



Testimony before the District of Columbia Council  
Committee on Human Services  
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Special Roundtable: The State of Human Services in the District of Columbia

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Good morning, Chairman Graham and members of the Committee on Human Services. 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 more than 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. Thank you for the opportunity to share thoughts with you on the performance of the Child and Family Services Agency (CFSA), and recommendations for how to improve the District's child abuse and neglect system.

The District's child abuse and neglect system requires dramatic reform at all stages. On the front end, the government does not adequately prevent abuse and neglect. Nor does CFSA do a good enough job keeping children safely with their birth families. Once CFSA removes children, it does not serve them well in foster care – and they stay in foster care too long because CFSA fails to reunify them with their parents or find alternative permanent families. I look forward to working with you, Chairman Graham, and other members of the Committee to improve the functioning of CFSA and to reform the District's child abuse and neglect system in all of these areas.

I want to focus today on four particularly high priorities: reducing the unnecessary removal of children from their parents, increasing the proportion of foster children who CFSA places with kin, maximizing federal revenue to support essential programs, and increasing transparency in the agency's operations. Each of these issues is vitally important in its own right. They are also high priorities for an additional reason – improvement in each area will result in improvements in other key areas. Keeping children out of foster care, for example, will save the District money – an average of \$46,000 per child per year – and allow CFSA to focus its scarce resources on the children who need help most.<sup>2</sup> Placing children with extended family will also allow CFSA to retain and support its limited supply of foster parents more effectively. It will also reduce the use of

congregate care placements – which have been shown to harm children<sup>3</sup> and cost as much as \$60,000 a year or more.

**I. Preventing traumatic and costly child removals when children can stay safely with families**

Forcibly removing a child from his parents is traumatic and can cause even more harm than a troubled home environment. So, unless children face imminent and significant danger, CFSA’s job is to help them stay safely with their parents. A combination of flawed policies and poor practice at CFSA results in far too many children being taken from their parents unnecessarily. 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 – a strong indication that these children never needed to be removed in the first place.<sup>4</sup> The Public Catalyst Group’s December 2008 evaluation of CFSA performance acknowledged this problem and the need for CFSA to “refine its investigative practice.”<sup>5</sup>

There are two changes I want to discuss today which CFSA could implement quickly and on which the Council’s oversight would be helpful.

a. Implement differential response

CFSA and the Council should fully and effectively implement the Families Together Amendment Act of 2010, which would permit CFSA to respond more effectively to thousands of child protection hotline calls. The Mayor and the Council now need to find the funds – only \$775,000 over four years<sup>6</sup> – to put this change into practice. Effective implementation would save money in foster care costs<sup>7</sup> and thus offset the modest implementation costs.

The Families Together Act allows the District to adopt a better practice model – differential response – for responding to the wide range of child protection hotline calls that CFSA receives.<sup>8</sup> Simply put, differential response lets CFSA triage calls to the hotline, responding differently to low risk situations than they do high risk ones. In the high risk situation, when a child faces an imminent

risk of serious physical harm, a traditional investigation would be required. But for most situations, a child is at much less risk. Differential response allows CFSA to respond in a supportive, not investigative and punitive way, offering services more quickly.<sup>9</sup> Most importantly, differential response keeps children safely with their families, reducing the number of children re-reported to child protection authorities<sup>10</sup> and placed in foster care.<sup>11</sup> Finally, differential response enables investigative social workers to focus their energy on the most serious cases, leading to more effectively holding perpetrators of severe abuse accountable.<sup>12</sup>

The Council can use its oversight authority to demand and then monitor implementation of a timely and high quality plan that involves all relevant agencies and non-profit providers.

b. Policy changes to prevent unnecessary removals

If the only tool you have is a hammer, then you will treat all problems as if they were nails.<sup>13</sup> CFSA policy gaps have left empty loops in social workers' tool belts, leaving them to rely on the hammer of removal. CFSA removes 86-90 percent of children before CFSA even files a court petition, let alone obtains a removal order.<sup>14</sup> The majority of removals evaluated in a recent study were not justified by an imminent risk to the child,<sup>15</sup> the legal standard for such removals.<sup>16</sup>

Two policy and practice changes would give social workers the tools they need to keep children safely at home. First, CFSA should hold family team meetings for the majority of children at risk of removal from their families, something it currently fails to do.<sup>17</sup> Family team meetings are intended to bring the strengths of the extended family network to bear on protecting a child and often identify supports that can prevent a child's removal.<sup>18</sup>

Second, CFSA needs a policy that allows social workers to file court papers without also removing children; the only existing policy requires social workers to first remove children – completely disregarding the statutory restrictions on removing children without court orders.<sup>19</sup> The

policy should require child protection workers *only* to remove children following a court order or in true emergencies.

## **II. Increase kinship placements**

Years of national research show that kinship placements serve foster children better than living with strangers.<sup>20</sup> District of Columbia data reveals that children living in kinship foster care have placements that are up to four times as stable as non-kinship foster homes<sup>21</sup> and are more likely to leave foster care to positive permanency outcomes (reunification, adoption, or guardianship) than children in any other foster care placement.<sup>22</sup>

Disturbingly, only 15% of DC foster children live with kin,<sup>23</sup> far below the national average of 24%.<sup>24</sup> CFSA fails to investigate kinship resources in half of cases in which children were removed.<sup>25</sup> In our attorneys' experience, relatives are frequently not identified by CFSA. When they are, social workers often identify a long list of bureaucratic hurdles that kin must jump through rather than making the process manageable. CFSA's own data show that 80 percent of older youth with a goal of APPLA "already had an established or potential lifelong connection with at least one stable, caring adult"<sup>26</sup> – begging the question of why these youth are living in foster care (and often in very expensive congregate care placements) and not with these lifelong connections.

Two policies would dramatically increase the number of children living with kin. First, CFSA should revise its kinship care regulations to make it much easier and much faster to place children with kin. In particular, CFSA should (a) delete the "exigent circumstances" limitation on the use of expedited kinship licensing, so that this process may be used any time a viable kinship placement option comes forward; (b) issue a regulation defining the non-safety-related licensing factors that, consistent with federal law, may be waived for kin; (c) issue a regulation empowering line social workers in consultation with supervisors – and not only the Director – to make individual waiver decisions for kinship placements;<sup>27</sup> and (d) revise the Maryland expedited kinship placement

processes to maintain CFSA case management for children set to live with Maryland kin, and thus expand the number of children who can live with kin.

Second, CFSA should develop a new placement category for foster youth 18-20 years old who want to live with kin. These youth represent a unique population who need a unique set of placement standards: CFSA should develop age-appropriate standards for an Older Youth Kinship Caregiver License; such standards should be designed to provide minimal safety checks and a modest subsidy to help the youth live with their lifelong connection.

### **III. Maximize federal revenue**

During these hard financial times, CFSA must maximize every possible dollar in federal revenue and yet literally millions of dollars has been left on the table over the past few years. The best publicized example involves tens of millions of disallowed Medicaid claims leading to the decision to stop seeking any Medicaid funds. CFSA has repeatedly failed to develop adequate systems for properly documenting their claims.

A less complicated funding stream comes from what is known as Title IV-E dollars – the federal funds available to support foster care programs, codified in Title IV-E of the Social Security Act. Not only is CFSA not seeking reimbursement for some of this money, it is also failing to account in its budget for millions of dollars in federal money which CFSA is likely to claim. The result is that the Council is given inadequate information and is forced to cut programs or allocate additional local funds to support CFSA's programs. Looking forward, reasonable estimates of FY 2012 federal revenues from Title IV-E and Medicaid will add anywhere from \$10 to more than \$25 million in new revenue to CFSA's FY 2012 budget – an essential pool of funds in these tight budget times and, indeed, in any times.

#### **a. Accounting for reasonably expected Title IV-E money.**

Somewhere between \$5.8 and \$19.6 million in previously unaccounted-for IV-E funds will be available to CFSA in FY 2012. These millions of dollars in federal revenue are based on clear

federal law and federal guidance and do not require complicated paperwork or reprogramming. We do not believe that there is any disagreement that CFSA *can* draw down these dollars; they do not involve the complications that have caused problems for CFSA and Medicaid reimbursement.

The missing federal revenue falls into five categories:

1. *Federal Funding for Guardianship Subsidies: \$3.2-\$4.8 million*

CFSA can receive federal reimbursement for guardianship subsidies paid for children who entered permanent guardianships at any time since the District's guardianship statute took effect. Fostering Connections makes federal funds available to support kinship guardianship subsidies.<sup>28</sup> Recent federal guidance clarifies that the District can obtain federal reimbursement for guardianship subsidy agreements finalized before Fostering Connections took effect.<sup>29</sup>

CFSA will receive millions of dollars for guardianship subsidy payments made since October 1, 2009. But CFSA's FY 2011 budget reflects zero federal dollars for guardianship subsidies in FY 2011, and uses local dollars to cover the entire guardianship subsidy line item of \$9,228,000.<sup>30</sup> CFSA received federal approval for its guardianship state plan amendment in August, 2010, and the state plan amendment was submitted in 2009. Thus CFSA can receive federal revenue for guardianship subsidies paid since the final quarter of 2009, that is, for the entirety of FY 2010.<sup>31</sup> CFSA should receive between \$3,229,800 - \$4,844,700 in federal dollars for guardianships in FY 2011,<sup>32</sup> back payments of \$4,397,750 - \$ 6,596,625 for FY 2010,<sup>33</sup> and a similar amount for FY 2012.

2. *Federal Funding for Foster Youth 18-20 Years Old: \$2.15 - \$12.89 million*<sup>34</sup>

Federal funding for foster care costs of many 18-20 year olds – an age group that represents more than one quarter of the District's total foster care population<sup>35</sup> – has been available since October 1, 2010.<sup>36</sup> The federal government has issued guidance for how states should seek these newly available funds,<sup>37</sup> and CFSA promised to submit an appropriate state plan amendment in time to begin drawing down federal funding from the beginning of FY 2011. The District already

provides foster care for youth 18-20 and complies with all federal requirements, so this state plan amendment will surely be approved. Under an extremely conservative estimate, including these youth would increase federal financial support by \$2.15 million.<sup>38</sup> A mid-level estimate of new federal revenue is \$6.3 million,<sup>39</sup> and a high end estimate is \$12.89 million.<sup>40</sup>

*3. Federal Support for School Stability Transportation: \$108,000 - \$1.3 million*

CFSA helps prevent foster care from disrupting children's education by transporting them from their temporary foster care placements back to their home schools. Federal foster care maintenance and administrative cost payments are available to help pay for this transportation.<sup>41</sup> CFSA's state plan amendment to access this money was included in its 2009 submission, and was approved in August 2010. Yet CFSA's FY 2011 budget projects zero dollars in federal revenue for CFSA's Office of Clinical Practice<sup>42</sup> – the office which manages CFSA's school stability transportation services.<sup>43</sup> At the rate CFSA pays for this transportation – \$80 per day – it could collect \$108,000<sup>44</sup> to \$1,296,000<sup>45</sup> in federal revenue annually.

*4. Federal Funding for Case Planning Meetings: \$405,000 - \$607,500*

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 "LYFE Conferences" or Youth Transition Plan meetings. All of these meetings are closely related to case planning and thus qualify for Title IV-E administrative costs.<sup>46</sup> CFSA recently confirmed that it does obtain federal reimbursement for these meetings. But that revenue does not appear in CFSA's budget: CFSA's Office of Clinical Practice coordinates these various case planning meetings, but that Office's line item accounts for zero federal revenue.<sup>47</sup> Eighteen FTEs are listed in CFSA's organizational chart as coordinating and facilitating these case planning meetings; these staff work full-time on this federally-reimbursable activity.<sup>48</sup> In addition to their salaries, each case planning meeting involves significant time spent by social workers, and often other staff, at both CFSA and



private agencies. We conservatively estimate these costs to add up to at least 27 FTEs,<sup>49</sup> which translates to unaccounted-for federal revenue between \$405,000 and \$607,500.<sup>50</sup>

5. *Funding to keep children safely with families: No estimate available*

CFSA has long been able to obtain federal revenue for its work with children at risk of entering foster care – children the federal government terms “foster care candidates.”<sup>51</sup> CFSA retained the Sivic Solutions Group to help it improve its recoupment of federal revenue, including finally accessing this option, and now appears close to ready to finally begin obtaining these funds. CFSA must seek these funds responsibly, and must account for them in its FY 2012 budget.

b. Restoring Medicaid revenue

CFSA’s well-publicized difficulties in properly claiming Medicaid revenue need no recitation here. The government’s task now is to figure out how it can responsibly maximize CFSA’s Medicaid revenue.

The good news is that CFSA’s consultant working on this issue recently projected significant new Medicaid revenue in FY 2012. Sivic Solutions Group’s November 2010 report stated that relevant agencies have “agreed to proceed with Rehab[ilitation] Option claiming . . . [with] claiming scheduled to begin in FY 2012.” Although many variables remained, Sivic estimated FY 2012 revenue of \$5-\$10 million. We urge the Council to pay close attention to this issue and ensure that CFSA does all that is necessary to restore this essential funding stream, and to account for reasonably expected funds in its FY 2012 budget.

#### **IV. Transparency**

CFSA’s practice model recognizes that a team of people are needed to properly support and heal children and families. Social workers, foster parents, birth parents, lawyers, and other service providers – all of whom bring different information about a child and expertise about the child welfare system – must work together to develop creative solutions to difficult problems.<sup>52</sup>

The same is true for effective agency policy and practice. Policy makers within the Agency should work with the Council, private non-profit foster care agencies, foster, kinship and birth parents, their lawyers and lawyers for children to identify important problems, develop creative and legally sound solutions, and avoid unintended consequences from well-meaning changes. Community input also provides a level of transparency to Agency decision making that bolsters trust and respect among the individuals and organizations with which the Agency must work.

Unfortunately, the Agency has not demonstrated a commitment to transparency and teaming. Unlike other government agencies, CFSA assiduously avoids promulgating regulations – thus avoiding the public notice and public comment period included in the regulatory process. Instead of regulations, the Agency largely sets policy through “administrative issuances” – 65 such documents are currently on the Agency website.<sup>53</sup> The problem is that CFSA does not usually seek community input for its administrative issuances, and when it does, often picks and chooses who it asks for comments.

To compound the problem, CFSA does not announce when it issues a new policy. Unless you check its “administrative issuances” website on a regular basis, you wouldn’t know when it has changed its policy. As a result, people in the community who need to know Agency policies – lawyers, therapists, foster parents, private agency social workers, and even CFSA’s own social workers – do not know about Agency policy changes.

We urge CFSA to more genuinely commit to transparent operation and collaboration with all community stakeholders. If CFSA works with the community more, its policies and its practices will improve, and more people will know about and understand CFSA’s policies. The Council will also be able to perform its job better – the community will have more information from the Agency to provide for the Council’s oversight function and community testimony will be better informed.

## **Conclusion**

Thank you again for your invitation to testify today. I look forward to working with the Committee to act on the issues I have raised, and I look forward to your questions.

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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 75-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> CFSA’s FY 2011 budget lines for child placement activity, teen services activity, and out of home and permanency includes \$79,955,000, \$2,321,000, and \$2,614,000 in local funds, respectively, for a total of \$84,890,000. CFSA FY 2011 Budget, Schedule 30-PBB. Costs of foster care imposed on other agencies, discussed Part IX.b, amount to an additional \$12.9 million, for a total of \$97.8 million. With about 2100 children in foster care, CFSA will spend an average of \$46,571 for each child in foster care. This estimate is conservative because it excludes costs for foster care agency contract monitoring, foster home and facility licensing, permanency subsidies, and in home and permanency units 1 and 2 – all of which have costs associated with foster care placements.

<sup>3</sup> See, e.g., Richard Barth, *Institutions vs. Foster Homes: The Empirical Base for the Second Century of Debate*. Chapel Hill, NC: UNC, School of Social Work, Jordan Institute for Families, [http://www.triadtraining.org/articles/Institutions\\_vs\\_Foster\\_Care-Richard\\_Barth.pdf](http://www.triadtraining.org/articles/Institutions_vs_Foster_Care-Richard_Barth.pdf).

<sup>4</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, Fiscal Year 2009 Annual Report at 30, 34 (2010), <http://cfsa.dc.gov/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2009>. 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/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2008>. 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/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2007>. 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/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2006>. 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>5</sup> Public Catalyst Group, Report and Recommendations Pursuant to *LaShawn v. Fenty* Stipulated Order of October 2008, at 11 (Dec. 23, 2008).

<sup>6</sup> The Council passed the law subject to appropriations. *Id.* at § 3. The District’s Chief Financial Officer documented \$775,000 in training and IT costs over 4 years that would be necessary to implement differential response. Families Together Amendment Act of 2010, Fiscal Impact Statement, [http://app.cfo.dc.gov/services/fiscal\\_impact/pdf/spring09/B18-667\\_.pdf](http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/B18-667_.pdf).

<sup>7</sup> A Minnesota study concluded that its differential response system saved an average of \$1279 for each family diverted from an investigation to an assessment. *Id.* at 7, 70-73.

<sup>8</sup> Bill 18-667, <http://www.dccouncil.us/images/00001/20100624152836.pdf>.

<sup>9</sup> U.S. Department of Health and Human Services, Administration for Children, Youth and Families, Children’s Bureau, *Online Survey of State Differential Response Policies and Practices Findings Report*, at 6, 30-35 (2009), <http://www.differentialresponseqic.org/assets/docs/qic-dr-findings-report-jun09.pdf>

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<sup>10</sup> Summarizing the research, the federal Children’s Bureau concluded that “differential response systems have demonstrated positive outcomes, particularly in terms of sustained child safety . . .” U.S. Department of Health and Human Services, Administration for Children, Youth and Families, Children’s Bureau, *Differential Response to Reports of Child Abuse and Neglect*, 9 (2008), [http://www.childwelfare.gov/pubs/issue\\_briefs/differential\\_response/differential\\_response.pdf](http://www.childwelfare.gov/pubs/issue_briefs/differential_response/differential_response.pdf). For specific state studies, see Institute of Applied Research, *Extended Follow-Up Study of Minnesota’s Family Assessment Response: Final Report*, 5, 27-30 (2006), <http://www.iarstl.org/papers/FinalMNFARReport.pdf>; L. Anthony Loman and Gary L. Siegel, *Differential Response in Missouri after 5 Years at 8-9* (2004), <http://www.iarstl.org/papers/MODiffResp2004a.pdf>.

<sup>11</sup> In Ohio, children families receiving a traditional investigation were twice as likely to be removed as similar families receiving an alternative response. Caren Kaplan & Amy Rohm, American Humane Association, *Ohio Alternative Response Pilot Project: Final Report of the AIM Team*, at 90 (2010) (3.7 percent of families receiving an investigation versus 1.8 percent of families receiving an alternative response). <http://www.law.capital.edu/adoption/AR/Section%201%20AIM%20Final%20Report.pdf>. Minnesota’s differential response program yielded similar results. See Institute of Applied Research, *Extended Follow-up Study of Minnesota’s Family Assessment Response: Final Report* 8, 43-44 (2006), <http://www.iarstl.org/papers/FinalMNFARReport.pdf>. In Virginia, for example, social workers performed risk assessments regarding families before and after they received services through a differential response system. Those assessments revealed a dramatic decrease in the percentage of families deemed to be at “high risk” of future abuse or neglect – from 67% of families at the beginning of a case to 17% 90 days later. Virginia Department of Social Services, *Evaluation of the Differential Response System* at vi, 41-43 (2008), [http://www.dss.virginia.gov/files/about/reports/children/cps/all\\_other/2008/differentialresponsesystem\\_evaluation\\_annualreport\\_2008\\_12-08.pdf](http://www.dss.virginia.gov/files/about/reports/children/cps/all_other/2008/differentialresponsesystem_evaluation_annualreport_2008_12-08.pdf).

<sup>12</sup> A study of Missouri’s differential response system concluded that by reducing the number of less serious investigations, Missouri authorities were better able to protect children from sexual abuse; sexual abuse investigations were more comprehensive and of greater quality and police were able to gather enough evidence to arrest more perpetrators of sexual abuse and prevent them from preying on more children. L. Anthony Loman, *Differential Response Improves Traditional Investigations: Criminal Arrests for Severe Physical and Sexual Abuse* (2005), <http://www.iarstl.org/papers/DiffRespAndInvestigations.pdf>.

<sup>13</sup> This saying is attributed to the psychologist Abraham Maslow.

<sup>14</sup> Pre-petition removal has accounted for 86 to 90 percent of new filings every year from 2005 through 2009. District of Columbia Family Court 2009 Annual Report at 40, <http://www.dccourts.gov/dccourts/docs/family/2009FamilyCourtAnnualReport.pdf>.

<sup>15</sup> CSSP Report at 40.

<sup>16</sup> CFSA may only legally remove children without a court order when some imminent risk to children’s safety exists. D.C. Code § 16-2309(a).

<sup>17</sup> *Id.* at 40-41.

<sup>18</sup> Faced with a similar pattern of unnecessary removals, Polk County (Des Moines), Iowa began holding FTMs at an early stage in the investigation, and this strategy resulted in preventing removals by providing services to families earlier and, for those children who had to be removed, increasing the number of kinship placements. Casey Family Programs, *Breakthrough Series Collaboratives: Reducing Racial Disproportionality and Disparate Outcomes for Children and Families of Color in the Child Welfare System*, at 35 (2009), [http://www.casey.org/Resources/Publications/pdf/BreakthroughSeries\\_ReducingDisproportionality\\_process.pdf](http://www.casey.org/Resources/Publications/pdf/BreakthroughSeries_ReducingDisproportionality_process.pdf). More generally, research has found that FTMs “provide[] cost neutrality or savings” because they keep more children out of expensive foster care or in kinship care instead of congregate care. Lisa Merkel-Holquin, Paul Nixon & Gale Burford, *Learning with families: A Synopsis of FGDM Research and Evaluation in Child Welfare*, 18 *Protecting Children* 2, 9 (2003).

<sup>19</sup> CFSA Administrative Issuance 09-18, Court Papering for Child Protective Services (CPS) Investigations, [http://cfsa.dc.gov/CFSAPublication%20Files/Policy%20Manual/AIs/AI\\_CourtPaperingforChildProtectiveServicesCPSInv.pdf](http://cfsa.dc.gov/CFSAPublication%20Files/Policy%20Manual/AIs/AI_CourtPaperingforChildProtectiveServicesCPSInv.pdf).

<sup>20</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) (kinship care facilitates more frequent parent-child visitation); 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> (kinship care 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); Richard P. Barth, *et al.* *Kinship Care and Nonkinship Foster Care: Informing the New Debate*, in

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*Child Protection: Using Research to Improve Policy and Practice* at 187 (Ron Haskins *et al. eds.* 2007). (kinship care enhances the likelihood that children will be placed with siblings).

<sup>21</sup> Government of the District of Columbia, Child and Family Services Agency, Fiscal Year 2009 Annual Report at 37 (2010), <http://cfsa.dc.gov/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2009>. 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/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2008>. 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/DC/CFSA/About+CFSA/Who+We+Are/Publications/Annual+Report+2007>.

<sup>22</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), <http://academic2.american.edu/~mhansen/fiscalimpact.pdf>.

<sup>23</sup> *Id.* at 31 (noting 2143 children were in foster care as of Sept. 30, 2009) & 40 (noting 322 children in kinship foster care).

<sup>24</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, *The AFCARS Report: Preliminary FY 2009 Estimates as of October 2010*, at 1, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report17.pdf](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report17.pdf).

<sup>25</sup> CSSP Report at 41.

<sup>26</sup> Roque Gerald, Testimony to the U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, March 16, 2010, at 5, *available at*

[http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=2484f209-149a-4963-8c83-34a83200acea](http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=2484f209-149a-4963-8c83-34a83200acea).

<sup>27</sup> Current regulations require the Director to approve any kinship licensing waiver. 29 D.C.M.R. § 6000.5. This regulation imposes a barrier on issuing these essential waivers.

<sup>28</sup> Pub. L. 110-351, § 101 (2008).

<sup>29</sup> ACFY-CB-PI-10-01, [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/pi/2010/pi1001.pdf](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1001.pdf).

<sup>30</sup> CFSA FY 2011 Budget at E-25, and Schedule 30-PBB at 2.

<sup>31</sup> Letter from U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau, to CFSA, 17 August 2010, on file with the Committee on Human Services.

<sup>32</sup> CFSA’s federal match for guardianship subsidies is seventy percent. The lower estimate assumes that 50 percent of affected children are IV-E eligible, and the higher estimate assumes 75 percent of affected children are IV-E eligible.

<sup>33</sup> The FY 2010 budget included \$12,565,000 for guardianship subsidies. FY 2010 Budget at E-24. CFSA’s federal match for guardianship subsidies is seventy percent. The lower estimate is based on assuming that 50 percent of affected children are IV-E eligible, and the higher estimate is based on assuming 75 percent of affected children are IV-E eligible.

<sup>34</sup> There is also federal revenue available for 18-21 year olds adopted or in guardianship homes. With the passage of the Adoption Reform Amendment Act, more older youth will be leaving foster care, making this revenue is even more important. Beginning in FY 2011, if the adoption or guardianship is entered after the child has “attained 16 years of age” and is enrolled in school, working at least part time, or too disabled to attend school or work, then federal support is available. Pub. L. 110-351 § 201(a). In addition, currently youth 18-21 are eligible for federal funding regardless of the age at which they left foster care for adoption or guardianship if the youth have a mental or physical handicap which CFSA determines warrants continuation of assistance. 42 U.S.C. 673(a)(4)(A) & Pub. L. 110-351 § 201(c).

<sup>35</sup> CFSA 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>36</sup> Pub. L. 110-351, § 201 (2008).

<sup>37</sup> ACFY-CB-PI-10-11, [http://www.acf.hhs.gov/programs/cb/laws\\_policies/policy/pi/2010/pi1011.pdf](http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.pdf).

<sup>38</sup> The low-level estimate assumes an average cost per 18-20 year old of \$12,288 – based on the lowest foster care board rate paid for this age group – and multiplies that figure by 500 youth 18-20 years old, a 70% reimbursement rate, and a conservatively-estimated 50% IV-E penetration rate.

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<sup>39</sup> The mid-level estimate assumes an average cost per 18-20 year old youth of \$30,000 (because some such youth are placed in foster homes and some in more expensive congregate care settings) and multiplies that cost by 500 youth 18-20 years old, a 70% reimbursement rate and a 60% IV-E penetration rate.

<sup>40</sup> The high-end estimate assumes the average cost of child placement activity is \$49,123 (the total line item of \$103,160,000 divided by the 2100 children in foster care), and multiplies that figure by 500 youth 18-20 years old, a 70% reimbursement rate and a 75% IV-E penetration rate. It is not clear that all of the \$49,123 in the average per-child place activity costs is federally reimbursable, but CFSA's budget does not make it possible to determine for sure what portion of these average costs is federally reimbursable.

<sup>41</sup> 42 U.S.C. § 675(4)(A); 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)

<sup>42</sup> CFSA Schedule 30-PBB at 2, Office of Clinical Practice line, "Federal" column.

<sup>43</sup> School stability transportation is managed by CFSA's "Innovative Family Support Services Administration," which is located within the Office of Clinical Practice.

<sup>44</sup> This conservative estimate assumes that only 50 children will use such transportation for an average of 90 school days each, with an average federal reimbursement rate of 60% (the mid-point of the administrative cost and foster care maintenance rates) and a penetration rate of 50%.

<sup>45</sup> This estimate assumes that 200 foster children – of the 2100 total foster care population – will use such transportation for 180 school days each, with an average federal reimbursement rate of 60% and a penetration rate of 75%.

<sup>46</sup> See 45 C.F.R. § 1356.60(c)(2)(iv); *N.Y. State Dep't of Soc. Servs.*, DAB No. 1588 (1996).

<sup>47</sup> CFSA FY 2011 Budget, Schedule 30-PBB at 2.

<sup>48</sup> CFSA organizational chart, at slide 68, provided to the Committee on Human Services in response to FY 2009-2010 oversight questions. One of these 18 positions is listed as vacant.

<sup>49</sup> We estimate that one and one-half times the number of FTEs in CFSA's FTM unit could qualify.

<sup>50</sup> We conservatively estimate the average salaries of these positions to be \$60,000. The administrative cost reimbursement rate is 50%. Our low end penetration rate estimate is 50% and the high end estimate is 75%.

<sup>51</sup> See U.S. Department of Health and Human Services, Administration for Children Youth and Families, Children's Bureau, Child Welfare Policy Manual, § 8.1D, *Administrative Costs: Candidates*.

<sup>52</sup> CFSA Out-of-Home Practice Model at 6-9 (2009), <http://newsroom.dc.gov/show.aspx?agency=cfsa&section=2&release=18245&year=2009&file=file.aspx%2frelease%2f18245%2fOoH%2520Prac%2520Mod%2520final%2520July%25202009.pdf>.

53

<http://cfsa.dc.gov/DC/CFSA/About+CFSA/Policy/CFSA+Policy+Manual+Table+of+Contents/Administrative+Issues>.