

INTRODUCTION

Practice Kit Four has evolved over the last several years to keep pace with the changes in the direction of the DC Child and Family Services Agency's (CFSA) handling of their obligations under the consent decree in *LaShawn A. v. Bowser*. As CFSA has moved more of their requirements under the decree into policy changes and shifts in organizational structure, this kit has put greater emphasis on including those policies and supporting documents. The kit now goes a step further in that direction by bringing into clearer focus the possibilities in using CFSA's policies as advocacy tools in informal advocacy with the agency and in litigation before the Family Court.

As always, the kit starts with a brief history of the *LaShawn A.* litigation. This section includes the final orders, relevant implementation plans and recent court reports from the monitor. The Court Monitor report from May of this year focuses heavily on *The Temporary Safe Have Resdesign (TSHR)* that aims to "reduce placement instability, provide a greater continuum of placement options and supports geared to child and youth needs, and promote permanency and well-being outcome." The court monitor deemed CFSA's restructuring of the provision of foster care services for children placed in the District of Columbia and Maryland to be "largely successful" because most licenses and foster homes transitioned from former providers to the chosen provider, the National Center for Children and Families, by December 31, 2017. (Court Monitor's Report, May 2018, Page 5).

Beyond the *LaShawn A.* documents themselves, this kit provides a summary of what CFSA is required to do under those plans and practice points for utilizing the *LaShawn A.* documents in advocacy. Furthermore, this kit provides broader guidance on the use of all of CFSA's policies before the Family Court. Properly promulgated rules have the force of law. In particular, a validly promulgated administrative rule or regulation "has the force and effect of

law, much like a statute.” *Hutchinson v. District of Columbia*, 710 A.2d 227, 234 (D.C.1998); *accord, Teachey v. Carver*, 736 A.2d 998, 1005 (D.C.1999) (“regulations having been duly promulgated, they are the law”); *Dankman v. District of Columbia Bd. of Elections & Ethics*, 443 A.2d 507, 513 (D.C.1981) (en banc) (“Rules and regulations promulgated by Governmental establishments pursuant to statutory authority have the force and effect of law, and concededly are subject to the same tests as statutes.”); *J.C. & Assoc. v. Board of Appeals and Review* 778 A.2d 296, 303 DC (2001).

“Rule” is also quite broadly defined in DC. “The term ‘rule’ means the whole or any part of any Mayor’s or agency’s statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency.” D.C. Code 2-502 (6)(A) (2001). This is a definition broad enough to cover most CFSA policies, administrative issuances, and operations manuals. However, CFSA does not usually publish these policies in the D.C. Register and so they may not qualify as properly promulgated under the D.C. Administrative Procedures Act. Despite this, Part III of this kit suggests a number of informal and formal advocacy strategies for holding CFSA accountable for complying with its own policies.

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