

TESTIMONY

“The Needs of Youth Aging Out of Foster Care”

Before the

**New York State Assembly
Standing Committee on Children and Families
Subcommittee on Foster Care
William Scarborough, Chair
New York City, December 14, 2007**

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Good morning. I submit this testimony on behalf of the Legal Aid Society, and thank the Committee on Children and Families for inviting us to share our thoughts on how New York State serves older children in foster care as they prepare to live on their own. We applaud the Committee on Children and Families for tackling this important subject, and look forward to the valuable contributions that we are sure the Committee will make in this area of vital concern to our State's adolescents and young adults as well as their families.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor families and individuals. Legal Aid's Juvenile Rights Practice provides comprehensive legal representation to children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 29,000 children, almost 90% in the context of child protective proceedings. Approximately 40% of our clients are aged 12 and over. Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies. In addition to representing many thousands of individual children each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

Who Are the Young People "Aging Out" of Care?

The foster care population nationwide and in New York City has shifted dramatically in recent years. Currently, half the young people in foster care with the Administration for Children's Services (ACS) and its contract agencies are aged 12 and older¹. According to ACS' published data, between 60 and 100 young people each month are discharged to independent

¹ ACS' last published figure is 49.5%. http://www.nyc.gov/html/acs/downloads/pdf/outcomes/out6_citywide.pdf.

living, meaning they are not adopted and not discharged from care to live with their families². Instead, they may remain in care until age 21, when they “age out” and are no longer entitled to ACS’ services or the protection of the Family Court. Young people leaving foster care to live independently face much greater challenges than non-foster-children; the latter most often reach adulthood with the assistance and support of family and community. All too often, in addition to the trauma of being removed from family members and placed in foster care, young people preparing to leave care have also been moved from setting to setting and community to community while in care, making it difficult to maintain lasting ties with supportive adults. They need the basic things that children who live in stable families need when they grow up, but face more obstacles to meeting those needs.

In our experience, because ACS and the other responsible agencies in our City have not in many instances fulfilled their obligations, young people aging out of foster care will do so without a place to live, a job and/or ongoing education, income security, and health insurance. In addition to ACS, the Human Resources Administration (HRA), especially in the areas of health care and public assistance, is a player without which the City cannot ensure that young people leaving foster care to live independently can actually do so.

ACS is Legally Obligated to Prepare Children for Independent Living

The law in this area is clear. New York’s Social Services Law, the Family Court Act, and State regulations absolutely require that young people whose goal is independent living be provided with assistance with permanent housing, employment, education, health care, and

² In ACS’ monthly reports, the numbers are not broken out by age.
http://www.nyc.gov/html/acs/downloads/pdf/stats_monthly_update.pdf

public assistance if needed³. These rights are to be ensured by ACS and the foster care agencies with which ACS contracts.

Moreover, our State Education Law guarantees young people's educational rights – most notably to remain in school and earn a high school diploma – without exception for children in foster care⁴. Similarly, federal and state law guarantee that young people leaving foster care may receive continuous Medicaid coverage when they leave care, *without* having to reapply⁵.

The truth is ACS is not adequately preparing youth for adulthood, despite significant programmatic changes as outlined in their Preparing Youth for Adulthood plan. Although Commissioner Mattingly and his high-level staff have the best of intentions and grand plans for reforming ACS, the agency is continuing to fail in its duty to the older children in its care in the following ways.

1. Teens are Placed in Inappropriate Settings

Adolescents in foster care are placed in inappropriate settings far more often than younger children. ACS has made great efforts to reduce the number of group homes and this was a step in the right direction. At the same time, however, there are far too few successful alternatives. Often, these youth are placed in Residential Treatment Centers (RTC) during their early adolescence and languish there through late adolescence -- far beyond the time in which they might benefit from such a setting. RTC programs are meant to house children in a temporary therapeutic environment so that they may receive necessary services and return to

³ See, e.g., SSL §§ 366, 398, 409-a; Educ. Law §3203; Family Court Act §§ 255, 1055; 18 N.Y.C.R.R. §§ 427.3, 430, 441.

⁴ N.Y. Const. Art. XI; N.Y. Educ. Law 3202; 8 N.Y.C.R.R. Part 100; 20 U.S.C. §§1400 *et seq* (IDEA)..

⁵ 42 U.S.C. § 1396a(a)(10)(A)(i)(I), 1396a(e)(10)(B); 42 C.F.R. § 435.930(b); 42 C.F.R. § 431.636(b)(4); N.Y. Soc. Serv. L § 366 (1)(a)(3); 18 N.Y.C.R.R. §§ 360-2.2(c)(1), 360-2.6(b), 360-3.3(a)(4).

their communities. RTCs are neither designed for, nor are they appropriate to provide the long-term support needed by youth remaining in foster care until adulthood. For example,

- ACS placed our client Aaron, who has significant psychiatric needs, in an RTC at age 17. Initially, services enabled him to return home to his mother. A lack of follow-up services to the family made it inappropriate for Aaron to remain at home, and he reentered care. He was briefly hospitalized but then -- at age 17 ¾ -- he was placed back at the same RTC, whose program cannot meet the needs of adults with severe psychiatric conditions. The RTC did nothing to come up with a long-term plan for Aaron. He was placed in a cottage with boys 2-3 years younger than he, and given the same restrictions. Upon turning 18, Aaron asked to participate in choices for his future, but the RTC did not let him do so. The RTC's failure to provide him with any independence alienated Aaron so much that he decided not to remain in care and left on his own. Upon leaving care, Aaron was assaulted so badly that he needed to be hospitalized⁶.

- Bill has a long history of psychiatric hospitalizations, both as a child and young adult. During his hospitalizations, his foster mother, who had been planning for him, died unexpectedly. ACS did not locate another ACS placement following Bill's discharge from the hospital, and despite his consent to remain in foster care, ACS discharged him to an adult Office of Mental Health setting. ACS continued to fail to plan for Bill and did not provide OMH with history or case notes, and the OMH services were not appropriate to his needs. Bill deteriorated severely; he was hospitalized repeatedly, and eventually ended up in an adult hospital lock-down unit. Legal Aid tried for several months to request a planning meeting with hospital staff and ACS, but those requests were fruitless. When Bill turned 20, members of his foster mother's family expressed interest in planning for him, but ACS discouraged them, stating that he would never be able to return to the community. It was not until two weeks before Bill turned 21 that ACS held a planning meeting. At that meeting, ACS staff discharged Bill to the adult OMH system and said there was nothing more they could do.

Like RTCs, Diagnostic Reception Centers (DRC) and Rapid Assessment Centers (RAC) are over-used. DRCs and RACs are described as "highly specialized programs, with enhanced

⁶ These are actual examples, but we have changed our clients' names to protect their privacy. Please note that until 2006, when State law was changed, children placed in foster care voluntarily were not entitled to periodic court review (or legal representation) on their cases after age 18. When the law changed, children's lawyers were reassigned to the cases and were left to try to assist young people who had been ignored by the foster care system, sometimes for years.

staffing designed to render comprehensive evaluation of child/family service needs for youngsters who cannot receive these services within the community...A DRC is a time limited placement with a maximum stay of 90 days...”⁷. It is our experience that far too often DRCs and RACs are seen as the only “appropriate” placement for adolescents entering foster care. Our clients are often placed there without a diligent effort on the part of ACS and its contract agencies to secure evaluations and services in the community. It is also our experience that after our clients enter a DRC/RAC, the evaluations often result with RTC placement recommendations. Young people languish in DRC/RACs far longer than 90 days.

Clearly, part of the problem is that there is a shortage of foster homes for adolescents. and Although, admirably, ACS has been trying to focus on recruitment for this population for a lot of our clients its too little too late. We continue to hear caseworkers say things like, “no one is going to take him because he is a teenager.” Many agencies still do not adequately address the differences between raising young children and raising adolescents; there needs to be ongoing, very specific adolescent training for foster parents and agency staff, with more intensive support to assist foster parents through the trials of adolescence and young adulthood.

When a foster home is identified as willing to accept adolescents, ACS and the agencies often allow overcrowding with several teens placed in the same home. Our clients frequently report that foster parents give them a minimal allowance every month and expect them to buy food and basic personal items with this money, despite the existence of clear regulations that require foster parents to provide foster children with their basic needs.⁸

Given the shortage of foster homes, ACS and foster care agencies do not work hard enough to rehabilitate relationships with adolescents’ biological families. When an adolescent or

⁷ *Guide to Programs for Children in Foster Care*, ACS Placement Administration and Evaluation Services, June, 1995, page 12.

⁸ 18 N.Y.C.R.R. § 441.12(a); *see also* <http://www.ocfs.state.ny.us/main/rates/fostercare/rates/FC-Board10-06.pdf>.

an agency identifies a relative willing to become a foster parent, ACS should go the extra mile to engage families whenever it would be safe to do so. It is well-established that kinship foster homes help to strengthen young people's family relationships and tend to be less traumatic for young people than foster care with strangers.

2. Independent Living Skills Training is Inadequate

As required, ACS offers independent living (IL) skills training to young people starting at age 14. It is the responsibility of each of the contract foster care agencies to develop a plan for offering these skills. These plans, based on ACS' "Preparing Youth for Adulthood" goals, are the mechanisms through which youth in foster care are to gain the tools necessary for them to age out of care and become successful independent adults. It is safe to say that ACS and most of its contract agencies are failing in these efforts.

In general, IL skills classes take place once per month. Every adolescent aged 14 and older is invited to attend and those over 16 are entitled to receive a stipend when they do attend. These classes, however, are often held in the late afternoons on school days at the agencies' main offices. This makes it impossible for many of our clients to attend, as the agency offices may be hours away by public transportation. In addition, the skills training is not offered in any alternative way. The IL skills classes that most agencies offer do not substantively assist our clients. At the request of an agency, members of Legal Aid's staff provide legal rights trainings to foster youth as part of the PYA goal. As part of the rights training, our staff speak to the youth about their entitlements as adolescents aging out of care. These rights include housing, educational assistance, employment assistance, and health care coverage. It has been our experience that this training is often the first time most of these young people are hearing this

information. Worse, it is also our experience that at times the caseworkers and even staff designated as “independent living skills coordinators” do not know the information either.

Additionally, a greater emphasis must be placed on employment in the independent living skills workshops. IL workshops should focus on interviewing skills, resume and cover letter writing, dressing for interviews and job searching skills. Youth should also be encouraged to work during high school to prepare them for full time work and money management. It goes without saying that youth leaving care will not be sufficiently prepared to live independently without work history and current employment.

3. SILPs are Under-utilized

ACS has the option of placing young people in Supervised Independent Living Programs (SILPs). SILPs can give a young person who is working and/or attending college the opportunity to live in an apartment setting for 18 months and receive support services, all paid for by the agency. Some of these programs, like Chelsea Foyer, run by Good Shepherd Services, are successful at preparing young people for adulthood and many of our clients who have been placed there have been discharged from care with real plans in place. SILPs also offer one of the only alternatives to older teenagers who, for one reason or another, do not want to live in a foster home. Although the SILPs are independent living facilities, agencies are still mandated by law to assure that upon discharge, every young person has a significant connection to an adult who is willing to be a permanency resource. We have learned recently that ACS intends not to expand the SILP housing stock and we feel that this decision is incorrect and short sighted. The problems that we see with our clients in some of the SILPS are the same problems we see with clients in foster homes when the agencies in charge of these programs are not providing the appropriate support and direction and planning and therefore, our clients are being discharged

without the appropriate services in place. Rather than eliminating SILPs, we urge ACS to address and remedy the existing problems and improve service delivery to the young people residing in these programs, rather than giving up on a model which we believe is a valuable option for our clients.

4. Young People Must Have Stable and Safe Housing When Leaving Foster Care

The law is clear that ACS cannot discharge a child from foster care to homelessness,⁹ yet because the permanent housing options for these young people are so limited and so poorly utilized, New York City's Department of Homeless Services sees many former foster children applying for shelter¹⁰.

There are few permanent housing options available for adolescents leaving foster care to live independently. Not all are realistic options, and young people are often not told about the realistic options in time to actually find apartments. First, as required by the Social Services Law, ACS operates a housing subsidy program that is available to 18-year-olds who will have sufficient income with the subsidy to afford an apartment. Under this program ACS must provide up to \$300 per month for up to three years, until a total of \$10,800 is reached. Included in the total amount and shortening the duration of the monthly subsidy is a small furniture grant, a security deposit, and first month's rent. Given the extremely low vacancy rate in low-income housing in NYC, this subsidy is insufficient to meet the housing needs of a young person, and so it is nearly impossible for our clients to take advantage of this opportunity. The \$300 amount was set by State law in the 1980's and has not increased. This needs to change and we urge the

⁹ 18 N.Y.C.R.R. § 430.12(f)(3)(i)(c); *Palmer v. Cuomo*, 121 A.D.2d 194 (1st Dep't 1986); SSL 409-a(5)(c).

¹⁰ Twenty to 36% of homeless people have been in foster care as compared to only 2% of the overall population. National Resource Center for Youth Development, *Improving Outcomes for Older Youth: What Judges and Attorneys Need to Know* (2004). www.nrcys.ou.edu/nrcyd/publications/pdfs/improveoutcomes.pdf

State to enact legislation to amend the Social Services Law so that the housing subsidy amount gives young people a real chance at affording housing. Additionally, the City could fund its own monthly subsidy, as it has done for selected other populations, to make this a realistic option for young adults leaving foster care and we continue to urge the City to do so.

Even when young people are able to use the ACS subsidy, however, we find that it takes ACS' fiscal unit between 8 and 12 weeks to issue our clients the checks required to secure their apartments, and another 8 to 12 weeks to issue furniture grants once our clients present them with a secured lease. What landlord is going to wait 2-3 months for a security deposit and first month's rent? And where will the new young tenants sleep, sit and eat for the additional 2-3 months while waiting for furniture allowances? There is very simply no reason the City cannot expedite these grants and checks for our clients; it is difficult enough to get an apartment without having the added burden of convincing a landlord to hold it open for at least 8 weeks.

Additionally, there is a local priority for aging out youth for New York City Housing Authority (NYCHA) public housing and Section 8 leased housing vouchers (also administered by NYCHA). ACS and NYCHA have made the process for accessing these options so onerous, however, that many young people who could benefit have been deprived of the chance. A young person must be permitted to apply for this housing through ACS, and then ACS forwards the application to NYCHA. However, ACS has neither required foster care agencies to ensure that these applications are completed by a certain date, nor has the agency set a protocol governing how the applications get to ACS. These applications should be filled out on or shortly after our clients' 18th birthdays to ensure that they are complete and that there is time to process them once the young people affirm that they are prepared to be trial discharged to their own apartment (or on their 20th birthday, whichever comes first). Agency workers are required to complete a section of the application before ACS processes it. With high turnover in workers at all of the

agencies, our clients' applications are frequently not completed and are often lost. Many clients have had to fill out applications 2-3 times before they are sent to NYCHA and Section 8.

Most significant in the process, is the complete lack of coordination between ACS and NYCHA. ACS has not delineated specific members of its staff who will ensure that the applications are complete and properly submitted to NYCHA. Instead, ACS' housing office staff members handle housing applications for independent living clients, reuniting families, and anyone else with an open ACS case who is seeking housing. It would assist our clients greatly if there were staff members dedicated to the IL population. Also, NYCHA has not designated a specific member of its staff who will receive these applications and ensure that they are complete and properly processed. When we have asked ACS who their point person is at NYCHA, the (unworkable) answer is the person who heads Applications for the entire NYC Housing Authority¹¹.

There are a number of ways in which ACS and agencies' practices present obstacles for young people applying for housing subsidies, and these practices must change immediately. For example, ACS approves discharges of young people from foster care to college dormitories. By definition, dorms are not permanent housing, and young people will have nowhere to live after college and between semesters. We have also experienced ACS and contract agencies discharging young people deemed "uncooperative" from foster care to homeless shelters, clearly against the law. Additionally, ACS will not refer to NYCHA youth whose foster parents say they can live in the household after their 21st birthday, even if this is a very temporary situation specifically agreed to in an effort to keep the youth from becoming homeless.

¹¹ NYCHA requires deposits for apartments as well, and ACS' regular delays of 8-12 weeks in issuing those checks causes our clients to choose between losing the apartments and spending their discharge grants – meant for other vital expenses -- which ACS will not reimburse.

For NYCHA-administered public housing and Section 8 rental assistance, proof of income is required. When young people are going to need public assistance after leaving foster care (but must apply for housing *before* they exit foster care), ACS must coordinate with HRA to arrange for presumptive eligibility documentation that satisfies NYCHA, so that income can be proved in time for applications to be processed.

One of the most egregious failures is ACS' not coordinating with the State Office of Mental Health (OMH) and the State Office of Mental Retardation and Developmental Disabilities (OMRDD) so that young people with disabilities who need supportive housing can access it. Time and again, we have seen agencies who should be working together to help young people instead seek to dump "difficult cases" on each other.

5. Medical Care is Inadequate and Health Insurance is Illegally Terminated

Young people leaving foster care too often suffer gaps in health care coverage because they are not given the opportunity to continue their Medicaid eligibility under a new category, as the law requires. Instead, they lose coverage when they leave care and are erroneously told by caseworkers to reapply at a local Medicaid office, or are told nothing at all. Most of the young people affected do not even realize their Medicaid has been terminated until they go to a doctor and are informed they have no coverage.

Despite making some changes in their computer system, ACS, HRA and the State Department of Health have not successfully resolved this longstanding issue by ensuring continuous transitional coverage and notifying young people leaving care what steps they must take to be recertified. In particular, while transitional coverage is now available, many young people are not receiving it or do not know they have it; HRA appears not to be issuing the

appropriate cards and notices, and ACS and foster care agency staff are woefully uninformed and untrained on this vital issue.

A child who is placed in foster care is automatically eligible for Medicaid benefits¹². When a young person is discharged from foster care, federal and state law bar the State's Medicaid program from unilaterally terminating the beneficiary's Medicaid coverage without first determining that he or she is no longer eligible for Medicaid benefits or, if under the age of 19, Child Health Plus B¹³. Sadly, because of a lack of training and inter-agency coordination, young people continue to be denied care.

- Clara turned 21 this year. Despite the advocacy of Clara's Legal Aid attorney and her foster mother, ACS failed to provide transitional Medicaid coverage until Legal Aid secured two separate court orders from the Family Court in Bronx County. The first Order provided that within three days ACS was to confirm in writing to Clara's attorney "that [Clara]'s foster care Medicaid has been transferred to community based Medicaid;" and that ACS and the contract agency would be "liable for any medical expenses incurred due to any lag in the Medicaid transfer;..." ACS failed to provide written confirmation, and our office sought a second Order. The second Order reiterated the directive to provide written confirmation, directed ACS to "state the actual date that the transfer took place," and further ordered ACS to pay Clara a specified dollar amount to reimburse her for medical expenses incurred during the gap in coverage.

The Legal Aid Society, on behalf of our clients and a proposed class of young people leaving foster care, has informed HRA, ACS and State DOH that we are ready to file a class action lawsuit against these agencies. As a result, the three agencies have now agreed to engage with us in intensive settlement discussions aimed at resolving this longstanding problem within a very short time frame.

¹² 42 U.S.C. § 1396a(a)(10)(A)(i)(I); N.Y. Soc. Serv. L § 366 (1)(a)(3); 18 N.Y.C.R.R. §§ 360-2.2(c)(1), 360-3.3(a)(4).

¹³ 42 U.S.C. § 1396a(e)(10)(B); 42 C.F.R. § 435.930(b); 42 C.F.R. § 431.636(b)(4); 18 N.Y.C.R.R. § 360-2.6(b).

A step that would resolve this problem for a large portion of the young people denied coverage exists in federal Medicaid law, which allows states to opt in to automatic coverage for former foster care youth, who are then assured Medicaid coverage from ages 18-21¹⁴. Although 17 states have already exercised this option and five states plan to do so, New York has not¹⁵. We urge the Assembly to push for New York State to opt into this provision.

Many teens in foster care do not receive the health care they need and are entitled to, particularly when they are moved from placement to placement.

- David was in foster care for years, first at an RTC until that facility closed, and then in a SILP. During his placement, he suffered major injuries to his finger and back, both requiring surgery. David's Legal Aid lawyer had to secure several court orders to have ACS provide medical evaluations and x-rays. David was also not prepared adequately to live independently following his 21st birthday. Because of the agencies' failure to provide medical care, assistance in obtaining Social Security disability, employment and housing, ACS granted three extensions of placement for David to remain in foster care past his 21st birthday. Following the third extension, having received no assistance locating housing, David was discharged to the shelter system without receiving SSI, housing assistance, or employment assistance.

ACS is obligated by law to provide all young people in foster care with reproductive health care, including family planning services and abortions, without parental notification or consent¹⁶. Yet young people in foster care are often uninformed about their medical rights. ACS allows some foster care agencies to provide privately-funded "abstinence only" education. Our understanding is that the contracts for these programs prevent the agencies from also offering safe-sex education programs and/or contraception.

6. Obstacles to Obtaining Education

¹⁴ 42 U.S.C. 1396d (Public Law 106-169).

¹⁵ American Public Human Services Association, *Medicaid Access for Youth Aging Out of Foster Care* (2007).

¹⁶ 18 N.Y.C.R.R. §§ 441.22, 507.1.

The educational system in New York City is difficult for any person to navigate successfully, but even more so for adolescents in foster care. A recent national study showed that only 56.3% of youth in foster care earned a high school diploma¹⁷. In New York, a major cause of this low graduation rate is a complete lack of coordination between ACS and the NYC Department of Education (DOE). In our experience, our clients are often out of school for weeks on end when their foster care placements change, which happens frequently. Our adolescent clients who move are also forced to commute hours each day to their assigned high schools.

For our clients struggling in high school, there is no tutoring available, and they are often placed in foster homes which do not provide them with the educational support necessary for success. For example, teens may be placed in homes where English is a second language. With high caseworker turnover, young people may never receive the required assistance from their foster care agencies and are left to negotiate the DOE bureaucracy on their own¹⁸. Because of these difficulties, 75% of youth in care surveyed said they wanted to go to college, but few had actually taken the necessary coursework.¹⁹

Nationally, only 15% of foster care youth are likely to be enrolled in college preparatory classes, as opposed to 32% of students not in foster care²⁰. Each foster care agency is responsible for assisting young people to apply for college and financial aid, yet our staff frequently has to

¹⁷ Pecora, P., Kessler, R., Williams, J., O'Brien, K., Downs, A., English, D., White, J., Hiripi, E., White, C., Wiggins, T., & Holmes, K., *Improving family foster care: Findings from the Northwest foster Care Alumni Study*. Seattle, WA: Casey Family Programs (2005).

¹⁸ 18 N.Y.C.R.R. § 441.13

¹⁹ Zanghi, M., Oldham, E., Sheehy, A., & Reibman, D., *Maine study on improving the educational outcomes for children in care*. Portland, ME: University of Southern Maine, Edmund S. Muskie School of Public Service, Institute for Child and Family Policy (1999).

²⁰ Sheehy, A., Oldham, E., Zanghi, M., Ansell, D., Correia, P., & Copeland, R. (2000). *Promising practices: Supporting the transition of youth served by the foster care system*. Baltimore, MD: Annie E. Casey Foundation.

seek court orders to have agencies pay for college preparatory classes. Such payments are required by State regulation²¹.

New York's SUNY/CUNY system provides wonderful opportunities. Yet given this affordable alternative for foster care youth, it is troubling that ACS does not have a better-coordinated recruitment and application process with the SUNY/CUNY system. Our clients find themselves navigating this system on their own when young people not in foster care have the support of their parents/guardians to help them investigate and apply for schools, and enroll in college. New York should also guarantee that youth who are or have been in foster care have the opportunity to attend SUNY/CUNY free of charge, as is the practice in some other states.

When it comes to paying for college, youth in foster care are eligible for all federal financial aid and can receive additional assistance through the Educational Training Voucher, which can provide up to an additional \$5,000 per year. ACS and the agencies have done a wonderful job in getting the word out about ETV, yet when a young person gets less than the maximum amount, the agencies are not working to increase the amount. Further, many young people in foster care amass enormous student loans. Upon investigating these circumstances, our staff often find that young people are being told by untrained caseworkers that the agency and/or ACS will assist them in paying for school. Nothing is further from the truth. Even when a young person in care finds herself in a financially crippling situation, ACS offers no assistance to help her rectify it.

- Elizabeth attended college in West Virginia in the fall of 2005, but decided to withdraw when she became pregnant. The school is charging her \$5,666.85 for the one semester she attended. ETV will not cover the cost because the state of West Virginia reported that Elizabeth left the school without withdrawing. The student loan company is threatening to deduct money from her paycheck as soon as she starts working. Elizabeth is enrolled in a nursing program and expects to begin working upon her certification in 10

²¹ 18 N.Y.C.R.R. § 427.3(c)(2)(ii)

weeks. Elizabeth will age out of foster care in August, with debts of \$5,666.85 along with \$950.00 for the nursing program which ETV did not cover because it is not Title IV-E reimbursable.

For our clients who are not college bound, ACS and its contract agencies lack relationships with vocational training programs. Our clients with disabilities may be referred to the State Education Department's VESID programs, but others are left on their own to find a vocational program. Young people are finding that they have to pay out of their own pockets for these vocational programs even though ACS and/or the agencies are required to provide vocational training²².

7. Day Care is Not Made Available

Young parents in foster care throughout the City are unable to secure stable housing, full time employment, or further their education without full time day care assistance. Whether enrolled in college or working (or both), these young people have great difficulty accessing day care. Only those young women living in mother-child programs are provided day care at their place of residence. Agency caseworkers are often untrained and tell our clients that they will receive "a day care voucher," when in fact, City-subsidized day care is allocated through available slots throughout the City. It is our experience that teens are not informed about day care options other than ACD, yet according to LaVerne Parker, Director of ACS' Office of Family and Client Services, in June, 2007, Brooklyn had approximately 1500 open day care spots for subsidized care for which parenting youth in foster care would be eligible. Some of these sites are being closed as under-utilized. At the same time, parenting teens in the Bronx are at a great disadvantage due to the lack of availability of subsidized day care and ACD vouchers.

²² 18 N.Y.C.R.R. § 430.12

The failure of ACS and many foster care agencies to do what is legally required to help teens in foster care can cause multiple and heartbreaking problems for young people trying to make their way in the world with very little support.

- Frances was placed by ACS in a group home with a permanency planning goal of independent living. Three months prior to her 21st birthday she was trial discharged to supportive housing but ACS refused to give her a discharge grant (\$750) because they did not consider supportive housing to be independent living. It was only after her Legal Aid lawyer secured a court order that ACS provided the discharge grant. In the meantime, without this money, Frances lost several potential professional employment positions because she could not buy the appropriate clothing, and incurred rent arrears of \$400 because she was unable to pay her portion of the rent required by the supportive housing program. Additionally, while in care, ACS was the representative payee for Frances' SSI payments. After leaving foster care, because neither ACS nor the agency had transferred their payee status to Frances, she reapplied for SSI but was told that she would not receive monthly disability payments until more than \$4,500 in overpayments to ACS were repaid.

8. Obstacles Facing Undocumented Youth

Undocumented youth aging out of foster care suffer additional obstacles; for them, lawful immigration status is the gateway to critical education, health care, housing, employment, and other benefits. Undocumented youth are unable to obtain financial aid for college, proper medical care, lawful employment, or many other state and federal benefits. They also face the risk of deportation to countries in which they lack family, support, or any means of subsistence, and sometimes face persecution.

The federal immigration laws can provide legal status for some of these youth through Special Immigrant Juvenile Status (SIJS). Youth in foster care who have been abandoned, abused, or neglected may qualify for SIJS, but there is a critical timing component to their eligibility. SIJS applications must be adjudicated by federal authorities by the applicant's 21st birthday, at which point their eligibility is forever lost. Because the applications involve

proceedings before the Family Courts and immigration authorities, and require documents (i.e. original birth certificates) many immigrant children lack, the application process can take years to complete. It is critical that potential SIJS cases be identified as early as possible and referred to appropriate legal service providers. Failure to promptly identify eligible youth and refer them to legal service providers often prevents qualified immigrant youth from taking advantage of this unique opportunity. It is also critical that agencies assist in providing documentation required by immigration authorities, particularly birth certificates, at the earliest possible date.

Other immigration needs also need to be addressed before young people age out of foster care. Legal residents who lack proper documents (i.e. valid green cards) also face serious obstacles in obtaining important benefits.

ACS is working to better identify the immigration needs of youth in foster care; however, as yet ACS has failed to develop a reliable system to identify all children in its care who are in need of immigration legal assistance. The State and ACS should strengthen their efforts to identify young people who are eligible for immigration benefits and provide them with assistance in obtaining lawful status and proper documentation.

Before a young person can apply to U.S. Citizenship and Immigration Services (CIS) for SIJS, a juvenile court judge must make certain findings, called Special Findings. The Special Findings Order is then submitted to CIS along with the young person's application. Many New York City Family Court Judges have issued the Special Findings required for SIJS applications; however, some have misinterpreted the law and concluded that they lack jurisdiction to issue the findings in certain types of cases. This is inconsistent with federal law and undermines the purpose of SIJS; moreover, it runs contrary to the Family Court's obligation to protect the best interests of NY children. Outside New York City, courts seem less familiar with SIJS. We urge the Assembly to support legislation that would clarify Family Court's jurisdiction to issue SIJS

Special Findings orders in cases brought pursuant to Family Court Act Articles 3, 6, 7, 10 and 10-A and Social Services Law section 358-a.

Recommendations

There is much to be done to improve our City's and State's treatment of the young people in foster care who will remain there until they become adults. Among other things, we recommend that:

→ the State convene and hold accountable a working group of City and State agencies who must coordinate efforts on behalf of these children. The agencies would include ACS, HRA, DYCD, DOE, DOH, CUNY; and State OMH, OMRDD, Education, and DOH.

→ the State amend Social Services Law 409-a so as to increase the housing subsidy, set in the late 1980s at a maximum of \$300 per month and never raised, so as to allow recipients of the subsidy to rent at Fair Market Rates (similar to Section 8).

→ ACS develop and enforce a meaningful housing application protocol for all foster care agencies and all foster care youth, and agree on a procedure whereby HRA would provide proof of presumptive eligibility for public assistance for young people who need to prove eligibility to access subsidized housing.

→ the State Department of Health coordinate and work with ACS and HRA to end the practice of illegally denying continuous Medicaid coverage to youth leaving foster care.

→ the State opt into the federal Chafee Act Medicaid law provision providing automatic coverage for former foster care youth, aged 18-21.

→ SUNY and CUNY provide free tuition to young people who are in foster care or have been in foster care.

→ the State and ACS strengthen their efforts to identify young people who are eligible for immigration benefits and provide them with assistance in obtaining lawful status and proper documentation.

→ the Assembly support legislation that would clarify Family Court's jurisdiction to issue SIJS Special Findings orders in cases brought pursuant to Family Court Act Articles 3, 6, 7, 10 and 10-A and Social Services Law section 358-a.

Thank you for this opportunity to testify. I will be happy to answer any questions the chairs and committee members have.

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