

Parent Attorney National Compensation Survey - 2015

In 2013, the ABA National Project to Improve Representation for Parents Involved in the Child Welfare System surveyed state officials and attorneys regarding parent attorney pay structures, rates, and supports. This was in response to interest in the field, expressed by parents' attorneys at conferences and on listservs. We re-distributed substantially the same survey in 2015 to track any changes over time.

Representing any party in child welfare can be emotionally taxing enough without inadequate pay and infrastructure. We hope these results can be useful to states, tribes, or counties who want to improve their systems.

Overall, the survey results confirm that compensation is still an issue nationally. Because different states are represented from 2013 to 2015, it is difficult to speculate on overall trends, especially considering numbers were similar overall. It is clear that overall pay rates are still not good. Further, many of the obstacles to fair compensation remain from 2013 including:

- ◆ inadequate compensation for out-of-court time
- ◆ a lack of coverage for travel, even to see clients in some jurisdictions
- ◆ Lack of multi-disciplinary support (parent mentors, social workers, investigators),
- ◆ a lack of caseload caps, and
- ◆ funding caps in systems that do not seem adequate especially for some more involved cases.

These obstacles result in parents not always receiving the high quality representation they need to ensure the best outcomes for their children and families. Ultimately, these results show that the support given to parents and their attorneys falls short of the ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases.

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Surveys Received

The survey was distributed in hard copy at the 4th National ABA Parent Attorney Conference and the link was sent over the Parents' Attorneys listserv. In total, 132 responses were received. While this total number of responses was less than 2013 results, the number of jurisdictions represented was similar (38 in 2013 and 39 in 2015).

Responses per State

37 states, the District of Columbia, and the Leech Lake Band of Ojibwe are represented. States not represented included Alabama, Hawaii, Indiana, Kansas, Kentucky, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota and Utah.

A few states had large numbers of responses –North Carolina (14), Minnesota (14), Massachusetts (8) and Illinois (8). For some questions we merged answers of all the respondents from a jurisdiction into one.

Because compensation often varies locally, respondents were asked to identify whether they were answering for their: ‘State/ Tribe/Territory, County/Parish, Judicial District, or Other’, where “other” included multiple counties or through a contract.

Responses were for (n=132):

| | |
|------------------------|----|
| State/Tribe/Territory: | 57 |
| County/Parish: | 54 |
| Judicial District: | 17 |
| Other: please explain | 4 |

Funding Administration

Respondents were asked “*How is funding for appointed parents' attorneys administered in your state/tribe/territory?*”

Total responses were (n = 138)¹:

| | | |
|-----------------------|-----|----|
| State/Tribe: | 51% | 70 |
| County/Parish: | 35% | 48 |
| Judicial District: | 2% | 4 |
| Other: please explain | 12% | 16 |

Most states have some exceptions, so whether a state falls into one of the below or would be considered a “hybrid” is really a matter of degree. Also, the results below should be viewed with the caveat that some states had fewer numbers and open ended responses varied as to their specificity, they merely represent the best estimate based on the information received. “Hybrid” systems include some combination of state/tribe, county/parish, judicial district and other.

For the 38 states and tribe, aggregated responses indicate funding is administered primarily by the (n=39):

| | | |
|-------------------------|-----|----|
| State/Tribe only: | 39% | 15 |
| County/Parish only: | 15% | 6 |
| Judicial District only: | 2% | 1 |
| Hybrid/Other | 44% | 17 |

The results were:

Primarily by state/tribe:

Alaska, Connecticut, District of Columbia, Iowa, Leech Lake Band Of Ojibwe, Maine, Massachusetts, Montana, Oklahoma, Oregon, South Carolina, Tennessee, Vermont, Washington, West Virginia

Primarily by county:

Arizona, Delaware, Georgia, Idaho, Michigan, Pennsylvania

Primarily by judicial district:

Wyoming

Hybrids:

¹ Responses could include multiple payment structures that exist within one jurisdiction.

Arkansas, California, Colorado, Florida, Illinois, Louisiana, Maryland, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Texas, Virginia, Wisconsin

Funding Sources

Respondents were asked “Where does financing for parent attorney representation come from? (Check all that apply.)”

For the 39 jurisdictions, aggregated responses indicate funding primarily comes from (n=39):

| | | |
|-------------|-----|----|
| State/tribe | 49% | 19 |
| County | 10% | 4 |
| CIP/Feds | 8% | 3 |
| Combination | 20% | 8 |
| Don't know | 5% | 2 |
| Other | 8% | 3 |

From the state/tribe:

Alaska, California, Colorado, Connecticut, Delaware, Florida, Idaho, Indiana, Iowa, Maine, Maryland, Massachusetts, New Mexico, Oregon, South Carolina, Tennessee, Virginia, West Virginia, Vermont

From the county:

Arizona, Michigan, Minnesota, Wyoming

CIP/Federal Grants etc.:

D.C., Mississippi, Missouri

Combination of state and county:

PA, Illinois, Wisconsin, Washington

Still others had combinations of more than two funders such as state, county, and child welfare agency (Texas), or additional city funds (New York), or the Legal Services Corporation (New Jersey & Missouri).

Compensation Systems

Next we asked about the pay structures.

Please indicate the compensation system(s) used for parents' attorneys in your jurisdiction. You may check more than one box. (n=139)

| | | |
|----------------------------------------|-----|----|
| By the hour | 51% | 71 |
| Salaried through an organization | 37% | 51 |
| Individual annual or periodic contract | 26% | 36 |
| Per case | 17% | 24 |
| Per hearing/event | 9% | 13 |
| Other: Please specify | 9% | 13 |

While there were many ‘other’ answers, they primarily added details which are addressed in follow-up questions below. There were no fundamentally new types of payments structures though there were hybrids of the above.

Hourly Payment Structures

Across all the responses, the hourly rates had a median low of **\$55** and high of **\$65**. Some examples of outliers include: Wyoming \$100-100, Texas \$40-150, Virginia \$90-90 range, New York, \$75-75range, California \$85-95, Minnesota \$50-100, and Mississippi \$20-30.

95% of those responding (n=66) indicated that **out-of-court time** was paid under an hourly system. When asked if out-of-court time was paid at the same hourly rate as in-court, 89% said it was (n=66).

11% noted that the **out-of-court pay** differed (n=66). All but one commenter indicated that the out-of-court rate was lower than the in-court rate.

We asked if there were **caseload caps** in hourly systems. (n=59).

- The majority of those answering (67%) indicated there are no caps.

For jurisdictions that do have **caseload caps**, results ranged from 60 open cases to 100, with several falling between those amounts.

There were many different schemes for **monetary caps** such as:. A cap ranging from \$1000 to \$5000 per case seems more do we mean most? typical. Some of the hourly rates include per hearing-type caps.

- Yes, \$1200 for juvenile matters through disposition hearing; \$300 limit for juvenile review hearings; \$600 limit for TPR
- I believe the pay cap is \$5,000.00. Anything additional must be court approved.
- Attorneys bill for in and out-of-court time. There are maximum amounts that attorneys are allowed to bill per "stage" or court event. If the attorney exceeds the maximum amount for a given stage, they are allowed to request an exception to be compensated for their full time spent on a case. Approval of the exception is at the discretion of the Executive Director of the Maine Commission on Indigent Legal Services. There is no cap on the amount of appointments that an attorney can accept at one time.
- \$1,980 from initial hearing to disposition / \$1,980 each year post disposition / \$2,500 for TPR defense / \$1,980 for adoption defense / Annual cap for amount of money paid to an attorney by the court for all type of court-appointed work - \$135,200 (rare to non-existent)
- \$120 cap per case
- \$120
- Yes, \$120 per case which includes in court and out of court time. \$158 if case is appealed to circuit court
- \$3,000 per case but can use more if judge signs off on motion to exceed
- Only panels are paid hourly, cap is \$3000
- \$1,000

For **time-based caps**, a couple respondents noted caps of 1650 to 1850 hours per year.

We asked “*Are there any **other limitations** on hourly pay? Such as things that are not compensated like waiting in court if there is a docket delay*” (n=58)

31% said there were no other limitations regarding compensation for the hourly systems. (n=58).

The following were listed by respondents as not being compensated in whole or part:

| | | |
|---------------------------------------------------|-----|----|
| Travel time or mileage | 9% | 5 |
| Waiting (esp. in court) | 29% | 17 |
| Administrative items (reviewing files, mail, fax) | 3% | 2 |
| Various responses | 28% | 16 |

Per Hearing/Event Payment Structures

Responses indicated median rates per hearing/event range from **\$100** to **\$125** (n=9).

Only half the responses indicated **Out-of-court time** was covered (36% v. 36%); 28% did not know (n =11).

More than half (5) reported there were no **caseload caps** under this system (n=9). For those reporting caps (4), there were pay caps (presumably for out-of-court time added) which could be exceeded by applying to the court to waive the pay cap

As to “*any other limits on the per hearing/event pay? Such as things that are not compensated like waiting in court if there is a docket delay?*” there was a total monetary cap per phase of the case in one jurisdiction.

Per Case Payment Structures

Median rates ranged from **\$750** to **\$855** per case (n=14).

We asked “*Does the rate-per-case payment renew annually? At some other time or situation?*”

Responses (n=18):

| | | |
|------------------------------------------|-----|---|
| Yes, renews annually | 44% | 8 |
| No | 11% | 2 |
| Payment structure changes after x period | 11% | 2 |
| Other | 34% | 6 |

Other responses indicated other hybrids of per hearing structures, a different rate for removal and non-removal cases, and several with renewals for TPR phases.

We asked “*Are there caseload caps for the pay-per-case system?*”

Responses (n=15):

| | | | |
|-----|-----|----|-------------------------------------------------|
| Yes | 27% | 4 | (caseload caps of 75, 75, 100 & 120) |
| No | 67% | 10 | |
| CAL | 6% | 1 | (California is looking at this issue right now) |

Individual annual or periodic contract

Attorneys with individual contracts were reported to receive median annual compensation that ranged from **\$40,000 to \$60,000** (n=23). Salaries range from a low of \$4,285 to a high of \$157,200.

Average caseload size includes (n=23):

| | | |
|-----------|-----|---|
| 20-40 | 30% | 7 |
| 20-60 | 9% | 2 |
| 70-90 | 22% | 5 |
| 120-140 | 13% | 3 |
| Up to 150 | 13% | 3 |
| Other | 13% | 3 |

There are usually (67%) no **caseload caps** under the periodic contract systems (n=24). For those that reported caps, there are some in specific parts of the state, there are other ways caseloads get adjusted if they get too large.

Attorneys with Salaries through an Organization

Attorneys with organizations/agencies were said to receive annual salaries from **\$45,500 to \$75,000** (n=37).

Attorneys with organizations are less likely to have **caseload caps** ('Yes' 20% v. 'No' 73%)(n=41); 7%(4) reported having a goal (e.g., 50, 150), or a soft cap (e.g., 40).

The 6 that reported specific cap numbers include: 35, 50-55, 70 private bar/20-45 public bar, 120-140, 300

Other Multi-disciplinary Supports for Parents' Attorneys

We also asked about support staff/consultants that might be able to assist on the parents' team. Respondents could check all that applied (n=115):

The following were identified:

| | | |
|----------------|-----|----|
| Parent mentors | 16% | 18 |
| Social workers | 34% | 39 |
| Investigators | 25% | 29 |
| Other supports | 25% | 29 |

We asked how these positions were funded. Top responses included (n=45):

| | | |
|-----------------------------------|-----|----|
| A state/county agency | 63% | 28 |
| Private foundations | 9% | 4 |
| They are not, they are volunteers | 5% | 2 |
| Other comments | 23% | 11 |