

District of Columbia Council  
Committee on Human Services

*Child and Family Services Agency Fiscal Year 2010 Oversight Hearing*

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Washington, DC

Good afternoon, Chairman Wells and members of the Committee on Human Services.

Thank you for the opportunity to testify today. I am Judith Sandalow, the executive director of the Children's Law Center (CLC),<sup>1</sup> the largest non-profit legal services organization in the District of Columbia and the only such organization devoted to a full spectrum of children's legal services. Every year, CLC represents 1,200 low-income children and families, including 500 children in foster care and several hundred foster parents and relatives of children in foster care. I welcome the opportunity to share thoughts with you on the performance of the Child and Family Services Agency (CFSA).

While CFSA has made some progress, the agency continues to struggle. There is some good news to report about CFSA's performance. The agency has begun steps to improve kinship placement and school stability. Unfortunately, at each stage of a child's and family's involvement, deep problems in our abuse and neglect system remain. In short, too little abuse and neglect is prevented, too many removal decisions are made poorly, too few foster children live with kin, the placement array for children in foster care is limited, efforts to ensure children's well-being while in care are too weak, and permanency occurs too infrequently.

## **I. Preventing Child Abuse and Neglect**

Child abuse and neglect is a tremendous problem in the District of Columbia. In 2007 (the year with the most recent public data based on reports to the federal government), CFSA determined that 2,757 children were victims of abuse or neglect.<sup>2</sup> This number has remained

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<sup>1</sup> Children's Law Center works to give every child in the District of Columbia a safe home, meaningful education and healthy life. As the largest nonprofit legal services provider in the District, our 70-person staff partners with hundreds of pro bono attorneys to serve 1,200 at-risk children each year. Applying the knowledge gained from this direct representation, we advocate for changes in the city's laws, policies and programs. For more information, visit [www.childrenslawcenter.org](http://www.childrenslawcenter.org).

<sup>2</sup> U.S. Department of Health and Human Services, Administration for Children and Youth, Children's Bureau, *Child Maltreatment 2007* at 33 (2009), <http://www.acf.hhs.gov/programs/cb/pubs/cm07/cm07.pdf>.

stubbornly high for several years<sup>3</sup> and likely underestimates the true extent of abuse and neglect because many cases are never reported. In a city with about 115,000 children, this is an incredibly disturbing statistic.

The harm that abuse and neglect causes children demands, by itself, strong efforts to prevent it. But the financial strain on the District's foster care system that results from ignoring the problem makes abuse and neglect prevention a fiscal necessity. The District has a limited supply of foster homes, specialized services, funding, and everything else that abused and neglected children need. An overstressed system will not serve foster children or the District's fiscal health well. A strong prevention plan is essential.

To its credit, in 2006 CFSA called for a "prevention plan that is comprehensive, adequately resourced, and that determines the appropriate level and mix of services to address the District's prevention needs."<sup>4</sup> A truly comprehensive plan would require the involvement of several government agencies, including the Departments of Health and Mental Health and the DC Public Schools. It would also require the participation of businesses, non-profits and individuals. For this reason, its development and implementation must be led at the Mayoral level, not by CFSA.

Unfortunately, four years later, the District still lacks a plan of this detail. We continue to urge the District government to develop a plan with sufficient details and resources to match the scope of the need.

If the District chooses to pursue such a prevention plan, it will have several proven programs from which to choose. For instance, home visiting programs for parents at high risk of

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<sup>3</sup> CFSA found 2759 children to be victims of abuse or neglect in 2006, and 2840 in 2005. *Child Maltreatment 2006* at 34 (2008), <http://www.acf.hhs.gov/programs/cb/pubs/cm06/cm06.pdf>; *Child Maltreatment 2005* at 16 (2007), <http://www.acf.hhs.gov/programs/cb/pubs/cm05/cm05.pdf>.

<sup>4</sup> District of Columbia Government, Child and Family Services Agency, *The Assessment of District Programs to Prevent Child Abuse and Neglect* at 7 (2006), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/canprevent\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/canprevent_final.pdf).

abusing their young children can cut abuse and neglect nearly in half<sup>5</sup> and save \$5.70 for every dollar spent.<sup>6</sup> Even in difficult financial times, the District cannot afford to not invest in such programs.

## II. Ongoing Problems with CFSA's Removal Decisions

Removing children from their homes – even abusive or neglectful homes – is an inherently traumatizing action. This trauma is often avoidable because in most situations children can stay safely with their families – even when their families are struggling.<sup>7</sup> These traumatic removals should only occur as a last resort, when prevention and support services are unable to prevent children from being harmed in their homes. CFSA has taken some steps in recent years to avoid separating children from their families unnecessarily, in particular holding “family team meetings” to achieve resolutions that do not require removal or court intervention.

Still, our lawyers represent too many children whom CFSA should never have removed. The good news is that in many – but not all – of these cases, CFSA realizes its mistake and children can return home fairly quickly. But the trauma caused by the unnecessary removal cannot be erased and the diversion of resources is harmful.

A child being quickly returned after a removal is often a sign that the removal was unnecessary. CFSA data shows that quick returns after removal are common. In recent years, anywhere from one fifth to one third or more of all children that CFSA removes return home within four months, and most of these children return home in less than one month.<sup>8</sup> Most situations that

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<sup>5</sup> Nurse-Family Partnership, Research Evidence, <http://www.nursefamilypartnership.org/content/index.cfm?fuseaction=showContent&contentID=4&navID=4>.

<sup>6</sup> Rand Corporation, Early Childhood Interventions: Proven Results, Future Promise, summary at xxvi, [www.rand.org/pubs/monographs/MG34](http://www.rand.org/pubs/monographs/MG34).

<sup>7</sup> Indeed, nationally, about three times as many children were deemed to have been maltreated as were removed from their homes. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Child Maltreatment 2007* at 24, 79 (2009) (noting child welfare agencies determined 794,000 children were victims of abuse or neglect but removed only 269,000 from their homes), <http://www.acf.hhs.gov/programs/cb/pubs/cm07/cm07.pdf>. The hundreds of thousands of maltreated children were left in their homes precisely because they could remain safely with their families and because the harm of removing them was unnecessary.

<sup>8</sup> In FY 2009, 221 children left foster care in less than four months, and 123 in less than one month – compared with only 661 children who entered foster care. Government of the District of Columbia, Child and Family Services Agency,

are severe enough to warrant removing a child are not situations that can be resolved this quickly. One month – and even four months – is too short a time to address chronic abuse or neglect and the complex substance abuse, untreated mental health conditions, and other problems that frequently accompany it. Four months is the time it takes for a neglect trial and disposition to occur,<sup>9</sup> not the time it takes to address complex family needs. The mere fact that more than a quarter of all CFSA cases involve children leaving foster care in that time period suggests a significant problem that both traumatizes many children and diverts resources away from strengthening the family and toward the cost of foster care.

CLC's experience corroborates this conclusion. More than one-fifth of our child clients' cases close within four months, with the largest cluster of cases closing within 10 days. The vast majority of these cases involve children who never should have been removed from their families. These children would have been better served if CFSA had left them in their homes and provided services. By removing them unnecessarily, CFSA both traumatized our clients by the unnecessary

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Fiscal Year 2009 Annual Report at 30, 34 (2010), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_apr\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_apr_final.pdf). In percentage terms, 18.6 percent of all children removed were returned in less than one month, and 33.4 percent of all children removed were returned in less than four months. That is, more than a third of children who entered care left care in less than four months, and nearly one-fifth of all children brought into care left in less than one month. In FY 2008, 204 children left foster care in less than four months, and 134 in less than one month – compared with only 765 children who entered foster care. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2008 Annual Report at 28, 31 (2009), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy\\_2008\\_annual\\_public\\_report.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy_2008_annual_public_report.pdf). In percentage terms, 17.5 percent of all children removed were returned in less than one month, and 26.7 percent were returned in less than four months. In FY 2007, 179 children left foster care in less than four months of entry, and 119 in less than one month – compared with 632 children who entered foster care. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2007 Annual Report at 19, 22 (2008), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/final\\_mayor\\_annual\\_report\\_2007\[1\].pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/final_mayor_annual_report_2007[1].pdf). In percentage terms, 18.8 percent of all children removed were returned in less than one month, and 28.3 percent were returned in less than four months. In FY 2006, 237 children left foster care in less than four months, and 96 in less than one month – compared with 686 children who entered foster care. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2006 Annual Report at 17, 20 (2007), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/annual\\_public\\_report\\_2006.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/annual_public_report_2006.pdf). In percentage terms, 14.0 percent of all children removed were returned in less than one month, and 34.5 percent were returned in less than four months.

<sup>9</sup> Under D.C. law, trials must occur within 45 days of the child's "entry into foster care," which is defined as 60 days following the date on which CFSA removed the child. D.C. Code §§ 16-2301(28), 16-2316.01(b)(1). In other words, a trial must occur within 105 days of when CFSA removes a child. A dispositional hearing must occur within 15 days of the completion of a trial. D.C. Code § 16-2316.01(b)(3). Trial and disposition, therefore, occur within 120 days of removal.

separation and poisoned its relationship with the family, limiting its ability to help the family address whatever real problems may remain. In many cases, we can help rectify these errors by working to reunify children quickly. But in some cases, children who never should have been removed from home languish in foster care unnecessarily.

We know how hard a job CFSA has – erring on the side of not removing children can be just as harmful as erring on the side of removing children. But the degree of difficulty is no reason not to be forthright about current challenges. CFSA must take strong and deliberative action, including increasing the quality and availability of in-home services, training child protective services workers and supervisors, and improving its child removal and court petitioning decision making.

One step that the Council can take is to quickly enact the Families Together Amendment Act of 2010. Chairman Wells, you as well as CFSA and advocates have long talked about the need to turn the child protection hotline into a true gateway to services for families in need. Under current law, however, the hotline is a gateway to an adversarial investigation – because CFSA is statutorily required to investigate all reports of abuse and neglect.<sup>10</sup> The Families Together Act would replace that requirement with a differential response framework. For children at low or moderate risk of harm, CFSA could assess the family’s needs and provide services immediately, rather than begin an adversarial investigation, label the parent as abusive or neglectful and place them on the child protection registry. Taking the latter course delays services and creates tensions between families and services providers. By more quickly and less adversarially providing services to families in need, differential response should reduce the number of children removed from their families, including the number of children unnecessarily removed.<sup>11</sup> We thank you, Chairman Wells, for your leadership on this issue. We hope to work with this Committee to move the Families

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<sup>10</sup> D.C. Code § 4-1301.04(a).

<sup>11</sup> A longitudinal study of Minnesota’s differential response system found reduced foster care entries. Institute of Applied Research, *Extended Follow-Up Study of Minnesota’s Family Assessment Response: Final Report*, at 7, 42-43 (2006), <http://www.iarstl.org/papers/FinalMNFARReport.pdf>.

Together Act to prompt passage and to assist our colleagues at CFSA in any way we can with prompt and effective implementation.

### III. Need for improvement with kinship care

Kinship care – foster children living with extended family rather than with unrelated foster parents – facilitates more frequent parent-child visitation,<sup>12</sup> increases foster children’s placement stability, reduces the time children spend in foster care, reduces the risk of abuse or neglect by a foster parent or group home<sup>13</sup> and enhances the likelihood that children will be placed with siblings<sup>14</sup> – all of which lead to better outcomes for children. In the District, kinship care placements are three or four times as stable as placements in non-kinship foster homes.<sup>15</sup> Living in kinship foster care makes a child more than 30 percent more likely to leave foster care to a permanent family, rather than growing up in foster care.<sup>16</sup>

We give CFSA credit for setting a goal of placing children with kin – a recent CFSA document explains, for instance, “that children’s emotional and psychological needs are best met

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<sup>12</sup> Robert M. Gordon, *Drifting Through Byzantium: The Promise and Failure of the Adoption and Safe Families Act of 1997*, 83 Minn. L. Rev. 637, 658 (1999).

<sup>13</sup> Matched Comparison of Children in Kinship Care and Foster Care on Child Welfare Outcomes, *Marc A. Winokur, et al.*, 89 *Families in Society: Journal of Contemporary Social Services* 338 (2008), <http://www.familiesinsociety.org/New/Teleconf/081007Winokur/89-3Winokur.pdf>.

<sup>14</sup> Richard P. Barth, *et al. Kinship Care and Nonkinship Foster Care: Informing the New Debate*, in *Child Protection: Using Research to Improve Policy and Practice* at 187 (Ron Haskins *et al.* eds. 2007).

<sup>15</sup> Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2009 Annual Report at 37 (2010), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_apr\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_apr_final.pdf). In FY 2009, the ratio of placement disruptions to placements was 0.17 to 1 for kinship placements and 0.57 to 1 for nonkinship foster care – that is, kinship placements were about three and a half times more stable than regular foster homes. *Id.* In FY 2008, the ratio of placement disruptions to placements was 0.64 to 1 for non-kinship foster care and 0.17 to 1 for kinship care. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2008 Annual Report, at 34 (2009), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy\\_2008\\_annual\\_public\\_report.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy_2008_annual_public_report.pdf). In FY 2007, 1919 children lived in non-kinship foster care and had 1227 placement disruptions – a ratio of 0.64 to 1 – while 662 children lived in kinship care and had 101 disruptions – a ratio of 0.15 to 1. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2007 Annual Report, at 25 (2008), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/final\\_mayor\\_annual\\_report\\_2007\[1\].pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/final_mayor_annual_report_2007[1].pdf).

<sup>16</sup> Mary Eschelbach Hansen & Josh Gupta-Kagan, *Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis* at 9, Table 1 (2009).

when placed with kin” and that doing so “is the Agency’s primary objective.”<sup>17</sup> CFSA also issued a new policy and an administrative issuance in December recognizing the federal requirement to notify adult relatives within 30 days of removal and providing instructions on how to locate relatives.<sup>18</sup>

CFSA, however, still has significant work to do: we are far behind the national average of 24% of foster children living with kin.<sup>19</sup> At the end of FY 2009, only 322 of 2143 foster children – or 15% – lived in kinship foster care.<sup>20</sup> Moreover, we are disturbed that the Agency appears to have dropped any goals regarding kinship placements from its performance plan. After failing to meet the goal set out in its FY 2009 performance plan, CFSA’s FY 2010 performance plan is silent on kinship placements.<sup>21</sup>

CFSA should begin to address this problem with better implementation of the tools Congress provided through the 2008 Fostering Connections to Success and Increasing Adoptions Act. Congress permitted states to waive foster care licensing rules for relatives when, in the state’s judgment, those rules do not directly relate to a child’s safety.<sup>22</sup> But in the year and a half since Fostering Connections has become law, CFSA has not issued any regulations or policies to

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<sup>17</sup> Government of the District of Columbia, Child and Family Services Agency, 2009 Needs Assessment at 38, [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_needs\\_assessment\\_-\\_final\\_document.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_needs_assessment_-_final_document.pdf) (2010).

<sup>18</sup> CFSA, Policy: Diligent Search, December 1, 2009, [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/policies/program\\_-\\_diligent\\_search\\_%28final%29.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/policies/program_-_diligent_search_%28final%29.pdf). CFSA Administrative Issuance 09-26, Notice of Removal to Adult Relatives of Children and Youth Entering Foster Care, [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/ais/ai\\_-\\_notice\\_of\\_removal\\_to\\_adult\\_relatives\\_of\\_children\\_and\\_youth\\_entering\\_foster\\_care\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/ais/ai_-_notice_of_removal_to_adult_relatives_of_children_and_youth_entering_foster_care_final.pdf).

<sup>19</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, *The AFCARS Report: Preliminary FY 2008 Estimates as of October 2009*, at 1, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report16.pdf](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report16.pdf).

<sup>20</sup> Government of the District of Columbia, Child and Family Services Agency, 2009 Needs Assessment at 31 (noting 2143 children were in foster care as of Sept. 30, 2009) & 40 (noting 322 children in kinship foster care).

<sup>21</sup> CFSA in its 2009 performance plan set a goal of increasing the percentage of children in kinship care to 20% in FY 2009, 22% in FY 2010, and 25% in FY 2011. CFSA FY 2009 Performance Plan at 2, 4, <http://capstat.oca.dc.gov/Pdf.aspx?pdf=http://capstat.oca.dc.gov/docs/fy09/CFSA.pdf>. The 2010 plan is silent on this goal. CFSA FY 2010 Performance Plan, <http://capstat.oca.dc.gov/Pdf.aspx?pdf=http://capstat.oca.dc.gov/docs/fy10/CFSA.pdf>.

<sup>22</sup> Pub. L. 110-351, § 104, *codified at* 42 U.S.C. § 471(a)(10).

implement this provision. CFSA should do so as soon as possible. Making clear what licensing rules CFSA will waive for kin would remove a key barrier to kin placement. Many relatives are dissuaded from becoming kinship caregivers by the complex licensing process.

In addition, CFSA should more aggressively identify potential kinship placements. All too often, CLC attorneys identify kin of whom CFSA is not aware – in a better functioning system, CFSA social workers would know of kin before our attorneys do. CFSA issued a new policy and an administrative issuance in December requiring, consistent with Fostering Connections, that CFSA notify adult relatives within 30 days of removing a child.<sup>23</sup> Hopefully, the new policies will help; however, effective implementation is essential. CFSA must focus on its internal practice and create an expectation that all social workers make concerted outreach to relatives throughout a child's stay in foster care and especially when a child first enters foster care.

#### **IV. Inadequate Focus on Well-being While in Foster Care**

Children's well-being is essential both in its own right and to achieving positive permanency outcomes. If a child experiences emotional difficulty and displays behavioral problems, any permanency option will be more difficult to achieve. It is important that CFSA help children heal from the abuse or neglect they have suffered and from the trauma of separation from their families so that they can handle the emotionally fraught challenges posed by reunifying with their family or creating a new legally permanent family.

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<sup>23</sup> CFSA, Policy: Diligent Search, December 1, 2009, [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/policies/program\\_-\\_diligent\\_search\\_%28final%29.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/policies/program_-_diligent_search_%28final%29.pdf). CFSA Administrative Issuance 09-26, Notice of Removal to Adult Relatives of Children and Youth Entering Foster Care, [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/ais/ai\\_-\\_notice\\_of\\_removal\\_to\\_adult\\_relatives\\_of\\_children\\_and\\_youth\\_entering\\_foster\\_care\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/policymanualpdffiles/ais/ai_-_notice_of_removal_to_adult_relatives_of_children_and_youth_entering_foster_care_final.pdf).

a. School stability

School stability is essential to foster children’s academic success. Youth who had even one fewer school placement change per year were almost twice as likely to graduate high school.<sup>24</sup> In contrast, multiple school placement changes add up to years of lost educational growth.<sup>25</sup> As one scholar concluded, “Perhaps the single most important thing that each of us can do to improve the educational outcomes for foster children is to ensure that their school placement remains stable.”<sup>26</sup> Congress, in Fostering Connections, recognized the value of school stability, requiring state foster care agencies to have case plans that “ensur[e] the educational stability of the child while in foster care,”<sup>27</sup> and providing federal funding for “reasonable travel” from a child’s foster care placement to his school.<sup>28</sup>

For too long, the default assumption in the District has been that placing a child in foster care or changing his foster placement also means disrupting his education and enrolling him in a new school. To CFSA’s credit, it has begun efforts to change that assumption and to value school stability more frequently. CFSA has also proposed legislation that was passed on an emergency basis in December 2009 to change the District’s definition of “case plan” to include the Fostering Connections requirements.<sup>29</sup>

But significant challenges remain. CFSA’s school stability efforts suffer from limited resources to transport children from foster placements to their schools. CFSA has exacerbated this

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<sup>24</sup> Casey Family Programs, *Educating Children in Foster Care: The McKinney Vento and No Child Left Behind Acts*, at 5 (2007).

<sup>25</sup> National Working Group on Foster Care and Education, *Educational Outcomes for Children and Youth in Foster and Out-of-Home Care* (2006).

<sup>26</sup> Casey Family Programs, *A Road Map for Learning: Improving Educational Outcomes in Foster Care*, at 9 (2004) (quoting Heybach, L. and Winter W., *Improving educational services for foster children: An Advocates Guide* (1999)).

<sup>27</sup> Pub. L. 110-351, § 204(a)(1), *codified at* 42 U.S.C. § 475(1)(G).

<sup>28</sup> Pub. L. 110-351, § 204(a)(2), *codified at* 42 U.S.C. § 475(4)(A).

<sup>29</sup> D.C. Act 18-298, enacted as temporary legislation, incorporated the language from the federal law into D.C. Code § 1301.02(3)’s definition of a “case plan.” <http://www.dccouncil.us/lims/legislation.aspx?LegNo=B18-0578&Description=%22PREVENTION+OF+CHILD+ABUSE+AND+NEGLECT+TEMPORARY+AMENDMENT+ACT+OF+2010%22.%0d%0a+&ID=23485>. Permanent legislation with identical provisions is now pending. Bill 18-579, <http://www.dccouncil.us/lims/legislation.aspx?LegNo=B18-0579&Description=%22PREVENTION+OF+CHILD+ABUSE+AND+NEGLECT+AMENDMENT+ACT+OF+2009%22.&ID=23486>.

problem by not taking effective advantage of federal financial assistance to transport children from their foster placements to their schools. To make a commitment to school stability CFSA needs to adequately fund transportation to keep children in their school of origin. We are unaware of CFSA requesting any specific reimbursements through Fostering Connections for foster care maintenance payments available to assist with school stability and these funds were not included in CFSA's FY 2010 budget. Similarly, we are unaware of CFSA requesting any Title IV-E "administrative costs" funding for school transportation.<sup>30</sup> With increasingly limited local funds, CFSA needs to maximize the federal dollars to support its efforts.

The Council can help this effort when it considers Bill 18-579, the Prevention of Abuse and Neglect Amendment Act of 2009.<sup>31</sup> That bill, required by recent changes in federal law, addresses CFSA's planning requirements to improve foster children's school stability. The legislation provides a great opportunity to improve school stability for foster children, and we look forward to working with the Council on that task.

This is an issue that also involves the Office of the State Superintendent of Education (OSSE). To change the practice of moving children by default, and to keep more children stable in their DC schools, OSSE and the Child and Family Services Agency (CFSA) must work together on solutions and we hope that both agencies will build on their initial collaboration in the upcoming year.

b. Foster parent recruiting and retention

An essential element of foster children's well-being is their living arrangement while in foster care. To ensure that each foster child has the best placement possible, CFSA needs to have an

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<sup>30</sup> U.S. Dep't of Health and Human Services, Administration for Children and Families, Children's Bureau, Child Welfare Policy Manual section 8.1B Question 27,

[http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/questDetail.jsp?QAID=1803](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/questDetail.jsp?QAID=1803).

<sup>31</sup> Bill 18-579, <http://www.dccouncil.us/lims/legislation.aspx?LegNo=B18-0579&Description=%22PREVENTION+OF+CHILD+ABUSE+AND+NEGLECT+AMENDMENT+ACT+OF+2009%22.&ID=23486>.

adequate array of foster placements that will permit CFSA to match each individual foster child with an appropriate home. Especially for children with a particularly high level of need, the right placement can mean the difference between thriving in the community or living in an institution. For children who cannot reunify with their birth families, the most likely people to become adoptive parents or permanent guardians are the foster parents who have cared for them and with whom the children have bonded – so the better CFSA can match children with foster homes, the better the chances that CFSA can find a permanent home. CFSA has acknowledged this by adopting a “first placement – best placement” approach.

CFSA deserves credit for some recent progress in this area. The total number of foster homes has increased<sup>32</sup> and the number of foster children sent to live in “residential treatment centers” – mental institutions for youth – has decreased.<sup>33</sup> The frequency of placement disruptions from non-kinship foster homes has improved, but is still far too high – there are still more than five placement disruptions for every 10 placements.<sup>34</sup> Too many of our child clients still bounce from foster home to foster home. CFSA still struggles to make appropriate placements, has an inadequate array of placements and fails to provide adequate support and services to foster parents.

CFSA needs to expand its the range of foster families, particularly for high needs children. Recently CFSA significantly reduced the amount of money it provides private agencies for board and care payments to therapeutic foster families. We are concerned that this will lead to more disruptions and will further limit the number of foster families who can accept children with the

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<sup>32</sup> Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2009 Annual Report at 16-17 (2010), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_apr\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_apr_final.pdf).

<sup>33</sup> *Dixon v. Fenty*, No. 74-285, Court Monitor’s January 2010 Report at 33 (noting decline in the number of foster children in residential facilities from 132 in 2006 to 88 in January 2010).

<sup>34</sup> The ratio of placement disruptions to non-kinship foster placements was 0.57 to 1 in FY 2009. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2009 Annual Report at 37 (2010), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_apr\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_apr_final.pdf). That ratio decreased from 0.64 to 1 in FY 2008. Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2008 Annual Report, at 34 (2009), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy\\_2008\\_annual\\_public\\_report.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy_2008_annual_public_report.pdf).

most complex needs. Our child clients with the greatest needs require an adult to whom they can turn at all times – when they have a mental health crisis or an incident at school, for example – and who is not constrained by work obligations. In our experience, these clients do best when placed in homes with one stay-at-home parent, and the best way to increase the number of such placements is to pay a higher subsidy for a particular category of foster parents who can serve high-needs children. Such subsidies may be expensive – but they will lead to results that are better for children and more affordable for the government than the alternative – group home placements or residential treatment center institutionalization.

CFSA also needs to provide better support to its foster parents or continue to struggle with retention. Foster parents continue to report that adequate services and supports are not being provided to the children in their care – and the failure to do so affects both the well-being of children and retention of foster families.<sup>35</sup> Even simple information, such as Medicaid numbers, Medicaid cards and placement packets are not being provided.<sup>36</sup>

A recent study by the Center for the Study of Social Policy found for more than one third of children, foster parents did not receive the required placement packet when a child was placed in their home. These placement packets include basic information about the child’s family history and medical and behavioral needs.<sup>37</sup> It is difficult and frustrating and can even be harmful to both parent and child to care for a child without the basic information necessary to make good decisions.

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<sup>35</sup> Assessment of the District of Columbia’s Child Welfare System Practices to Support Children Who Enter, Re-enter or are Re-placed While in Foster Care, Center for the Study of Social Policy, 23 (November 2009).

<sup>36</sup> *Id.* at 17.

<sup>37</sup> *Id.*

c. Placement of teens

Placement of teens is a particular challenge. In 2009, 56% of children in the District's foster care system were ages 13- 21.<sup>38</sup> Youth who age out of foster care are at much higher risk than other young adults for many troubling outcomes, such as substance abuse, homelessness, dropping out of school, incarceration, teen pregnancy, unemployment and needing public benefits.<sup>39</sup> CFSA must both do a better job of recruiting foster homes for teenagers and adapting to the reality that a traditional foster home and traditional permanency outcomes are not appropriate for some youth.

A special focus is required on recruiting and retaining an adequate array of foster homes for teenagers. Fostering a teenager is very different from fostering a young child, the recruitment, training and support of these foster parents must look very different.

CFSA also needs to find ways to support the connections older youth have outside the child welfare system. Frequently, our teenage clients have family members with whom they are connected and with whom they are likely to live when they turn 21. Indeed, CFSA's examination of APPLA cases – "APPLA reviews" – found what those of us working directly with these youth already knew. Most of these youth already have a lifelong connection with some adult, but their relationship with that adult may not fall neatly into one of the boxes marked "legal permanency." Often these adults are not able or willing to become licensed foster parents. While these family members may not be perfect caregivers, they are often the people closest to the teenager and best able to provide a loving home and a sense of family – something no group home or independent living program can provide. Moreover, they are often the person with whom everyone in the case acknowledges the young adult is likely to live when he or she leaves CFSA custody – they are even listed as "lifelong connections" on CFSA "youth transition plan" forms. Yet, because they will not or cannot obtain a foster care

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<sup>38</sup> Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2009 Annual Report at 29 (2010), [http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports\\_and\\_assessments/2009\\_apr\\_final.pdf](http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/reports_and_assessments/2009_apr_final.pdf).

<sup>39</sup> Ruth Massinga & Peter J. Pecora, *Providing Better Opportunities for Older Children in the Child Welfare System*, *The Future of Children*, Vol. 14, No. 1, 151, 153, 154 (Winter 2004)

license, the youth is often treated as if they have nobody, and forced to live in congregate care facilities that do not serve youth well and cost District taxpayers tens of thousands of dollars a year.

CFSA should recognize that most older youths – especially 18 and older – have a strong connection with some adult in their lives. Even when these adults are imperfect, the child welfare system’s task is to help youth negotiate healthy relationships with their lifelong connections. CFSA should design a system in which these youth can live with the adults who will be their lifelong connections. To make such a system work, CFSA would need to provide some modest financial support as well as supplemental coaching in areas in which these adults are not fully capable of helping the youth build the necessary life skills.

#### **V. Adoption and Guardianship Subsidy Barriers**

As this Committee well knows, existing District law governing adoption and guardianship subsidies impose specific barriers to adoption and guardianship. The Adoption Reform Amendment Act – discussed at a hearing last week – will remove both of those barriers. In so doing, it will lead to hundreds more adoptions and guardianships and will save CFSA and other District agencies millions of dollars. Given the importance of the issue to children and families, and the fiscal crisis afflicting the District government in general and CFSA in particular, the Council should not wait to enact this essential legislation. I continue to urge fast passage of the Adoption Reform Act and that the Council enact its subsidy provisions immediately as emergency legislation.

#### **VI. Community Involvement and Collaboration.**

Improving the child welfare system must involve more than just CFSA. Without interagency cooperation and community engagement progress will be difficult if not impossible. CFSA makes it difficult for the community to learn of new rules and policies. While CFSA does post policies on their website, they do not highlight which policies are new and when they are posted. More importantly, CFSA does not invite community comment on policies, nor does it invite an

appropriate range of community members to participate meaningfully in interagency working groups. Such steps are core elements of a truly transparent agency. We urge CFSA to learn from its sister agencies OSSE and DMH. OSSE has shown that opening up rules and policies to public comment and inviting community involvement in the creation leads to better policies and community support for those policies. DMH has worked hard to develop interagency working groups that involve members of the community to move projects forward. We believe that taking these steps are key if CFSA is to make real progress.

## **VII. Maximizing Federal Revenue**

Every dollar in federal revenue not only helps CFSA provide specific services, but helps prevent cuts to essential locally-funded programs. Much of the public attention has focused on CFSA's efforts, working with the Department of Health Care Finance, to bill Medicaid for CFSA-provided case management, and this Committee and the Committee on Health have detailed records regarding those efforts. I call the Committee's attention to several other areas in which CFSA has not maximized federal revenues:

First, as noted above, we do not believe that CFSA has sought any financial reimbursement for transporting foster children from their foster placements to their schools of origin. Some federal dollars have been available since Congress passed the Fostering Connections to Success and Increasing Adoptions Act in October 2008, and other federal dollars have been available under pre-existing administrative guidance since December 2007.<sup>40</sup> We have not received clear answers as to why CFSA has not sought this federal revenue in the more than two years in which it has been

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<sup>40</sup> The Children's Bureau first stated in December 2007 that Title IV-E administrative costs were available for transporting foster children to their schools of origin. U.S. Dep't of Health and Human Services, Administration for Children and Families, Children's Bureau, Child Welfare Policy Manual section 8.1B Question 27, [http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/questDetail.jsp?QAId=1803](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/questDetail.jsp?QAId=1803). The Children's Bureau recently reaffirmed this guidance. Child Welfare Policy Manual section 8.3B.1 Question 4, [http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp.jsp?citID=46#438](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=46#438).

available. Nor have we received clear answers regarding whether or when CFSA intends to seek this money.

Second, we do not believe that CFSA seeks Title IV-E funds for case planning meetings with families. CFSA holds family team meetings regularly for children soon after their removal from their families and holds similar meetings at different points of a case, often called by different names, such as LYFE Conferences and Youth Transition Plan meetings. All of these meetings are closely related to case planning and thus qualify for Title IV-E administrative costs.<sup>41</sup> My office sent CFSA a memo outlining how it could maximize federal revenue for these meetings in April 2008. Although our memo was politely received and our staff was told informally that CFSA was considering our suggestion, we have received no other response – and certainly no indication that CFSA is now seeking IV-E dollars for these activities – in the nearly two years that have since passed.

Third, CFSA can, but has not, issued a policy or regulation to capture more federal revenue for adoption and guardianship subsidies for youth between 18 and 21 years of age. Federal money is available when the District determines that a child living with adoptive parents “has a mental or physical handicap which warrants the continuation of assistance” from 18 to 21.<sup>42</sup> The same standard will apply to guardianship subsidies starting on October 1, 2010.<sup>43</sup> The District could define qualifying conditions broadly, but has not done so. In mid-2009, while working on the subsidy provisions of the Adoption Reform Amendment Act, CFSA committed to developing a policy to maximize those subsidies. We are not aware of any movement toward meeting this commitment.

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<sup>41</sup> See 45 C.F.R. § 1356.60(c)(2)(iv); N.Y. State Dep’t of Soc. Servs., DAB No. 1588 (1996).

<sup>42</sup> 42 U.S.C. § 673(a)(4)(A) (emphasis added).

<sup>43</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, § 201(c) (2008) (amending 42 U.S.C. § 673(a)(4)). That provision takes effect on October 1, 2010, the first day of FY 2011. *Id.* at § 201(d).

## **CONCLUSION**

The District's foster care system faces serious, complex, and deeply rooted challenges. The good news, however, is that with concerted focus and cooperation between different entities, we can make significant progress – this is precisely what is happening with the Adoption Reform Act, developed between CLC, CFSA and the Council, which will extend and expand adoption and guardianship subsidies and thus help hundreds more children leave foster care to permanent families. District children desperately need many more such successes, and I look forward to working with CFSA and this Committee to achieve them.

Thank you again for the opportunity to testify and I look forward to your questions.