

Washington State Judicial Branch
2025-27 Biennial Budget
Office of Civil Legal Aid
Contractor Vendor Rate Adjustment for
Children’s Representation Programs

Agency: Office of Civil Legal Aid

Decision Package Code/Title: 1B – Children’s Rep Programs VRA

Agency Recommendation Summary Text:

Ongoing funding is requested to adjust the Office of Civil Legal Aid’s (OCLA) Children’s Representation Program’s (CRP) contract attorney (vendor) rates to levels necessary to facilitate recruitment and retention of qualified attorneys to represent children and youth eligible for appointment of counsel in dependency matters in the “legally free program” established under RCW 13.34.212(1), the “1219 program”¹ established under RCW 13.34.212(3), and RCW 13.34.267(6), concerning the appointment of counsel for youth in Extended Foster Care subject to the implementation schedule delineated in RCW 13.34.212(3)(c). A vendor rate adjustment is requested for both the “1219 program” and the “legally free” program.

Fiscal Summary:

	FY 2026	FY 2027	Biennial	FY 2028	FY 2029	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$1,419,000	\$3,172,000	\$4,591,000	\$3,778,000	\$3,920,000	\$7,968,000
Total Expenditures						
	\$1,419,000	\$3,172,000	\$4,591,000	\$3,778,000	\$3,920,000	\$7,968,000

Package Description:

In 2014, the Legislature enacted a right to appointed counsel for children and youth in dependencies when six months had passed following the termination of their parents’ legal rights (“legally free” children and youth). This provision is now codified at RCW 13.34.212(1). Administration was assigned to the Office of Civil Legal Aid under RCW 2.53.045.

In 2021, the Legislature enacted SHB 1219 establishing a right to appointed counsel for all children ages eight (8) and above in dependency cases and for all children regardless of age in termination of parental rights (and the related dependency) cases under RCW 13.34.212(3). It also shifted the responsibility of recruiting, training, overseeing, and compensating and otherwise maintaining a panel of attorneys to accept case assignments for youth participating in the Extended Foster Care Program pursuant to RCW 13.34.267(6) from the counties to OCLA, subject to the implementation schedule established under RCW 13.34.212(3)(c).

The legislature directed OCLA to recruit, train, and oversee the performance of contract attorneys engaged in the representation of children and youth in dependency cases in accordance with the professional practice standards, caseload limits, and training guidelines adopted by the Washington Supreme Court’s Commission on Children in Foster

¹ The “1219 program” is named in reference to 2SHB 1219 (2021) under which it was established.

Care². OCLA contracts with attorneys on either a full-time equivalent or percentage basis to provide this representation pursuant to RCW 2.53.045. During 2024-25, OCLA will contract with a combined total of 70 individual attorneys and law firms working on a full-time basis to represent legally free children and children entitled to appointed counsel in counties in which the new right to counsel program will be operational. The number of attorney contractors will continue to grow as additional counties are onboarded over the next biennium in accordance with the county-by-county implementation schedule established by the legislature.

The vast majority of OCLA CRP contractors are solo practitioners, meaning they are the only attorney in their respective firms. Compensation rates are designed to cover the fully loaded costs of standards-based attorney representation. These expenses include:

- Salaries and benefits for the attorney contractor
- Taxes
- Salaries and benefits for essential support staff and/or contracted support services
- An allocated percentage of business and professional expenses (e.g., technology, rent/overhead, general business and malpractice insurance, legal research, accounting, payroll, financial services)
- Travel
- Training
- Contribution to retirement program
- Student loan debt repayment
- Other essential operational expenses

Actual compensation comes at the end of the chain of expenses that the attorney must incur to perform responsibilities under the contract. A survey of full-time CRP contractors suggests that many go without essential support capacity, such as legal assistant/paralegal support, business and payroll services, and other essential technology systems and support due to low pay. This compromises their ability to provide standards-based legal representation to the children and youth on their caseloads as required by law. Further, few full-time contractors are able to purchase meaningful health insurance packages or meaningfully contribute to retirement accounts. After deducting the costs of running a business, full-time attorneys with years of child welfare experience are averaging between \$60,000 - \$80,000 per year before income tax withholdings.

The gross earnings range of a contractor is most impacted by whether the attorney is able to employ staff. While most attorneys say paralegal and administrative support is critical to the practice of law, few contractors are able to employ staff given current compensation rates. However, the Washington State Bar Association’s Standards of Indigent Defense now require that by July 2028, attorneys employ or otherwise contract with 1 full-time paralegal for every four attorneys in a firm³. For most OCLA contractors, this will mean having to employ or otherwise contract with a part-time paralegal. Contractors will not be able to absorb this additional financial burden without a significant increase in compensation. This issue is further compounded by the ever-increasing costs of housing, food, and gas.

Further compounding these concerns is the fact that OCLA’s compensation rate continues to fall substantially below that of attorneys on contract with the Office of Public Defense (OPD) to provide representation to parents in child welfare proceedings and even further behind the fully loaded cost of the assistant attorney generals (AAG) representing the state through the Department of Children, Youth, and Families (DCYF) in these matters. In FY24, the average cost to the state for an AAG with appropriate support from a paralegal and a legal assistant cost the state \$335,700 per year in Seattle and \$322,837 in other locations throughout the state. Attorneys representing parents in dependency

² See Sec. 9(2), ch. 210, laws of 2021

³ See Standard 7 (c), Washington State Bar Association Standards of Indigent Defense (Revised March 8, 2024)

proceedings who are on contract with OPD enjoy a maximum compensation rate in excess of \$200,000. This substantial gap in funding often leads to challenges in OCLA recruiting and retaining qualified attorney contractors.

To address the pay concerns noted above, the Legislature approved the first part of a two biennia vendor rate increase for OCLA’s attorney contractors in the 2023 legislative session. At the time OCLA proposed a gradual increase in contracted attorney compensation that would increase the maximum compensation rate for attorney contractors to:

- \$168,480 in FY 24
- \$191,225 in FY 25
- \$219,909 in FY 26
- \$235,302 in FY 27

The Legislature funded the rate increases for the 2023-25 biennium (FY 24 and 25).

This Decision Package represents the final step toward addressing the parity gap and OCLA’s related contract recruitment and retention issues. OCLA is requesting that the next phase of vendor rate adjustments be funded during the 2025-27 biennium as follows:

- 12.6% increase in FY 26 to get to a maximum compensation rate of \$215,000
- 9.3% increase in FY 27 to get to a maximum compensation rate of \$235,000

This vendor rate increase will complete the multi-year vendor rate adjustment begun in FY 24, allowing OCLA to recruit and retain qualified attorney contractors as required by the Legislature. The funding requested will allow OCLA to make substantial progress toward achieving parity for attorneys who handle child welfare proceedings, regardless of who they represent: the state, parents, or children and youth.

Describe and quantify expected impacts on state residents.

OCLA is legislatively mandated to contract with attorneys to represent children and youth in dependency and termination cases. Upon full implementation of the program in FY 2028, OCLA contracted attorneys will represent nearly 5,000 children and youth in dependency and termination of parental rights proceedings across the state. OCLA’s capacity to meet this mandate is a function of its ability to recruit, train, contract with, and ultimately retain qualified attorneys in every corner of the state.

Explain what alternatives were explored by the agency and why this was the best option chosen.

The Children’s Representation Program is a statutorily mandated program. There is no other source of funding to address the compensation parity challenges OCLA and its contractors face. Failure to adequately compensate contracted attorneys at a rate which allows them to render standards-based advocacy in addition to attaining a quality of life comparable to that of their colleagues on contract with the Office of Public Defense and those employed by the Attorney General’s Office threatens OCLA’s ability to sustain its mandatory representation programs.

What are the consequences of not funding this request?

Not funding this request would exacerbate existing difficulties in recruiting and retaining experienced attorneys who are qualified to accept an OCLA CRP contract to provide statutorily mandated representation of children and youth in dependency and termination proceedings. The program’s inability to adequately staff all counties in Washington could result in significant delays in the appointment of counsel for children and youth entitled to counsel under the law, which in turn threatens delayed permanency for the children/youth and opens the door for future legal challenges. Prolonged stays in foster care and future legal challenges present additional costs to the state.

Is this an expansion or alteration of a current program or service?

This request will ensure continuity of existing CRP programs and OCLA’s ability to timely implement the directive for expansion of appointed counsel for children and youth set forth in RCW 13.34.212(3)(c).

Decision Package expenditure, FTE and revenue assumptions:

Use Standard Costs?

No

If No, Explain Additional Costs	Round to Nearest \$1,000				Description/Assumptions
	FY 26	FY 27	FY 28	FY 29	
Professional Service Contracts	\$1,752,000	\$3,916,000	\$4,664,000	\$4,840,000	Assumes an effective full-time (FT) contractor equivalent total for each fiscal year as follows: FY 26: 73 FT contractors FY 27: 89 FT contractors FY28: 106 FT contractors FY 29 110 FT contractors FY 29 will mark the full implementation of the “1219 program” (RCW 13.34.212(3)) and a full phase-out of the “legally free program” (RCW 13.34.212(1))
Less: Inter-agency Reimbursements*	\$(333,000)	\$(744,000)	\$(886,000)	\$(920,000)	Assumes a PEN rate of 19% for Title IV-E reimbursement
Net Professional Service Contracts	\$1,419,000	\$3,172,000	\$3,778,000	\$3,920,000	

**Note: Per legislative directive, OCLA enters into an interagency agreement with the Department of Children, Youth & Families (DYCF) to secure partial reimbursement from the federal government for Title IV-E qualifying expenses. The rate for the entire year varies, generally between 18% and 21%. An average reimbursement rate of 19% is assumed for budget planning.*

How does the package relate to the Judicial Branch principal policy objectives?

A vendor rate adjustment will help ensure that OCLA’s CRP can recruit and retain adequate numbers of qualified attorney contractors to effectively represent children and youth subject to dependency and termination of parental rights proceedings. The decision package serves the following judicial branch objectives:

Fair and Effective Administration of Justice

Adequately compensated and resourced attorneys are better able to comply with published practice standards which OCLA is statutorily mandated to enforce.

Accessibility

Children with disabilities are overrepresented in the child welfare system. Supporting OCLA’s ability to recruit and retain qualified legal counsel promotes access to justice for vulnerable minors.

Access to Necessary Representation

Children and youth in Washington state who are subject to dependency and termination of parental rights proceedings are required to receive high-quality, standards-based legal representation pursuant to RCW 13.34.212 and RCW 13.34.267(6). Funding this request serves to support OCLA’s ability to successfully attract and retain quality legal counsel for the benefit of these children and youth.

How does the package impact equity in the state?

Address any target populations or communities that will benefit from this proposal.

BIPOC and LGBTQIA+ youth are among the most overrepresented demographics in the child welfare system. OCLA’s ability to attract and retain high-quality legal counsel will directly benefit those who are disproportionately harmed by the system, as Washington-based studies show that standards-based legal representation results in quicker case resolution, greater placement stability, and greater education stability for children in care.

Describe whether and, if so, how the agency received community input and engagement.

OCLA’s full-time contractor base was surveyed.

Which target populations or communities would be disproportionately harmed by this proposal. Explain why and how these negative equity impacts will be mitigated.

Equity of access would only be increased by this proposal. As noted above, BIPOC and LGBTQIA+ youth are among the most overrepresented demographics in the child welfare system. This Decision Package would assist OCLA’s in attracting and retaining high-quality legal counsel to directly benefit those who are disproportionately harmed by the system.

Are there impacts to other governmental entities?

Funding this request would not create any impact or obligation on other agencies, courts, or governments. Failure to fund this request however could result in delayed appointment of counsel for children and youth, which in turn could impact case backlogs in the trial and appellate courts – and push the state further behind federal dependency timeliness requirements.

Stakeholder response:

There has been no opposition to this request. Attorneys surveyed as part of OCLA’s efforts to understand contractor needs were clear and unified in their response that compensation is inadequate, and there has been no opposition to this request.

Are there legal or administrative mandates that require this package to be funded?

RCW 13.34.212(1)&(3) and RCW 13.34.267(6) direct that certain children and youth be appointed counsel in dependency and termination cases. This decision package ensures OCLA’s capacity to meet these mandates over the course of the next biennium and beyond.

Does current law need to be changed to successfully implement this package?

No

Are there impacts to state facilities?

No

Are there other supporting materials that strengthen the case for this request?

See attached calculation worksheet

Are there information technology impacts?

No

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