



Office of Children and Family Services

KATHY HOCHUL
Governor

SHEILA J. POOLE
Commissioner

June 6, 2022

Darlene Ward
Welfare Research Inc.
14 Columbia Circle
Suite 104
Albany, NY 12203

Dear Ms.  Ward:

The New York State Office of Children and Family Services (OCFS) has received the New York State Citizen Review Panels' (the Panels) 2021 Annual Report, *From Poverty to Partnership: Moving Toward Child Welfare Practices That Empower Families*. The recommendations and views presented in this report mirror the vision and commitment of OCFS to transform the current child welfare system into a child and family well-being system. We strongly believe this can be done by incorporating the voices of those with lived experiences into policy and practice changes and examining current policy and practice through a race equity and social justice lens. Before I address the Panels specific recommendations, I want to share with you some of the work currently being done to achieve our shared vision of making significant changes to the current child welfare system and improving conditions for children and families of New York State:

- OCFS is working with Families Together to contract for nine Parent Advisors who will work with OCFS in providing the family voice to our work. The Advisors will assist in developing policies and practices that enhance child welfare practice in engaging and supporting families. Additionally, the Advisors will work with local departments of social services (LDSSs) in the implementation of Family Peer Advocates (Peer Advocates) – individuals who have lived experiences with the child welfare system and will work directly with parents to support them.
- OCFS has a new support line available to parents and families across New York: OCFS H.E.A.R.S. "Help, Empower, Advocate, Reassure and Support". This parent and family resource support line will provide referral services for parents and guardians to provide them with the help and support they need, thereby strengthening families.
- OCFS incorporated implicit bias training into our revised mandated reporter training, which will be available in the coming months
- OCFS, in collaboration with the NYS Education Department, will be distributing a Request for Proposal (RFP) designed to promote Family Opportunity Centers (FOC) across NYS. The FOC will offer supports and services that enhance the protective factors for children and families and enhance school success for middle and high school students.

This year, OCFS is pleased to report that New York State (NYS) is in a much stronger fiscal position entering the new fiscal year. This increased fiscal strength means that OCFS will, with the enactment of the state fiscal year (SFY) 2022-23 budget, be able to make increased investments in program funding. One of these investments is for home visiting programs such as Healthy Families New York (HFNY). Currently, our HFNY program serves 6,000 families. Governor Kathy Hochul's Executive Budget for State Fiscal Year 2022-23 invests an additional \$11 million in the program. Upon enactment, this increase will bring total state support to \$41.5 million and will allow the program to serve an additional 1,600 families across the state. This has been a frequent recommendation of the Panels in the past, and I'm pleased to see this increase realized this year.

Moreover, we have begun initial implementation of the Family First Prevention Services Act (FFPSA) to reduce congregate care placements. Practice continues to be refined as Qualified Residential Treatment Programs (QRTP) and other new programs have begun operation. FFPSA practice means that youth placed in congregate care will be assessed by a Qualified Individual (QI) and will only be able to remain in facility care if the QI determines that the placement is appropriate. To further control for the appropriateness of placement, each youth placed in a QRTP must be reviewed by OCFS when their stay reaches either 6 months (for children up to age 13), or one year (for children 13-years-old and up). OCFS will review these cases and make a recommendation to me as to whether this level of care is warranted.

The second component of FFPSA implementation focuses on evidence-based programs and groundbreaking preventive work to keep children safely at home. Thanks to the roughly 400 stakeholders across NYS (some of whom comprise the Panels), OCFS submitted the New York State Family First Services Act Prevention Plan to our federal partners on February 24th. The Prevention Plan combines intention with action and outlines a strategy to narrowing the front door to child welfare and creating a child and family well-being system of the 21st Century. It is a shared vision to move from the status quo of child protection as a primary prevention strategy and moving toward services and resources that strengthen families and enable children to remain safely at home. After receiving federal feedback, the Prevention Plan was resubmitted on May 15th, and we hope to receive additional feedback in the coming months.

Now, I'd like to address the Panels' recommendations below:

Citizen Review Panels' (the Panels) Recommendations and OCFS' Responses

1) Reauthorize and restore essential preventive services funding to 75%.

The original 1979 Child Welfare Reform Act authorized 75 percent state reimbursement for mandated preventive services. This became 65 percent in 2002 with the Child Welfare Financing Law of 2002. This amount was further modified during the very challenging fiscal years between 2008 and 2010, stabilizing at 62 percent since that time. Preventive services have been essential in reducing the number of children and youth in foster care. While the state is in a stronger fiscal position, adoption, child welfare, and foster care costs are shared between the state and localities; increasing the funding levels to prior percentages was not among the investments for funding this year. OCFS notes that, in the reauthorization of Child Welfare Financing, that the 65 percent state share was not modified in statute. This leaves the door open to the possibility that, in the future, the budget language negotiated by the Legislature may not contain a

“notwithstanding” text that modifies the amount to 62 percent as contained in the 2022-23 Enacted Budget.

While the funding ratio is not projected to change, there is a large change coming to foster care and adoption subsidies. The Enacted Budget includes legislation that will modernize and significantly boost foster care maintenance rates by requiring that all local department of social services (LDSS) pay the full foster care rate that is established by the state. Because adoption subsidy payments are based on foster care maintenance rates, nearly 25,000 families with adopted children will also benefit from these actions. These changes represent tremendous progress for child welfare and will assist in the recruitment and retention of both foster and adoptive families.

2) Eliminate anonymous reporting to the SCR.

Under Section 422 of Social Services Law, OCFS is required to accept calls to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) from all persons – whether they identify themselves or wish to remain anonymous. It is important to clarify that anonymous callers do not categorically equate to malicious callers. The data have demonstrated that sufficient reports called in by anonymous callers are ultimately indicated, and thus support the continuation of the practice. Additionally, unfounded reports do not categorically equate to false reports. Unfounded means that there was not, as of January 1, 2022, a “preponderance of evidence” to consider a report indicated and substantiate the allegation. Prior to that, the standard was “some credible evidence” to substantiate the allegations. Even then, CPS will often intervene in some way to support a family or assist with receiving resources and services where needed, while simultaneously assessing for the safety of the children in the home.

Additionally, the SCR has a procedure where anonymous callers are strongly encouraged to leave their contact information, with the SCR representative relaying the importance of such information in conducting a thorough CPS investigation, as this allows the CPS staff to directly obtain information from the source while assessing the safety of the child(ren). This includes consistent language for SCR Specialists to use when speaking with an anonymous caller to educate them on the importance of leaving their contact information (the local CPS needs to speak directly to them to further assess the safety of a child, their name is protected by confidentiality law). Additionally, at the end of the call, SCR representatives circle back to the topic, after rapport has been built during the call, to try one more time to obtain the caller's contact information.

While OCFS will continue accepting anonymous calls, OCFS shares your goal of reducing harassing or malicious calls as well as false reporters. OCFS has developed strategies to address repeat callers who the public or counties have reported to us as potentially being harassing. The SCR works with the local CPS and their OCFS Regional Office to strategize individual situations. That involves routing harassing callers to SCR supervisors for additional messaging, including: “This call is being recorded. You are speaking with a supervisor. It is a crime to make a false report.” If a local district gathers enough evidence to bring charges against an individual through their county district attorney's office, OCFS works with them to assist in evidence-gathering as directed in their subpoena. The Division of Child Welfare and Community Services (CWCS) continues to review this topic and strategize ways to minimize harassing reporters.

3) Remove poverty-related neglect allegations from the child welfare reporting system.

OCFS is committed to creating a just and equitable child and family well-being system by redressing the punitive policies that have falsely equated low-risk, poverty-related matters to abuse and neglect. Through partnerships with a variety of stakeholders – including local departments of social services, not-for-profit providers, community-based organizations, and our sister state agencies – we are implementing a number of different strategies to ensure that poverty is not construed to equate to maltreatment or neglect: updated Mandated Reporter Training which includes an implicit/explicit bias component and reiterates throughout the training that, “Poverty, in and of itself, does not equate to maltreatment or abuse”; Adverse Childhood Experience (ACEs) materials; reimbursement for enhanced parent and child representation in child welfare legal proceedings/efforts, mobile response units; a concrete support portal; the Blind Removal Process, and our Kin-first Firewall.

4) Increase funding for concrete supports for families.

Investing additional funding is another frequently recurring theme of recommendations through the years. This year, I was disappointed that the Build Back Better legislation was not passed by the United States Congress. The elements within would have gone far in responding to your recommendation statewide. Despite this setback, OCFS is working in partnership with the Center for a Guaranteed Income Research (CGIR), the Office of Temporary and Disability Assistance (OTDA), and the Redlich Horwitz Foundation on a Universal Cash Stipend experiment. The project will enroll 150 households to receive \$500 per month, unconditionally, over a one-year period. CGIR will execute a randomized controlled trial to determine the impacts of this stipend on the overall health and well-being of recipients with particular attention to child welfare system involvement.

Expand Family Assessment Response (FAR) statewide.

OCFS supports this recommendation for Family Assessment Response (FAR). While legislation mandating FAR statewide was not enacted in the last budget cycle, three new counties – Broome, Chenango (for Educational Neglect), and Putnam – began FAR in 2021, bringing the total number of participating FAR counties to 17. OCFS continues to encourage more counties to utilize FAR and recently sent an email to each LDSS Commissioner with an article containing promising research from Ohio which found that states who had differential response programs had roughly 19% fewer substantiated reports of child maltreatment, 25% fewer substantiated reports of neglect and a 17% reduction in using foster care services when compared to states without a differential response program. In addition, the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) is implementing a FAR Flag on all reports that meet the criteria for being tracked to the approach. The flag will provide all counties, even those that haven’t begun to utilize FAR, with an indicator that this report could be a candidate for FAR. We believe that the notifications will provide districts with more data from which to make a more informed decision regarding adopting FAR.

5) Adopt the American Bar Association’s (ABA) guidelines for observing injuries on a child’s body.

OCFS appreciates this recommendation and will take it under advisement.

6) Study the impacts of the implementation of the Blind Removal Process and Kin-First Firewall Practice.

Though there has been some fluctuation from 2010 – 2021, overall, OCFS has seen a decline in the Black disparity rate of children entering foster care from 5.51 in 2010 to 3.3 in 2021. We have seen counties with extreme disparity show a decrease to high or even moderate. OCFS is currently working with Casey Family Programs, a national leader in child welfare and a supporter of this strategy from its inception, to conduct a rigorous evaluation of the Blind Removal Process. The Kin-First Firewall is a policy directive that was released in conjunction with the Blind Removal Process and is intended to increase safe and appropriate kinship placements when a child must be removed from their home. Each county has a kinship policy that must include how it will implement a Kin-First Firewall process. To date, kinship placements are trending up from 38% in 2019 to 42.2% in 2021.

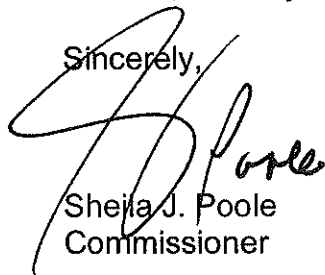
With regard to the workforce, the COVID pandemic has impacted every aspect of child welfare practice, not just in New York State, but across the country. OCFS met with New York State Department of Civil Service and has reconvened the workforce workgroup to continue to strategize ways to improve recruitment and retention, including an interactive map and a media toolkit. The New York State Department of Civil Service and their local offices remain active participants in the workgroup as we discuss potential changes to the current system. To date, Subject Matter Experts have been selected and a review of the Caseworker Exam is being conducted. The purpose of this is to align qualifications and competencies with test material. Additionally, a testing subgroup has been created to identify any challenges the exam may present in recruiting a diverse workforce. Most recently, civil service has stated they are open to the idea of exploring moving the test to Training and Experience which may broaden the pool of applicants and diversify candidates. We continue to have discussions with civil service about this possibility and identifying the pros and cons of this strategy.

I want you to know that OCFS values the Panels' input and ideas. We review and consider all the recommendations made each year. On March 8, 2022, Executive Deputy Commissioner Suzanne Miles and Deputy Commissioner Lisa Ghartey Ogundimu met with several Citizen Review Panel members. During that meeting, members expressed frustration and questioned whether the many years panel members have spent listening, studying, and advocating for reforms to child welfare have made a difference. One example of a difference the Panels have made is regarding KinGAP. In 2007, the Panels recommended that OCFS "implement a federally funded statewide subsidized guardianship program". This program, known as KinGAP, began on April 1, 2011. Today, kin placement is OCFS' prescribed first choice of placement for local districts and per the direction of 20-OCFS-ADM-18, "The kin-first firewall policy is a practice intended to increase safe and appropriate kinship placements. It requires a higher level of review to verify that all viable options have been explored to achieve a kinship placement before a non-kinship placement is made, thereby making kin the presumptive placement option when a child is initially removed or experiences movements while in foster care." Funding is required to be from the foster care block grant (FCBG) and local funding.

Modifying KinGAP funding is another recurring recommendation and was expressed in this year's report: "Creating independent funding for KinGAP, outside of the Foster Care Block Grant (FCBG), to strengthen long-term support for children living with kin". Some counties have been very successful at reducing placements into group care and have reinvested the savings into other child welfare programs. We encourage other counties to emulate the practices that keep children from foster care placement in the first place and invest in programming, including KinGAP, as an alternative to placing children in a foster home.

The Citizen Review Panels exist to provide a listening ear and a speaking voice to those who feel they may not have been heard at the State level. I appreciate the voices and viewpoints of the Panels. In fact, I remember an item noted in the 2007 report that mentions a former Albany County Commissioner, Sheila Poole, meeting with the Eastern members on March 16, 2007, regarding the consolidation of Albany County services under the Department of Children, Youth and Families. I, too, am a longtime advocate for children and families. Changes have been incremental and, at times, seem frustratingly slow. However, we have, together, made changes to practice, preserved or expanded funding as best we can, and continue to reform child welfare to promote the best outcomes for NYS' children and families. Thank you for your partnership, and I look forward making our collective vision to provide all children and families – regardless of race, ethnicity, gender identity, ability, and socio-economic status – with the economic and concrete supports that are needed to keep children safe and strengthen families, a reality.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Poole', written over the typed name and title.

Sheila J. Poole
Commissioner