

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Philip Morley, County Administrator

FROM: Michelle Lorand (or Barbara Carr)

DATE: July 1, 2014

RE: Contract between Jefferson County and the Office of Civil Legal Aid

STATEMENT OF ISSUE: Interagency Agreement IAA between State of Washington and the Office of Civil Legal Aid with Jefferson County. This agreement is pursuant to legislation (2ESSB6126).

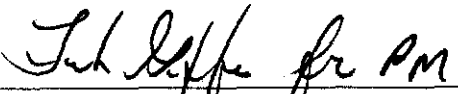
ANALYSIS: IAA is pursuant to SB 6126 effective July 1, 2014 regarding attorney representation for children 6 months post termination of parental rights.


FISCAL IMPACT: Contract fees to be reimbursed – balance unknown.

RECOMMENDATION: That the BOCC approve and sign the 3 original Contracts between Jefferson County and the Office of Civil Legal Aid. Once signed all 3 originals should be returned to Superior Court to obtain contract signatures from James A. Bamberger, Director of the State of Washington Office of Civil Legal Aid (OCLA). Upon return to me a fully signed original will be provided to the BOCC.

DEPARTMENT CONTACT: Michelle Lorand

REVIEWED BY:


Philip Morley, County Administrator


Date

INTERAGENCY AGREEMENT IAA

between

**STATE OF WASHINGTON
OFFICE OF CIVIL LEGAL AID**

and

JEFFERSON COUNTY

THIS AGREEMENT is entered into by and between the Office of Civil Legal Aid (OCLA) and JEFFERSON County ("County"), for the purpose of reimbursing County for allowable expenses associated with attorneys appointed to represent certain children in dependency proceedings pursuant to 2ESSB 6126 (Laws of 2014, Ch. 108).

1. DEFINITIONS

For purposes of this contract, the following definitions shall apply:

- a. "Children's Attorney" means an attorney, licensed to practice law in the state of Washington, who has been identified by OCLA as capable and willing to provide effective legal representation for children in dependency cases consistent with the standards referenced in section 2(6) of 2ESSB 6126.
- b. "Children's Representation Program Manager" means the employee assigned by OCLA to manage and oversee the program pursuant to which state funding is made available to reimburse County for legal representation that is conducted consistent with the practice, caseload and training standards referenced in section 2(6) of 2ESSB 6126.
- c. "County" means the entity and associated officials (elected or appointed), employees or contractors with responsibility to assign and pay for attorneys to represent children in dependency cases filed under chapter 13.34 RCW.
- d. "OCLA-Approved Agency" means an agency or law firm that OCLA deems to have established a sufficient system to train, supervise and support its attorneys to consistently provide effective legal representation for children in dependency cases consistent with the standards referenced in section 2(6) of 2ESSB 6126.

2. PURPOSE

The parties recognize that effective July 1, 2014, judicial officers presiding in juvenile court dependency proceedings are required to appoint an attorney to represent children in such proceedings cases six months following termination of all parental rights. The parties further recognize that, consistent with section 2(6)(c)(ii) of 2ESSB 6126, the judicial officer may appoint a single attorney to represent members of a sibling group, unless it is determined that a conflict of interest exists or other reasons preclude common legal representation per the Rules of Professional Conduct.

The purpose of this Agreement is to reimburse County for expenses associated with appointment of attorneys to represent children who remain legally free and subject to the jurisdiction of the juvenile court six months following termination of the legal rights of all parents. In order to be eligible for state reimbursement, such representation must comply with practice, caseload (as modified by section 2(6)(c)(ii)) and training standards developed by the Children's Representation Work Group established by chapter 5, section 180, Laws of 2010.

3. DESCRIPTION OF SERVICES TO BE PROVIDED BY COUNTY

- a. By July 1, 2014, County, working with the Children's Representation Program Manager if needed by the County, will review all pending dependency cases and provide the Children's Representation Program Manager with an accurate number of cases for which attorneys will be required to be appointed pursuant to section 2(6) of 2ESSB 6126.
- b. The County will ensure that, where possible and consistent with the requirements of 2ESSB 6126, attorneys are appointed in qualifying cases from a list of Children's Attorneys identified and approved by OCLA or attorneys affiliated with OCLA-Approved Agencies. In the event the County is unable to appoint a Children's Attorney or an attorney affiliated with an OCLA-Approved Agency, the County may appoint another attorney, if the attorney:
 - i. Agrees in writing to provide legal representation consistent with the practice and training standards referenced in 2ESSB 6126;
 - ii. Has a total caseload (contract and private) that does not exceed the equivalent of eighty full representation children's cases, involving no more than sixty cases (including members of sibling groups);
 - iii. Agrees to participate in OCLA's case activity and outcome tracking requirements and use OCLA's Case Activity, Reporting and Oversight System (CAROS);
 - iv. Agrees to participate in an OCLA-sponsored webinar for children's attorneys which will be conducted by the Court Improvement Training Academy at the University of Washington School of Law prior to October 1, 2014;
 - v. Agrees to participate in a regional training for children's attorneys conducted by the Court Improvement Training Academy at the University Of Washington School Of Law in the spring of 2015 and further trainings as appropriate and consistent with applicable training standards.
 - vi. Maintains professional liability insurance with minimum coverage limits of not less than \$500,000 per claim and \$1,000,000 in aggregate liability.
- c. Within 30 days following the end of the quarter, County will submit a Quarterly Billing Form (QBF) to the Children's Representation Program Manager for reimbursement of actual costs associated with the representation of children by attorneys appointed pursuant to section 2(6) of 2ESSB 6126. If County contracts with individual attorneys on a case-by-case basis, said bill will be in the form set forth in **Attachment A** (individual attorney cost-per-case basis). In the event that County retains private counsel on a percentage FTE basis to represent multiple children in multiple cases, said bill will be in the form set forth in **Attachment B** (percentage FTE/caseload basis). In the event that County assigns cases to an OCLA-Approved Agency, said bill will be in the form set forth in **Attachment C** (OCLA-Approved Agency basis).

- d. County shall provide sufficient backup information documenting payments made for attorney representation and the number of active cases maintained by each attorney or OCLA-Approved Agency during the preceding quarter.

4. DESCRIPTION OF SERVICES TO BE PROVIDED BY OCLA

- a. By July 1, 2014 and periodically thereafter, OCLA will provide County with a list of Children's Attorneys and OCLA-Approved Agencies certified as capable of providing effective, standards-based legal representation for children in dependency cases consistent with the requirements of 2ESSB 6126.
- b. By September 30, 2014, OCLA will provide County and attorneys representing children with access to a web-based Case Activity, Reporting and Oversight System (CAROS), use of which by attorneys representing children will be required in order for County to receive reimbursement for otherwise qualifying attorney services.
- c. By September 30, 2014, OCLA will sponsor or otherwise make available a web-based training for all children's attorneys engaged by County and appointed to provide legal representation for children in dependency cases.

5. PERIOD OF PERFORMANCE

This Agreement shall be effective July 1, 2014 and run through June 30, 2015. The Agreement may be extended by written agreement of the parties.

6. COMPENSATION

Reimbursement Ceiling: OCLA shall reimburse for payments made by County for attorney representation of children in qualifying cases under 2ESSB 6126; *provided that*, the OCLA will not reimburse for costs of such representation that exceed a prorated level of \$1500/case/year.

Compensation Floor (individual and retained attorneys): Recognizing the minimum level of time needed for an attorney to provide effective legal representation for each child as set forth in the practice, caseload and training standards referenced in 2ESSB 6126 and the need to avoid financial disincentives for attorneys to comply with such standards, OCLA will not reimburse County for payments to individual or retained attorneys that effectively compensate such attorneys at less than \$80,000 for a full-time caseload.

- a. If this Agreement is terminated, County shall only receive payment for costs incurred for attorney representation provided prior to the effective date of termination. Payment will not exceed a prorated rate of \$1500/case/year (\$375/case/quarter) and will only be provided if there are no disputes regarding said costs and the invoice process is used as described in Section 3.d. of this Agreement.
- b. Payment to the County for approved invoices will be made by warrant or account transfer by OCLA within 30 days of receipt of a properly-completed QBF.
- c. County shall maintain sufficient backup documentation of payments made to attorneys appointed to represent children and for which reimbursement is sought pursuant to this Agreement.
- d. OCLA will use best efforts to ensure that funding appropriated to implement 2ESSB 6126 is sufficient to fully reimburse County for expenses associated with the appointment of attorneys in qualifying cases. If state appropriated funding will not cover all qualifying cases for which attorney representation is required, OCLA reserves

the right, in its sole discretion and upon 30 days notice (Notice of Shortfall), to initiate pro rata reductions, reallocate funding among Counties or terminate the reimbursement program altogether.

If a Notice of Shortfall is issued, OCLA will also notify appropriate legislative members and staff of the anticipated shortfall, OCLA's intent to take action to reduce or terminate payments and, if timely, submit a request for a supplemental appropriation in an amount sufficient to provide for full reimbursement of County.

- e. The parties expressly ratify and County may bill retroactively for payments associated with legal representation of children in qualifying dependency cases provided between July 1, 2014 and the date of execution of this Contract.

7. RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by OCLA. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and video and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

Data which is delivered under this Agreement, but which does not originate therefrom, shall be transferred to OCLA with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided, that such license shall be limited to the extent which the Court has a right to grant such a license. The Court shall advise OCLA, at the time of delivery of data furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. OCLA shall receive prompt written notice of each notice or claim of copyright infringement received by the Court with respect to any data delivered under this Agreement. OCLA shall have the right to modify or remove any restrictive markings placed upon the data by the Court.

Nothing in this section shall give OCLA any right, title, interest in or access to materials, documents or other data that is protected by the attorney-client privilege, the attorney work product, the Rules of Professional Conduct or the constitution or laws of the State of Washington or the United States.

8. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

9. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

10. RECORDS, DOCUMENTS, AND REPORTS

County shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct costs of any

nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by OCLA, the Office of the State Auditor, and federal officials so authorized by law, rule, regulation, or Agreement. County will retain all books, records, documents, and other material relevant to this Agreement for six years after settlement, and make them available for inspection by persons authorized under this provision. Nothing in this section shall give OCLA any right of access to books, records, documents or other materials that is protected by the attorney-client privilege, the attorney work product, the Rules of Professional Conduct or the constitution or laws of the State of Washington or the United States.

11. RIGHT OF INSPECTION

County shall provide right of access to its facilities to OCLA, or any of its designated employees, or to any other authorized agent or official of the state of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

12. DISPUTES

Disputes arising under this Agreement shall be resolved by a panel consisting of one representative from OCLA, one representative from County, and a mutually agreed upon third party. The dispute panel shall thereafter decide the dispute with the majority prevailing. Neither party shall have recourse to the courts unless there is a showing of noncompliance or waiver of this section.

13. TERMINATION

Either party may terminate this Agreement upon thirty (30) days written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. In the event of termination, and despite the requirements of section 2(6) of 2ESSB 6126, OCLA and the State of Washington shall be relieved of the obligation to pay any or all of the part of the cost of providing attorney representation for children in qualifying dependency cases.

14. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable state and federal statutes and rules;
2. This Agreement; and
3. Any other provisions of the agreement, including materials incorporated by reference.

15. RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its employees, its officers and its agents. No party assumes any responsibility to the other party for the

consequences of any claim, act or omission of any person, agency, firm, or corporation not a party to this Agreement.

16. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

17. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

18. SEVERABILITY

If any provision of this Agreement, or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision and to this end the provisions of this Agreement are declared to be severable.

19. HEADINGS

The headings in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

20. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

AGREEMENT MANAGEMENT

The program managers noted below shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement:

Children's Representation Program Manager: Jill A. Malat PO Box 41183 Olympia, WA 98504-1183 (360) 972-5794 jill.malat@ocla.wa.gov	County Authorized Agent:
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IN WITNESS WHEREOF, the parties have executed this Agreement:

STATE OF WASHINGTON
OFFICE OF CIVIL LEGAL AID

_____ COUNTY,
WASHINGTON

James A. Bamberger, Director (Date)

Commissioner

Commissioner

Commissioner

Approved as to form only 6/30/14
David Alvarez
Jefferson Co. Prosecutor's Office
David Alvarez, Chief Civil DPA

Constituting the Board of County Commissioners

Attest this _____ of _____, 2014

Clerk of the Board

ATTACHMENT A



WASHINGTON STATE OFFICE OF CIVIL LEGAL AID
Reimbursement Request
for Costs of Children's Legal Representation in Dependency Proceedings
Individual Attorney Assignment

County: _____
 Address: _____
 City, State, Zip: _____

This report is for the month and year: _____

Please fill in the names of attorneys appointed to represent children in qualifying dependency cases (per 2ESSB 6126, ch. 180, Laws of 2014) and the payments made for such legal representation during the preceding quarter.

Note: OCLA will reimburse for actual costs of attorney representation up to a maximum pro rated level of \$1500/case/year. OCLA will not reimburse for attorney representation if the pro rated level of compensation assuming a full time caseload of childrens cases falls below \$80,000/year.

Attorney Name	Case Number	Date Appointed	Open Case	Final Payments	Amount
			<input type="checkbox"/>		
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			<input type="checkbox"/>		
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			<input type="checkbox"/>		
			<input type="checkbox"/>		

Total salary and benefit reimbursement due: _____ **\$0.00**

The County representative identified below certifies that the amounts listed above were paid to the children's attorneys for legal representation of children in qualifying cases within the reporting period.

Signature of authorized County representative: _____

When form has been completed and signed, please send to:
 Jill A. Malat
 Office of Civil Legal Aid
 PO Box 41183
 Olympia, Washington 98504-1183

AGENCY USE ONLY							
DOC DATE		CURRENT DOC	VENDOR NO.		VENDOR MESSAGE		
TRANS CODE	FUND	MASTER INDEX	SUB OBJ	SUB SUBOBJ	GENERAL LEDGER	AMOUNT	INVOICE NUMBER
OCLA APPROVAL FOR PAYMENT				DATE	WARRANT TOTAL		

ATTACHMENT B



WASHINGTON STATE OFFICE OF CIVIL LEGAL AID
Reimbursement Request
for Costs of Children's Legal Representation in Dependency Proceedings
Retained Attorney (Percentage FTE)

County:
Address:
City, State, Zip:

This report is for the month and year:

Please fill in the names of attorneys appointed to represent children in qualifying dependency cases (per 2ESSB 6126, ch. 180, Laws of 2014) and the payments made for such legal representation during the preceding quarter.

Note: This form should be used to request reimbursement if the County retains attorneys on a percentage FTE basis (not on a case-by-case basis). OCLA will reimburse for contract payments that do not exceed a pro-rated level of \$1500/case/year. OCLA will not reimburse for attorney representation if the pro rated level of compensation assuming a full time caseload of childrens cases falls below \$80,000/year.

Table with 5 columns: Attorney Name, Percentage FTE, Number of Active Cases at Close of Quarter, Contract Payment Scale, Payment to Attorney in Dollars

\$0.00

The County representative identified below certifies that the amounts listed above were paid to the children's attorneys for legal representation of children in qualifying cases within the reporting period.

Signature of authorized County representative:

When form has been completed and signed, please send to:
Jill A. Malat
Office of Civil Legal Aid
PO Box 41183
Olympia, Washington 98504-1183

AGENCY USE ONLY table with columns: DOC DATE, CURRENT DOC NO., VENDOR NO., VENDOR MESSAGE, TRANS CODE, FUND, MASTER INDEX, SUB OBJ, SUB SUBOBJ, GENERAL LEDGER, INVOICE NUMBER, OCLA APPROVAL FOR PAYMENT, DATE

ATTACHMENT C



WASHINGTON STATE OFFICE OF CIVIL LEGAL AID
 Reimbursement Request
 for Costs of Children's Legal Representation in Dependency Proceedings
 OCLA-Approved Agency

County: _____
 Address: _____
 City, State, Zip: _____

This report is for the month and year: _____

Please fill in the names of attorneys appointed to represent children in qualifying dependency cases (per WAC 26.220, ch. 180, Laws of 2014) and the payments made for such legal representation during the preceding quarter.

Note: This form should be used to request reimbursement if the County engages an OCLA-Approved agency to represent children in dependency cases. OCLA will reimburse for contract payments that do not exceed a pro-rated level of \$1500/case/year. OCLA will not reimburse for attorney representation if the per-FTE level of compensation falls below \$80,000/year.

Case No.	Attorney Name	Agency Name	Amount	Payment Date

The County representative identified below certifies that the amounts listed above were paid to the OCLA-Approved agency for legal representation of children in qualifying cases within the reporting period. The County representative further affirms that the OCLA-Approved Agency is in compliance with caseload standards applicable to attorneys representing children in dependency cases.

Signature of authorized County representative: _____

When form has been completed and signed, please send to:
 Jill A. Malat
 Office of Civil Legal Aid
 PO Box 41183
 Olympia, Washington 98504-1183

DOC DATE		CURRENT DOC NO.	VENDOR NO.		AGENCY USE ONLY	
FUND	MASTER INVOICE	SUB CD	SUB SUBCD	GENERAL LEADER	INVOICE NUMBER	
OCLA APPROVAL FOR PAYMENT						DATE