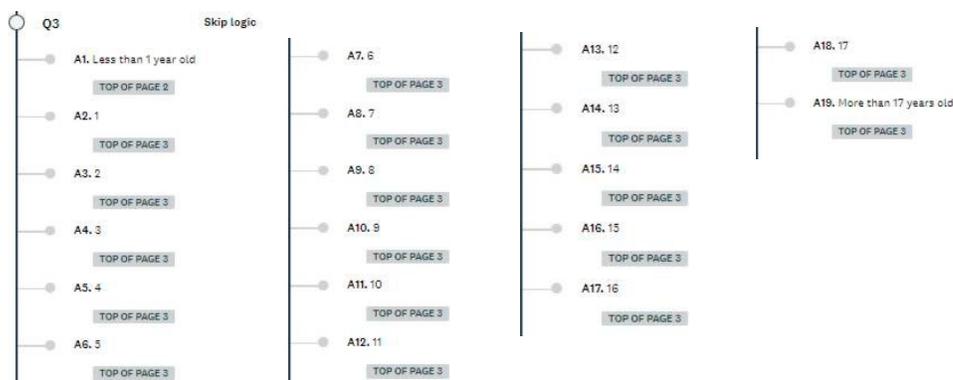
Please fill out a separate survey for each child currently or recently in your care.

* 1. I am a current or recent

- Relative Caregiver
- Non-Relative Extended Family Member (NREFM)
- Resource Parent

* 2. What is or was the county of jurisdiction (the county in charge) for the child's case?

* 3. How many years old was the child at the time they were placed in your care?





Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 4. How many months old was the child when they were placed in your care?

Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 5. Approximately how long was or has the child been in foster care?

- Less than 2 months
- 2-8 months
- 8-14 months
- 14-18 months
- 18-24 months
- 24 months or longer
- I don't know

* 6. How long was or has the child been in your care?

- Less than 2 months
- 2-8 months
- 8-14 months
- 14-18 months
- 18-24 months
- 24 months or longer

* 7. After the child was placed in your care, did the child's court-appointed attorney or their representative provide you with the attorney's contact information, and/or did they provide their contact information directly to the child in your care, if the child was 10 years of age or older?

- Yes, they provided the attorney's contact information to me.
- They did not provide the attorney's contact information to me, but did provide it to the child.
- Yes, they provided the attorney's contact information both to me and to the child.
- No, no one provided me or the child with the attorney's contact information.

A1. Yes, they provided the attorney's contact information to me.
TOP OF PAGE 4

A2. They did not provide the attorney's contact information to me, but *did* provide it to the child.
TOP OF PAGE 4

A3. Yes, they provided the attorney's contact information both to me *and* to the child.
TOP OF PAGE 4

A4. No, no one provided me or the child with the attorney's contact information.
P4 : Q9



Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

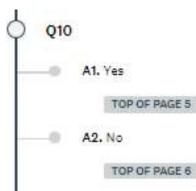
* 8. How long after the child was placed in your care did the attorney or their representative provide contact information?

- 0 - 30 days
- more than 1 but less than 6 months
- more than 6 months

9. Name of the attorney, if known.

* 10. After the child was placed in your care, did the attorney or their representative meet with the child?

- Yes
- No





Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 11. Did the child's **attorney** meet with the child before the following hearings?

	Never	Once	More Than Once	I do not know	n/a
Disposition Hearing	<input type="radio"/>				
6 Month Review Hearing	<input type="radio"/>				
12 Month Review Hearing	<input type="radio"/>				
18 Month Review Hearing	<input type="radio"/>				
24 Month Review Hearing	<input type="radio"/>				

* 12. Where did the meetings with the child's **attorney** take place? (Check all that apply)

- My home
- Child's School or Day Care
- Courthouse
- Attorney's Office
- Other (please specify)
- Virtual
- n/a
- I don't know

* 13. Did the **attorney's representative** meet with the child instead of the attorney before the following hearings?

	Never	Once	More Than Once	I do not know	n/a
Disposition Hearing	<input type="radio"/>				
6 Month Review Hearing	<input type="radio"/>				
12 Month Review Hearing	<input type="radio"/>				
18 Month Review Hearing	<input type="radio"/>				
24 Month Review Hearing	<input type="radio"/>				

* 14. Where did the meetings with the **attorney's representative** take place? (Check all that apply)

- My home
- Child's School or Day Care
- Courthouse
- Attorney's Office
- Other (please specify)
- Virtual
- n/a
- I don't know

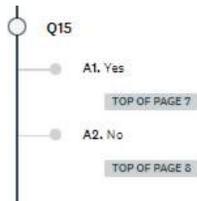


Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 15. While the child was in your care, did the court make any rulings that caused harm to the child?

Yes

No



Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 16. What was the harm caused to the child?

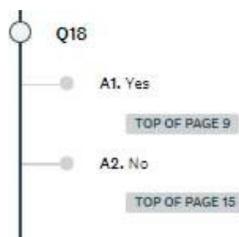
- Emotional
- Physical
- Sexual
- Developmental
- Educational

* 17. Please describe how the child was harmed.

Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 18. Did you attend any court hearings?

- Yes
- No



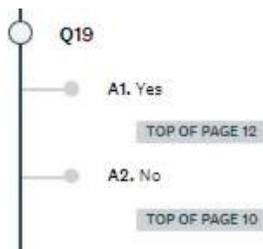


Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 19. When you were present in court, did the attorney present any information or arguments to the court about the child's physical, emotional, sexual, developmental, or educational well being or need for protection or safety?

Yes

No

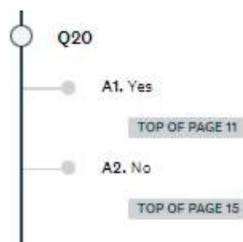


Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 20. Did this result in a ruling that harmed the child?

Yes

No



Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 21. What was the harm caused to the child?

- Emotional
- Physical
- Sexual
- Developmental
- Educational

Q21

- A1. Emotional
[TOP OF PAGE 15](#)
- A2. Physical
[TOP OF PAGE 15](#)
- A3. Sexual
[TOP OF PAGE 15](#)
- A4. Developmental
[TOP OF PAGE 15](#)
- A5. Educational
[TOP OF PAGE 15](#)

* 22. Please describe how the child was harmed.

Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 23. Did the information that the attorney presented contribute to a ruling that:

- prevented harm to the child
- caused harm to the child
- neither prevented nor caused harm to the child

Q23

- A1. prevented harm to the child
[TOP OF PAGE 13](#)
- A2. caused harm to the child
[TOP OF PAGE 14](#)
- A3. neither prevented nor caused harm to the child
[TOP OF PAGE 15](#)

Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 24. What was the harm prevented?

- Emotional
- Physical
- Sexual
- Developmental
- Educational

Q24

- A1. Emotional
[TOP OF PAGE 15](#)
- A2. Physical
[TOP OF PAGE 15](#)
- A3. Sexual
[TOP OF PAGE 15](#)
- A4. Developmental
[TOP OF PAGE 15](#)
- A5. Educational
[TOP OF PAGE 15](#)

* 25. Please describe the harm.



Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 26. What was the harm caused to the child?

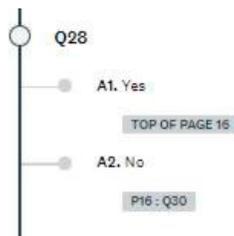
- Emotional
- Physical
- Sexual
- Developmental
- Educational

* 27. Please describe how the child was harmed.

Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 28. Is the child's case currently closed?

- Yes
- No





Advokids' Statewide Minors' Counsel Accountability Survey For Caregivers

* 29. How did the court ultimately resolve the child's case?

- Reunification with birth family
- Guardianship
- Adoption or Tribal Customary Adoption
- Other (please specify)

30. Is there anything else that you would like to share about your experience with the child's attorney or the court experience?

31. We would greatly appreciate your permission to reach out to you if we have additional questions or need clarification. We will not share your identity or contact information without your explicit permission. Thank you for your consideration.

Name

Email

Telephone Number



**** Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

Thank you for participating in Advokids' Foster Youth Survey. **Your responses to this survey will be kept confidential.**

Advokids, in partnership with Western Center on Law and Poverty, is investigating the performance of foster youth's attorneys. We are specifically interested in their compliance with their legal obligations to provide their contact information to youth and their caregivers and to meet regularly with the youth they are appointed to represent. We want to know if your attorney (lawyer) provided you with their contact information when he or she was assigned to your case. We also want to know if your attorney (lawyer) or their representative met regularly with you while you were in foster care. The law requires them to.

We know how hard it is to remember dates and details. Please don't stress, give us your best guess. We are very thankful for your help. We are hoping that your information will help us make big changes in the way that attorneys (lawyers) represent youth in foster care!

*Just a reminder, this survey is only for people who are 18 years and older.

* 1. What is your birthdate?

Month Day Year

Enter date here

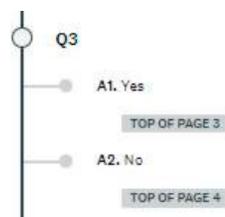
**** Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 2. How old were you when you were first taken into foster care? If you don't remember, make your best guess.

* 3. Are you still in foster care today?

Yes

No





****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 4. How long have you been in foster care? (Make your best guess if you don't remember.)

- Less than 2 months
- 2-8 months
- 8-14 months
- 14-18 months
- 18-24 months
- 24 months or longer

Q4

- A1. Less than 2 months
[TOP OF PAGE 5](#)
- A2. 2-8 months
[TOP OF PAGE 5](#)
- A3. 8-14 months
[TOP OF PAGE 5](#)
- A4. 14-18 months
[TOP OF PAGE 5](#)
- A5. 18-24 months
[TOP OF PAGE 5](#)
- A6. 24 months or longer
[TOP OF PAGE 5](#)

* 5. Which county is in charge of your foster care case?

- | | | |
|---------------------------------------|--|--|
| <input type="checkbox"/> Alameda | <input type="checkbox"/> Marin | <input type="checkbox"/> San Mateo |
| <input type="checkbox"/> Alpine | <input type="checkbox"/> Mariposa | <input type="checkbox"/> Santa Barbara |
| <input type="checkbox"/> Amador | <input type="checkbox"/> Mendocino | <input type="checkbox"/> Santa Clara |
| <input type="checkbox"/> Butte | <input type="checkbox"/> Merced | <input type="checkbox"/> Santa Cruz |
| <input type="checkbox"/> Calaveras | <input type="checkbox"/> Modoc | <input type="checkbox"/> Shasta |
| <input type="checkbox"/> Colusa | <input type="checkbox"/> Mono | <input type="checkbox"/> Sierra |
| <input type="checkbox"/> Contra Costa | <input type="checkbox"/> Monterey | <input type="checkbox"/> Siskiyou |
| <input type="checkbox"/> Del Norte | <input type="checkbox"/> Napa | <input type="checkbox"/> Solano |
| <input type="checkbox"/> El Dorado | <input type="checkbox"/> Nevada | <input type="checkbox"/> Sonoma |
| <input type="checkbox"/> Fresno | <input type="checkbox"/> Orange | <input type="checkbox"/> Stanislaus |
| <input type="checkbox"/> Glenn | <input type="checkbox"/> Placer | <input type="checkbox"/> Sutter |
| <input type="checkbox"/> Humboldt | <input type="checkbox"/> Plumas | <input type="checkbox"/> Tehama |
| <input type="checkbox"/> Imperial | <input type="checkbox"/> Riverside | <input type="checkbox"/> Trinity |
| <input type="checkbox"/> Inyo | <input type="checkbox"/> Sacramento | <input type="checkbox"/> Tulare |
| <input type="checkbox"/> Kern | <input type="checkbox"/> San Benito | <input type="checkbox"/> Tuolumne |
| <input type="checkbox"/> Kings | <input type="checkbox"/> San Bernardino | <input type="checkbox"/> Ventura |
| <input type="checkbox"/> Lake | <input type="checkbox"/> San Diego | <input type="checkbox"/> Yolo |
| <input type="checkbox"/> Lassen | <input type="checkbox"/> San Francisco | <input type="checkbox"/> Yuba |
| <input type="checkbox"/> Los Angeles | <input type="checkbox"/> San Joaquin | |
| <input type="checkbox"/> Madera | <input type="checkbox"/> San Luis Obispo | |



****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 6. How long were you in foster care? Make your best guess if you can't remember.

- | | |
|--|---|
| <input type="radio"/> Less than 2 months | <input type="radio"/> 14-18 months |
| <input type="radio"/> 2-8 months | <input type="radio"/> 18-24 months |
| <input type="radio"/> 8-14 months | <input type="radio"/> 24 months or longer |

* 7. Which county was in charge of your foster care case?

- | | | |
|---------------------------------------|--|--|
| <input type="checkbox"/> Alameda | <input type="checkbox"/> Marin | <input type="checkbox"/> San Mateo |
| <input type="checkbox"/> Alpine | <input type="checkbox"/> Mariposa | <input type="checkbox"/> Santa Barbara |
| <input type="checkbox"/> Amador | <input type="checkbox"/> Mendocino | <input type="checkbox"/> Santa Clara |
| <input type="checkbox"/> Butte | <input type="checkbox"/> Merced | <input type="checkbox"/> Santa Cruz |
| <input type="checkbox"/> Calaveras | <input type="checkbox"/> Modoc | <input type="checkbox"/> Shasta |
| <input type="checkbox"/> Colusa | <input type="checkbox"/> Mono | <input type="checkbox"/> Sierra |
| <input type="checkbox"/> Contra Costa | <input type="checkbox"/> Monterey | <input type="checkbox"/> Siskiyou |
| <input type="checkbox"/> Del Norte | <input type="checkbox"/> Napa | <input type="checkbox"/> Solano |
| <input type="checkbox"/> El Dorado | <input type="checkbox"/> Nevada | <input type="checkbox"/> Sonoma |
| <input type="checkbox"/> Fresno | <input type="checkbox"/> Orange | <input type="checkbox"/> Stanislaus |
| <input type="checkbox"/> Glenn | <input type="checkbox"/> Placer | <input type="checkbox"/> Sutter |
| <input type="checkbox"/> Humboldt | <input type="checkbox"/> Plumas | <input type="checkbox"/> Tehama |
| <input type="checkbox"/> Imperial | <input type="checkbox"/> Riverside | <input type="checkbox"/> Trinity |
| <input type="checkbox"/> Inyo | <input type="checkbox"/> Sacramento | <input type="checkbox"/> Tulare |
| <input type="checkbox"/> Kern | <input type="checkbox"/> San Benito | <input type="checkbox"/> Tuolumne |
| <input type="checkbox"/> Kings | <input type="checkbox"/> San Bernardino | <input type="checkbox"/> Ventura |
| <input type="checkbox"/> Lake | <input type="checkbox"/> San Diego | <input type="checkbox"/> Yolo |
| <input type="checkbox"/> Lassen | <input type="checkbox"/> San Francisco | <input type="checkbox"/> Yuba |
| <input type="checkbox"/> Los Angeles | <input type="checkbox"/> San Joaquin | |
| <input type="checkbox"/> Madera | <input type="checkbox"/> San Luis Obispo | |

* 8. Since you are no longer in foster care, were you

- Reunified with your family
- Placed in a guardianship
- Adoption or Tribal Customary Adoption
- Other (please specify)

****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

Thanks! Now we will ask you some questions about your experience with your court-appointed attorneys (lawyers.)

* 9. Did you know that when children are placed in foster care, the court appoints or gives them an attorney to help make decisions about what's best for them?

- Yes
- No

* 10. After you were placed in foster care, did your attorney or someone from their office give you your attorney's name and email or phone number so you could contact them?

- Yes, they provided the attorney's contact information to me.
- No, no one provided me with the attorney's contact information.

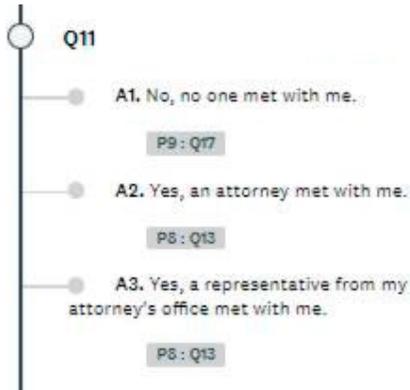




****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 11. After you were placed in foster care, did your attorney or their representative meet with you to talk about your upcoming court hearings?

- No, no one met with me.
- Yes, an attorney met with me.
- Yes, a representative from my attorney's office met with me.





**Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer

* 12. How long after you were placed in foster care did your attorney or their representative provide you with the attorney's contact information? Again, if you don't remember please make your best guess.

- 0 - 30 days
- more than 1 month but less than 6 months
- more than 6 months



**Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer

* 13. About how many times did you meet with your **attorney** ?

* 14. About how many times did you meet with a **representative** from your attorney's office?



****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 15. Where did you meet with your **attorney**? Please check all that apply.

- | | |
|---|---|
| <input type="checkbox"/> My Foster Home | <input type="checkbox"/> My Attorney's Office |
| <input type="checkbox"/> School/Day Care | <input type="checkbox"/> Virtual |
| <input type="checkbox"/> The Courthouse | <input type="checkbox"/> n/a |
| <input type="checkbox"/> Other (please specify) | |

* 16. Where did you meet with a **representative** from your attorney's office? Please check all that apply.

- | | |
|---|---|
| <input type="checkbox"/> My Foster Home | <input type="checkbox"/> My Attorney's Office |
| <input type="checkbox"/> School/Day Care | <input type="checkbox"/> Virtual |
| <input type="checkbox"/> The Courthouse | <input type="checkbox"/> n/a |
| <input type="checkbox"/> Other (please specify) | |

17. Name of your attorney, if you know or remember.



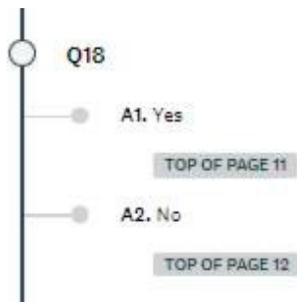
****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

Thank you! We are almost finished but we have a few more questions about your experience with your court hearings.

* 18. While you were in foster care, do you believe that the judge made decisions that caused you harm?

Yes

No





****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 19. What was the harm caused?

Emotional

Developmental

Physical

Educational

Sexual

Financial Harm (I'm a Non-Minor
Dependent)

Do not wish to share

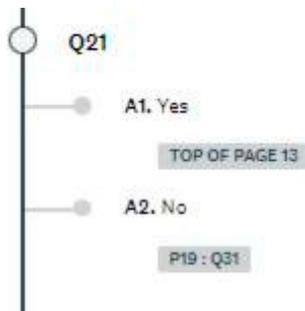
20. Please describe what happened to you, if you're able to share.

****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 21. Did you attend any court hearings?

Yes

No



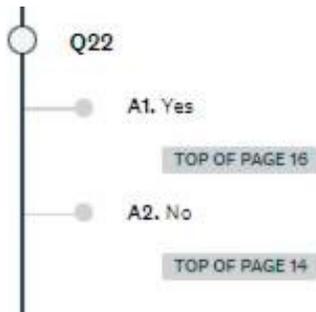


****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 22. When you were in court, did you hear your attorney share any information with the judge about you and your physical, emotional, developmental, or educational well being or need for protection or safety?

Yes

No



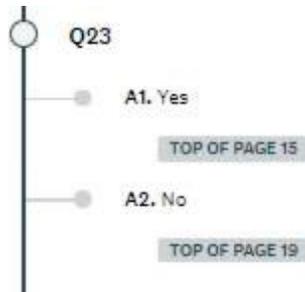


****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 23. When your attorney did **not** share information about you and your needs with the judge, did that result in the judge making a decision that harmed you?

Yes

No





****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 24. What was the harm?

Emotional

Educational

Physical

Developmental

Sexual

Financial Harm (I'm a Non-Minor
Dependent)

Do not wish to share

25. Please describe what happened to you, if you are able to share.

Q24

- A1. Emotional
TOP OF PAGE 19
- A2. Physical
TOP OF PAGE 19
- A3. Sexual
TOP OF PAGE 19
- A4. Do not wish to share
- A5. Educational
TOP OF PAGE 19
- A6. Developmental
TOP OF PAGE 19
- A7. Financial Harm (I'm a Non-Minor
Dependent)
TOP OF PAGE 19



**** Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 26. Did the information that your attorney shared with the judge cause a ruling that:

- prevented you from being harmed
- caused you to be harmed
- neither prevented nor caused you to be harmed

Q26

- A1. prevented you from being harmed
TOP OF PAGE 17
- A2. caused you to be harmed
TOP OF PAGE 18
- A3. neither prevented nor caused you to be harmed
TOP OF PAGE 19



****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 27. What harm was prevented?

- | | |
|---|---|
| <input type="checkbox"/> Emotional | <input type="checkbox"/> Educational |
| <input type="checkbox"/> Physical | <input type="checkbox"/> Developmental |
| <input type="checkbox"/> Sexual | <input type="checkbox"/> Financial Harm (I'm a Non-Minor Dependent) |
| <input type="checkbox"/> Do not wish to share | |

28. Please describe the harm that was prevented, if you're able to share.

- Q27
 - A1. Emotional
[TOP OF PAGE 19](#)
 - A2. Physical
[TOP OF PAGE 19](#)
 - A3. Sexual
[TOP OF PAGE 19](#)
 - A4. Do not wish to share
 - A5. Educational
[TOP OF PAGE 19](#)
 - A6. Developmental
[TOP OF PAGE 19](#)
 - A7. Financial Harm (I'm a Non-Minor Dependent)
[TOP OF PAGE 19](#)



****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

* 29. How were you harmed?

Emotional

Educational

Physical

Developmental

Sexual

Financial Harm (I'm a Non-Minor
Dependent)

Do not wish to share

30. Please describe what happened to you, if you're able to share.

- Q29
 - A1. Emotional
[TOP OF PAGE 19](#)
 - A2. Physical
[TOP OF PAGE 19](#)
 - A3. Sexual
[TOP OF PAGE 19](#)
 - A4. Do not wish to share
 - A5. Educational
[TOP OF PAGE 19](#)
 - A6. Developmental
[TOP OF PAGE 19](#)
 - A7. Financial Harm (I'm a Non-Minor
Dependent)
[TOP OF PAGE 19](#)



****Advokids' Survey For Current or Former Foster Youth 18 Years or Older--Feedback About your Attorney/Lawyer**

31. Is there anything else you would like to share with us about your experience with your attorney?

32. We will not contact you or share your identity or contact information without your explicit permission. Thank you for taking the time to complete our survey!

Name

Email

Telephone Number
(Optional)

33. Please indicate which type of gift card you would like. If one is not selected, you will be sent a Target gift card.

- Target
- Chipotle
- Chevron Gas Station

* 34. We would greatly appreciate your permission to reach out to you if we have additional questions or need clarification. Can we have your permission to reach out to you? Thank you again for helping us!

- Yes
- No

Appendix-D

Caregiver Interview Guide

Name of Interviewee

Time and date of interview

Link to Survey Response

Link to Consent Form - consent type: Video/Audio/No

Interviewer: (name)

**ENFORCING THE ETHICAL OBLIGATIONS OF MINORS' ATTORNEYS IN
JUVENILE DEPENDENCY PROCEEDINGS in California
Interview Guide**

The goal of this interview is to better understand your experiences with court appointed minors' attorneys during your time involved with the foster care system. The survey that you completed previously collected basic information and today we would like to gather more details about your experiences. At the end of this project, we will be publishing a public report summarizing our survey data and the stories from our interviews to educate the public about the ethical obligations and performance of court appointed attorneys for children in foster care. We greatly appreciate your time today. Before we begin, we want to review the consent form and give you time for any questions you may have.

- Participation is completely voluntary and you can decide to end the interview at any time
- We will keep your personal information confidential and secure.
- We will use broad themes across interviews and quotes in the published report,
- We will not use identifiable information about you, your family, individual attorneys, caseworkers, or providers. No information about you or your case will be given to anyone not working on the project for any reason.
- The purpose of this recording is to have a transcript of this interview. We are not taking handwritten notes so that the conversation can remain more fluid. This recording will not be shared with anyone else and will not be used for any other purpose besides for our note taking purposes. You have consented to be recorded, is that still the case?

Do you have any questions for us before we start recording and begin?

Name of Interviewee

County and Historical Problems?

Local Rules?

Background (about 5 min)

We would first like to get a sense of your experience as a (insert type of) caregiver involved with the foster care system and your interactions with the child’s attorney.

- It’s been a while since you completed our survey.
 - **Are you currently caring for the child you completed the survey about?**
 - How long have you been a (insert type of) caregiver?
 - How many children have you fostered?

- We noticed that, when you answered the survey, you mentioned _____. Would you mind clarifying (whatever needed more information or was confusing?)

Experiences with Minors’ Counsel

- Do you know who the child’s **attorney** is/was?
 - ***How did you find out?***
 - *When did you find out?*
 - *Did the attorney leave or give you their contact information (did you get an email address)?*

- Did you interact with the child's **attorney** while you were caring for the child? If so, what was that like?
 - What did you talk about?
 - Did they seem interested in the child’s life?
 - **Was there anything you felt they should have asked/told you?**
 - How often did you communicate with the attorney?
 - Do you know if the atty. reached out to any treatment providers? (therapist, pediatrician, other providers?)
 - **Did you ever meet the atty?**
 - YES
 - **Do you remember when you first met the attorney?**
 - Where did you meet the attorney?
 - How long was your meeting?
 - **How often did you meet with the attorney?**
 - Did you communicate by phone or email? **Did the atty respond? Was it promptly?**
 - NO
 - **Why not?**
 - **How did you interact with the attorney?**
 - Were your calls and/or emails responded to? Promptly?

Name of Interviewee

County and Historical Problems?

Local Rules?

- **How old is/are the foster child(ren)? Did the child ever meet the atty.?**
 - YES
 - Do you remember when they met the attorney?
 - **Where did they meet the attorney?**
 - **How long was their meeting?**
 - **How often did they meet with the attorney?**
 - Did they communicate by phone or email? Did the attorney respond? Promptly?
 - NO
 - Why not?
 - **How did the child interact with the attorney?**
 - Were their calls and/or emails answered? Promptly?

- Did you interact with a **representative** from the attorney's office? (Sometimes they are referred to as investigators or legal assistants.) If so, what was that like?
 - ***Do you remember the first time you met the representative?***
 - Was the child also there?
 - What did they talk to you/ask you about?
 - **Was there anything you felt they should have asked/told you?**
 - Where did you meet them?
 - How long was your meeting?
 - **Did the representative make sure you knew that he/she was not the attorney?**
 - Did the representative share their educational background or credentials with you?
 - Did the representative share the name of the child's attorney and his/her contact info?
 - **Do you feel like there are things that you told the representative that were not communicated with the attorney or the attorney did not seem to know or did not think was important?**
 - **Do you feel like the information you provided to the representative was ultimately communicated to and used by the attorney? If not, can you describe the situation and what that looked like.**
 - Do you know if the representative reached out to any treatment providers? (therapist, pediatrician, other providers?)
 - **How frequently do you/did you communicate with the representative?**
 - **Who did the representative indicate your point of contact should be if you have questions or need help re child?**

- **Local Rules Questions...**
 - Did you know that in your county, you have local rules that require the attorneys for the children to go above and beyond what the state requires?

Name of Interviewee

County and Historical Problems?

Local Rules?

- Your county requires the attorney to:
Ex. San Francisco attys. must “observe the child’s relationships in their placement.”
- Your county also has a local rule that allows designated adults to complain to the presiding judge about a child’s attorney who is not meeting their ethical obligations
Ex.

Effects of Minors’ Counsel Quality of Representation

- For those who indicated that they **didn’t attend court**
 - You indicated that you did not attend the court hearings, did you know that as a caregiver, you are entitled to?
 - Why did you not attend the hearings?
- You indicated that you **attended** court hearings for the child...were these in person, zoom, or telephone?
- Do you believe that the attorney had an influence on the child’s case, either positively or negatively?
 - How did they do that?
 - Did /have you observed the attorney actively participating in court or interacting with other people in the child’s life in other settings?
 - Did the child experience harm because the attorney spoke or didn’t speak in court?
 - Did the atty. seem to have accurate and complete info about the child’s life?
 - Did the attorney communicate any information from outside sources to the court that you’re aware of?
 - Do you think the attorney could have or should have influenced the case?
 - How so?

Did the child experience harm due to the attorney not speaking up in court?

Yes - Can you speak to that harm? This doesn’t have to be very specific.

10. Could the attorney or representative have done anything specific to provide more effective advocacy for the child? If so, what might that look/have looked like?

- Do you believe that the child’s attorney knew enough information about the child’s case to advocate effectively for them?
- Do you believe that there was information that the atty. didn't know about the child and/or child's situation and that that could have changed the outcome?
- Did the child’s attorney communicate frequently enough and in enough detail with [you/the child]? If not, what effect do you believe this had on the case (if any)?

Name of Interviewee

County and Historical Problems?

Local Rules?

Recommendations

11. As we think of ways to improve the quality of children’s representation in foster care, we would love to hear your thoughts. In your opinion, how could attorneys and the foster care system overall do better at providing children and youth with more effective attorneys? [It is okay if no ideas immediately spring to mind!]

- How might this change improve cases like yours?
- Who should be responsible for this kind of change?
- Who needs to be at the decision-making table?

Wrap-Up

12. Are there any other experiences or observations about minors’ counsel that are important to think about but that we haven’t discussed today? Any other final thoughts?

Thank you for taking the time to talk with us today! I just wanted to double check and make sure that there isn’t any information that you don’t want shared.

We’ll be sure to let you know as we finalize our findings, and feel free to reach out if you think of anything that might be useful after we hang up.

Name of Interviewee - Ph number

time and date of interview

Link to Survey Response

Link to Consent Form - consent type: Video/Audio/No

**ENFORCING THE ETHICAL OBLIGATIONS OF MINORS' ATTORNEYS IN
JUVENILE DEPENDENCY PROCEEDINGS in California**

Youth Interview Guide

The goal of this interview is to better understand your experiences with your court appointed attorney during your time involved with the foster care system. The survey that you completed for us gathered basic information about your experiences and today we would like to gather more detailed information. At the end of this project, we will be publishing a public report summarizing our survey data and the stories from our interviews to educate the public about the ethical obligations and performance of court appointed attorneys for children and youth in foster care. We greatly appreciate your time today. Before we begin, we want to review the consent form and give you time for any questions you may have.

- Participation is completely voluntary and you can decide to end the interview at any time
- We will keep your personal information confidential and secure.
- We will use broad themes across interviews and non-identifiable quotes in the published report,
- We will not use identifiable information about you, your family, individual attorneys, caseworkers, or providers. No information about you or your case will be given to anyone not working on the project for any reason.
- We will not include any names or facts that may identify individual participants in the written report or at any other time when talking about the information collected from this project.
- We would like to record our time together to help us with our notes, but this recording will not be shared with anyone else and will not be used for any other purpose. You are welcome to decline to be recorded however.

Do you have any questions for us before we start recording and begin?

Name of Interviewee

County and local rules

Background (about 5 min)

We would first like to get a sense of your experience as a youth involved with the foster care system and your interactions with your attorney.

Quotes from Survey:

It's been a while since you completed our survey.

- **How's life? What are you currently doing?**
- Are you in school or did you go to college?
- How long were you in foster care?
- When were you in foster care? (looking for years)
- Is your case currently open?
- How was it closed?

Experiences with Minors' Counsel

- Do you know who your **attorney** is/was?
 - **How did you find out?**
 - *When did you find out?*
 - *Did the attorney leave or give you their contact information (did you get an email address)?*
- Did you interact with your **attorney**? If so, what was that like?
 - What did you talk about?
 - Did they seem interested in your life?
 - **Was there anything you felt they should have asked/told you?**
 - How often did you communicate with the attorney?
 - Do you know if the atty. reached out to any treatment providers? (therapist, pediatrician, other providers?)
 - **Did you ever meet the atty.?**
 - YES
 - **Do you remember when you first met the attorney?**
 - Where did you meet the attorney?
 - How long was your meeting?
 - **How often did you meet with the attorney?**
 - Did you communicate by phone or email? **Did the atty. respond at all? Promptly?**
 - NO
 - **Why not?**
 - **How did you interact with the attorney?**
 - Were your calls and/or emails responded to?
 - Were they answered promptly?

Name of Interviewee

County and local rules

- Did you interact with a **representative** from the attorney's office? (Sometimes they are referred to as investigators or legal assistants.) If so, what was that like?
 - **Do you remember the first time you met the representative?**
 - What did they talk to you/ask you about?
 - **Was there anything you felt they should have asked/told you?**
 - Where did you meet them?
 - How long was your meeting?
 - **Did the representative make sure you knew that he/she was not the attorney?**
 - Did the representative share their educational background or credentials with you?
 - Did the representative share the name of your attorney and his/her contact info?
 - **Do you feel like there are things that you told the representative that were not communicated with the attorney or the attorney did not seem to know or did not think was important?**
 - **Do you feel like the information you provided to the representative was ultimately communicated to and used by the attorney? If not, can you describe the situation and what that looked like.**
 - Do you know if the representative reached out to any treatment providers? (therapist, pediatrician, other providers?)
 - **How frequently do you/did you communicate with the representative?**
 - **Who did the representative indicate your point of contact should be if you have questions or need help re child?**
- **Local Rules Questions...**
 - Did you know that in your county, you have local rules that require the attorneys for the children to go above and beyond what the state requires?
 - Your county requires the attorney to:
Ex. San Francisco attys. must "observe the child's relationships in their placement."
 - Your county also has a local rule that allows designated adults to complain to the presiding judge about a child's attorney who is not meeting their ethical obligations
Ex.

Effects of Minors' Counsel Quality of Representation

- For those who indicated that they **didn't attend court**
 - You indicated that you did not attend the court hearings, did you know that you are entitled to?
 - Why did you not attend the hearings?

Name of Interviewee

County and local rules

- You indicated that you **attended** court your hearings...were these in person, zoom, or telephone?
- Do you believe that the attorney had an influence on your case, either positively or negatively?
 - How did they do that?
 - Was harm caused because the attorney did not advocate for you?
 - Did /have you observed the attorney actively participating in court or interacting with other people in your life in other settings?
 - Did the atty. seem to have accurate and complete info about your life?
 - Did the attorney communicate any information from outside sources to the court that you're aware of?
 - Do you think the attorney could have or should have influenced the case?
 - How so?
- Do you believe that the quality of minors' counsel's representation impacted your case? If so, how? (Looking for answers that talk about harm that happened or was prevented.)
- Could the attorney or representative have done anything specific to provide you more effective advocacy? If so, what might that look/have looked like?
 - Do you believe your attorney knew enough information about your case to advocate effectively for you?
 - Do you believe that there was information that the atty. didn't know about you or your situation and that that could have changed the outcome?
 - Did your attorney communicate frequently enough and in enough detail with you? If not, what effect do you believe this had on your case (if any)?

Recommendations

- As we think of ways to improve the quality of legal representation for children and youth in foster care, we would love to hear your thoughts. In your opinion, how could attorneys and the foster care system overall do better at providing children and youth with more effective attorneys? [It is okay if no ideas immediately spring to mind!]
 - How might this change improve cases like yours?
 - Who should be responsible for this kind of change?
 - Who needs to be at the decision-making table?

Name of Interviewee

County and local rules

Wrap-Up

Are there any other experiences or observations about minors' counsel that are important to think about but that we haven't discussed today? Any other final thoughts?

Thank you for taking the time to talk with us today! I just wanted to double check and make sure that there isn't any information that you don't want shared.

We'll be sure to let you know as we finalize our findings, and feel free to reach out if you think of anything that might be useful after we hang up.

Research Limitations

This project sought to document children’s experiences with their court-appointed counsel in California and to identify potential areas for future policy change and intervention. However, several aspects of the research conducted suggest that caution should be exercised in interpreting and generalizing this evidence.

First, it is possible that those motivated enough to complete the survey questionnaire and interviews were more likely to have had negative experiences either with the child welfare system broadly or with minors’ counsel specifically. This may also be true of the 16.6% of responses that came from caregivers who had previously contacted the Advokids Hotline. Additionally, caregiver respondents were less likely to be kin caregivers when compared with the overall child welfare population and former foster youth respondents were more likely to be older and have had longer-than-average stays while in care. Although a response rate could not be calculated since the online survey link was distributed to a number of large organizations, it is possible that response and selection biases may have existed and may have produced results that were more representative of the experiences of these subgroups rather than all of the children in foster care in California.

Accuracy of respondents’ reports of child representation experiences may have been limited by the extent to which caregivers and former foster youth were able to correctly recollect events such as attorney meetings, contact information sharing, and court hearing activities. Specific issues related to recollection problems may include the following:

- some respondents may have met an attorney but failed to recognize that they were, in fact, their appointed counsel;
- some respondents may have had several attorneys and reported on their experience with only one, while others reported experiences with all of their attorneys;
- several former foster youth had been out of foster care for a number of years, which may have impacted their ability to accurately recall aspects of their representation; and
- some caregivers may have been unaware that certain meetings and events occurred outside of their presence.

Some caregivers may have been more likely to inaccurately recall events than others because the inclusion criteria for the survey referred to having a child “currently or recently in your care,” which some may have interpreted to include cases in the relatively distant past. We note, however, that most children whose experiences were reported by caregivers were under four years old (about 64%), so it is unlikely that they served as resource families very far in the distant past, and it is unlikely that the young children in their care would have had meetings outside of the caregivers’ knowledge. The findings may have also been impacted by the occurrence of COVID-19 pandemic conditions. However, the survey included options to report virtual visits, which were counted as meetings with attorneys and agents in the survey results.

Finally, it is worth noting that determinations of “harm” by both caregivers and former foster youth (and the connection of these harms to the quality of representation they received) is inherently subjective. Thus, the meaning of harm and the validity of connecting them to minors’ counsel may be dependent on the interpretation and perspectives of the respondents.

Appendix-F

Judicial Council Standard Agreement Contract No. xxxxx
with [Name of Independent Contract Attorney]

compliance with Medicare, social security, income tax withholding, unemployment and workers' compensation laws and regulations, withholding for/providing of any and all employee benefits, and all other laws and regulations governing such matters. Neither party to this Agreement has any authority to enter into any contract or otherwise incur any liability in the name of, or on behalf of, the other party.

3. QUALITY OF SERVICES

- A. Contractor agrees that each of its employees, Subcontractors, and agents assigned to perform any Services under this Agreement shall have the skills, training, and background reasonably commensurate with his or her responsibilities, so as to be able to perform in a competent and professional manner. Contractor further agrees that the Services provided shall be performed in good faith and in a competent and timely manner consistent with professional standards for such work, will conform to the requirements of this Agreement, and will not infringe upon the rights of third parties. In addition, Contractor shall, and shall cause its employees, agents and Subcontractors to:
- i. Provide quality representation for its clients, and comply with the provisions of California Welfare and Institutions Code section 317 and California Rules of Court, rule 5.660.
 - ii. Provide competent attorneys to render the Services. Contractor's attorneys shall participate regularly in continuing legal education activities respecting juvenile dependency issues, and shall demonstrate adequate skills, knowledge and comprehension of the statutory scheme, purposes and goals of dependency proceedings, the specific statutes, rules of court and cases relevant to such proceedings, and the applicable procedures for filing petitions for extraordinary writs and other documents.
 - iii. Not restrict its attorneys' ability to serve on countywide committees, or their ability to participate in or lead public training seminars or conferences, provided such activities are consistent with the attorneys' obligations as professionals and the performance of the Services.
 - iv. Adhere to the State Bar Act and the California Rules of Professional Conduct relative to the provision of the Services.

4. JUDICIAL COUNCIL'S QUALITY ASSURANCE PLAN

- A. The Judicial Council or its agent may evaluate Contractor's performance under this Agreement. Such evaluation may include assessing Contractor's compliance with all Agreement terms and performance standards.
- i. The Judicial Council may perform annual peer, client and judicial officer evaluation of attorneys, including attorneys providing services on a subcontracting basis. Contractor agrees to participate in the evaluation process by providing information requested by the Judicial Council, including completion and return of peer evaluation forms to the Judicial Council or to the Judicial Council's agent as requested.

Program (FFDRP) funding if said partnership does not conflict with providing services listed in this contract.

- 3.3** The Contractor shall comply with Butte County Local Rules, Rule 17 in performance of this Contract.
- 3.4** This representation requires, but is not limited to, adherence to the following performance standards:
- A.** Establishing and maintaining an attorney-client relationship as;
 - B.** Visiting child clients, whenever feasible, as specified in Welfare & Institutions Code Section 317(e) and Butte County Court Local Rule 17.3(c) wherein it states that the Contractor is expected to meet regularly with clients, including children, contact social workers and other professionals associated with the client's case, work with other counsel and the Court to resolve disputed issues without hearing. The Contractor shall meet with in-custody clients prior to the in-custody client's court hearings;
 - C.** Conducting thorough interviews throughout the proceedings as stated in Welfare & Institutions Code Section 317(e) and Butte County Court Local Rule 17.7(c);
 - D.** Determining their client's interests and desires and advocating for those interests and desires pursuant to Welfare & Institutions Code Section 317(e);
 - E.** Contacting social workers and other professionals associated with their client's case, whenever practical and appropriate; pursuant to Butte County Court Local Rule 17.7(a);
 - F.** Requesting services (by court order if necessary) to access entitlements and to ensure a comprehensive service plan as appropriate;
 - G.** Monitoring compliance with court orders, including provision of and effectiveness of court-ordered services;
 - H.** Filing pleadings, motions, responses, or objections as necessary to represent the client;
 - I.** Preparing for and participating in all hearings. For child clients, preparing for and participating in Welfare and Institutions Code Section 241.1 hearings pertaining to current juvenile dependents with a goal of maintaining the dependency jurisdiction wherever possible and appropriate;
 - J.** Identifying the interests of child clients beyond the scope of the juvenile dependency proceeding and notifying the Court of issues on behalf of the child, administratively or judicially. These interests may include:
 - (1) School/special education issues;
 - (2) Mental health assessment and treatment;
 - (3) Immigration;
 - (4) Personal injury; and
 - (5) Delinquency or status offender matters;
 - (6) The Contractor shall not be required to provide legal representation regarding any of the above-referenced interests.
 - K.** Participating in alternative dispute resolution efforts, including but not limited to Family Group Conferences, Team Decision Making meetings and mediation, as appropriate and beneficial to the client;
 - L.** Filing writ and notice of appeal where necessary;
 - M.** Arranging for substitutive representation where necessary to avoid Court delay; and

APPENDIX A

Scope of Services

1. **Services.** FCA agrees to provide competent and adequate legal representation of minors in juvenile dependency proceedings where appointed to do so by a judicial officer of the Court. FCA shall be the first entity appointed to represent minors in juvenile dependency proceedings. FCA's representation shall consist of complete legal representation services and shall include, but is not limited to, adherence to the following performance standards:

- establishing and maintaining an attorney-client relationship;
- conducting thorough, continuing, and independent investigations and interviews at every stage of the proceedings;
- determining the client's interests and desires and advocating for those interests and desires;
- contacting social workers and other professionals associated with client's case prior to each hearing, as practical and appropriate (this may include contacting CASA and school personnel);
- requesting services to access entitlements and to ensure a comprehensive service plan;
- monitoring compliance with court orders, including provision of and effectiveness of court-ordered services;
- filing pleadings, motions, responses or objections as necessary to represent the client;
- investigating the interests of the child client beyond the scope of the juvenile dependency proceedings and notifying the Court of issues on behalf of the child;
- participating in alternative dispute resolution efforts;
- determining if appeals and writs are appropriate and, where necessary, filing a writ or notice of appeal;
- Participating in drug court when appropriate and attending and participating in court meetings including, but not limited to monthly brown bag meetings.

- 1.1 **FCA Offices.** FCA shall employ attorneys in such sufficient numbers and with the requisite preparation, experience and availability as will provide the legal representation contemplated in this Agreement and as will ensure that the business of the Court is not unreasonably delayed or impeded. FCA shall provide a sufficient number of attorneys to staff the FCA office, presently estimated to be at least five (5) full-time attorneys, in order to deliver legal services to minors in dependency proceedings and provide adequate coverage to the Court.

FCA shall maintain a Fresno office which shall be located in close proximity to the Court; shall be open during normal business hours and shall be adequate for conducting client interviews and appointments. FCA shall maintain a published office address and telephone number and a telephone answering service or device for taking telephone messages during non-business hours. FCA shall employ adequate numbers of Spanish speaking staff in order to service Spanish-speaking clients. Clients shall be interviewed as soon as practicable taking into account their age and circumstances.

- 1.2 **Appointment process.** The Court will first appoint FCA to represent a minor in a juvenile dependency proceeding. Whenever FCA declares a conflict of interest, the Court will appoint

trial conferences, if applicable).

- iv) File pleadings, motions, responses, or objections as necessary.
- i. Conduct interviews and investigations:
 - i) Thoroughly and completely investigate the accuracy of the allegation of the petition or moving papers and court reports filed in support thereof.
 - ii) Conduct comprehensive interviews with the client to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; interview care takers, neighbors, relatives, coaches, clergy, mental health professionals, physicians and law enforcement officers.
 - iii) Contact social workers and other professionals (consult experts, research law, if child client, investigate other legal needs of the child) associated with the case to ascertain if the allegation and/or reports are supported by accurate evidence and reliable information.
 - iv) Obtain such other facts, evidence or information as may be necessary to effectively present the client's position to the Court.
- j. Additional Attorney Requirements if appointed to represent a parent:
 - i) Investigate and evaluate the parent's environment (home, relatives home, shelter, etc.).
 - ii) Observe the parent' interaction with the child(ren), after obtaining permission from counsel for the parent(s).
 - iii) Observe for any special needs of the parent relating to his or her ability to understand and participate in the court process, including making a determination as to whether or not a guardian ad litem is necessary.
- k. Additional Attorney Requirement if appointed to represent child(ren):
 - i) A primary obligation of the child's attorney is to advocate for the protection, safety, and physical and emotional well-being of the child.
 - ii) Visit child at each new placement whenever feasible.
 - iii) Personally visit with the child in a non-court setting prior to court hearings.
 - iv) Observe the child's interaction with the parents or other caretakers.

information and no role in handling cases); executive leadership responsible for: hiring, training standards, other general policies (that are not case specific) in regard to the operation, function, and management of the organization; crafting the organization's policies on systemic issues and reforms; accountability to the Court for the organizations' fulfillment of its contractual obligations; a law library; form and brief banks; and a supply room.

B. Subcontractor Approach: Contractor may enter into subcontracts with other qualified attorneys or law firms, to provide representation to any clients that Contractor cannot represent.

- The subcontractor attorneys and/or firms must be separate organizationally from the Contractor's firm, and must not share with Contractor any files, staff, computer systems, facilities, case information or any other resources that would compromise client confidentiality.
- Contractor is responsible for ensuring that there are sufficient subcontractor resources available to represent all clients in the lot, regardless of how many individual clients in each case require representation.
- Contractor must ensure that subcontractors provide high quality representation. Proposals should include information about how high quality representation will be assured, including meeting the attorney performance standards described in Section 5 below, when cases are assigned to subcontractors.
- Contractor will determine the compensation structure for the subcontractor attorneys.

5. ATTORNEY PERFORMANCE REQUIREMENTS

Competency and education standards for dependency representation are described in the state and local rules of court reference above (Section 1). The following description of counsel's responsibilities and actions is presented as an outline of what constitutes thorough and professional representation. An individual case will rarely require all of the activities enumerated. Underlying each activity is the expectation that the attorney will possess knowledge and understanding of current statutes, rules of court, relevant case law, and the policies inherent within them.

A. Maintain ongoing client contact

1. Meet with the client before each court hearing;
2. Personally explain to the client, in a developmentally appropriate manner, what the Court is deciding and what alternatives might be available; elicit the client's preferences, advise the client, and discuss what will happen next;

3. Observe the parent's interaction with the child(ren), after obtaining permission from parent's counsel;
 4. Contact the client in the event of an emergency or significant case-related event; and
 5. Be accessible to the client through office hours, telephone/voicemail, fax, e-mail or home/school/office visits.
 6. Additional duties of child's counsel:
 - a. Visit the child at each new placement, whenever feasible; and
 - b. Personally visit with the child in a non-court setting before each court hearing.
 7. Additional duties of children's' counsel:
 - a. Investigate and evaluate the children's environment (home, relative home, shelter, etc.); and
 - b. Be alert to any special needs of the parent related to his or her ability to understand and participate in the court process, including making a determination as to whether or not a *guardian ad litem* is necessary.
- B. Conduct thorough, continuing, and independent investigations and interviews necessary to ascertain the facts, which may include, but is not limited to:
1. Obtaining any required authorizations for the release of information;
 2. Reviewing the client's social services, public assistance, psychiatric, psychological, drug and alcohol, medical, law enforcement, and school records; taking any additional steps necessary to gain access to those records that may not be in existing or open files;
 3. Making all efforts to investigate the appropriateness of a medication request and provide input to the Court whenever possible;
 4. Reviewing court file and case-related records of the social services agency and other service providers;
 5. Interviewing school personnel, caretakers, neighbors, relatives, coaches, clergy, mental health professional, physicians, and law enforcement officers;
 6. Contacting and meeting with child welfare workers who are presently or were previously interacting with the client or other family members, including the child welfare worker who will provide the next report to the Court.

Attorney Performance Requirements

Attorneys must be available to the Court during all business hours to avoid Court delay. Contractor is to have competent counsel on site and available for appointment during normal business hours and maintain offices (physical locations) opened sufficient hours to provide necessary service. Court space will not be provided for such offices.

- A. Attorneys for children must be prepared to do the following, at a minimum:
1. Establish and maintain an attorney-client relationship with the child, using age-appropriate language:
 - a. Explain to child at first meeting the attorney's role, the nature of the attorney-client relationship, the nature of the proceedings and possible case outcomes;
 - b. Determine the child's interests and desires and advocate for those interests and desires;
 - c. Advise the child on a continuing basis of his or her legal rights, and;
 - d. Advise the child on a continuing basis of his or her possible courses of action and the risks and benefits of each course of action.
 2. Visit child clients in their placements prior to each statutory hearing, whenever possible and practicable:
 - a. Interview all children four (4) years of age or older unless it is impracticable, and;
 - b. Interview the child's caretaker, particularly when the child is under four (4) years of age.
 3. Conduct thorough, continuing, and independent investigations and interviews at every state of the proceedings.
 4. Contact social workers and other professionals associated with their client's case, including CASA and school personnel, prior to each hearing.
 5. Request services (by court order if necessary) to access entitlements and to ensure a comprehensive service plan, and attend meetings related to the child, as practicable.
 6. Monitor compliance with court orders, including provision of and effectiveness of court-ordered services.
 7. File pleadings, motions, responses, or objections as necessary to represent the child.
 8. Prepare for and participate in all hearings:
 - a. Work to define trial issues and to settle contested issues;
 - b. Negotiate settlements, if appropriate;
 - c. Prepare trial briefs, if appropriate;
 - d. Take positions relevant to the child on legal issues before the court;
 - e. Seek and advocate for appropriate services for the child;
 - f. Introduce and examine witnesses on behalf of the child;
 - g. Cross-examine other witnesses;
 - h. Evaluate the necessity and propriety of having the child present at a hearing, and;
 - i. Prepare the child to testify as a witness and leave the courtroom by:
 - (1) Protecting the child by making objections and ensuring the testimony will cause minimum harm to the child, and;
 - (2) Ensuring the questions are developmentally and linguistically appropriate.
 9. Prepare for and participate in 241.1 hearings with a goal of maintaining dependency jurisdiction whenever possible and appropriate.
 10. Investigate the interests of the child beyond the scope of the juvenile proceeding and notify the Court of and, as appropriate, request authority from the Court to pursue issues on behalf of the child. These interests may include:

- a. School/special education issues;
 - b. Mental health assessment and treatment;
 - c. Immigration;
 - d. Delinquency or status offender matters; and
 - e. Personal injury. No notification or separate authorization is required to pursue a personal injury matter on behalf of an appointed client.
11. Determine if appeals and writs are appropriate and file if necessary.
 12. Accept appointments as guardian ad litem.
 13. Advocate for adherence to mandated timelines.
 14. Arrange for qualified substitutive representation where necessary to avoid court delay.
- B. Attorneys for parents and guardians must be prepared to do the following, at a minimum:
1. Meet with, interview and counsel the parent, explain the parent's rights, the court system, the proceedings, the lawyer's role, rights of custodial and non-custodial parents and what to expect in the legal process.
 2. Determine:
 - a. Both the agency and their client's version of the reason for removal;
 - b. Whether the agency made reasonable efforts to avoid removal of the child;
 - c. Parents desired interest regarding placement, frequency of visits, and communication with his/her children;
 - d. Whether relatives or friends are available for placement, and;
 - e. Whether immediate services are warranted.
 3. Conduct thorough, continuing, and independent investigations and interviews at all stages of the proceedings.
 4. Contact social workers and other professionals associated with their client's case.
 5. Obtain necessary authority for release of information.
 6. Develop a theory and strategy of the case to implement at hearings.
 7. Maintain client control.
 8. Review reports with the client.
 9. Negotiate settlements.
 10. Participate in mediations and settlement conferences.
 11. Advocate for court services (by court order, if necessary) to meet the parent's needs, enable access to entitlements and ensure a comprehensive service plan.
 12. Monitor implementation of the service plan.
 13. File pleadings, motions, responses, or objections as necessary to represent the parent.
 14. Prepare and participate in hearings, including:
 - a. Contact and interview the parent before each hearing;
 - b. Consult with client and determine whether he/she should testify:

APPENDIX A

Services

1. Background and Purpose.

Contractor will provide representation for ~~PARENT~~MINORSS requiring court-appointed counsel at all phases of dependency proceedings under Welfare & Institutions Code section 300 *et seq.*, in the Court, including without limitation, detention hearings, all subsequent proceedings before the court, in termination proceedings, as well as in proceedings related to the institution or setting aside of a legal guardianship pursuant to Probate Code sections 1400 *et seq.* As of the Effective Date, there are approximately 60 such CASES. The case number is a point-in-time figure. This representation requires, but is not limited to, adherence to the following performance standards.

- a) Establishing and maintaining an attorney-client relationship;
- b) Visiting the client at each new placement, whenever feasible;
- c) Conducting thorough, continuing, and independent investigations and interviews at every stage of the proceedings;
- d) Determining the client's interests and desires and advocating for those interests and desires;
- e) Contacting social workers and other professionals associated with the client's case prior to each hearing, whenever practical and appropriate. This includes contacting, for example, school personnel and Court Appointed Special Advocates (CASA).;
- f) Requesting services (by court order if necessary) to access entitlements and to ensure a comprehensive service plan. This included requesting services related to Individualized Education Plans (IEP's) and attending meetings related the client, as practical and appropriate.
- g) Monitoring compliance with court orders, including provision of and effectiveness of court-ordered services;
- h) Filing pleadings, motions, responses, or objections as necessary to represent the client;
- i) Investigating the interests of the client beyond the scope of the juvenile dependency proceeding and notifying the Court of issues on behalf of the client, administratively or judicially. These interests may include:

- a. Mental health assessment and treatment;
- b. School/Special education issues;
- c. Delinquency or status offender matters;
- a.—
- b.— Immigration;
- d. Personal injury; and
- e-e. Immigration;

Contractor is not required to provide legal representation regarding any of the above-referenced interests and any representation of these interests is beyond the scope of Services;

- j) Participating in alternative dispute resolution efforts, including but not limited to Family Group Conferences, Team Decision Making meetings and mediation, as appropriate and beneficial to the client;
- k) Determining if appeals and writs are appropriate and, where necessary, filing writs and notices of appeal; and
- l) Arranging for telephonic appearance or for temporary substitute representation where necessary to avoid Court delay.

2. Resources. Contractor is responsible for providing any and all facilities, materials and resources (including office space suitable for meeting confidentially with clients, personnel, equipment, internet access and software) necessary and appropriate for performance of the Services and to meet Contractor's obligations under this

**EXHIBIT A
STATEMENT OF WORK**

Statement of Work

1. Scope of Services

Contractor will provide representation for all indigent children's, parents, guardians, or Indian custodians requiring court-appointed counsel at all phases of dependency proceedings in the Court, including without limitation, detention hearings, all subsequent proceedings before the court, in termination proceedings, and in proceedings related to the institution or setting aside of legal guardianship. This representation requires, but is not limited to, compliance with California Rules of Court, rule 5.660 et seq., Court Local Rules and adherence to the performance standards listed below. Such representation may also include serving as the child's CAPTA (Child Abuse Prevention Treatment Act) guardian ad litem as described in Welfare and Institutions Code section 326.5 and California Rules of Court rule 5.662 if no other suitable adult is reasonably available and the Court finds it necessary to appoint guardian ad litem.

A. Maintain ongoing client contact

1. Meet with client prior to court hearings;
2. Personally explain to the client, in a developmentally appropriate manner, what the court is deciding and what alternatives might be available;
3. Elicit the client's preferences, advise the client, and discuss what will happen next;
4. Contact the client in the event of an emergency or significant case related event; and
5. Be accessible to the client through office hours, telephone/voicemail, fax, email or home/school/office visits;
6. Visit the child at each new placement when feasible;
7. Conduct thorough, continuing, and independent investigations and interviews necessary to ascertain the facts, which may include, but is not limited to:
 - Obtaining any required authorization for the release information;
 - Reviewing the client's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, and school records; and taking any additional steps necessary to gain access to those records that may not be in existing or open files;
 - Making all efforts to investigate the appropriateness of a medication request and provide input to the court whenever possible;
 - Reviewing court file and case-related records of the social services agency and other service providers;
 - Interviewing school personnel, caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians and law enforcements officers,
 - Contacting and meeting with child welfare workers who are presently or were previously interacting with the client or other family members, including the child welfare worker who will provide the next report to court;
 - Contacting counsel for other parties;

- Contacting any non-attorney guardian-ad-litem or Court Appointed Special Advocates (CASA) appointed in the case to obtain background information;
 - If additional information suggests, contacting other professionals and lay witnesses who may identify alternative potential placement and services;
 - Eliciting the client's preferences, advising the client, and giving guidance in a developmentally appropriate manner (regarding placement, visitation/contact, or agency recommendations);
 - Identifying individuals in the child's life to maintain consistent connections and possibly serve as alternate caretakers;
 - If relevant as evidence, review photographs, video or audio tapes, and other relevant evidence; and
 - Attending treatment and placement conference and placement staffing.
8. Contact and meet with parents/legal guardians of child(ren), with permission of their attorney;
9. Upon being appointed by the court, investigate the interests of the child beyond the scope of the proceedings and report to the court, subject to any legal privileges, any other interests of the child that may need to be protected by the institution of other administrative or procedural hearings. These interests include, but are not limited to:
- School/education issues;
 - Special education;
 - Personal injury;
 - Mental health proceedings; and
 - Immigration.
10. Be available, if it is determined necessary, to accompany the child to interviews with law enforcement and the District Attorney.
11. Attend Welfare and Institutions Code section 241.1 hearing if the child is a dependent with a delinquency petition ending or if the child is a ward and the subject of a new dependency petition; advocate for dependency or dual jurisdiction as appropriate.

B. Pleadings, petitions, motions, responses or objections may include, but are not limited to:

- Obtaining necessary services for the family;
- A mental or physical examination of the client;
- A parenting custody, or visitation evaluation of the client;
- An increase, decrease, or termination of contact or visitation;
- Requesting, restraining, or enjoining a change of placement;
- Contempt for non-compliance with a court order;
- Termination of a child-parent relationship;
- The administration of psychotropic medications;
- Restraining orders;
- Motions to Quash a child's testimony;
- A protective order concerning the client's privileged communications or tangible property;

- Dismissal of petitions or motions; and
- Motions to change modify, set aside, or terminate previous orders pursuant to Welfare and Institutions Code section 388; and
- Orders for transportation of an incarcerated parent to Court.

C. Attorney as Advocate

1. Attorney advocacy may include, but is not limited to:
 - Family preservation and related prevention and reunification services;
 - Advocating placement with siblings;
 - Sibling and family visitation
 - Maintaining connection with relatives or no-related extended family members (NREFM) and community ties;
 - Domestic violence prevention and treatment;
 - Medical and mental health care;
 - Drug and alcohol treatment;
 - Parenting education;
 - Transitional and independent living services plan;
 - Adoptions services;
 - Educations;
 - Recreational or social services;
 - Housing;
 - Long-term foster care of Another Planned Permanent Living Arrangement; (parent's counsel may advocate for LTP for child(ren) in lieu of adoption/guardianship); and
 - Post-adoption agreement referral.
2. Agencies (i.e. school districts, housing authority, etc.) may be jointed in the dependency action if there are problems with the services being provided.
3. Counsel should request services even if no hearing is scheduled. If direct informal requests to retreatment providers are unsuccessful, counsel should file a motion related to necessary services.
4. Counsel should advocate for services for clients with special needs, such as physical, mental, or developmental disabilities. These services may include, but are not limited to:
 - Special education and related services;
 - Supplemental security income (SSI) to help support needed services;
 - Therapeutic foster and group home care;
 - Residential/in-patient and outpatient psychiatric treatment; and
 - Regional center services

D. Negotiate settlements/mediations

1. Initiate and participate in settlement negotiations to seek an expeditious resolution of the case, avoiding continuances and delays; and
2. Attempt to settle any contested issues by initiating and participating in settlement negotiations, including mediation where appropriate.

E. Hearings

1. Attend and participate in all hearings related to the dependency matter;
2. Report to the court on the child's adjustment to placement, social services' and the parent's compliance with prior court orders and treatment plans, and child/parent interactions during visitation and other contact if known by attorney;
3. Present and cross-examine witnesses, offer exhibits, and provide independent evidence;
4. Prepare and submit trial briefs prior to contested hearings, if necessary;
5. Be prepared to endorse, challenge, and amplify any reports submitted to the court;
6. If a continuance is sought, prepare a written motion under Welfare and Institutions Code sections 352; and
7. At the conclusion of the hearing, if appropriate:
 - Make a closing argument;
 - Request orders that are clear, specific, and where appropriate, include a timeline for assessment, services, placement, and evaluation of the child and/or family;
 - Ensure that a written order is entered; and
 - Review all written orders assure they conform to the court's verbal orders and statutorily required findings and notices.
8. Pursuant to Welfare and Institutions Code section 349, the child has a statutory right to be present at the hearing:
 - A child's presence at the hearing should be based upon an individual determination of the child's willingness to attend, age, and maturity;
 - A child's presence at a hearing should be based upon consultation with the child, therapist, caretaker, or any other knowledgeable adult in determining the effect of the child being present at the hearing; and
 - Consider the court facilities and how children attending hearings are accommodated.

F. Prepare client to testify as witness

1. Consult with the client and determine whether he/she should testify:
 - Make determination of calling the child as a witness
 - Consider the child's need or desire to testify;
 - Weigh the likely consequences of having the child testify;
 - Determine the necessity of the child's testimony
 - Determine if there is any other evidence or hearsay exceptions that may eliminate the need for direct testimony;
 - Determine the child's developmental ability to provide direct testimony and withstand possible cross-examinations;
 - Consider available alternatives to in-court testimony as specified in Welfare and Institutions Code sections 350(b); and
 - Child as a witness:
 - (1) Prepare the child to testify;
 - (2) Familiarize the child with the courtroom, court procedures, and what to expect during direct and cross-examination.

- (3) Make an effort to advocate for our client (including making objections) that testifying will cause minimum harm to the child;
 - (4) If possible, conduct the direct testimony of the child; and
 - (5) Object to questions that are not developmentally appropriate and/or not phrased in a syntactically and linguistically appropriate manner.
2. Prepare the client to testify;
 3. Protect the client by making appropriate objections; and
 4. Ensure that questions are appropriate (developmentally and linguistically).

G. Appeals and Writs

1. Appeal:
 - Consider and discuss with the client as developmentally appropriate, the right to appeal, the ramifications of an appeal (including delaying implementation of services or placement), and the likely result of an appeal;
 - If after a thorough discussion, the client wished to appeal, file a notice of appeal (JV-800);
 - Seek appropriate orders and extraordinary writs necessary to protect the interests of the client during the pendency of the appeal;
 - If child's trial counsel, seek separate appellate counsel as appropriate pursuant to Rule 5.661;
 - If permitted by the Court of Appeal, participate in the appeal, even if filed by another attorney, unless discharged;
 - Keep the client informed of the progress of appeal, to the extent possible; and
 - Once a decision is rendered, explain the result to the client, and discuss any additional appellate remedies that may be available as well as what will happen next in Juvenile Court.
2. Withdrawal:

If the appeal would be frivolous or counsel lacks the necessary experience or expertise, counsel should notify the court and seek to be discharged or replaced.
3. Writ:
 - Consider the writ procedure even if a hearing under Welfare and Institutions code section 366.26 is not set if an appeal will not lie or the circumstances require prompt action;
 - Petition for Writ Review
 - (1) If reunification services are not offered or are terminated, and a Welfare and Institutions Code section 366.26 hearing is set, consider and discuss with the client writ rights and procedures under Rules 8.450 and 8.4532 of the California Rules of Court;
 - (2) If the writ is to be sought, file the Notice of Intent (JV-820) once the adult client has signed it;
 - (3) If the adult client is not available to sign the notice, request the Court of Appeal to permit counsel to sign on behalf of the absent client;

- (4) If representing the child, sign and file JV-820 on behalf of the child if it is determined appropriate to file this form;
- (5) If inexperienced in preparing writs, consult with, or seek assistance from colleagues familiar with the procedures and requirements;
- (6) Prepare and submit the writ petition;
- (7) Attend any scheduled oral argument; and
- (8) Once a decision is rendered, explain the result to the client, and discuss additional remedies that may be available as well as what will happen next in the juvenile court.

H. Cessation of Representation

1. Discuss the end of legal representation and what contacts, if any, the client and the attorney will continue to have;
2. Ensure the client has contact numbers for social services or other emergency services.

I. Familiarity with Juvenile Dependency Resources

Attorneys should be familiar with a, to the extent they are consistent with California Law and procedure, follow the American Bar Association's Standards of Practice for Lawyers who Represent Children in Abuse and Neglect Cases (<http://www.abanet.org/child/repstandwhole.pdf>) and the National Association of Counsel for Children's Recommendations for Representation of Children in Abuse and Neglect Cases. The Court's philosophy with regard to juvenile dependency cases is that keeping families together is the best outcome for children so long as it can be achieved consistent with safety. Children's attorneys are expected to advocate for timely reunification whenever appropriate.

J. Program Participation

Contractor is expected and will participate in programs in areas over and above providing traditional legal services, as required by the Court. The Court is active in providing services to parents that will help in resolving the case outside the traditional Dependency Court hearing process.

K. Dependency Mediation

This alternative dispute resolution mechanism is a confidential process in which a specifically trained neutral person assists the family, social worker, attorneys, and other people in a case to resolve contested issues.

Any issue may be sent to mediation. Although, at present mediations are primarily used to resolve contested issues as to visitation and custody issues at or near the time termination of dependency jurisdiction is being considered, any party involved in the case may ask the judge or commissioner to send the case to mediation. The judge/commissioner makes the final decision as to whether the case will go to mediation. Attorneys who provide Services are required to participate in the mediation if requested to do so by the mediator.

*Yolo County Contract**Agreement # SP-2021-0007***3. CONFLICT COUNSEL**

Contractor agrees to assure that “ethical walls” are built into any plan for providing conflict counsel when a case has more than one client requiring representation by the Contractor, or when Contractor has a conflict of interest with a particular client in their “Category.”

If vendor enters into a subcontract with other qualified attorneys or law firms, to provide representation to any clients in Contractor’s “Category” that Contractor cannot represent, the contractor must ensure the following:

1. The subcontractor attorneys and/or firms must be separate organizationally from the Contractor’s firm, and must not share with Contractor any files, staff, computer systems, facilities, case information or any other resources that would compromise client confidentiality.
2. Contractor is responsible for ensuring that there are sufficient subcontractor resources available to represent all clients in the lot, regardless of how many individual clients in each case require representation.
3. Contractor must ensure that subcontractors provide high quality representation. Proposals should include information about how high-quality representation will be assured, including meeting the attorney performance standards described in Section 5 below, when cases are assigned to subcontractors.
4. Contractor will determine the compensation structure for the subcontractor attorneys.

4. ATTORNEY PERFORMANCE REQUIREMENTS

Competency and education standards for dependency representation are described in the state Rules of Court referenced above (Section 1). The following description of counsel’s responsibilities and actions is presented as an outline of what constitutes thorough and professional representation. An individual case will rarely require all of the activities enumerated. Underlying each activity is the expectation that the attorney will possess knowledge and understanding of current statutes, rules of court, relevant case law, and the policies inherent within them.

A. Maintain ongoing client contact

1. Meet with the client before each court hearing;
2. Personally explain to the client, in a developmentally appropriate manner, what the court is deciding and what alternatives might be available; elicit the client’s preferences, advise the client, and discuss what will happen next;
3. Observe the parent’s interaction with the child(ren), after obtaining permission from opposing counsel;
4. Contact the client in the event of an emergency or significant case-related event; and

5. Be accessible to the client through office hours, telephone/voicemail, fax, e-mail or home/school/office visits.
 6. Additional duties of child's counsel:
 - a. Visit the child at each new placement, whenever feasible; and
 - b. Personally visit with the child in a non-court setting before each court hearing.
- B. Conduct thorough, continuing, and independent investigations and interviews necessary to ascertain the facts, which may include, but is not limited to:
1. Obtaining any required authorizations for the release of information;
 2. Reviewing the client's social services, public assistance, psychiatric, psychological, drug and alcohol, medical, law enforcement, and school records; taking any additional steps necessary to gain access to those records that may not be in existing or open files;
 3. Making all efforts to investigate the appropriateness of a medication request and provide input to the court whenever possible;
 4. Reviewing court file and case-related records of the social services agency and other service providers;
 5. Interviewing school personnel, caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, and law enforcement officers;
 6. Contacting and meeting with child welfare workers who are presently or were previously interacting with the client or other family members, including the child welfare worker who will provide the next report to the court;
 7. Contacting counsel for other parties;
 8. Contacting any non-attorney *guardian ad litem* or Court Appointed Special Advocate (CASA) appointed in the case to obtain background information;
 9. If additional information suggests, contacting other professionals and lay witnesses who may identify alternative potential placements and services;
 10. Eliciting the client's preferences, advising the client, and giving guidance in a developmentally appropriate manner (regarding placement, visitation/contact, or agency recommendations);
 11. Identifying individuals in the child's life to maintain consistent connections and possibly serve as alternate caretakers;
 12. Reviewing photographs, video or audio tapes, and other relevant evidence; and

Appendix-H

LOCAL RULES REQUIRING ATTORNEY TO HAVE PERSONAL CONTACT WITH CHILD

County	Rule
Alameda	Rule 5.536(b)
Amador	Rule 14.01.E.2
Butte	Rule 17.3(c)
Colusa	Rule 16.07(A)
Contra Costa	Rule 5.62(c)
El Dorado	Rule 11.00.13(f)
Imperial	Rule 6.1.4
Inyo	Rule 9.5(b)(1)
Madera	Rule 5.2.7
Mariposa	Rule 7.3.a
Mendocino	Rule 5.14(c)(1)
Merced	Rule 202(B)(3)
Napa	Rule 10.3.A
Nevada	Rule 6.01.5.D
Orange	Admin Order. 12/008-905, D.2
Plumas	Rule 7.5(a)
Riverside	Rule 5262(C)
Sacramento	Rule 7.09(B)
San Benito	Rule 13.6(b)
San Diego	Rule 6.3.4.A
San Francisco	12.5-Practice Guidelines C.3
San Mateo	Rule 6.3(e)
Santa Clara	Rule 2(D)(c)(i)
Sierra	Rule 7.5(a)
Stanislaus	Rule 5.03
Ventura	Rule 12.02.F

Appendix-I

County	Local Rule	Inform Child/CG of the process	Atty files proof of compliance
Alameda	Rule 5.540		
Calaveras	5.50(f)(1)		
El Dorado	11.00.13(f)(1)		
Humboldt	7.9(b)		
Imperial	6.1.9	X	X
Inyo	9.6	X	X
Kern	7.16 7.16.1 7.16.2	X	X
Kings	616		
Marin	5.2(E)		
Mariposa	7.2		
Mendocino	5.14(c)(2)		
Merced	202(E)		
Monterey	3.23(A)	X	X
Napa	10.5		
Nevada	6.01.6	X	X
Placer	50.7(B)(1)	X	
Plumas	7.6		
Sacramento	7.24		
San Benito	13.8	X	X
San Francisco	12.7		
Santa Clara	2(D)(2)		
Sierra	7.6(a)		
Siskiyou	10.03(G)(2)		
Solano	6.32		
Sonoma	10.15(A)(2)		
Stanislaus	5.05		
Sutter	5.0(g)		
Tuolumne	8.06.0(a)		
	No 3rd Party Complaint But Notice Required		
Mono	11.3.(C)	X	

Appendix-J

An act to add Part 7.1 to the Government Code; amend Welfare and Institutions Code sections 317, 317.5, and 317.6 relating to counsel for parties in dependency cases; and amend Government Code section 77003, relating to the definition of court operations.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Part 7.1 is added to the Government Code to read:

PART 7.1. OFFICE OF DEPENDENCY COUNSEL

CHAPTER 1. GENERAL PROVISIONS

GOV §15427. (a) The Legislature hereby declares that: (1) Children and parents who are before the juvenile court pursuant to the provisions of Section 300 of the Welfare and Institutions Code are entitled to competent representation; (2) The appointment of effective and independent counsel to represent indigent children and parents in dependency proceedings is critical to the health, safety, protection, and the physical and emotional well-being of children and families, to the preservation of families wherever possible, and to the stability and permanency of children who cannot be reunified with their families; (3) The independence of counsel for children and parents in the juvenile court system, rooted in the separation of powers that defines our legal institutions, requires that their compensation and standards of practice be determined by an authority separate from the judiciary before whom they appear and practice; (4) The quality of juvenile dependency representation should be consistent throughout the State of California and should not depend on the level of funding available in a particular county, the ability or willingness of the court in each county to monitor or enforce minimum competency requirements and uniform practice standards, or the availability of experienced, qualified dependency counsel in that county; (5) It is the intention of the Legislature in enacting this chapter to provide for statewide consistency in the quality of representation available to indigent parents and children in juvenile dependency cases.

(b) Accordingly, the Legislature hereby determines and declares that it is in the best interests of the children and families of the State of California, in order to reduce needless expenditures, establish enhanced funding resources, and improve the quality of representation and advocacy provided to children and families in the California juvenile dependency court system, that an Office of Dependency Counsel be established in the state executive branch.

(c) It is the intent of the Legislature that the Office of Dependency Counsel shall be established pursuant to this article and become operational over the course of a two-year period. It is further the intent of the Legislature that a board and a director shall be appointed as specified in sections 15427.2 and 15427.3 and that the operational structure of the office shall be established during fiscal year 2025-2026. The costs associated with the establishment of the office shall be paid for by a transfer from the state judicial branch of that funding appropriated for the administration of trial court funding for

dependency representation. In addition, it is the intent of the Legislature that, for fiscal year 2026-2027 and fiscal years thereafter, an appropriation shall be made to the Office of Dependency Counsel in the state executive department for the purpose of payment of all financial obligations previously covered by appropriations to the Judicial Council relating to the provision of legal services to children and families that are addressed in this part.

(d) It is the intent of the Legislature that the Office of Dependency Counsel take advantage of federal funding available for the investigation and prosecution of child abuse and neglect cases pursuant to 42 U.S.C. section 5106a by taking the steps necessary to develop a state plan for improving legal preparation and representation in child abuse and neglect cases and pursuant to 42 U.S.C. section 5016c by taking the steps necessary to establish or expand a statewide multidisciplinary task force on children's justice and the steps necessary to implement the recommendations of said taskforce for the purpose of improving the administrative, investigative and judicial handling of cases of child abuse and neglect.

GOV §15427.1. The Office of Dependency Counsel is hereby created and established as an agency of the executive department of state government. It shall be the responsibility of the Office of Dependency Counsel to work cooperatively with the Judicial Council, juvenile courts, attorneys, and any nonprofit organizations to form a partnership among those entities and persons and the state for the purpose of ensuring the provision of uniform, high-quality legal representation by counsel appointed to represent children or parents involved in juvenile dependency proceedings in California.

GOV §15427.2. (a) On or before July 1, 2026, a nine-member Dependency Counsel Board, referred to in this part as the "board," must be appointed. The governor shall appoint four members of the Board, each of whom is an attorney with significant experience representing children and/or parents in dependency proceedings and each of whom must reside or work in different appellate districts. The Assembly speaker and the Senate president pro tempore shall each appoint one board member who need not be an attorney. The Chief Justice shall appoint three serving or retired Superior Court judges with significant dependency experience to the board. No more than five members of the board shall be from the same political party. Board members shall not be employees of the Office of Dependency Counsel but may be persons who are employed by an organization with which the Office of Dependency Counsel has contracted to provide legal services in dependency proceedings.

(b) Members of the board shall serve for terms of four years; except that, of the members first appointed, five shall serve for terms of two years. Vacancies on the board shall be filled by the appointing authority for the remainder of any unexpired term. In making appointments to the board, the appointing shall consider place of residence, gender, race, and ethnic background.

(c) Members of the board shall serve without compensation but shall be

reimbursed for actual and reasonable expenses incurred in the performance of their duties.

(d) Any expenses incurred for the board shall be paid from the general operating budget of the Office of Dependency Counsel.

(e) The board shall have the following responsibilities:

(1) To appoint, and discharge for cause, a person to serve as the director of the Office of Dependency Counsel referred to in this part as the "director".

(2) To fill any vacancy in the directorship.

(3) To work cooperatively with the director to provide governance to the Office of Dependency Counsel, to provide fiscal oversight of the general operating budget of the Office of Dependency Counsel, to participate in funding decisions relating to the provision of competent legal representation throughout the state, and to assist with the duties of the Office of Dependency Counsel concerning attorney training, as needed.

GOV §15427.3. (a) The Director of the Office of Dependency Counsel shall be a member of the State Bar, shall have been a member of the State Bar in good standing during the ten years preceding appointment, and shall have had substantial experience in the representation of children and parents in juvenile proceedings during that time. The director shall devote his or her full time to the performance of his or her duties and shall not engage in the private practice of law.

(b) The director shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

(c) The director may employ deputies and other employees, and establish and operate offices, as he or she may deem necessary for the proper performance of his or her duties.

(d) Legal representation for persons who are not financially able to employ counsel in dependency proceedings may be provided by employees of the Office of Dependency Counsel or by county public defenders, private attorneys, local bar associations, or nonprofit corporations with whom the director has contracted to provide such services. Contracting attorneys and organizations shall serve under the supervision and control of the Office of Dependency Counsel and must meet the same standards of representation as are required of attorneys directly employed by the Office.

(e) The director may hire staff attorneys and the support staff necessary for proper implementation of this part.

(f) On or before January 1, 2026, the Governor shall appoint an interim director who shall be responsible for the initial organization of the Office of Dependency Counsel. The interim director shall work cooperatively with the Governor's Office to fill board positions and may recommend qualified persons to serve as members of the board. The first meeting of the Dependency Counsel board shall be organized and noticed by the

interim director to occur within 30 days after all of the board members have been appointed. The interim director shall serve at the pleasure of the board and shall continue to serve as interim director until the board has appointed a director pursuant to Section 15427.2.

GOV §15427.4. The director may issue any regulations and take any actions as may be necessary for proper implementation of this part.

GOV §15427.5. There is hereby created in the state treasury the Dependency Counsel Fund, referred to in this part as the "fund". The fund shall consist of such general fund moneys as may be appropriated thereto by the Legislature, moneys received from the federal government for dependency representation pursuant to Title IV-E of the Social Security Act, and any moneys received pursuant to section 15428.1, subdivision (l). The moneys in the fund shall be subject to annual appropriation by the Legislature to for allocation to the Office of Dependency Counsel for the purposes of funding the work of the office relating to the provision of the services of appointed dependency counsel in California. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

CHAPTER 2. DUTIES AND POWERS

GOV §15428. The primary responsibility of the Office of Dependency Counsel is to provide for the competent representation of those persons who are entitled to representation at public expense in juvenile dependency proceedings including writ proceedings filed in the courts of appeal pursuant to Welfare and Institutions Code section 366.26, subdivision (l) and 366.28. The Office may also provide representation in any appellate proceeding in which the court of appeal has not appointed counsel for the respondent parent or the respondent child. These responsibilities shall take precedence over all other duties and powers set forth in this part.

GOV §15428.1. The Office of Dependency Counsel shall:

(a) Oversee appointed dependency counsel and provide direct representation by competent dependency counsel to ensure competent, high-quality representation in dependency cases and compliance with all relevant statutes, orders, rules, policies, and procedures;

(b) Develop minimum training requirements that an attorney seeking to serve as appointed dependency counsel must meet;

(c) Establish standards to which attorneys serving as dependency counsel shall be held, including but not limited to minimum practice standards, which standards shall include:

(1) Minimum duties and responsibilities of appointed dependency counsel representing children involved in dependency proceedings;

(2) Minimum duties and responsibilities of appointed dependency counsel representing parents, guardians, or de facto parents involved in dependency proceedings;

(3) A determination of an appropriate maximum-caseload limitation for each person serving as appointed dependency counsel;

(d) Ensure the provision and availability of high-quality, accessible training throughout the state for persons serving and seeking to serve as appointed dependency counsel as well as to judges, commissioners, and referees who regularly hear matters involving children and families;

(e) Establish fair and realistic state rates by which to compensate state-appointed dependency counsel, which take into consideration the caseload limitations placed on appointed dependency counsel and which will be sufficient to attract and retain high-quality, experienced attorneys to serve as appointed dependency counsel;

(f) Enforce, as appropriate, the provisions of this section;

(g) Work cooperatively with judicial officers, dependency bar associations, and nonprofit organizations in each county or group of counties to

(1) jointly establish procedures for the appointment of competent counsel employed by or under contract to the Office of Dependency Counsel for all parties needing representation;

(2) ensure that a sufficient number of competent counsel are available to be immediately appointed as necessary to represent parents, guardians, children, and de facto parents;

(3) ensure that a sufficient number of competent counsel are available for appointment in cases where there may be conflicts of interest;

(4) jointly establish a local body to oversee the provision of appointed dependency counsel services in that county or counties. Said oversight bodies shall operate and report directly to the director concerning the quality of the representation provided by appointed dependency counsel in that county or counties pursuant to oversight procedures established by the Office of Dependency Counsel. The director may establish pilot programs in selected jurisdictions designed to enhance the quality of representation in dependency proceedings.

(h) Develop measurement instruments designed to assess and document the effectiveness of various models of representation and the outcomes achieved by appointed dependency counsel.

(i) Seek to enhance existing funding sources for the provision of high-quality appointed dependency counsel services in California and study the availability of and develop new funding sources for the provision of appointed dependency counsel services in California.;

(j) Convene a statewide multidisciplinary task force on children's justice that shall

meet the requirements of 42 U.S.C. section 1506c. The Taskforce shall review and evaluate State investigative, administrative, and civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment-related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal jurisdiction. The Taskforce shall make policy and training recommendations in each of the categories set forth 42 U.S.C. section 1506c(e). The Office of Dependency Counsel shall be responsible for implementing the adoption of the Taskforce's recommendations and shall seek federal funding pursuant to 42 U.S.C. section 1506(e) to improve the handling, investigation and civil and criminal prosecution of cases of child abuse and neglect .

(k) Cause a program review and outcome-based evaluation of the performance of the Office of Dependency Counsel to be conducted annually to determine whether the office is effectively and efficiently meeting the goals of improving child and family well-being and the duties set forth in this part. Reports of the results of the program review and evaluation shall be submitted to the Legislature and the Judicial Council by December 31 of each year. Said reports shall be provided beginning with the first December that falls after the end of the first full fiscal year in which legal services are provided by appointed dependency counsel under this chapter.

(l) Accept grants, gifts, donations, and other non-governmental contributions to be used to help fund the work of the Office of Dependency Counsel. Such grants, gifts, donations, and other nongovernmental contributions shall be credited to the Dependency Counsel Fund. Moneys in such fund shall be subject to annual appropriation by the Legislature for the purposes of Section 15428 and for the purposes of enhancing the provision of appointed dependency counsel services in California;

GOV §15428.2. The Office of Dependency Counsel is authorized to appear as a friend of the court and may appear in any legislative, administrative, judicial or other similar proceeding in which it has an interest.

GOV §15428.3 The duties prescribed for the Office of Dependency Counsel by this part are not exclusive and it may perform any acts consistent with those duties in carrying out the functions of the office.

SECTION 2. Welfare and Institutions Code section 317 is amended to read:

(a)(1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of Section 1912(b) of Title 25 of the United States Code and Section 23.13 of Title 25 of the Code of Federal Regulations shall apply.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section. *Appointed counsel shall have a caseload and training, as prescribed by the Office of Dependency Counsel, that assures adequate representation of the parent or guardian.*

(c)(1) If a child or nonminor dependent is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) A primary responsibility of counsel appointed to represent a child or nonminor dependent pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child or nonminor dependent. Appointed counsel shall have a caseload and training, *as prescribed by the Office of Dependency Counsel*, that assures adequate representation of the child or nonminor dependent.

~~————(3) Counsel may be a district attorney, public defender, or other member of the bar, provided that he or she does not represent another party or county agency whose interests conflict with the child's or nonminor dependent's interests. The fact that the district attorney represents the child or nonminor dependent in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest.~~

~~(4) The court may fix the compensation for the services of appointed counsel.~~

(5)(A) ~~The a~~ Appointed counsel shall have a caseload and training, *as prescribed by the Office of Dependency Counsel*, that ensures adequate representation of the child or nonminor dependent. ~~The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.~~

(B) The training requirements imposed pursuant to subparagraph (A) shall include instruction on both of the following:

(i) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(ii) The information described in subdivision (d) of Section 16501.4.

(d) Counsel shall represent the parent, guardian, child, or nonminor dependent at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, child, or nonminor dependent unless

relieved by the court upon the substitution of other counsel, or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings, *and in those proceedings relating to the institution or setting aside of a legal guardianship, and in writ proceedings pursuant to section 366.26, subdivision (l), and, in the case of a child, in writ proceedings pursuant to section 366.28.* ~~On and after January 1, 2012,~~ *In the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services. All appointed counsel must be employed by or under contract to the Office of Dependency Counsel as provided in Government Code section 15428.1.*

(e)(1) Counsel shall be charged in general with the representation of the child's interests. To that end, counsel shall *establish and maintain a professional attorney-client relationship with the child and take any and all legal actions that are reasonably necessary to represent and protect the interests of the child.* ~~make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. Counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent.~~ If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a guardian ad litem for the nonminor dependent.

(2) ~~If the child is four years of age or older,~~ *Counsel shall meet regularly with ~~interview~~ the child to determine the child's wishes, whether the child's needs are being met, whether the child's rights are being protected, and to assess the child's well-being; and Counsel shall advise the court of the child's wishes, whether the child has any needs that are not being met, and whether the child is living in a safe, healthy, and comfortable home where the child's rights are respected. To that end, counsel shall meet with the child in the child's placement whenever feasible and shall have personal contact with the child at least every 60 days prior to the disposition hearing and at least every six months after the disposition hearing.* Counsel shall not advocate for the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

(3) Counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding, and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. ~~Counsel representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker, and is not expected to provide nonlegal services to the child.~~

(4) The court shall take whatever appropriate action is necessary to fully protect the interests of the child, including the child's interest in competent representation as required by Section 317.5.

~~(4)~~*(5)(A) Within 10 days of being appointed to represent a child or a nonminor dependent, counsel must provide counsel's name, address, telephone number, and email address to the child's caregiver and to the child if the child is age 10 or older. Counsel must, at the same time provide the caregiver, the child if the child is age 10 or older, or a nonminor dependent with a description of the procedures for filing a complaint with the juvenile court concerning the adequacy of counsel's performance.*

(i) Counsel must file with the court proof with the court showing that counsel's contact information and notice of complaint procedures has been served upon the persons entitled to receive that information.

(ii) The name, address, and telephone number for counsel appointed to represent a child or a nonminor dependent are not confidential information pursuant to section 827 or any other provision of law. Upon request, the agency, the clerk of the court, or other counsel appointed to represent parties to the proceeding may provide contact information for the child's counsel to the caregiver, to the child 10 or older, to a Court Appointed Special Advocate, and to counsel for any other party.

~~(A)~~ *(B) At least once every year, if the list of educational liaisons is available on the Internet Web site for the State Department of Education, both of the following shall apply:*

(i) Counsel shall provide his or her contact information to the educational liaison, as described in subdivision (c) of Section 48853.5 of the Education Code, of each local educational agency serving counsel's foster child clients in the county of jurisdiction.

(ii) If counsel is part of a firm or organization representing foster children, the firm or organization may provide its contact information in lieu of contact information for the individual counsel. The firm or organization may designate a person or persons within the firm or organization to receive communications from educational liaisons.

~~(B)~~ *(iii) The child's caregiver or other person holding the right to make educational decisions for the child may provide the contact information of the child's attorney to the child's local educational agency.*

~~(E)~~ *(6) Counsel for the child and counsel's agent may, but are not required to, disclose to an individual who is being assessed for the possibility of placement pursuant to Section 361.3 the fact that the child is in custody, the alleged reasons that the child is in custody, and the projected likely date for the child's return home, placement for adoption, or legal guardianship. Nothing in this paragraph shall be construed to prohibit counsel from making other disclosures pursuant to this subdivision, as appropriate.*

~~(S)~~ *(7) Nothing in this subdivision shall be construed to permit counsel to violate a child's attorney-client privilege.*

~~(6) The changes made to this subdivision during the 2011–12 Regular Session of the Legislature by the act adding subparagraph (C) of paragraph (4) and paragraph (5) are declaratory of existing law.~~

~~————(7) The court shall take whatever appropriate action is necessary to fully protect the interests of the child.~~

(f) Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner *listed in Section 11165.7, subdivision (a)(21), as defined in former Section 11165.8 of the Penal Code, as that section read on January 1, 2000, or a child care custodian or other person listed Section 11165.7, subdivisions (a)(1)-(11), as defined in former Section 11165.7 of the Penal Code, as that section read on January 1, 2000.* Notwithstanding any other law, counsel shall be given access to all records relevant to the case that are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child’s guardian ad litem, shall be provided to the child’s counsel within ~~30~~ 10 days of the request.

~~(g) In a county of the third class, if counsel is to be provided to a child at the county’s expense other than by counsel for the agency, the court shall first use the services of the public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.~~

~~(h) In a county of the third class, if counsel is to be appointed to provide legal counsel for a parent or guardian at the county’s expense, the court shall first use the services of the alternate public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.~~

SECTION 3. Welfare and Institutions Code section 317.5 is amended to read:

(a) All parties who are represented by counsel at dependency proceedings shall be entitled to competent counsel. *To ensure that all appointed counsel meet minimum standards of competency, appointed counsel must be an employee of or under contract to the State Office of Dependency Counsel.*

(b) Each minor who is the subject of a dependency proceeding is a party to that proceeding.

SECTION 4. Welfare and Institutions Code section 317.6 is amended to read:

(a) ~~On or before January 1, 1996, the Judicial Council shall, after consulting with representatives from the State Bar of California, county counsels, district attorneys, public defenders, county welfare directors, and children's advocacy groups,~~ *On or before July 1, 2027, the Office Dependency Counsel shall adopt regulations* regarding the appointment of competent counsel in dependency proceedings, including, but not limited to, the following:

- (1) The screening and appointment of competent counsel.
- (2) Establishing minimum standards of experience and education necessary to qualify as competent counsel to represent a party in dependency proceedings.
- (3) Procedures for handling client complaints regarding attorney performance, including measures to inform clients of the complaint process.
- (4) Procedures for informing the court of any interests of the minor that may need to be protected in other proceedings.

~~(b) On or before July 1, 1996, each superior court shall, after consulting with representatives from the State Bar of California and the local offices of the county counsel, district attorney, public defender, county welfare department, and children's advocacy groups, adopt local rules of court regarding the conduct of dependency proceedings that address items such as procedures and timeframes for the presentation of contested issues and witness lists to eliminate unnecessary delays in dependency hearings.~~

SECTION 3. Government Code section 77003 is amended to read:

- (a) As used in this chapter, "court operations" means all of the following:
- (1) Salaries, benefits, and public agency retirement contributions for superior court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" includes all commissioner or referee positions created prior to July 1, 1997, including positions created in the municipal court prior to July 1, 1997, which thereafter became positions in the superior court as a result of unification of the municipal and superior courts in a county, and including those commissioner positions created pursuant to former Sections 69904, 70141, 70141.9, 70142.11, 72607,

73794, 74841.5, and 74908; and includes any staff who provide direct support to commissioners; but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff.

(3) Court security, but only to the extent consistent with court responsibilities under Article 8.5 (commencing with Section 69920) of Chapter 5.

(4) ~~Court-appointed counsel in juvenile court dependency proceedings and~~ counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under Sections 71630 and 71639.3 with respect to court employees.

(7) Subject to paragraph (1) of subdivision (d) of Section 77212, actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(8) Except as provided in subdivision (b), and subject to Article 8.5 (commencing with Section 69920) of Chapter 5, other matters listed as court operations in Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

(b) However, “court operations” does not include collection enhancements as defined in Rule 10.810 of the California Rules of Court as it read on January 1, 2007.

Appendix-K

An act to amend Welfare and Institutions Code sections 349, 317, 317.5, and 16001.9, relating to counsel for parties in dependency cases.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Welfare and Institutions Code section 349 is amended to read:

(a) A minor *or nonminor dependent* who is the subject of a juvenile court hearing, and any person entitled to notice of the hearing ~~under Sections 290.1 and 290.2~~, is entitled to be present at the hearing *for which that notice must be given*.

(b) The minor *or nonminor dependent*, and any person who is entitled to that notice has the right to be represented at the hearing by counsel of his or her own choice.

(c) If the minor is present at the hearing, the court shall inform the minor that he or she has the right to address the court and participate in the hearing and the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing. *If the child or nonminor dependent is not present, the court shall ask counsel for the child or nonminor dependent to state, on the record, the date of counsel's most recent personal contact with the child or nonminor dependent. If the court finds that the attorney has had no personal contact with the child or nonminor dependent in the last six months, the court shall continue the hearing to allow the attorney to personally contact the child or nonminor dependent to assess their well-being and determine their wishes with respect to the issues presently before the court unless the court finds that it is in the best interest of the child not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide the attorney with a reasonable amount of time to personally contact the child or nonminor dependent. Nothing in this subdivision shall be construed to permit counsel to violate a child's attorney-client privilege.*

(d) If the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend. If that minor was not properly notified or if he or she wished to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide notice and secure the presence of the child. The court may issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend.

(e) Nothing in this section shall prevent or limit any child's right to attend or participate in the hearing.

SECTION 2. Welfare and Institutions Code section 317 is amended to read:

(a)(1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason

employ counsel, the provisions of Section 1912(b) of Title 25 of the United States Code and Section 23.13 of Title 25 of the Code of Federal Regulations shall apply.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel for the parent or guardian, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c)(1) If a child or nonminor dependent is not represented by counsel, the court shall appoint counsel for the child or nonminor dependent, unless the court finds that the child or nonminor dependent would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding.

(2) A primary responsibility of counsel appointed to represent a child or nonminor dependent pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child or nonminor dependent.

(3) Counsel may be a district attorney, public defender, or other member of the bar, provided that he or she does not represent another party or county agency whose interests conflict with the child's or nonminor dependent's interests. The fact that the district attorney represents the child or nonminor dependent in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest.

(4) *In the absence of another funding mechanism*, ~~¶~~ the court may fix the compensation for the services of appointed counsel.

(5)(A) The appointed counsel shall have a caseload and training that ensures adequate representation of the child or nonminor dependent. ~~The Judicial Council shall promulgate rules of court that establish caseload standards, training requirements, and guidelines for appointed counsel for children and shall adopt rules as required by Section 326.5 no later than July 1, 2001.~~

(B) The training requirements imposed pursuant to subparagraph (A) shall include instruction on both of the following:

(i) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(ii) The information described in subdivision (d) of Section 16501.4.

(d) Counsel shall represent the parent, guardian, child, or nonminor dependent at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, child, or nonminor dependent unless relieved by the court upon the substitution of other counsel, or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings, *and in those*

proceedings relating to the institution or setting aside of a legal guardianship, *and in writ proceedings pursuant to section 366.26, subdivision (l), and, in the case of a child, in writ proceedings pursuant to section 366.28.* ~~On and after January 1, 2012, I~~ In the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services.

(e)(1) Counsel shall be charged in general with the representation of the child's interests. To that end, counsel shall *establish and maintain a professional attorney-client relationship with the child and take any and all legal actions that are reasonably necessary to competently represent and protect the interests of the child.* ~~make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. Counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent.~~ If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a guardian ad litem for the nonminor dependent.

(2) ~~If the child is four years of age or older, e~~ Counsel *shall meet regularly with interview* the child to determine the child's wishes, *whether the child's needs are being met, whether the child's rights are being protected,* and *to* assess the child's well-being, ~~and~~ Counsel shall advise the court of the child's wishes, *whether the child has any needs that are not being met, and whether the child is living in a safe, healthy, and comfortable home where the child's rights are respected. To that end, counsel shall meet with the child in the child's placement whenever feasible and shall have personal contact with the child at least every 60 days prior to the disposition hearing and before every review hearing or hearing held pursuant to section 366.26.* Counsel shall not advocate for the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

(3) Counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding, and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. ~~Counsel representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker, and is not expected to provide nonlegal services to the child.~~

(4) *The court shall take whatever appropriate action is necessary to fully protect the interests of the child, including the child's right to competent representation as required by Section 317.5.*

~~(4)~~(5)(A) *Within 10 days of being appointed to represent a child or a nonminor dependent, counsel must provide counsel's name, address, telephone number, and email address*

to the child's caregiver and to the child if the child is age 10 or older. Counsel must, at the same time provide the caregiver, the child if the child is age 10 or older, or a nonminor dependent with a description of the procedures for filing a complaint with the juvenile court concerning the adequacy of counsel's performance.

(i) Counsel must file with the court proof with the court showing that counsel's contact information and notice of complaint procedures has been served upon the persons entitled to receive that information.

(ii) The name, address, and telephone number for counsel appointed to represent a child or a nonminor dependent are not confidential information pursuant to section 827 or any other provision of law. Upon request, the agency, the clerk of the court, or other counsel appointed to represent parties to the proceeding may provide contact information for the child's counsel to the caregiver, to the child 10 or older, to a Court Appointed Special Advocate, and to counsel for any other party.

~~(A)~~ (B) At least once every year, if the list of educational liaisons is available on the Internet Web site for the State Department of Education, both of the following shall apply:

(i) Counsel shall provide his or her contact information to the educational liaison, as described in subdivision (c) of Section 48853.5 of the Education Code, of each local educational agency serving counsel's foster child clients in the county of jurisdiction.

(ii) If counsel is part of a firm or organization representing foster children, the firm or organization may provide its contact information in lieu of contact information for the individual counsel. The firm or organization may designate a person or persons within the firm or organization to receive communications from educational liaisons.

~~(B)~~ (iii) The child's caregiver or other person holding the right to make educational decisions for the child may provide the contact information of the child's attorney to the child's local educational agency.

~~(C)~~ (6) Counsel for the child and counsel's agent may, but are not required to, disclose to an individual who is being assessed for the possibility of placement pursuant to Section 361.3 the fact that the child is in custody, the alleged reasons that the child is in custody, and the projected likely date for the child's return home, placement for adoption, or legal guardianship. Nothing in this paragraph shall be construed to prohibit counsel from making other disclosures pursuant to this subdivision, as appropriate.

~~(5)~~ (7) Nothing in this subdivision shall be construed to permit counsel to violate a child's attorney-client privilege.

~~(6) The changes made to this subdivision during the 2011-12 Regular Session of the Legislature by the act adding subparagraph (C) of paragraph (4) and paragraph (5) are declaratory of existing law.~~

~~(7) The court shall take whatever appropriate action is necessary to fully protect the interests of the child.~~

(f) Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to consent, which shall be

presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it, but if counsel invokes the privilege, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. For the sole purpose of fulfilling his or her obligation to provide legal representation of the child, counsel shall have access to all records with regard to the child maintained by a health care facility, as defined in Section 1545 of the Penal Code, health care providers, as defined in Section 6146 of the Business and Professions Code, a physician and surgeon or other health practitioner *listed in Section 11165.7, subdivision (a)(21)*, ~~as defined in former Section 11165.8 of the Penal Code, as that section read on January 1, 2000, or a child care custodian or other person listed Section 11165.7, subdivisions (a)(1)-(11), as defined in former Section 11165.7 of the Penal Code, as that section read on January 1, 2000.~~ Notwithstanding any other law, counsel shall be given access to all records relevant to the case that are maintained by state or local public agencies. All information requested from a child protective agency regarding a child who is in protective custody, or from a child's guardian ad litem, shall be provided to the child's counsel within ~~30~~ *10* days of the request.

~~(g) In a county of the third class, if counsel is to be provided to a child at the county's expense other than by counsel for the agency, the court shall first use the services of the public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the public defender after making a finding of good cause and stating the reasons therefor on the record.~~

~~(h) In a county of the third class, if counsel is to be appointed to provide legal counsel for a parent or guardian at the county's expense, the court shall first use the services of the alternate public defender before appointing private counsel. Nothing in this subdivision shall be construed to require the appointment of the alternate public defender in any case in which the public defender has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the alternate public defender after making a finding of good cause and stating the reasons therefor on the record.~~

SECTION 3. Welfare and Institutions Code section 317.5 is amended to read:

(a) All parties who are represented by counsel at dependency proceedings shall be entitled to competent counsel. *The juvenile court shall enforce competency requirements and shall have the authority to impose sanctions for repeated violations of the requirements imposed by this section, the California Rules of Court, or the California Rules of Professional Responsibility.*

(b) Each minor *or nonminor dependent* who is the subject of a dependency proceeding is a party to that proceeding.

(c) Each juvenile court shall adopt a procedure, published in the court's local rules, for the review and resolution of complaints regarding the performance of an appointed attorney. Each party must be informed by the appointed attorney of the procedure for filing a complaint and proof of service of that information upon the appointed attorney's client and the child's caregiver must be filed with the court within 10 days after the attorney's appointment.

(i) If the party is a child under 10, a representative of the child, including but not limited to, the child's caregiver, a relative, a service provider, or a Court Appointed Special Advocate, must be permitted to file a complaint with the court on the child's behalf.

(ii) In addition to any procedure adopted pursuant to the court's local rules, a party or, in the case of a child under 10, a representative of the child, may bring a complaint about an attorney's performance to the attention of the juvenile court by filing a section 388 petition seeking modification of the order appointing the attorney to represent the party.

(iii) If the court determines, after giving notice to the attorney and providing an opportunity for a hearing, that the attorney has acted improperly or contrary to the rules or policies of the court, the California Rules of Court, or applicable provisions of law, or has otherwise failed to provide competent representation, the court must take appropriate action, including, but not limited to, relieving the attorney from further representation, declining to appoint the attorney or, if appropriate, the attorney's law firm, in future cases, or reporting the court's findings concerning the attorney's competence to the State Bar of California.

SECTION 4. Welfare and Institutions Code section 16001.9 is amended to read:

(a) All children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602, shall have the rights specified in this section. These rights also apply to nonminor dependents in foster care, except when they conflict with nonminor dependents' retention of all their legal decisionmaking authority as an adult. The rights are as follows:

....

(33) To be represented by a ~~an~~ *competent* attorney in juvenile court; to have an attorney appointed to advise the court of the child's wishes, to advocate for the child's protection, safety, and well-being, and to investigate and report to the court on legal interests beyond the scope of the juvenile proceeding; to speak to the attorney confidentially; *to personally meet with the attorney on a regular basis; to have the attorney promptly respond when the child, or in the case of a child under the age of 10, the child's caregiver contacts the attorney;* and to request a hearing if the child feels their appointed counsel is ~~not acting in their best interest~~ or adequately representing their legal interests.

....

