

RESOLUTION NO: 17-08

A Resolution to Authorize a Legal Services Agreement Between the Human Services Department and the Corporation Counsel for CY 2008

WHEREAS, pursuant to County resolutions, the Corporation Counsel has in several past years hired outside legal services and in 2007 provided legal services through its office to prosecute termination of parental rights cases on a expedited and cost-efficient manner; and

WHEREAS, the Human Services Department has informed the Corporation Counsel that there exists a continuing need to process termination of parental rights cases that will require prosecution in calendar year 2008; and

WHEREAS, the Federal government maintains a program under Title IV-E for counties to receive reimbursement for the cost of legal services incurred in child welfare cases, which include termination of parental rights cases; and

WHEREAS, to receive Federal IV-E reimbursement for legal services for termination of parental rights cases, the Human Services Department must enter into a legal services agreement with the Corporation Counsel; and

WHEREAS, entering into and implementing a legal services agreement as required for Federal Title IV-E reimbursement will allow Polk County to continue to prosecute termination of parental rights cases expeditiously and cost effectively; and

WHEREAS the office of the Corporation Counsel is fully staffed such that legal services for termination of parental rights cases may be provided to the Human Services Department through the attorneys employed within the office of the Corporation Counsel rather than through outside counsel; and

WHEREAS, should it become necessary in certain situations to employ outside legal services for consultation or prosecution of termination of parental rights cases the Corporation Counsel will make such determination as necessary and available within its budget for such activities; and

WHEREAS, the Federal Title IV-E legal reimbursement program allows reimbursement of legal services purchased or provided by the Office of Corporation Counsel based upon the personnel costs of such purchased attorneys or the attorneys and staff of the Office of the Corporation Counsel that are expended toward the provision of legal services in termination of parental rights cases; and

WHEREAS, the Human Services Board has approved a legal services agreement between the Human Services Department and the Corporation Counsel that directs the

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Corporation Counsel to provide legal services for the purposes of prosecuting termination of parental rights cases; and

WHEREAS, the Personnel Committee has approved a legal services agreement between the Human Services Department and the Corporation Counsel that directs the Corporation Counsel to provide legal services for the purposes of prosecuting termination of parental rights cases; and

NOW THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors authorizes the Polk County Human Services Department and the Polk County Corporation Counsel to enter into a legal services agreement, a copy of which is attached hereto and incorporated herein, effective January 1, 2008 for the purposes of Federal IV-E reimbursement for termination of parental rights cases.

Initial Funding Amount: \$25, 000.00 (County Match for Title IV-E Program)
Funding Source: Personnel lines of Corp. Counsel - General Fund (as match)
(Anticipated Title IV-E reimbursement \$10,000.00)

Effective Date: Upon Passage

Finance Committee Advised: 2008 Budgetary Cycle

Approved as to Form: Jeffrey B. Fuge
Jeffrey B. Fuge, Corporation Counsel

Date Submitted to County Board: 3/11/08

County Board Action: Adopted

Submitted by Personnel Committee:

Russell E. Award 2/28/08 Patricia M. Schmidt
Duana Brenner
Paul H. Merrill

Submitted by the Human Services Board:

David Markert Ken H. Olf
Kenneth Oros John Duff
Robert A. Blah Henry Jones
Eric Hildner 2-21-08

2008
LEGAL SERVICES AGREEMENT
RELATED TO CHILD WELFARE CASES

INTRODUCTION

This Agreement is entered into between the Polk County Human Services Department (referred to as the 'Department') and the Polk County Corporation Counsel (referred to as 'County Attorney') as a requirement to participate in the legal services reimbursement program. This Agreement and the application to the State Department of Health and Family Services (DHFS) for participation in the legal services reimbursement program describe the amount of legal staff time and other legal services to be devoted to child welfare cases, the responsibilities of each agency, and how IV-E reimbursement will be used to improve legal services for child welfare cases.

I. FINANCIAL ARRANGEMENTS

- A. The Department will provide for the cost of salary, benefits, and related legal expenses that will be incurred through the office of the County Attorney. The office of the County attorney will be responsible for the provision of legal services related to the preparation and prosecution of Termination of Parental Rights (TPR) cases. The office of the County Attorney employs two attorneys, one of which is primarily assigned the responsibility of TPR cases. The office of County Attorney employs two legal support staff whose responsibility, with regard to TPR cases, is to assist the assigned county attorney in the preparation and prosecution of TPR cases. The office of the County Attorney will also hire outside counsel for the preparation and prosecution of TPR cases. The Department's financial responsibility is limited to the extent of available federal and state resources under the Title IV-E program.

- B. For purposes of Title IV-E reimbursement, the County attorney will identify county-match dollars that will consist of attorney and legal support staff time costs and case-related expenses incurred through the office of the County Attorney, both internal to said office and external as invoiced by an outside law firm. Case-related expenses include, but are not limited to, costs related to evidence preparation, publication of notices, and expert testimony.

- C. The office of the County attorney will track the county-match dollars identified costs and expenses incurred internally and externally for the

purposes of TPR case preparation and prosecution. The office of the County Attorney will bill case related costs and expenses, as identified for TPR purposes, to the Department.

- D. The Department will submit county-match tracking information to the Wisconsin Department of Health and Family Services for purposes of reimbursement under the Title IV-E program.

II. COUNTY ATTORNEY

- A. The Department has informed the County Attorney that it anticipates 4 TPR cases requiring prosecution. Based upon such projections, it is estimated that approximately 15% of one FTE attorney hours for calendar year 2008 will be consumed by child welfare related legal services including, but not limited to, TPR, and related placement issues. Attorney time expended for child welfare related issues, including, but not limited to, TPR cases, will be tracked on actual time basis by the attorney and reported to the Department as match for the IV-E reimbursement. Only time so reported is eligible for reimbursement, regardless of the estimate of time attributable to child welfare related legal services.
- B. Based upon the noted projections, it is estimated that approximately 10% of a one FTE support staff for calendar year 2008 will be consumed in providing legal support services under the supervision of the attorney providing legal services pursuant to II. A., above. Support staff time expended for child welfare related issues, including, but not limited to, TPR cases, will be tracked on an actual time basis and reported to the Department as match for the IV-E reimbursement. Only time so reported is eligible for reimbursement, regardless of the estimate of time attributable to child welfare related legal services.
- C. Will track and report to the Department case related expenses such as, but not limited to, costs related to evidence preparation, publishing notices and expert testimony. Sufficient match dollars will be identified on an as needed basis and the County Attorney may bill case related costs and expenses to the Department.
- D. May contract with a private attorney on an hourly basis to provide legal services for child welfare cases, specifically, termination of parental rights cases and the County Attorney. Will provide direction, guidance and case related supervision to the attorney contracted by County Attorney.
- E. Will continue to represent the Department at all hearings involving child welfare legal services and to diligently pursue permanency for children in accordance with permanency plans including termination of parental rights

cases, where requested by the Department and where appropriate in the attorney's professional judgment.

- F. Will provide written explanations for denials of Department requests for child welfare legal services and document the reasons for such action citing applicable law.
- G. Will consult with Department staff on cases, the preparation of legal documents, providing testimony and obtaining court orders.
- H. Will manage request for child welfare legal actions efficiently within the timeframes agreed upon with the department and, if a backlog occurs, will participate in corrective action strategies to address the backlog.

III. THE DEPARTMENT

- A. Will track the IV-E reimbursement match time and costs reported by County Attorney and consult with that office if the time and/or costs are inadequate for match purposes.
- B. Will track the IV-E reimbursement match time and costs reported by County Attorney and consult with that office if the time and/or costs exceed expectations regarding applying for additional IV-E reimbursement funds.
- C. Will reimburse County Attorney for, or may pay directly, case related expenses such as, but not limited to, costs related to evidence preparation and expert testimony when sufficient match dollars are identified.
- D. Will work cooperatively with County Attorney and the contracted attorney, if any, in the preparation of child welfare legal services cases, including the provision of current case information and other necessary information for hearings.
- E. Will work cooperatively with County Attorney and the contracted attorney, if any, in arranging and conducting interviews of witnesses, coordinating with service providers and performing necessary follow-up when requested.
- F. Will provide County Attorney with updates when major changes occur or the status of a case changes which affects the legal position of the Department.

- G. Will manage request for child welfare legal actions from County Attorney efficiently within time frames agreed on with the office and, if a backlog occurs, will participate in corrective action strategies to address the backlog.

IV. CORRECTIVE ACTION

Should performance be considered deficient in any aspect under this Agreement, the Department and County Attorney will meet to identify the deficient performance areas and develop a corrective action plan.

V. EFFECTIVE DATES AND AMENDMENTS

- A. This Agreement is effective January 1, 2008. It may be renewed for additional periods of one year.
- B. Amendments may be introduced into the Agreement by written concurrence of both parties at any time.
- C. Signatures for the:

POLK COUNTY HUMAN SERVICES DEPARTMENT:

Richard Kammerud

Date: _____

POLK COUNTY ATTORNEY:

Jeffrey B. Fuge

Date _____

**Title IV-E Reimbursement Program for Legal Services
CY 2008 Program Plan**

Indicate what types of legal services are included in the IV-E reimbursement program:

Legal services included in the Title IV-E reimbursement program are legal services provided on Termination of Parental Rights Cases.

Describe how the IV-E reimbursement will be used to improve child welfare legal services. How will the expanded legal services improve safety and permanency outcomes for children?

Polk County has an increased number of children that have been placed in foster care and for whom termination of parental rights are deemed necessary. These children are remaining in foster care because existing legal services of the county are insufficient to handle in a timely manner the number of cases referred for TPR. Hiring outside legal services, specialized in the field of TPR, will expedite the permanency process in certain situations. An Assistant Corporation Counsel has in recent years been hired and trained to assume responsibility for activities related to termination of parental rights.

If staff costs are included in the budget, describe what positions are included and whether the positions are existing or new. For new positions, explain what actions are necessary to create the position authority and the expected start date for the new staff.

The CY 2008 Program Plan is for the Assistant Corporation Counsel to provide legal services related to the termination of parental rights and if deemed necessary in certain specialized situations for the purchase of outside legal services of a law firm specialized in the field of TPR. In approving the county budget for CY 2008, the Polk County Board of Supervisors has approved an appropriation for the county match funds in an amount specified in the CY 2008 Fiscal Worksheet. The County Board of Supervisors has also approved a resolution authorizing the provision by the Corporation Counsel and as necessary the purchasing of such legal services. A certified copy of said resolution is also attached to the CY 2008 Program Plan.

If existing legal services costs are being used as match, explain how local funds freed up by the IV-E reimbursement will be reinvested in child welfare legal services or other child welfare program activities.

County Levy Dollars, rather than existing legal services, are being used as match up to the amount of \$10,500.00. The county match for legal services in excess of said amount, existing legal services within the Office of the Corporation Counsel may be used. To the extent that existing legal services of the Corporation Counsel will be so used, the Title IV-E Reimbursement Program for Legal Services allows for expansion of legal services provided for county child welfare legal services.

**Title IV-E Reimbursement Program for Legal Services
CY 2008 Fiscal Worksheet**

County HSD: Polk County Human Services Department
Contact Person: Richard Kammerud, Director
Telephone/Email: 715.485.8492 / richk@co.polk.wi.us

Legal Service Provider: Polk County Corporation Counsel
Contract Person(s): Jeffrey B. Fuge, Corporation Counsel
Telephone/Email: 715.485.9210 / JeffF@co.polk.wi.us

Legal Services Program Budget:

Projected Expenses	County Match Funds	Title IV-E Funds	Total CY 2008 Budget
Attorney and Support Staff of the Corporation Counsel (Solely TPR Cases)	\$25,000	\$10,000.00	\$35,000.00
TOTAL EXPENSES	\$25,000.00	\$10,000.00	\$35,000.00

Note: The Title IV-E reimbursement for legal services costs is limited to 33% of the total costs. Legal Expenses incurred solely for Termination of Parental Rights Cases are reimbursable at the rate of 40 % of total costs.

The 33% (40%) IV-E limit does not apply to each line item. Line items can be funded either 100% match, 100% IV-E or a mix of both funds as long as the IV-E share of the total costs is limited to 33% (40%).

Describe the local sources of funds used as match for the IV-E reimbursement: County Levy Dollars is the source of County Match Funds.

Describe the method that will be used to keep track of legal services staff time devoted to IV-E reimbursable activities:

The Corporation Counsel, or when contracted, the law firm with whom Polk County contracts will keep a time log of all activities that are billed. The law firm will use actual time cost methodology.