



Acacia Center for Justice

## **Policy Brief**

# **Defending Children and Overcoming Burnout in a Harmful Immigration System**

October 2024



Each year, thousands of immigrant children arrive in the United States alone, without the protection of an adult legal guardian. These children, many fleeing violence and instability, face a daunting and harmful immigration enforcement system, often without an attorney or legal representative to advocate for them. According to the Congressional Research Service, fewer than 54 percent of unaccompanied children whose cases concluded between FY18 and FY21 had legal representation.<sup>1</sup> However, the Office of Refugee Resettlement (ORR) – the federal agency charged with overseeing the care and supervision of unaccompanied children and youth – has stated that they aim to achieve a 100 percent representation rate by 2027.<sup>2</sup> This laudable and ambitious goal will not be achieved without the development of a robust and sustainable interdisciplinary legal representation workforce willing and able to advocate for immigrant youth in the coming years.

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The field of immigration legal services is at a critical juncture. Despite growth and persistent efforts to recruit more skilled attorneys, the sector faces significant challenges, including high attrition rates.<sup>4</sup> The Acacia Center for Justice conducted a [study](#) to understand how the work of representing children with immigration needs affects attorneys in the field and what methods may be deployed to promote greater longevity for attorneys representing children in immigration proceedings.<sup>5</sup> This policy brief expands upon the recommendations from that study

and lay out specific actions which should be taken by federal, state and local governments, funders, law schools, and immigration services organizations. With an upcoming change in presidential administration, there is urgency to support the field of immigration legal services to weather the tumultuous immigration law and policy environment and ensure that children in immigration proceedings facing deportation have access to justice.

## **Invest in Holistic Service Models to Mitigate Effects of Vicarious Trauma and Burnout**

Many children arrive at the border having witnessed or experienced violence, persecution, family separation, and other trauma. Displaced children often are hoping to reunite with family members in the United States while others are attempting to find safety and security for themselves without any family ties in the United States and little resource support. Many immigration attorneys enter the field with minimal training in trauma-informed and child-centered approaches to legal defense.<sup>3</sup> However, they work to support their young clients in meeting their legal and nonlegal needs to the best of their abilities, often playing the role of both attorney and social worker. This can lead to attorneys feeling burnt out, managing vicarious trauma, and leaving the field.



### Risk of Client Re-Traumatization and Vicarious Trauma while Lawyering

Advocates must provide a clear, accurate, and consistent account of the circumstances that pushed a young person to flee their country of origin in order to help a child secure relief from deportation. Attorneys have a responsibility to develop the strongest possible defense for their client, which requires them to ask clients for a detailed account of past traumatic experiences. When attorneys lack trauma-informed and therapeutic training, they risk re-traumatizing their young clients and experiencing vicarious trauma themselves by asking clients to relive challenging experiences multiple times without providing the necessary support to appropriately process such experiences. It is imperative that attorneys be equipped to create safe spaces for their clients and appropriately address their own vicarious trauma to be the most effective advocates.

Funders should support service providers to integrate social services staff into all stages of legal representation: holistic legal representation models have emerged in other legal fields such as child welfare and criminal defense. Holistic legal representation ensures that a child's legal and non-legal needs are addressed simultaneously, leading to more effective, trauma-informed, and child-centered advocacy. The integration of social services professionals at every stage of representation — from intake to relief — can significantly improve the quality of legal representation.

This approach not only enhances the attorney's ability to advocate for the child, but also ensures that the child's emotional and social needs are met, leading to greater engagement and better overall outcomes in their cases.<sup>6</sup>

#### **1. Organizations should equally value and support legal and social work services.**

Legal service providers should strive for a balanced distribution of caseloads and workloads, ensuring that the ratio of attorneys to social workers or case managers is aligned with the needs of both the organization and its clients. By investing in this equitable, interdisciplinary approach, funders can help build a more resilient and effective system that truly serves the best interests of immigrant children.

#### **2. State and local governments should expand funding and coordination for integrated social services and improve local coordination across the fields of child welfare and immigration legal services.**

State and local jurisdictions should fund immigration legal services to hire and retain social services staff at grantee organizations to build long-term capacity for holistic legal services.



State and local agencies have valuable insights into how other non-legal, youth-serving programs support immigrant children and the gaps in support that exist. City and state agencies can play a critical coordinating role to bridge experts across the fields of child welfare and immigration legal services, creating more pathways for information sharing and collaboration, and further enhancing holistic legal service programs. This funding is crucial while simultaneously pursuing the goal of reaching federal funding for universal and holistic representation of all immigrants facing deportation and detention. Such funding will help ensure that the organizational and workforce capacity exists to implement universal representation when the day arrives where there is a right to appointed counsel in immigration court.

### **3. The philanthropic sector can build capacity and support innovation.**

The fiscal outlooks of federal, state, and local governments vary year to year and political pressures make it challenging to sustain investments in certain jurisdictions. The philanthropic sector plays a crucial role in advancing and sustaining innovative holistic legal services for immigrant children. Given the variability of government funding and the political challenges that can impact investment continuity, private funding becomes vital. In regions with the greatest need often facing the lowest levels of investment, philanthropic support can help build and expand capacity where it is most needed. It can also act as a crucial safety net when government funding is insufficient or inconsistent. Philanthropic contributions offer a unique opportunity to drive continuous innovation. By providing additional resources, philanthropic organizations can empower service providers to enhance their holistic legal representation models and tailor them to the specific needs of unaccompanied children. This support ensures that organizations can adapt and improve their services to better serve their communities, even in the face of fluctuating public funding.

## **Provide Robust Vicarious Trauma Training in Law School and Workplaces**

Although the American Bar Association (ABA) launched the Well-Being Pledge Campaign in 2017, which mandates signatories to provide training in well-being as a critical aspect of professional identity formation for law students, there is still a need for ongoing education on vicarious trauma and burnout both in law school and in the workplace.<sup>7</sup> The ABA Well-Being Pledge Campaign “was launched to improve the substance use and mental health landscape of the legal profession, with an emphasis on helping legal employers support a healthy and sustainable work environment.” Legal employers and law schools who do so are recognized as “signatories to the pledge.”<sup>8</sup> Despite efforts like this, law school curricula rarely prioritize training around trauma-informed engagement or organizational practices that foster wellbeing and function as secondary traumatic stress prevention. If it is included in a curriculum, it usually is limited and not ongoing, comprehensive, or targeted to address issues of resiliency, burnout, stress management, and mental health awareness.



Although training on trauma-informed engagement and vicarious trauma have become more common in the immigration law workplace, they rarely extend beyond a single session and are not universally provided. The fast-paced work environment makes it challenging to prioritize this type of support. Moreover, employers may lack the capacity, training, or financial resources to facilitate these kinds of trainings as professional development.

Incorporating ongoing well-being training into the curricula in law schools would build multi-level secondary traumatic stress competency and preventative skills-building into the language and culture of a legal education. It would proactively equip law students with self-care tools to identify, prevent, and address vicarious trauma and burnout in their work before starting their careers. With that foundation of knowledge and tools, lawyers can enter their workplaces more prepared, resilient, and equipped to foster communities of support at their organizations as a form of secondary traumatic stress and burnout prevention. In addition, if they are promoted to supervisory roles at their firms or legal organizations, they will be familiar with concepts around vicarious trauma and burnout such that they can provide support for the people they supervise. Supervisors should be trained that vicarious trauma is a natural and expected part of doing this work and rather than avoid or ignore this aspect of the profession, should provide informed support to staff experiencing burnout.

Law Schools should implement:

### **1. Mandatory Curricula**

Law schools should incorporate a mandatory curriculum about trauma-informed engagement, vicarious trauma, stress management, and self-care, in both law clinics and traditional classroom settings. The mandatory curriculum should begin with first-year students and proceed with ongoing curricula for second- and third-year students. Training must include the ability to recognize trauma, normalize conversations around trauma, and learn mental health and stress management skills to promote the ability of law staff to cope with secondary trauma in the workplace. It should include additional coaching on setting healthy professional boundaries and self-advocacy strategies to do so, prioritizing the holistic aspect of this work.

### **2. Internal Assessments of Secondary Traumatic Stress Competency and Trauma-Informed Advising**

To learn more about areas of need, law schools should implement tools to assess internally among faculty, support staff, and students, for knowledge on trauma, secondary traumatic stress, and burnout. Law schools can also provide training and education to faculty and advisors on trauma-informed advising. Equipping advisors and faculty with tools such as psychological first aid, and practices such as critical incident debriefing and regular check-ins centered on wellness and work/school/life balance, will play a vital role in student learning, skills-building, and institutional change through the modeling of trauma-informed engagement.



### 3. Resource Sharing

In addition to implementing curricula, law schools should share learning opportunities and resources on mental health such as information about wellness programs, and tools to plan for self-care and assess wellness (i.e.; the self-care wheel, the Professional Quality of Life scale, Compassion Fatigue vs. Compassion Satisfaction assessment, wellness apps). Law schools can also share reminders about on-campus mental health resources like counseling services. When schools share opportunities for advocacy or political engagement, this can also be a form of secondary traumatic stress prevention by allowing students to direct their frustration, anger, or sense of powerlessness towards the insufficiency of social and legal systems students are learning to navigate.<sup>9</sup>

### 4. Mechanisms for communication

Law schools should provide mechanisms by which students can communicate needs and suggest solutions. Appointing a liaison to the main campus can fortify those lines of communication between students and the administration.

### 5. Space for connection

Law schools should facilitate spaces that encourage students to come together, share experiences and support one another, and create opportunities to connect with faculty or practitioners in the field. This can start with group debriefing practices in the classroom, facilitation of social or wellness events, or encouragement of interest/affinity groups.

Some law schools that have implemented such practices through curricula and other wellness programming:

**CUNY School of Law** offers regular wellness activities such as weekly meditation and wellness workshops. They also bring in outside practitioners to teach topics such as acupressure and self-massage, somatic tools, or movement classes such as yoga, dance, or stretching.<sup>10</sup>

**Fordham School of Law** offers a robust mental health and wellness co-curriculum that includes a mandatory Wellness 101 program for first year students.<sup>11</sup>

**UC Irvine** offers opportunities for experiential learning, wellness curriculum and seminars, as well as campus resources that include:

- Happiness and Peak Performance for Law Students seminar;
- Clinics on trauma-informed lawyering;
- Pro Bono projects and externships which offer their own trainings as well as general trainings on vicarious trauma;
- Partnerships with student organizations like Mental Health in Law Society and the Public Interest Legal Foundation;



- Student affairs resources such as wellness programming and a liaison to the main campus;
- Main campus resources such as public health workshops and a counseling center.<sup>14</sup>

Workplaces should implement:

### **1. Required continuing education, internal focus on trauma competence, and trauma-informed supervision**

Vicarious trauma should be a required topic of continuing legal education (CLE) for immigration lawyers. Workplaces can also assess internally for secondary traumatic stress competence and provide access to trauma-informed supervision trainings, pre-trauma and stress inoculation trainings, or compassion fatigue resiliency programs.<sup>12</sup>

### **2. Mechanisms for communication**

Workplaces should provide mechanisms for staff to communicate systemic problems that exacerbate secondary traumatic stress/vicarious trauma/burnout and possible solutions. With these mechanisms, it is most useful to utilize transparent practices for reviewing staff feedback and creating space for discussion on solutions implemented and reasoning for those that are not.<sup>13</sup>

### **3. Space for connection**

By facilitating space for staff to connect and share experiences and best practices, such as group debriefing or social events, workplaces encourage a community of care within the organization and provide space for staff to support one another.

### **4. Resource sharing**

Workplaces can share mental health resources such as Employee Assistance Programs or group or individual counseling services, as well as wellness programs/apps, and self-care planning and assessment tools for burnout, wellbeing, and quality of life.

## **Offer Adequate Institutional Support, Flexibility, Better Salaries, and Sustainable Caseloads to Mitigate the Effect of Vicarious Trauma and Reduce Burnout**

Individual self-care can only be sustained long-term with adequate institutional support. Such support should include sufficient salary, benefits, and organizational policies and practices that foster a variety of self-care practices. Sustained institutional support will require alignment and collaboration among stakeholders at multiple levels including government (federal, state and local), private funders, and legal service providers.





According to The Resurrection Project and the Workforce & Organizational Research Center (WORC) report, the top five reasons attorneys consider leaving their positions are

1. the pay is too low,
2. the work is emotionally exhausting,
3. caseloads are too large,
4. lack of administrative support needed to do their job, and
5. little to no advancement at their organization.<sup>16</sup>

While the following recommendations require further research and evaluation given the complex interplay of factors that contribute to these working conditions, they point towards best practices for mitigating burnout that organizations and funders should implement.

### 1. Funders from all sectors can help address pay disparities

Funders should prioritize salary increases to address the persistent challenge of low wages within the sector. Immigration attorneys at non-profit organizations earn only 51% of the average salary of attorneys overall, and they face even greater disparities compared to their peers in other public interest fields.<sup>15</sup> A sufficient salary is necessary to retain attorneys in the field, address financial stress experienced by many attorneys, and allow attorneys to afford supportive self-care tools. Implementing these changes would help reduce the pressures of the work and better allow attorneys to thrive when advocating for children facing deportation.

#### a. Support Operating Costs and Research:

Funders should also invest in general operating costs for organizations and support research into salary, debt, and career pathways within the immigration legal services sector. It is important to note that further research is needed to examine salaries across free and low-cost immigration legal service providers and identify factors that hinder salary growth in this sector compared to other public interest fields. Additionally, qualitative research can provide insights into the challenges organizations face in increasing salaries and offer solutions to support their efforts.

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### 2. Organizations can enhance benefits packages

Benefits packages that promote an organizational culture around self-care are crucial to retention in the field. Policies must be looked at through the eyes of equity to ensure that policies do not inadvertently harm employees or create unnecessary barriers in practice. It is important to note that a policy may seem beneficial on the surface, but ultimately may create challenges in practice. For example, what may work for an employee without children may not work for an employee with children.

Organizations can assist by critically examining their organizational policies and practices to determine areas of potential growth to consider benefit packages that do the following:





- robustly cover mental health services for staff;
- provide processing sessions for staff to build community and best practices around processing vicarious trauma and reducing burnout;
- maintain organizational cultures that support work-life balance and discourage working over-time;
- allow flexibility in work schedules to provide time and space for staff to process and recover from particularly difficult meetings or accommodate family or wellness needs;
- provide options for hybrid work when possible; and
- explore job-splitting, a flexible work arrangement, where two or more employees share a position, dividing and allocating tasks according to skill requirement and desired availability. This is different from part-time roles in that the employees split tasks rather than each taking on the full role for part time.<sup>17</sup>

### 3. Workplaces should foster a culture grounded in community care

Organizations can also build an office culture that prioritizes community care by implementing different policies and practices including:

- shifting organizational culture to one based on co-creation and shared responsibility as culture does not live with one person or with leadership alone but is fostered as a collective;
- providing staff opportunities to weigh in what they want the organizational culture to look like,
- developing shared values and commitments by soliciting feedback from staff and setting the foundation for how everyone shows up in the organization,
- providing communication mechanisms to learn staff needs;
- normalizing celebrations as a group;
- creating a process to form employee resource or affinity groups within the organization. Such groups can help staff find support among their peers on various topics related to their identities; and
- naming changes in staffing and acknowledgement of losses or stressors.

This can be beneficial because it considers the intersectional needs of different staff members and accommodates them without judgment. Ultimately, this can help create opportunities for advocacy and learning.<sup>18</sup>

Additionally, organizations can incorporate practices that encourage healthy boundaries, such as:

- block off lunch/wellness breaks on staff calendars;
- have wellness days;
- create a work culture that respects staff autonomy;
- create spaces where staff can congregate; and
- create opportunities for socializing and peer support.<sup>19</sup>



**Funders** can assist by providing funding for substantive training and education that incorporates trauma-informed language and encourages self-care and work/life balance. Example of resources include wellness apps, self-care planning and assessment tools, use of language which recognizes historical and personal trauma among staff, and training for supervisors in psychological first aid and trauma-informed supervision practices. Trauma-informed practices may include regular check-ins and check-outs of meetings about wellness and needs where suggestions and feedback are provided.

#### 4. Organizations should assess case assignment strategies for more sustainable caseloads

Appropriately allocating and managing cases can help combat burnout. High caseloads are one of the top contributors to attorney burnout and organizations can assist by critically examining their caseload management policies and practices. Case management policies should consider:

1. the legal needs of cases assigned;
2. the non-legal needs of clients represented;
3. the emotional impacts of issues arising in the clients' cases on legal staff and the opportunity to adequately process those issues;
4. opportunities for growth based on caseload types; and
5. diversity of cases which consider individual preferences around specialization versus generalization of practice.

**Funders** can assist by providing funding that is not tied to caseload metrics as well as funding research into best practices for caseload management, with a specific lens on unaccompanied children's cases. Since many children's immigration cases span well over 5 years, caseloads quickly build without the opportunity to close out cases. Tying funding to caseload metrics without consideration of the longevity of immigration cases sets providers up to quickly exceed their capacity.



## Endnotes

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