Testimony before the District of Columbia Council
Committee of the Whole
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Public Briefing: The Executive's Fiscal Year 2011 Budget Gap-Closing Plan

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Good morning Chairman Gray and members of the Council. My name is Judith Sandalow. I am the Executive Director of Children's Law Center[1] (CLC) and a resident of the District. I am testifying today on behalf of CLC, the largest non-profit legal services organization in the District and the only such organization devoted to a full spectrum of children's legal services. Every year, we represent 1,200 low-income children and families, focusing on children who have been abused and neglected and children with special health and educational needs. The majority of our clients are children in foster care or their caretakers.

As a member of the Better Choices coalition, Children's Law Center urges the Council to take a balanced approach to closing the budget gap - by making strategic and targeted cuts, enhancing federal revenue and providing limited increases in taxes.

We have identified more than $2.5 million dollars in additional cuts that can be made from the Child and Family Services Agency (CFSA) budget and $5.8 to $19.6 million dollars of federal revenue that can be easily secured. This combination of federal revenue and additional cuts will more than pay for several programs that I urge the Council not to cut, programs which keep children in their homes and the loss of which will immediately threaten the safety and well-being of many children.

Before focusing on these specific suggestions, I would like to pose some questions which I believe the Council needs to ask as it evaluates each cut included in the Mayor's Proposed Gap Closing:

1. Will the cut prevent residents from accessing basic needs – such as housing, food, clothing, health care or physical safety?
2. Will the cut increase expenses in another program or agency?
3. What is the long-term human and financial cost?

If the answer to any of these questions is "yes" or "we haven't determined the true impact," we urge the Council to reexamine the proposed cut. The reality is that cutting "front end" or preventive services frequently results in higher costs, often in the same fiscal year. We should also be particularly careful in making cuts that will permanently limit the future life opportunities of our residents, especially children.

Given the financial realities in the District, there is no doubt that valuable and worthwhile programs may still have to be cut because, to paraphrase Chairman Gray, we have cut to the bone and now must cut marrow. I would argue that reducing financial assistance to low income grandparents by $2.6 million, which will certainly lead some families into homelessness and some children into foster care is akin to cutting off a limb, while cutting $1 million in tutoring for foster children is a painful, but tolerable wound. As I explain in more detail in my written testimony, I also believe that cutting $4.6 from Temporary Assistance to Needy Families (TANF) and $1.2 million from the Community Collaboratives will also cause permanent damage.

We believe that those cuts which will cause permanent harm to children do not need to be made, and offer some alternative approaches that do less harm to the children we all want to protect.

We propose that the Council:

- Eliminate administrative reviews to save $1 million;
- Fully eliminate tutoring contracts to save $1 million;
- Eliminate volunteer mentoring grants to save $637,500;
- Access Federal Support for Guardianship Subsidies and generate $3.2-$4.8 million;
- Access Federal Funds for Foster Youth 18-20 Years Old and generate $2.15 - $12.89 million;

- Access Federal Support for School Stability Transportation and generate $108,000 - $1.3 million;
- Access Federal Support for Case Planning Meetings and generate $405,000 - $607,500.

I. Programs That Should Be Restored

a. Grandparent Caregiver Program

The Grandparent Caregiver Program financially supports grandparents who are raising children and, most importantly, keeps children safely with family and out of foster care. We have testified in support of it many times in the past.

The Mayor proposes a remarkably dramatic 50 percent cut in the Grandparent Caregiver Program[2] along with a statutory change that would permit CFSA to reduce the Grandparent Caregiver Program subsidy from 95 percent of the guardianship subsidy rate to a discretionary rate set by the Mayor.[3] This proposal will lead to hundreds of children and their grandparents losing the financial support on which they have depended or see the amount of their benefits cut dramatically. Either scenario would lead to significant hardship for these families, the deprivation of basic needs, and would likely bring some children into foster care. We urge the Council to restore the full $2.6 million proposed cut.

b. Temporary Assistance for Needy Children (TANF)

The Mayor proposes to cut $4.6 million from the program by reducing benefits 20% for families who have been on TANF more than 60 months.[4] The middle of an economic crisis is not the time to reduce benefits. We do not dispute that the District's TANF program is flawed and that reform is necessary. The Council should work with the Department of Human Services and advocates for low-income families to implement appropriate reforms that will lead to District residents moving from welfare to work. While this process is underway, we must continue to allow recipients to receive the current TANF benefits so that their basic needs can be met and our poorest children are not left homeless and hungry.

Currently, 29% of children in DC live in poverty, up from 22% in 2007. This represents the largest increase in poverty for any group in DC since the start of the recession.[5] The number of DC residents living in deep poverty — meaning they live below *half* of the poverty line (just under $11,000 for a family of four) -- is on the rise in DC; up from 8 percent in 2007 to 11 percent in 2009.[6]

In addition to increasing child poverty, reducing TANF will also lead to other devastating consequences for children. A study of young children in six large cities found that welfare sanctions and benefit decreases are associated with a significantly increased rate of hospitalizations in young children and significantly increased rates of food insecurity.[7] Other studies suggest that children in families that are sanctioned do worse in several developmental areas and have lower scores on tests of quantitative and readings skills.[8] There is also a link between reduction in welfare benefits and an increase in child maltreatment as measured by contact with child protective services, substantiated cases of physical abuse and neglect and by numbers of children in foster care.[9]

Given the dire consequences of cutting these benefits at this time and in this way the Council should restore the proposed cut to TANF.

c. Community Collaboratives

The neighborhood Healthy Families/Thriving Communities Collaboratives are the vehicle through which the District has chosen to provide direct prevention services to some of the District's neediest families. The Collaboratives are given the task of helping families weather short term financial crises and linking families with housing resources. Cutting their funding by $1.25 million, as the Mayor proposes,[10] will inevitably lead to a reduction in these services and to the inability of families to meet basic needs. These proposed cuts come as more children and families need prevention services – as evidenced by the continued high rate of calls to CFSA's child protective hotline.[11] The District's safety net – which is already not as strong as it needs to be – cannot afford to be made any weaker. The Council should use some of the funds identified above to restore the Collaboratives' funding to FY 2010 levels.

II. Additional Cuts: $1.6 million

We believe cuts can be made in three areas without harming vital programs that keep children out of foster care – administrative reviews, tutoring and mentoring. Eliminating administrative reviews would save about $1 million. Every six months, in most cases a CFSA social workers discuss a case with a "reviewer" who has neither the knowledge of a case nor authority to affect it. Administrative reviews duplicate discussions that occur at Family Court hearings, which also occur at least every six months.[12] And, unlike "reviewers," a judge has the authority to remedy any problems that come to light. The Council should also include language in the BSA removing the statutory provision creating administrative reviews.[13]

Eliminating the remaining tutoring contracts would save $1 million. CFSA spends $2.1 million each year on paid tutors,[14] who are often inconsistent, poorly trained, and fail to collaborate with foster children's schools. Even the best tutors are less important than foster care prevention and reunification services, specialized mental health services for children, and the right school for children. The Mayor has proposed halving this budget; the remainder could be cut as well. Eliminating volunteer mentoring grants would save an additional $637,500.[15]

III. Unaccounted For Federal Revenue

The Mayor has consistently failed to account for millions of dollars in federal money available to CFSA to support guardianship subsidies, foster care costs for the one-quarter of foster youth who are 18 to 20 years old, school stability transportation, and case planning meetings. Taken together, these revenue oversights total somewhere between $5.8 and $19.6 million. The effect of

CFSA's failure to account for these millions of dollars in federal revenue is to require millions more local dollars to be appropriated – thus taking precious local dollars away from essential safety net programs.

These millions of dollars in lost 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. These dollars flow primarily from a 2008 federal law, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections), and do not involve the complications that have caused problems for CFSA and Medicaid reimbursement.

The missing federal revenue falls into four categories:

a. <u>Federal Funding for Guardianship Subsidies: $3.2-$4.8 million</u>

CFSA can receive federal reimbursement for guardianship subsidies paid for children who entered a permanent guardianship at any time since 2001, when the District's guardianship statute took effect. Fostering Connections makes federal funds available to support kinship guardianship subsidies.[16] Recent federal guidance clarifies that the District can obtain federal reimbursement for guardianship subsidy agreements finalized before Fostering Connections took effect.[17]

CFSA will receive millions of dollars for guardianship subsidies back to 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.[18] 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.[19]

CFSA should receive between $3,229,800 - $4,844,700 in federal dollars for guardianships in FY 2011.[20] CFSA should receive $4,397,750 - $ 6,596,625 for FY 2010.[21]

b. 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. Under Fostering Connections and related federal guidance, federal foster care maintenance and administrative cost payments are available to help pay for this transportation.[22] CFSA's state plan amendment to access this money was included in its 2009 submission, and was approved in August 2010. Yet the FY 2011 budget projects zero dollars in federal revenue for CFSA's Office of Clinical Practice[23] – the office which manages CFSA's school stability transportation services.[24]

At the rate CFSA pays for this transportation – $80 per day – it could collect $108,000[25] to $1,296,000[26] in federal revenue in FY 2011. Similar funds may be available for FY 2010, but we do not know if CFSA tracked its school stability transportation sufficiently accurately to access those funds.

c. Federal Funding for Foster Youth 18-20 Years Old: $2.15 - $12.89 million[27]

Fostering Connections included a provision that provides federal funding for foster care costs of otherwise eligible 18-20 year olds beginning at the start of FY 2011.[28] This change is important because one-quarter of the District's total foster care population – more than 500 youths – are 18-20 years old.[29] CFSA's FY 2011 budget does not account for these newly available funds.

In the spring of 2010, CFSA correctly noted that the federal government had yet to issue guidance for how states should seek these newly available funds. The federal government has now provided such guidance.[30] CFSA has 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.[31] A mid-level estimate of new federal revenue is $6.3 million,[32] and a high end estimate is $12.89 million.[33]

d. 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.[34]

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.[35] 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.[36] 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,[37] which translates to unaccounted-for federal revenue between $405,000 and $607,500.[38]

CONCLUSION

In order to keep children safe and protect the long term health of the District, Children's Law Center urges the Council not to cut funding from the Grandparent Caregiver Program, TANF recipients or the Collaboratives. Instead, we propose that the budget gap be closed by maximizing available federal revenue, enacting a limited increase in taxes for our highest income earners, eliminating CFSA's administrative reviews and, if necessary, cutting CFSA's tutoring and mentoring programs.

Thank you. I look forward to answering your questions.

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[1] Children's Law Center provides free, comprehensive legal services to thousands of low-income and at-risk children in Washington, DC to ensure they have safe homes, a meaningful education and healthy lives. Applying the knowledge gained from representing children and families, we advocate for changes in the city's laws, policies and programs. Children's Law Center is the largest nonprofit legal services provider in the District and the only to focus on children. For more information, visit www.childrenslawcenter.org.

[2] Mayor's Gap Closing Plan FY 2010 page 43.

[3] FY 2011 Revised BSA pg 14-15.

[4]Gap Closing pg 33, BSA p15-16.

[5] Jenny Reid, DCFPI, New Census Data Reveal the Uneven Impact the Recession Has Had on The District, Sept. 28, 2010.

[6] Jenny Reid, DCFPI, New Census Data Reveal the Uneven Impact the Recession Has Had on The District, Sept. 28, 2010.

[7] Children's Sentinel Nutrition Assessment Program, *The Impact of Welfare Sanctions on the Health of Infants and Toddlers, 4 (July 2002).* Infants and toddlers (up to the 3 years) in families who benefits had been terminated or reduced had a 30% higher risk of having been hospitalized, a 90% higher risk of being admitted to the hospital when visiting an emergency room and a 50% higher risk of being food insecure than children in families whose benefits had not been decreased.

[8] West Coast Poverty Center, *Review of Research on TANF Sanctions, Report to Washington State WorkFirst SubCabinet, 36 (2006).*

[9]The largest and most comprehensive study, which reviews data from all states from 1990-1998: Christina Paxson & Jane Waldfogel, *Welfare Reforms, Family Resources, and Child Maltreatment*, Journal of Policy Analysis and Management, Vol. 22, No. 1 (2003). Two other studies (of Michigan and Illinois) found a link between family sanctions and increased contact with child protective services or the increased odds of having a child maltreatment allegation. Although one study (Milwaukee) found no link between family sanctions and child welfare involvement. West Coast Poverty Center, *Review of Research on TANF Sanctions, Report to Washington State WorkFirst SubCabinet, 37 (2006).*

[10] Gap Closing page 43.

[11] 03.11.10 Agency Performance Oversight Hearing on Fiscal Year 2009-2010, testimony of Dr. Roque R. Gerald (March 11, 2010) at pg 3-4
http://newsroom.dc.gov/show.aspx/agency/cfsa/section/7/release/19442/year/2010

[12] D.C. Code § 16-2323(a). CFSA now calls these reviews "Structured Progress Reviews."

[13] The Council should repeal D.C. Code §§ 4-1301.09(d)(2) & 4-1301.09(e).

[14] The Mayor has proposed cutting tutoring services by $1.048 million, which the mayor described as a 50 percent reduction. Mayor's FY 2011 Gap Closing Plan, 23 Nov. 2010, at 43. The total budget, therefore, was $2.096 million.

[15] $637,500 is the FY2010 figure for mentoring, FY 2010 Grants, spreadsheet provided to D.C. Council on Human Services in Spring 2010.

[16] Pub. L. 110-351, § 101 (2008).

[17] ACFY-CB-PI-10-01, http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1001.pdf.

[18] CFSA FY 2011 Budget at E-25, and Schedule 30-PBB at 2.

[19] 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.

[20] 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.

[21] 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.

[22] 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

[23] CFSA Schedule 30-PBB at 2, Office of Clinical Practice line, "Federal" column.

[24] School stability transportation is managed by CFSA's "Innovative Family Support Services Administration," which is located within the Office of Clinical Practice.
[25] 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%.
[26] 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%.
[27] 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).
[28] Pub. L. 110-351, § 201 (2008).
[29] 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.
[30] ACFY-CB-PI-10-11, http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.pdf.
[31] 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 multiples that figure by 500 youth 18-20 years old, a 70% reimbursement rate, and a conservatively-estimated 50% IV-E penetration rate.
[32] 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.
[33] 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.
[34] *See* 45 C.F.R. § 1356.60(c)(2)(iv); N.Y. State Dep't of Soc. Servs., DAB No. 1588 (1996).
[35] CFSA FY 2011 Budget, Schedule 30-PBB at 2.
[36] 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.
[37] We estimate that one and one-half times the number of FTEs in CFSA's FTM unit could qualify.
[38] 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%.