

Questions and Answers

RFP: 4th Model Family Representation Office Grant

1) **Question:**

Can funding for this grant be used towards salary increases for existing staff covered by other Family Court grants?

Answer:

Salary increases for existing staff are potentially permissible, provided however that the proposal otherwise conforms to the purpose and intent of the RFP as reflected in Section V of the RFP (Proposal Application).

2) **Question:**

Is it anticipated the implementation of the standards and practices for representation of parents in child welfare proceedings will be become mandated at some point in the future? If so, when and under what authority?

Answer:

ILS' *Standards for Parental Representation in State Intervention Matters* (Parent Representation Standards) "embody an approach [to legal representation of parents] that is client-centered, multi-disciplinary, and holistic, and emphasizes timely entry into the case and diligent, zealous advocacy throughout." ILS Parent Representation Standards, at 4. In issuing these standards. ILS noted that "the vision of practice embodied in these standards is unattainable without sufficient funding and resources." *Id.* In its 2019 Report to then-Chief Judge DiFiore, The Commission on Parental Representation noted the importance of this approach to representation and urged the State to make funding available to fully implement it. ILS anticipates a time when that State funding is available for all counties to comply with ILS' Parent Representation Standards. In the meantime, the purpose of this grant is to make State available for one county to do so.

3) **Question:**

Is it anticipated that child protective services at any point might become mandated to advise parents who are under investigation of their rights to counsel similar to a Miranda type situation?

Answer:

The Family Court Act §§ 1021,1023 require that an agent authorized to remove a child from home pursuant to a child protective services (CPS) investigation must provide written notice to a parent of several rights related to the investigation; this includes the right to be represented by counsel and the procedures for those who cannot afford counsel to obtain counsel. Further, the NYS Office of Children and Family Services CPS Manual calls for written notice when a "removal" is contemplated or planned. See Requirement to inform the parent(s) of CPS's intent to seek a court order, E-2, Chapter 9, New York State child Protective Services Manual.

To address the issue of access to representation when a parent first needs legal advice and counsel, state legislation has been proposed several times in the last five (5) years to clarify the requirement that parents be informed of their rights during a child welfare investigation. This legislation, often referred to as the “Family Miranda” Act, (Bill S.551) would require CPS investigators to inform parents that they have the right to an attorney at the outset of the investigation. In New York City, similar measures have been considered in the last few years.

The Uniform Rules For The Family Court (Uniform Rules) also contemplate assignment of counsel to parents who are being investigated by CPS. Rule 205.19 of the Uniform Rules states that legal representation for a person subject to a CPS investigation “...shall be provided at the first court appearance or immediately following the request for counsel, whichever is earlier.” The Uniform Rules further state that “counsel shall be provided... for parents during a child protective agency investigation....” See Rule 205.19(a).