

Washington State Office of Civil Legal Aid

Children's Representation Program

Protecting the Legal Rights of Washington's Foster Children and Youth

The state funded Children's Representation Program provides lawyers to legally free children and youth in dependency cases. These lawyers:

Serve as zealous advocates in legal proceedings that will chart the rest of their clients' lives

Protect their clients' most important legal rights in these proceedings

Secure positive and timely outcomes that help position these children and youth for successful lives

In 2014, the Legislature established a right to counsel for children involved in dependency cases who remain dependent six months following the termination of their parents' legal rights. The legislation, codified at RCW 13.34.100:



- Requires judicial officers to appoint at public expense an attorney for dependent children who have been legally free (both parents' parental rights terminated) for six months. No motion to appoint is required
- Applies to children of all ages
- Directs the state through the Office of Civil Legal Aid (OCLA) to pay for the costs of legal representation when the representation is conducted in accordance with legislatively approved practice and training standards and caseload limits

Administration of the Children's Representation Program (CRP) was assigned to OCLA. In less than two months following bill-signing, OCLA developed and implemented the first statewide program for legal representation of dependent children. The program relies on private attorneys and publicly funded agencies throughout Washington State to provide standards-based representation for these "legally free" children. Attorneys commit to receiving OCLA-approved training, maintain caseloads consistent with legislatively recognized limits and to effectively represent the stated and legal interests of these children in dependency proceedings. The goal is to ensure effective legal representation that expedites permanency, and promotes and defends the legal rights and life prerogatives of children, the trajectory of whose lives will be decided in the course of the dependency proceeding.

CRP Mission

The mission of the Children's Representation Program is to underwrite and oversee the delivery of standards based, meaningful, effective and culturally competent attorney representation for legally free children who remain in the foster care system six months following termination of their parents' legal rights, with the goal of achieving early permanent placements consistent with the children's stated interests and relevant child well-being indicators.

About CRP Clients

Children in the child welfare system face a multitude of challenges. They often have experienced more than one traumatic event in their short lives. Prior to entering the child welfare system many have faced sexual abuse, chronic neglect, physical abuse, and homelessness. They often feel further traumatized by the system that is charged with protecting them.

Standards-Based, Child-Focused Legal Representation

Critical to the program's success is its commitment to standards-based legal representation. Derived from multiple state and national sources, the standards adopted by the Children's Representation Work Group form the foundation for the delivery of effective, informed and culturally competent legal representation.

Critical benchmarks of standards-based representation include:

- Ensuring the child's voice is considered in judicial proceedings
- Engaging the child in his or her legal proceedings
- Explaining to the child his or her legal rights
- Assisting the child, through the attorney counseling role, to consider the consequences of different decisions and strategies
- Confidentially counseling the child, representing the child's stated interest and, for preverbal and nonverbal children, protecting the child's rights
- Diligently representing the child at all hearings and participating in all conferences involving the child
- Seeking appropriate child welfare services and implementing a service plan that is responsive to the child's stated and legal interests
- Working to ensure that a child with special needs receives appropriate services to address physical, mental or developmental disabilities consistent with the child's stated and legal interests

Recruitment of High Quality Attorneys

From the outset, OCLA worked to identify, recruit, train and contract with attorneys who care deeply about the work and are capable of providing the highest quality and most effective representation for children who remain in foster care after their parents' legal rights have been terminated. OCLA compensates its attorneys at the rate of \$1,500 per-case/year. Consistent with statutory directives, OCLA pays half this amount for commonly represented siblings. OCLA provides supplemental compensation for attorneys who expend extraordinary time representing clients in particularly difficult or complex cases. Because many of the children represented by CRP attorneys are placed outside of the county in which their case is pending, attorneys are often required to travel long distances to meet with their clients. In order to ensure that they meet with and establish appropriate relationships with their clients, OCLA-contracted attorneys are reimbursed for mileage for out-of-county travel.



OCLA contracts with approximately 75 attorneys and public agencies throughout the state. Attorneys are required to participate in all mandatory trainings carry a caseload of no more than 80 open cases at a time, conduct their practice in accordance with state legal representation standards and enter case activity and information into a web-based Case Activity, Reporting and Oversight System (CAROS). CAROS allows the Children's Representation Program Manager to monitor the performance of CRP attorneys over time.

Consistent and Relevant Training

Consistent, high quality training and support are essential for effective legal representation of dependent children. OCLA engaged the **Court Improvement Training Academy** (CITA) at the University of Washington School of Law to develop and deliver a training curriculum that enhances the ability of CRP attorneys to provide effective standards-based legal representation. All CRP attorneys are required to participate in mandatory core training, which is delivered at no charge to them.



CITA provided regional trainings on standards-based legal representation of children throughout the state and one statewide webinar. Videos of CITA trainings are hosted on the OCLA website for attorneys who are not able to attend in person or who have recently joined the CRP. In addition to focusing on the very basic aspects and duties of an attorney representing children in dependency cases, training subjects included topics such as:

- Understanding culture in the client counseling context
- Psychotropic medications and children in foster care
- Ethical issues in representing very young children and age appropriate youth counseling. (During this training, attorneys had an opportunity to practice what they had learned on 4th and 5th graders from a nearby elementary school.)

In FY 2017, OCLA and CITA initiated a new CRP training modality. Each CRP attorney is assigned a mentor attorney. Regular counseling calls are scheduled between the mentor and attorney mentee. In addition, each attorney participates in a regional training and 2 lunchtime regional continuing legal educational events (CLE's). The objective is to establish regional "communities of practice" that will help identify current and future training needs, facilitate sharing of information about local resources among attorneys and provide a forum for attorneys to learn from each other as they encounter new or difficult issues in the course of their practice.

In addition to the trainings delivered by CITA, OCLA hosted several trainings to assist attorneys to become more culturally competent in their representation. These include representing LGBTQ youth, a workshop put on by Mockingbird Society foster youth and alumni on the Culture of Foster Care and a training on issues surrounding the representation of commercially sexually exploited children. Trainings were conducted regionally in Skagit, King, Spokane and Thurston counties.

Statewide Support



OCLA supports CRP attorneys in multiple ways. In partnership with the Washington Defender Association, OCLA maintains and supports a very active listserv. This closed listserv facilitates peer connections between children's attorneys, timely case-based problem solving and sharing of resources and connections. OCLA currently engages and supports a core group of attorney mentors who support newer CRP attorneys by providing guidance, support and assistance in problem solving issues that arise in the course of their cases. OCLA's CRP Manager is a nationally accredited children's attorney who is also available at all times to staff cases with attorneys and to assist in locating resources.

Effective Oversight and Accountability

OCLA is responsible for ensuring that CRP attorneys provide the most effective legal representation, that outcomes achieved are consistent with the stated and legal interests of their young clients and that scarce taxpayer funds are efficiently invested. OCLA employs multiple tools to review the performance of its contract attorneys consistent with these objectives. These include:

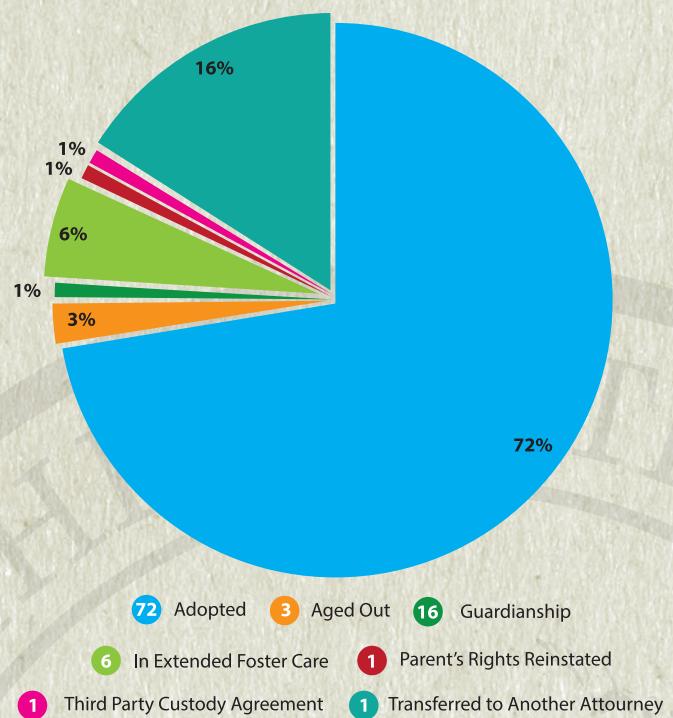
- In-court observation
- Meetings with presiding judicial officers
- Review of case activity inputted into the CAROS case management system, including, but not limited to, the amount of time the attorney has spent meeting with her client(s)¹
- Attorney feedback obtained during an in-person meeting with the attorney being reviewed
- Review of writing samples from pleadings or other documents that the attorney has filed
- Review of outcomes achieved for clients

¹*Standard of Practice 2 requires that: In all cases counsel must maintain sufficient and frequent contact with the child to establish a trusting relationship and maintain an attorney-client relationship that will enable counsel to understand the child's interests and needs, as well as the child's position on issues or questions in the case.*

Delivering Results

Children's Representation Program attorneys represented over 2000 children since the start of the program in July 2014. Approximately 750 to 850 children are represented by CRP attorneys at any given time.

In creating a right to counsel for legally free children, the Legislature declared that "[p]roviding attorneys for children following the termination of the parent and child relationship is fundamental to protecting the child's legal rights and to accelerate permanency." Laws of 2014, Ch. 108, sec. 1. Experience to date demonstrates that well qualified, highly trained CRP attorneys are zealously protecting the legal rights of and achieving positive outcomes for legally free children in every corner of the state. Early research confirms that legally free children are leaving the foster care system faster than their counterparts did before implementation of the program.



Demographics

African American/Black	14.0%
Asian	0.5%
Hispanic/Latino	10.1%
Native American (Inc Hi, Ak)	6.6%
Pacific Islander	0.2%
Two or More	8.1%
White/Caucasian	60.5%



Demographics of children served for whom the racial/ethnic identity is known.

OCLA's Children's Representation Success Stories

Names have been changed to protect confidentiality.

Olivia

Olivia (age 14) was adopted into a family after her biological parents' legal rights were terminated. Olivia's adoptive family was abusive to her and she was removed from that home and the legal rights of her adoptive parents were also terminated. During this time, Olivia had been in contact with her biological parents who had been clean and sober since their parental rights were terminated. Olivia's CRP attorney was able to explain the process of reinstating parental rights to her and Olivia decided this was an avenue she wanted to explore. The attorney advocated for Olivia's wishes and eventually convinced the state's social worker to agree to a petition to reinstate parental rights. Olivia is now happily living with her biological parents, who are on the path to a full reinstatement of rights and a closed dependency case.



Anna, Luther and Braxton

Anna, Luther and Braxton (ages 10, 6 and 7 respectively) were removed from their parents and placed with the Anderson family. All three were assigned a CRP attorney to represent them. A year after being placed with the Andersons they disclosed severe sexual abuse that had occurred when they were still with their biological parents. There was a criminal trial a year later where the children had to testify against their parents. Shortly after the trial their biological mother died. As a result of the abuse, trial and death of their mother, the children were extremely traumatized and were having a very difficult time forming an attachment to the Andersons. The Andersons were committed to the children and made sure that they were in treatment to address their many complex emotional needs. The treatment was very expensive and they were relying on the state's financial support to pay for it.



When the children had been living with the Andersons for 3 years, the state's social worker threatened to remove the children due to a technicality with the Andersons' foster care license. Both the Court Appointed Special Advocate (CASA) and the state's social worker told the children that they might be moved. This exacerbated their attachment issues. The children's CRP attorney filed a motion with the court and was able to get an order that ensured that the children stayed with the Andersons. They have now been adopted by the Andersons and their dependency case has been dismissed.

Shannon

Shannon (age 3) was to be adopted by her aunt and her aunt's boyfriend with whom she had been placed when she was 5 days old. Her aunt was a stay-at-home mom, and her boyfriend worked full time. It was their practice that he give the aunt his paycheck and she paid the bills. Without his knowledge, instead of paying the rent, Shannon's aunt used the money to buy drugs. They were evicted.



Shortly thereafter Shannon's aunt sought help for her drug addiction and, with support from her pastor and her boyfriend's family, entered into intensive outpatient treatment. When the state's social worker learned about the situation she did not believe that the boyfriend was unaware of what was going on and felt that the boyfriend had failed to protect Shannon. Based on her aunt's drug addiction and the perception that the boyfriend failed to protect Shannon, the state's social worker decided to oppose the adoption and requested that Shannon be removed from their care.

Removal was not the right outcome for Shannon. Fortunately, she had a CRP lawyer who fought to ensure that her legal rights were protected. For more than a year, her lawyer worked to protect the stability of Shannon's placement. In the end, the judge allowed her aunt's boyfriend, the only father that Shannon had ever known, to adopt her.

Charlie

Charlie is six years old. He uses a wheelchair and has the mental capacity of an 18 month old. He had a habit of chewing through straps on his wheelchair leaving him vulnerable to physical injury. One of the straps that was destroyed was the one that goes over Charlie's head to keep him in the wheelchair. At school Charlie would be duct-taped into his wheelchair to keep him from falling out. His foster parents had been trying to get replacement straps for over a year to no avail. Charlie's CRP attorney was able to work with DSHS, the foster mother and the company that supplies the replacement straps. The straps were replaced within a couple of months of the attorney being appointed, and Charlie's wheelchair is fully functional again.



"The OCLA Children's Representation Program attorney is an asset to the Spokane County Juvenile Court. The attorney always addresses the important issues quickly, has a great connection with her youth clients and educates the court on what options are available to young people in Spokane County. Not only does she do an excellent job on her individual cases, but she is involved in advocating for system reform when necessary."

Commissioner Michelle Ressa, Spokane County Superior Court



"I wish that all of the attorneys who appear in front of me were as well prepared as the OCLA CRP attorneys."

Judge Stephen Brown, Grays Harbor County Superior Court

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"When I was in care I was assigned an attorney to help me through the court process. For me this was a positive experience because she made the court room less scary by briefing me prior to each hearing. She made the legal terms more understandable by putting them into common terms. I was able to go into the courtroom knowing what was going to be talked about and knowing that I had someone on my side. The scariest thing about being in foster care was not knowing what would happen and my attorney helped me to be more relaxed through the hearing by informing me of what would happen in the process. With this support I was able to find my forever family and was adopted on May 15, 2015."

Foster youth represented by OCLA CRP attorney