

High-Quality Legal Representation for Youth in Child in Need of Care Proceedings

Kansas Joint Committee on
Child Welfare System
Oversight

September 11, 2024



Committee Issues of Interest:

1. Improving Legal Services for Children
2. Funding Quality Legal Representation
3. Workforce Development



How can we improve legal service delivery systems and elevate the needs and interests of children?

By adopting research-based best practices



Children's Bureau 2017 Information Memorandum “High Quality Legal Representation for All Parties in Child Welfare Proceedings”

Appointing high-quality child attorneys is “critical to a well-functioning child welfare system” and supports “improved outcomes including cost savings to state government due to expedited permanency; increases in party perceptions of fairness; increases in party engagement in case planning, services and court hearings; more personally tailored and specific case plans and services; and increases in visitation and parenting time.”



Current Barriers to Quality Representation



DECENTRALIZED LEGAL
SERVICES DELIVERY
SYSTEMS




ENFORCEMENT OF
TRAINING REQUIREMENTS
AND ADHERENCE TO
STANDARDS OF PRACTICE



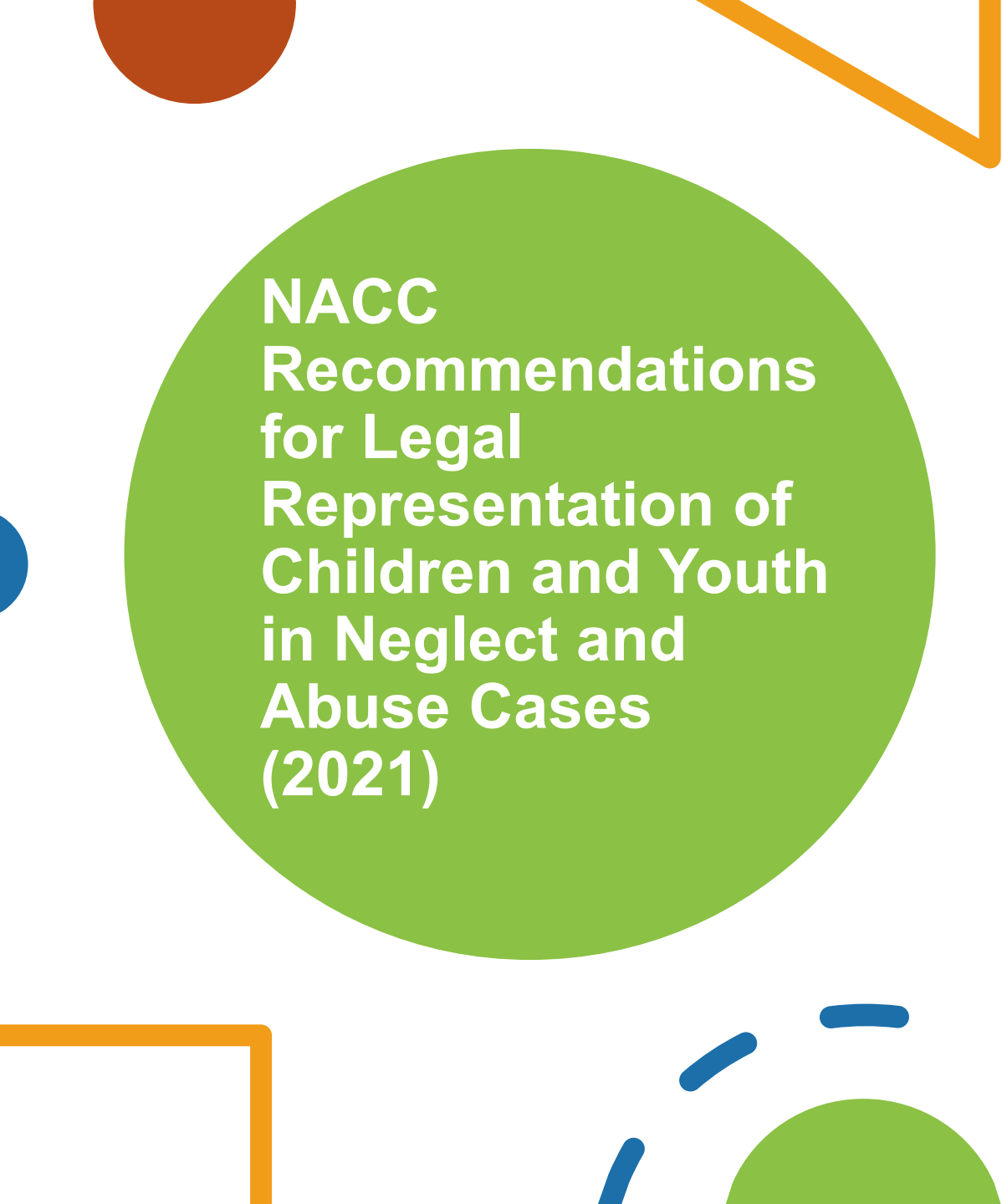
UNTAPPED FEDERAL
FUNDING RESOURCES



ATTORNEY SHORTAGES




**High-quality, client-directed
legal representation amplifies
youth voice in decisions
impacting their lives and
futures.**



NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Cases (2021)

NACC supports **expressed interest representation**

- Consistent with the ABA Model Act and the ABA Model Rules of Professional Conduct 1.2
- Provides greatest assurance of maximizing youth voice and minimizing attorney bias that exacerbate racial and ethnic disparities in the child welfare system.
- Attorney owes the same duties of professional responsibility (ex. loyalty, confidentiality, etc.) to the child client as would be due to an adult client.
- Involves active client counseling and investigation.
- May also be described as “stated interest” or “client directed” legal representation.




Kansas should adopt specific strategies to promote and sustain high-quality legal services for children.

Strategies to Ensure HQLR

- Client-Directed Legal Advocacy
- Statewide Enforcement of Training Requirements
- Statewide Enforcement of Adherence to Standards of Practice
- Statewide Centralized Law Office
- Supervision and Oversight
- Multidisciplinary Teams
- Caseload Management
- Reasonable Compensation
 - Avoiding flat rates and fee caps
- Federal Funding Opportunities





Federal funding is available to supplement state funding of children's and parent's legal representation.



Executive Branch Support for Funding High Quality Legal Representation



Former President Trump’s Executive Order 13930 on Strengthening the Child Welfare System for America’s Children (June 24, 2020) urges use of “[f]ederal funds to support and encourage high-quality legal representation for parents and children”

Memorandum on Restoring the Department of Justice’s Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable (May 18, 2021) opined that the ideal of justice “hinges on an individual’s ability to meaningfully access the legal system.”





Federal Funds Support Counsel for Kids

- In 2018, longstanding policy changed to allow title IV-E reimbursement for administrative costs of children's and parent's legal representation (Child Welfare Policy Manual 8.1B, Question 30)
- Administrative costs may include: costs of paralegals, investigators, peer partners, social workers, support staff, and overhead for independent child and parent legal representation.
- **New Rule (May 10, 2024)**- Federal regulation expands Title IV-E to allow reimbursement for the costs of legal representation of tribes/Indian custodians in state court proceedings, kin caregivers, and civil legal proceedings, including pre-petition. (effective 7/9/24)
- **To date, Kansas has claimed \$0 for parent or child representation.**

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