



# Meeting the Needs of Parents with Psychiatric Disabilities Facing Loss of Child Custody: Advice for the Legal Profession

Robyn Powell, Susan Parish, Monika Mitra, and Joanne Nicholson • March 2020

## Background

Parents with psychiatric disabilities (also known as serious mental illness) and their families are highly vulnerable to child welfare system involvement and loss of child custody. A recent analysis of nationally-representative data found that parents with psychiatric disabilities were eight times more likely to be involved with the child welfare system and 25 times more likely to have their children removed from the home, compared to the general population.<sup>1</sup> In another study, mothers with psychiatric disabilities were about three times more likely than other mothers to have been involved with the child welfare system or to have experienced involuntary removal of their children from their homes.<sup>2</sup> Other studies have similarly found high rates of child welfare system involvement and child custody loss among parents with psychiatric disabilities.<sup>3,4,5,6</sup> These high rates reflect societal stigma towards people with psychiatric disabilities, among other factors.

Despite its importance, parents with psychiatric disabilities often lack access to meaningful legal representation when facing child welfare system involvement or loss of child custody.<sup>7,8</sup> In a study of 45 parents with psychiatric disabilities who were separated from their children, only parents who received both legal representation and mental health services regained custody.<sup>9</sup> Barriers to obtaining legal representation include cost and the paucity of attorneys who understand the needs and experiences of parents with psychiatric disabilities.<sup>7,8</sup> Additionally, legal services organizations often lack the resources to effectively represent parents with psychiatric disabilities.<sup>10</sup>

Using data drawn from interviews with 12 former clients of the Family Law Project, a program in

Massachusetts that provides free legal representation to low-income parents with psychiatric disabilities, we have identified five essential elements to providing meaningful legal representation for parents with psychiatric disabilities.

### 5 Elements to Providing Legal Representation for Parents with Psychiatric Disabilities



**Ensuring parents have a voice in the services they receive**



**Understanding of psychiatric disabilities**



**Continuity of services**



**Responsive and reflective services**



**Access to additional services and supports**

## 1. Ensuring Parents have a Voice in the Services They Receive



Legal services professionals must listen to the wants and needs of parents with psychiatric disabilities. Parents with psychiatric disabilities are a marginalized population, who often feel “voiceless.” Parents with

psychiatric disabilities must feel that they have control of their cases and that their attorneys are listening to their opinions. Ensuring parents with psychiatric disabilities have a voice also means



National Research Center for Parents with Disabilities  
Parents Empowering Parents  
Padres Empoderando a Padres

**Brandeis**

THE HELLER SCHOOL  
FOR SOCIAL POLICY  
AND MANAGEMENT  
Lurie Institute for  
Disability Policy

viewing them as experts on themselves and their families.

## 2. Understanding of Psychiatric Disabilities



Legal services personnel must have an in-depth knowledge about psychiatric disabilities. Information about psychiatric disabilities should be provided through comprehensive training and education on psychiatric disabilities and parenting. Specifically,

legal services personnel must understand information about diagnoses, symptoms, treatments, and how psychiatric disabilities affect parenting. Legal services personnel must also understand how to interact with parents with psychiatric disabilities, including showing them respect and support. In addition to training and education, attorneys and other legal services personnel can learn about the experiences and needs of parents with psychiatric disabilities by getting to know them personally.

## 3. Continuity of Services



Legal services for parents with psychiatric disabilities should be ongoing and wide-ranging. Parents with psychiatric disabilities often need continuing access to legal services. Some parents may need additional assistance directly related

to their child welfare system or family law cases, even after their initial cases close. Other parents may need assistance with additional areas of the law, like housing, education, and public benefits. Having access to ongoing legal services is crucial for many parents with psychiatric disabilities.

## 4. Responsive and Reflective Services



Legal services personnel should also ensure that parents with psychiatric disabilities have access to community-based services and supports. Parents with psychiatric disabilities often have

many unmet needs, such as financial insecurity, inadequate housing, and limited mental health supports. Such unmet needs can directly and indirectly affect the ability of parents to safely care for their children. As such, legal services staff must ensure that parents with psychiatric disabilities are connected to community-based services and supports.

## 5. Access to Additional Services and Supports



Legal services must respond to the needs of parents with psychiatric disabilities. For example, parents with psychiatric disabilities may need frequent

contact with their attorneys throughout their cases, so that they feel confident that they know what is happening. Legal services programs should reflect their clients better, including employing people with lived experience. In addition to greater racial and ethnic diversity, to reflect the parent population, legal services should provide peer supports, such as peer advocates.

## Concluding Remarks

Parents with psychiatric disabilities are at increased risk of child welfare system involvement and loss of child custody. At the same time, legal services are often inadequate for these families. The elements identified here should inform the development and implementation of legal services that will effectively meet the needs of parents with psychiatric disabilities.

*(Adapted from Powell, R.M., Mitra, M., Nicholson, J., & Parish, S.L. (2020). Perceived community-based needs of low-income parents with psychiatric disabilities who experienced legal challenges to their parenting rights. Children and Youth Services Review. [DOI: 10.1016/j.childyouth.2020.104902] and Powell, R.M., Parish, S.L., Mitra, M., & Nicholson, J. (2020). Responding to the legal needs of parents with psychiatric disabilities. Law & Inequality, 38(1), 69-114.)*





## References

1. Kaplan, K., Brusilovskiy, E., O'Shea, A. M., & Salzer, M. S. (2019). Child protective service disparities and serious mental illnesses: results from a national survey. *Psychiatric Services*, 70(3), 202-208.
2. Park, J. M., Solomon, P., & Mandell, D. S. (2006). Involvement in the child welfare system among mothers with serious mental illness. *Psychiatric Services*, 57(4), 493-497.
3. Hollingsworth, L. D. (2004). Child custody loss among women with persistent severe mental illness. *Social Work Research*, 28(4), 199-209.
4. Jones, D., Macias, R. L., Gold, P. B., Barreira, P., & Fisher, W. (2008). When parents with severe mental illness lose contact with their children: are psychiatric symptoms or substance use to blame?. *Journal of Loss and Trauma*, 13(4), 261-287.
5. Joseph, J. G., Joshi, S. V., Lewin, A. B. & Abrams, M. (1999). Characteristics and perceived needs of mothers with serious mental illness. *Psychiatric Services*, 50(10), 1357-1359.
6. Wall-Wieler, E., Roos, L. L., Brownell, M., Nickel, N. C., & Chateau, D. (2018). Predictors of having a first child taken into care at birth: A population-based retrospective cohort study. *Child Abuse & Neglect*, 76, 1-9.
7. Brunt, C., & Goodmark, L. (2002). Parenting in the face of prejudice: The need for representation for parents with mental illness. *Clearinghouse Review*, 36, 295-312.
8. Nemens, K. S., & Foster, D. (2015). Helping parents with mental illness: The value of professional partnerships fighting de facto bias in the American courts. In A. Reupert, D. Maybery, J. Nicholson et al. (Eds.) *Parental psychiatric disorder: Distressed parents and their families* (pp. 324-332). Cambridge, Cambridge University Press.
9. Jones, D., Macias, R. L., Gold, P. B., Barreira, P., & Fisher, W. (2008). When parents with severe mental illness lose contact with their children: Are psychiatric symptoms or substance use to blame?. *Journal of Loss and Trauma*, 13(4), 261-287.
10. Nemens, K., & Nicholson, J. (2006). The Clubhouse Family Legal Support Project for parents with mental illness. *Psychiatric Services*, 57(5), 720.

### How to Cite This Brief

Powell, R.M., Parish, S.L., Mitra, M., & Nicholson, J. (2020). Meeting the Needs of Parents with Psychiatric Disabilities Facing Loss of Child Custody: Advice for the Legal Profession. National Research Center for Parents with Disabilities. Brandeis University, Waltham, MA.

### Contact Us

 [heller.brandeis.edu/parents-with-disabilities](https://heller.brandeis.edu/parents-with-disabilities)  
 @NatRCPD  
 [facebook.com/nrcpd](https://facebook.com/nrcpd)  
 [centerforparents@brandeis.edu](mailto:centerforparents@brandeis.edu)