

New York State Office of Indigent Legal Services (ILS)
Federal Title IV-E Funding for Parent Representation/Family Defense
Enrollment Procedure Simplified and
Frequently Asked Questions (last updated 09/03/2021)

ILS issues this FAQ document to respond to questions from mandated representation providers and other stakeholders about the Title IV-E funding opportunity detailed in a recently released informational letter from the Office of Children and Family Services (OCFS), 21-OCFS-INF-05, available here: [21-OCFS-INF-05.pdf \(ny.gov\)](#). This FAQ clarifies the process for developing the required, ILS-approved family defense quality enhancement plan as explained on pages 3-5 of OCFS 5604 – [Attachment C, Title IV-E Enhanced Quality Legal Representation Services Plan for Counties and NYC, SFY 2020-21](#).

Please note that in this FAQ, we use the term “locality” or “local government” to refer to the City (for the New York City providers) and the counties (for the rest of the state).

To receive federal funding under Title IV-E of the Social Security Act for a portion of the expenditures for representation of parents in child welfare matters, each interested locality must enter into an MOU with the Office of Children and Family Services (OCFS), which is the fiscal pass-through state agency for Title IV-E funding. The MOU must be executed by an authorized government official or designated employee of the interested locality. In addition, and as required under the MOU between the locality and OCFS and described in Attachment C, linked above, local government officials and providers of parental representation of each locality must consult with ILS to develop an ILS-approved, customized, three-year plan to improve the ability of parental representation providers to deliver high quality, independent legal representation in accordance with applicable standards and best practices. ILS will submit this ILS-approved quality enhancement plan (“QEP”) to OCFS, which is a pre-condition for each locality to receive the Title IV-E funding. See 21-OCFS-INF-05, linked above.

Question: For this program, what are the respective roles of ILS and OCFS in relation to the locality?

Answer: As the New York State agency that is the designated Title IV-E fiscal pass-through entity, OCFS is solely responsible for all matters regarding claiming and disbursement of the federal funding, including the county MOUs. As the state agency responsible for improving the quality of mandated representation, ILS is solely responsible for working with localities to develop and finalize an ILS-approved Quality Enhancement Plan for incorporation into the locality’s MOU with OCFS.

Question: Why is ILS working with the NYS Office of Children and Family Services (OCFS) on this funding program?

Answer: The federal government chose to route funding for parent representation through each state's title IV-E agency; in New York that is OCFS. The Title IV-E agency has the responsibility of processing claims and disbursing funds for this program. This means that the local governments must submit claims for Title IV-E funding to OCFS as described in [21-OCFS-INF-05-Attach-A](#) and Attachment B forms (OCFS-5600 and OCFS-5601).

Question: Can localities spend the Title IV-E funding however they like?

Answer: No, the Title IV-E funding must be used to improve the quality of independent legal representation provided by the localities for child-welfare involved parents. The funds can be spent on a range of enhancements or "action items" to be included in the ILS-approved Quality Enhancement Plan developed through the needs assessment and plan development process as detailed in OCFS Attachment C, and which will be incorporated into the locality's MOU with OCFS.

Question: Can the Quality Enhancement Plan approval process with ILS start before a locality has signed a Memorandum of Understanding ("MOU") with OCFS for claiming purposes?

Answer: Yes. As described in Attachment C, the quality plan development process with ILS can begin as soon as ILS receives the information requested therein. A locality does not need to complete the MOU with OCFS before reaching out to ILS to initiate the process of developing a QEP; nor does a locality need to have a final MOU with OCFS before ILS can approve a QEP. The Quality Enhancement Plan process and the MOU are independent of one another with these exceptions: 1) first, if a locality does not have a completed ILS-approved QEP by April 1, 2022, the locality cannot receive Title IV-E funding until the ILS-approved QEP is completed and sent to OCFS; and 2) once completed, the ILS-approved QEP is incorporated by reference into the MOU.

Question: What are the steps necessary for an interested mandated provider to initiate the development of the Quality Enhancement Plan approval process?

Answer: The interested mandated representation provider should:

1. Identify the local official who can authorize an MOU with OCFS. As stated in Attachment C to the INF, the request for consultation with ILS to begin the QEP process must be submitted to ILS "by an authorized county or New York City official, or designated employee of the governing body of the applicant." See p. 3, Attachment C, Plan Development, Consultation.

2. The mandated representation provider should work with appropriate individuals to gather the information set out on page 3 of Attachment C. This information, which will provide a baseline from which to engage in the plan development process, includes the following:

i. The names and contact information for the leader(s) responsible, pursuant to County Law article 18-B, for delivering family court-mandated representation in the locality (i.e., public defender, conflict defender, assigned counsel program administrator, Legal Aid Society);

ii. An outline of how the locality provides parent representation, i.e., a complete list of public defenders, assigned counsel panel administrators, and

contacts at legal services organizations with which the county or city has contracted to provide representation;

iii. An estimate of the number of attorneys and other professional staff currently providing parent representation in child welfare matters (including the number of full-time positions and part-time positions);

iv. An estimate of the number of new Family Court Act Article 10 petitions filed in each of the previous three years;

v. An estimate of the local expense of providing Article 10 representation in the previous calendar year.

3. The locality's authorized official (or the official's designee) should then send an email to Angela Burton, ILS Director of Quality Enhancement for Parental Representation (angela.burton@ils.ny.gov) with the information and a request for a consultation to begin the Plan Development process. Once the consultation request is received, a meeting will be scheduled, and the process will proceed as detailed in Attachment C.

Question: Does this program require a competitive grant proposal submission to ILS from the county?

Answer: No. Enrollment in this program is NOT competitive—every county has the same opportunity to receive Title IV-E federal funding by entering into an MOU with OCFS and completing the quality plan development and approval process with ILS as detailed in Attachment C. **Because this opportunity is unlike the competitive grant process, we welcome questions and will update this FAQ as necessary.** Questions should also be directed to Angela Burton at ILS.

Question: Who has the responsibility for completing the MOU with OCFS?

Answer: The responsibility for executing the MOU with OCFS rests with the locality. Remember, a finalized MOU is not necessary to start the ILS consultation regarding the Action Items and Quality Plan.

Question: Can we (family defense providers) contact ILS to start the Quality Plan process?

Answer: Yes! The locality has the responsibility to formally enroll in this program, but there is no reason to delay contacting ILS! We're happy to start informal discussions with family defense providers to get the ball rolling. Again, the contact is:

Angela Burton, Director of Quality Enhancement for Parent Representation

Office: (518) 474-4859

Cell: (518) 491-0094

Angela.Burton@ils.ny.gov

Question: What does the above informal Quality Plan Consultation (from providers) request look like?

Answer: An email or telephone call to Angela Burton is all it takes to start. Then we'll start gathering information about each county and providers can help us by identifying who in county government should be part of the discussion.