



Advocates for Children of New York

Protecting every child's right to learn

Testimony to be delivered to the New York City Council Committee on General Welfare

Re: Foster Care Task Force Progress

November 24, 2020

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Thank you for this opportunity to testify about the City's progress toward advancing the recommendations of the Interagency Foster Care Task Force. My name is Erika Palmer. I am a Supervising Attorney at Advocates for Children of New York and direct our foster care project. For nearly 50 years, Advocates for Children has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. We speak out for students whose needs are often overlooked, such as students with disabilities, students from immigrant families, students who are homeless, students with mental health needs, court-involved youth, and students in foster care.

In March 2018, the Task Force made a series of recommendations to improve outcomes for children and families in the City's foster care system, including three recommendations focused specifically on education. Many of the needs raised in two of those recommendations – to provide academic and social-emotional support to middle school students in care and to establish dedicated counselors who provide mentoring, high school application assistance, and college advising to foster youth – are being targeted by the Fair Futures Initiative, which funds tutoring, Coaches, and Education Specialists at foster care agencies for students from middle school through college. I would like to recognize the Council and the Administration for Children's Services (ACS) for investing in Fair Futures and urge the City to baseline funding this year to help ensure the program's long-term stability. I've seen firsthand how Fair Futures staff have been an essential support to youth in care during the pandemic, and I look forward to continuing to work with them in the coming year.

The Task Force's third education recommendation concerned improving service coordination and regulatory oversight at the Department of Education (DOE) to support students in foster care. It called for the DOE to publish a Chancellor's Regulation on the rights of students in care. While we appreciate that the DOE has issued guidance to schools and incorporated much of our feedback into the guidance,



it does not have the weight of regulation, and areas remain where the guidance contradicts existing Regulations, such as with respect to a parent’s right to access education records when their child is in care. We urge the DOE to move forward with publishing a Chancellor’s Regulation.

Finally, the Task Force recommended that the DOE establish infrastructure, similar to the DOE’s Office of Students in Temporary Housing, to “oversee and advise a team of borough-based foster care content experts” who would provide schools with case consultation and professional development. Despite the significant educational barriers faced by students in foster care and the special laws and protections that apply to them, ***the DOE still does not have a single staff member focused full-time on this population.*** As a result, the DOE has not developed and implemented necessary policies to assist students in foster care, and schools, families, and child welfare professionals do not have a point person to contact with questions about students in care.

The pandemic has further demonstrated the need for DOE staff focused on the unique needs of this population. Such staff could have coordinated with ACS and foster care agencies to resolve barriers related to insufficient devices or Wi-Fi service impacted by students’ frequently changing living situations; enabled parents and foster care agencies to access crucial education information in online portals like NYC Schools Account; or developed sensible protocols for students in care in response to the pandemic regarding, for example, consenting to special education services via teletherapy or opting for blended learning.

While the Task Force’s initial recommendation conceived of a team of DOE staff, we strongly believe that there must be at least one senior staff member dedicated to students in foster care. This point person would have the requisite expertise and capacity to work across city agencies and DOE divisions to develop and carry out policies, provide training, respond to questions, and execute plans to better support these students. While we agree with the recommendation for a small DOE office for students in foster care with a senior-level leader and borough-based liaisons, we would like to work with the Council to ensure that, at a minimum, the DOE designates one senior staff member to focus full time on this population that too often has been overlooked.

Thank you for this opportunity to speak with you. I would be happy to answer any questions you may have.



Testimony
New York City Council
Committee on General Welfare
Tuesday, November 24, 2020

Submitted by –
Catholic Guardian Services

Providing services since 1887, and as the first Catholic non-profit social services agency in the United States to support placement of children in foster homes rather than institutions, Catholic Guardian Services has over 130 years of experience in serving the vulnerable children, adolescents, and adults of the greater New York Metropolitan area. With operating revenues of \$62 million dollars in FY 2020, Catholic Guardian Services (CGS) employs over 600 staff across four (4) community-based offices and operates seventeen (17) facilities that serve over 2,000 persons daily throughout New York City.

Catholic Guardian Services (CGS) provides foster care services that meet the needs of over 600 New York City children and adolescents through a variety of programs, including family foster care, treatment family foster care, medical family foster care, and community group homes. Approximately 25% of our population are adolescents planning for their future and charting a path to achieve their goals as successful adults. CGS has developed a cadre of specialized services to support these youths, including Independent Living Workshops, Youth Employment Services, Mentored Internship Programs, College Support and most recently Fair Futures, for which we are thankful to the Council for its support.

The missing link in this focused planning is safe, stable and affordable housing for youth who are aging out of foster care. Though all of our young people apply for all available housing options such as NYCHA, Supportive Housing Programs and Section 8 vouchers, they are met with long, slowly-moving waiting lists for NYCHA and Supportive Housing and landlords who are too often unwilling to accept vouchers. Many find themselves without an identified home when they turn 21 and have to apply for a special category of CCS 21+ (Continued Care and Support) that enables them to remain in a foster care setting and avoid experiencing shelter or street homelessness. CGS currently has 25 young adults in this situation. While preferable to being homeless, this outcome is far from positive as it prevents young people from starting their independence as adults and maintains a dependent relationship with the child welfare system.

Int. 148 would have a marked impact on moving young people from foster care to independence. With the goal of enabling the Human Resources Administration or the Department of Homeless Services to consider the time youth spent in foster care as homelessness when determining the youth's eligibility for rental assistance programs when such eligibility is dependent on having spent time residing in the city shelter system, this legislation would open additional housing

options for the youth through such programs as LINC, CITYFEPS and SEPS (now collectively CityFHEPS).

The inclusion of former youth in care who were adopted or placed in guardianship at or after the age of 16 in Int. 148 is also an innovative plan that furthers positive outcomes for young adults. Currently, older youth in care most often decline a permanency option of adoption or kinship guardianship because they are fearful that they would lose eligibility for any housing preference generally provided to foster children. If Int. 148 is enacted, it would support the true goal of permanency for children and youth in foster care.

Catholic Guardian Services is aware that suitable and affordable housing, even with the help of expanded eligibility for rental assistance programs, is difficult to find since fair market values are high and subsidies are often too low. Despite this, the opportunities afforded to foster care youth by Int. 148 represent an essential step in ensuring that aging out of foster care does not mean aging in to homelessness.



Testimony of

Coalition for Homeless Youth

on

Oversight: Foster Care Task Force Progress
Intro. 0148-2018

Submitted to

The New York City Council's Committee on General Welfare

Jamie Powlovich
Executive Director
Coalition for Homeless Youth

November 24, 2020

The Coalition for Homeless Youth appreciates this opportunity to submit testimony before the New York City Council's Committee on General Welfare regarding rental assistance for youth.

Background

Since modern homelessness began in the late 1970s, homeless youth have faced the reality that the City does not provide enough age-appropriate shelter and largely leaves them out of access to permanent housing options. Under the current administration, there have been some improvements in addressing the needs of RHY. However, the harsh reality is that there are still not nearly enough resources provided by the City to meet the needs of its homeless youth. The lack of a right to youth shelter, the relatively small number of beds in the City's RHY continuum, and the marginal number of age-specific beds in the DHS system, all present major gaps that cause too many young people to fall through system-based cracks. The ongoing lack of coordination between City agencies serving homeless young people only makes this situation more difficult for youth reaching out for help.

In a study completed by the Center for Innovation through Data Intelligence (CIDI) that looked at outcomes for youth in the Administration for Children's Services (ACS), Department of Homeless Services (DHS) and the Department of Youth and Community Development (DYCD) systems between 2008 and 2013, analysts found that "Having a subsidized exit substantially reduced the likelihood of both future system use and being a high service user in all models—by about two-thirds and 85%, respectively."¹ Access to subsidies is a life-changing matter. Currently, homeless youth relying on homeless youth services funded by DYCD are one of the only homeless sub-populations in New York City that has been left with virtually no option for permanent housing to help them exit homelessness. Youth relying on DYCD's homeless youth programs currently have no access to local housing subsidies like CityFHEPS, despite being promised access four years ago. These young people do not receive any priority access to NYCHA units or priority access to Section 8 subsidies. Youth eligible for supportive housing also face significant barriers to accessing a unit, and there has been ongoing difficulty ensuring fair access to supportive housing interviews and acceptance for homeless young people, particularly those with serious and persistent mental illness. Due to a significant lack of access to permanent housing resources, youth experiencing homelessness in the DYCD continuum are not seeing success in exiting homelessness.

Intro. 0148-2018

This bill seeks to amend the administrative code of the City of New York to require that the Department of Homeless Services (DHS) recognize time spent in foster care as homelessness for the purpose of meeting rental voucher eligibility requirements. While we support the goal of expanding access to housing resources for all youth, we feel that this bill requires significant amendments, and concerns and recommendations are as follow:

General Concerns

- The bill was drafted in 2017, and was introduced in 2018. This was prior to NYC streamlining many of their city sponsored vouchers into the current CityFHEPS program, so the programs that are referenced in the bill are no longer active or applicable.

¹ Center for Innovation through Data Intelligence, Office of the Mayor. 2017. "Housing Trajectories for Transition-age Youth." <http://www1.nyc.gov/assets/cidi/downloads/pdfs/housing-trajectories-of-transitionage-youth.pdf>. Quote is from page 6.

- Unlike with the previous voucher programs, both ACS involved youth and homeless youth in the DYCD shelter system were already granted conditional access to CityFHEPS vouchers based on their living in a “CityFHEPS qualifying program” as defined in the CityFHEPS rule, however to date neither of these groups actually have access to vouchers.

Concerns Regarding Runaway and Homeless Youth

- This bill excludes runaway and homeless youth who are currently literally homeless, and do not have access to any supports to exit homelessness (including vouchers) with the exception of limited access to Permanent Supportive Housing and Rapid Re-Housing.
- This bill furthers the disparity in support access between the runaway and homeless youth in the DYCD shelter system and youth in foster care with ACS.
- This bill will pin the foster care and runaway and homeless youth populations against each other to compete for limited resources, and give foster care youth priority over runaway and homeless youth if they are not included.

Proposed Changes

- Require the Department of Social Services (DSS) to amend the CityFHEPS rule to recognize time spent in DYCD funded youth shelters as “homeless” for meeting the eligibility criteria for accessing vouchers as “shelter residents and persons who are street homeless” in §10-4 of the CityFHEPS rule . This would grant RHY equal access to vouchers for homeless individuals based on their lived experience of homelessness and not limited to what system they seek shelter in
- Require DSS to amend the CityFHEPS rule to recognize youths time spent in foster care as meeting the eligibility criteria for accessing vouchers as “city residents who are not in an HRA or DHS Shelter or Street Homeless” in § 10-03 of the CityFHEPS rule.

In addition, we recommend that throughout the process of amending the bill, and the development of policies related to rent assistance for youth, that the City Council and the General Welfare Committee solicit opinions from youth who have lived experience with the ACS and DYCD systems, as well as advocates who work in each of these two systems.

Conclusion

The Coalition for Homeless Youth is thankful the Council for continued commitment to advocating for the needs of youth experiencing homelessness in NYC, and we are available to meet and support you regarding your ongoing efforts.

Testimony | November 24, 2020

**Enterprise Community Partners & the Real Estate Board of New York (REBNY),
and The Legal Aid Society to**

The Committee on General Welfare of the New York City Council Concerning Intro. 0148

As members of the Eviction Prevention for Non-Payment Solutions Roundtable, part of the broader Project Parachute initiative, we thank Chair Levin and the Committee on General Welfare for the opportunity to testify today in support of Intro. 0148 and to highlight the importance of interventions upstream of the legal eviction process, such as expanding access to rental assistance to youth aging out of foster care, as an effective tool to prevent homelessness .

[Project Parachute](#) is a coalition of owners, non-profit organizations, and service providers based on the shared commitment to support vulnerable tenants during the pandemic and in its aftermath. Project Parachute has provided millions in [funding](#), administered by Enterprise Community Partners, to the City's seven Homebase community-based providers, organizations that are on the frontlines of addressing the homelessness crisis and which have the experience and infrastructure, such as walk-in clinics, to provide a range of social services to low-income New Yorkers impacted by Covid-19.

To find long-term ways to reduce the number of evictions due to non-payment, Enterprise convened a diverse partnership of stakeholders, including representatives from Enterprise, Real Estate Board of New York (REBNY), The Legal Aid Society, Homeless Services United (HSU), New York State Association for Affordable Housing (NYSAAFH), tenant advocates, and other housing and service providers for the Eviction Prevention for Non-Payment Solutions Roundtable as part of the broader Project Parachute initiative.

Together, roundtable participants seek to develop solutions for lower-income tenants, including those receiving rent subsidies and those living in affordable units and buildings, who are in arrears. We hope to avoid eviction through upstream interventions. Intro. 0148's goal to expand voucher access for those aging out of foster care is fully aligned with these goals. We have four key recommendations at this time. First, we recommend HRA waive the requirement for Housing Court proceedings as a part of for FHEPS and CityFHEPS (in community) eligibility.

Second, we recommend HRA add eligibility for seniors and hospital discharges who would otherwise go to shelter. These indisputably vulnerable adults deserve safe, stable housing, and would suffer dire consequences if they experienced homelessness, especially during the pandemic.

Third, we recommend HRA fully implement CityFHEPS eligibility for youth aging out of foster care. [Research has shown](#) that youth aging out of foster care are at an elevated risk of housing instability and homelessness. We understand that, under Section 10-03(a)(6)(C) of the Administrative Code on CityFHEPS eligibility for people in the community, one qualifying category includes households referred by a CityFHEPS qualifying program, including ACS. However, our experience is that this provision is not being implemented. In order to fully implement CityFHEPS in community eligibility for youth aging out

of foster care and homeless youth, ACS and DYCD should draft clear referral procedures and have HRA approve them.

Fourth, we recommend youth aging out of foster care are automatically eligible for State FHEPS.

Expanding access to rental vouchers for vulnerable populations, such as those aging out of foster care, and waiving the eviction proceeding requirement, is the right thing to do and treats our fellow New Yorkers who are experiencing housing instability with more dignity. Expanded access and more fair eligibility standards makes fiscal sense too as it is more cost-effective for government intervention to keep or place someone in their home than it is to provide shelter. Furthermore, expanded voucher access is also a proven effective tool to integrate neighborhoods of opportunity and provide financial security for tenants in neighborhoods experiencing significant change and transition.

Intro. 0148, which counts time spent in foster care as homelessness for the purpose of meeting voucher eligibility requirements, recognizes that foster care does not necessarily translate to long term housing stability, and makes these critical voucher programs available to a subset of New Yorkers who are especially vulnerable to housing insecurity and eviction.

It is critical that New York City and state step up to provide new resources so New Yorkers can avoid housing court and the legal eviction process. Stronger public policy decisions can be made when those decisions are grounded in publicly available data. Unfortunately, there is significant room for improvement in the data transparency around existing programs and little accountability measures in place to track fund expenditures overtime. What we do definitively know is that preventive care is always more cost effective in the long term. The National Institutes of Health has demonstrated this [for health care](#), and recent history has shown it to be true for [infrastructure](#), and there is an accepted health link to [housing stability](#).

Thank you for the opportunity to provide testimony on this important issue. The members of The Eviction Prevention for Non-Payment Solutions Roundtable are available for further discussion on the recommendations.

Submitted Testimony of Good Shepherd Services
Before the New York City Council Committee on General Welfare

Submitted by
Elizabeth Garcia, Division Director
Good Shepherd Services

November 24, 2020

Good morning/afternoon. My name is Elizabeth Garcia and I am a Division Director at Good Shepherd Services, supervising our Supportive Housing Programs, the Chelsea Foyer and McLaughlin East Harlem Residence.

Thank you Chair Levin and the Council Members of the Committee on General Welfare for the opportunity to submit testimony on Intro 0148-2018, a bill requiring that the Department of Homeless Services recognize time spent in Foster Care as homelessness for the purpose of meeting rental voucher eligibility requirements.

Good Shepherd Services is both a Foster Care and Runaway Homeless Youth provider. Our testimony today will focus on how recommended amendments to this legislation is an opportunity to disrupt a cycle of inequity, where for years these two populations have not been equally prioritized for the scarce housing resources in New York City. Our recommended amendments will help meet the needs of all youth needing shelter and housing in our City.

We recognize that the statistics of youth aging out of Foster Care and becoming homeless are of great concern. At the Chelsea Foyer, a transitional independent living program for youth who are experiencing homelessness, 42% of our youth have Foster Care lived experience, and 100% are in need of stable, long term housing. The Council can help address this concern by including both youth in Foster Care and Runaway Homeless Youth under the “at risk and vulnerable population” for purposes of accessing the City’s rental voucher program. As an example, the NY1515 housing initiative did exactly this by treating both populations as vulnerable and allowing 16 to 24 years olds in Foster Care and RHY to access this resource based on a vulnerability index, and not based on system experience.

As written, the following sections of the legislation are of concern:

- The legislation excludes Runaway Homeless Youth who are currently experiencing homelessness and who currently do not have access to this voucher. The Coalition of Homeless Youth has been advocating with the City to give RHY access to this program for years, but to date, RHY youth still do not have access .
- The legislation creates a precedent to continue to exclude Runaway Homeless Youth from other programs.
- The homeless designation for youth in Foster Care will be incongruent across other State and Federal agencies and specifically, the U.S. Department of Housing and Urban Development (HUD) which does not recognize youth in Foster Care as homeless.

- The legislation will create an undue burden for the City to provide resources to youth in care over the Runaway Homeless Youth population and unfairly have the populations compete for limited resources that will give youth in care priority over RHY.

For the record, in my written testimony, I have included the housing options that are currently available to youth who are being discharged from Foster Care. The list includes: HRA Supportive Housing, NYCHA and HPD Section 8 Housing. ACS also has the Housing Support Services which helps families and young adults involved with Foster Care find suitable, stable, long term housing.

HRA SUPPORTIVE HOUSING

- NY/NY III (Population C): Supportive housing for young adults, 18-24 years of age, who have a SMI being treated in NYS licensed residential treatment facilities, State psychiatric facilities or leaving or having recently left Foster Care and are at risk of street or sheltered homelessness if discharged without supportive housing.
**Homeless Criteria to qualify:* In NYS licensed residential treatment facilities, State psychiatric facilities or leaving Foster Care that are at risk of street or sheltered homelessness OR recently left Foster Care, a state psychiatric center or residential treatment facility within the last 24 months OR history of being in Foster Care for 1 year past the 16th birthday.
- NY/NY III (Population I): Supportive housing for young adults 18 - 25 years of age who are at risk of street or sheltered homelessness, leaving or having recently left Foster Care and are at risk of street or sheltered homelessness if discharged without supportive housing.
**Homeless Criteria to qualify:* Leaving or having recently left Foster Care within the last 24 months OR history of being in Foster Care for 1 year after their 16th birthday.
- NYC 15/15 – Young Adult and Young Family Supportive housing for Young Adults (18-25 years of age) with high service utilization and/or who are pregnant or the head of household who are homeless or at risk of homelessness (including aging out of Foster Care).
**Homeless Criteria to qualify:* Leaving or having recently left Foster Care within the last 24 months OR history of being in Foster Care for 1 year after their 16th birthday OR homeless in DHS or DYCD RHY [90 days (nonconsecutive) over past 365 days] OR Unsheltered Youth [90 days (nonconsecutive) over past 365 days].

NYCHA PUBLIC HOUSING

Eligible applicants receive a priority code from NYCHA through ACS of N-0 (N-Zero) for a studio apartment to help expedite permanency. There is an approximate wait of two years for youth leaving care to secure public housing.

HPD SECTION 8 HOUSING through ACS

Eligible applicants can be added to the waitlist maintained by ACS for an HPD Section 8 voucher. No finite criteria to receive the voucher.

The housing options that are available to youth experiencing homelessness are limited and Runaway and Homeless Youth do not currently have access to any of the city rental vouchers. After years of advocacy, RHY only have access to NY1515 supportive housing and limited HUD funded programs. With a lack of housing options post their stay in the RHY system, many youth experience homelessness have no other option but to enter the DHS system as an adult, which many do not want to do. This would be the only way they will get access to any city rental subsidies and in that scenario, they are competing with 54,000 other individuals in the homeless system.

It is important to note that Foster Care agencies are not allowed to discharge a young person into homelessness. If the provider is not able to find an apartment for a young person, the young person can stay in care until the age of 23. For a young person in the RHY system, when they reach the age of 21, they are no longer allowed to stay in an RHY program.

On counting a youth's time in Foster Care as homelessness, the unintended consequence is as follows: If a young person has been in Foster Care since birth, they could accumulate 21 years of "homelessness" under this bill. Conversely, if a young person has maxed out their time in RHY residential programs, because of set length of stays in these programs, they could only accumulate a total of 2.5 years of homelessness. As many of our current housing resources prioritize length of homelessness and chronic homelessness status in determining who gets the scarce housing resources available, young people actually experiencing homelessness will never be able to compete with a Foster Care youth who's time in care has been designated as "homelessness".

As a provider of both Foster Care and Runaway Homeless Youth services, Good Shepherd Services stands with the recommended amendments set forth by the Coalition for Homeless Youth, and are prepared to support the Council in amending this legislation to combat youth homelessness in New York City. Thank you again for the opportunity to testify. I can answer any questions you may have at this time.

About Good Shepherd Services:

Guided by social and racial justice, Good Shepherd Services (GSS) partners and grows with communities so that all NYC children, youth, and families succeed and thrive. We provide quality, effective services that deepen connections between family members, within schools, and among neighbors. We work closely with community leaders to advocate, both locally and nationally, on behalf of our participants to make New York City a better place to live and work.

Submitted Testimony of Good Shepherd Services
Before the New York City Council Committee on General Welfare
Oversight - Foster Care Task Force Progress Hearing

Submitted by
Tameesha Simon Program Director of Special Services and Model Fidelity
Good Shepherd Services

November 24, 2020

Good morning/afternoon, my name is Tameesha Simon and I am the Program Director of Special Services and Model Fidelity at Good Shepherd Services Foster Care Division. Thank you Chair Levin and the Council Members of the Committee on General Welfare for the opportunity to submit testimony on the Oversight hearing on the Foster Care Task Force Progress. My testimony will emphasize how Fair Futures corresponds with Task Force recommendations 5 and 16.

- Recommendation #5 – “Identify strategies to provide academic enrichment services, tutoring, and social-emotional supports for middle school students in foster care.”
- Recommendation #16 – “Explore strategies to provide supportive services to youth ages 16-25 – both during and after foster care – to achieve career, educational and housing goals.”

Good Shepherd Services implemented the Fair Futures model within our Family Foster Care and Therapeutic Family Foster Care programs, with 4 coaches and in our adolescent Residential Foster Care and Rapid Intervention Center with 2 coaches. The Youth Reception Center which receives vocational and educational supports from Fair Futures Supervisor.

I have been employed with Good Shepherd Services for the past 8.5 years, and each of those years were spent in Foster Care. I have played an integral role with implementation of the Fair Futures model within program.

On the Special Services side, I oversee a team of individuals focused on the academic and employment needs of youth in Foster Care which includes the Fair Futures supports. The Middle School Specialist, a College/Career Specialist and four Coaches support youth with their academic, employment, career exploration and housing/independent living goals.

On the Model Fidelity side, I am responsible for the implementation of evidence-based models to support children and families in Foster Care which include (among others) the Parenting Through Change (PTC) and KEEP, an evidence-based support and skill enhancement program for parents and fostering and kinship parents of children in care.

COVID exacerbated conditions for youth in care. Children in care are struggling with remote learning and our staff are helping foster parents and youth navigate academic issues, equipment needs, connectivity issues, trauma, poverty, and the stressors and anxiety as a result of the pandemic.

Fair Futures allows Good Shepherd to improve education, career development, permanency, and housing outcomes for young people over time. Fair Futures will enable Good Shepherd to provide more intentional, individualized supports to young people, and the Coaches will serve as the “glue” to bind the quality services under a comprehensive umbrella. Fair Future Coaches help youth create opportunities to recognize their potential and allowing youth to feel comfortable within their individual progression. As a member of the Fair Futures community in New York City, youth have an opportunity to share and celebrate their accomplishments and achievements with young people in care across the City. The Fair Futures community has created a space for youth to collectively advocate for themselves and center their needs.

Fair Futures allows providers like Good Shepherd to support more young people who are in care. Before Fair Futures, in Family Foster Care, we had 2 specialist which were responsible for almost 300 young people ranging from birth to 21 years of age. The team of coaches we have now, allow more individualized attention to cater to the academic needs of children and youth in care.

Fair Futures is a component of supports which are available and we look forward to continuing to work with the City to identify funding streams which can support young people once they have aged out of foster care at age 21. At the core of these supports are committed individuals. Individuals who are employed by non-profits like Good Shepherd Services. At Good Shepherd, we continue to advocate for a full restoration of the cuts which impacted the Indirect Cost Rate Initiative and the reinstatement of a Cost of Living Increase (COLA) for staff. Good Shepherd stands ready to support the Council in ensuring all residential (no matter the staff line) receive fair compensation for the essential work they provide youth in care across the City especially during the pandemic.

Thank you for the opportunity to submit our testimony. I am happy to answer any questions.

About Good Shepherd

Guided by social and racial justice, Good Shepherd Services (GSS) partners and grows with communities so that all NYC children, youth, and families succeed and thrive. We provide quality, effective services that deepen connections between family members, within schools, and

among neighbors. We work closely with community leaders to advocate, both locally and nationally, on behalf of our participants to make New York City a better place to live and work.



TESTIMONY OF LAWYERS FOR CHILDREN

To the New York City Council Committee on General Welfare
“Oversight- Foster Care Task Force Progress & Int. 148-2018”

November 24, 2020

(UPDATED)

Submitted by:

Karen J. Freedman, Executive Director
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Thank you, Chair Levin and the General Welfare Committee for holding this hearing and providing us with the opportunity to testify.

Lawyers For Children (LFC) is a not-for-profit legal corporation that represents individual children in abuse, neglect, voluntary foster care, termination of parental rights, adoption, guardianship, custody and visitation proceedings. We also advocate for system-wide reform to improve the lives of children in foster care, and have participated in a number of City and State task force groups charged with improving various aspects of the foster care system. Based on our experience in individual cases, we have also successfully participated in numerous class-action lawsuits and helped to change policies and practices to promote positive outcomes for all children in foster care.

Attorneys and social workers assigned to LFC's Adolescents Confronting Transition Project work with older youth who are preparing to leave foster care to live on their own. They are assisted in this work by two full time Youth Advocates, who have lived experience in the foster care system. Informed by the work of that project, LFC was instrumental in creating the Transition Planning Court in Manhattan Family Court to focus solely on the unique needs of youth who are aging out of foster care.

We are grateful that the Council continues to help identify solutions and advocate for the needs and futures of the more than 7,000 young people in New York City's foster care system. We are especially grateful that the Council has focused on older youth who are aging out of foster care.

Intro. 148 of 2018

We urge the Council to enact Intro.148, which provide much needed housing options for youth transitioning out of foster care. Last year, approximately 620¹ young people left foster care between the ages of 18 and 21 to "independent living" and they desperately need more options to help them obtain safe, stable permanent housing.

Most youth leaving foster care to live on their own have minimum wage jobs. They cannot afford market rate apartments and have only two options for permanent housing: NYCHA or supportive housing. The problem is that the spots are limited², the wait-lists are long, and not all youth qualify for these programs.

Chelsea Velez, an LFC youth advocate, was one of those young people. When she was aging out of foster care, she did not qualify for supportive housing because she had a child and she could not get a NYCHA apartment because her foster care agency did not follow through on helping her apply for it. When her plan to live with a family member fell through, she had no choice but to enter the shelter system.

¹ ACS Report on Youth in Foster Care, 2019, "Discharge Destinations of Foster Care Youth, CY 2019," available here: <https://www1.nyc.gov/assets/acs/pdf/data-analysis/2019/ReportOnYouthInFC2019.pdf>

² NYCHA has fewer than 400 studio apartments available for youth leaving foster care, and each year, fewer than 100 of those becomes vacant and available for occupancy.

Entering the shelter system is disruptive and scary. A young person leaving foster care can be placed anywhere in the City and can be moved around, far from their work or school, and away from their community supports,

No young person should be forced to feel they must enter the system so they can get housing. But, some youth in foster care know that there are City subsidy programs that are only available to people who are homeless. And, some of our clients have entered the shelter system just so they could access those subsidies. “Sierra”³ is a client who is typical of those young people. She had been placed into foster care by her adoptive mother, who no longer wished to care for her. After turning 18, Sierra applied for NYCHA housing using the ACS priority. By the time she turned 21, she had been waiting for housing for two years. She was pregnant, frustrated, scared and without resources. She had heard from a friend that if she entered the shelter system, she would get housing much more quickly than by waiting in foster care. So she did. “Sierra” entered the shelter system on July 27, 2018. Less than two months later, with the help of a rent subsidy voucher only available to her because she was homeless, she was living in her own apartment.

No one should have to enter the homeless system to get housing, especially when it can and should be preventable.

Youth in foster care who are waiting for their own housing, especially those who are over 21, are just as vulnerable as homeless people who are in the shelter system. Youth who are over 21 are in foster care at the mercy of ACS. They have no legal right to placement and could be turned out, into the street, at any time.

Having suffered so much trauma and instability, youth in foster care deserve better. Intro. 148 will give them more housing options and most importantly avoid further trauma and instability of not knowing where they will live without having to enter the shelter system.

Interagency Task Force On Youth In And Aging Out Of Foster Care

We applaud the City Council for creating the Interagency Task Force on Youth in and Aging Out of Foster Care. Outcomes for children and families can be improved only if the agencies that serve children and families within and outside the foster care system work together to untangle the challenges confronting them and the potential solutions to those challenges. It is no secret that issues of poverty and access to resources lie at the heart of the vast majority of foster care cases and present the biggest barrier to the success of young people aging out of foster care. It is impossible to address those issues without bringing NYCHA, HRA, the DOE and others on the Task Force to the table with ACS to hear from children and families and discuss the role that each can play in helping youth and families to thrive.

³ This is a pseudonym. Client’s name has been withheld.

We urge the City Council to recommission the Task Force in order to continue its work. A renewed Task Force should be charged with reviewing the status of the recommendations made to date, identifying challenges that have arisen in implementing those recommendations, proposing solutions to address those challenges, and making further recommendations for improving outcomes.

A key component of the Task Force's success lies in including the voices of affected individuals in its work. In order to enhance that component, we urge the City Council to recommission the task force with the following modifications:

1. Increase the number of advocates on the task force who provide direct representation to children and parents impacted by the foster care system. The impacted individuals on the task force provide invaluable insight based on their first-hand experience. However, their contribution is limited by that experience. Advocates who represent and speak on behalf of a large number of individual clients can help provide the task force with perspective from a broader range of impacted individuals, thereby ensuring that the task force has a more complete picture of the challenges facing children and parents and the effectiveness of solutions that have been implemented in an effort to address those challenges.
2. Mandate meaningful quarterly consultation with impacted communities and the advocates who serve them. Task Force members should be required to seek input from the impacted communities they serve. The professionals serving on the Task Force should be required to consult with the constituencies they serve in order to learn what their constituencies perceive to be their biggest challenges, what solutions they believe would be helpful, and how they have been impacted by the Task Force recommendations that have been put into place.
3. Provide Advocates and Community Members with an Opportunity to Respond to Each Report. Obtaining community response to the Task Force findings and recommendations can help the Task Force understand the validity of its findings and the feasibility of its recommendations. That response can provide the Task Force with valuable information to use in formulating and revising its recommendations and understanding why some recommendations may not have the desired impact. For this reason, we would urge the City County to require that future Task Force reports be published in draft form and a public comment period be established before a final report and recommendations are issued.

As always, we are available to assist the City Council in drafting any specific proposals to incorporate our testimony. If we can provide you with any additional information, do not hesitate to contact us.



Leadership, voice and vision for child welfare in New York State

TESTIMONY SUBMITTED TO
THE NEW YORK CITY COUNCIL
COMMITTEE ON GENERAL WELFARE
Hearing Regarding
Oversight: Foster Care Task Force Progress
and Int. No. 148
Tuesday, November 24, 2020

Jim Purcell

CEO

Council of Family and Child Caring Agencies

Good morning, Chairperson Stephen Levin, and good morning to the members of the New York City Council General Welfare Committee. My name is Jim Purcell and I represent the Council of Family and Child Caring agencies, also known as COFCCA. COFCCA represents over fifty New York City child welfare agencies, organizations that provide foster care and child maltreatment prevention services to many thousands of families. Our members range from large multiservice agencies to small community-based preventive services programs in community districts around the city. We thank the Committee for the invitation to testify about the Foster Care Task Force and Introductory bill 148.

Regarding the Task Force, as ACS has outlined in its final report issued in March, the task force made 16 recommendations to improve permanency outcomes; health, mental health, and education services; and outcomes for young adults transitioning from foster care. The contract agencies have been diligently working with ACS on these recommendations, including increasing the number of kinship homes so children in foster care can be placed with relatives. We look forward to a new expansion of the Parent Advocate program, where parents who have experienced child welfare interventions can help other parents advocate for their families and work with staff to achieve better safety and permanency for children. We support Fair Futures and the support



Leadership, voice and vision for child welfare in New York State

of Fair Futures coaches, tutors, and other resources for transitioning youth, and are pleased NYS granted youth leaving care the flexibility to have roommates and share housing expenses without risking their Child Welfare Housing Subsidies.

Like so many other plans this year, plans by ACS and the agencies to improve family visits was upended by the pandemic. Foster care programs were forced to reduce face-to-face visits and engineer virtual video visits for many families in the interests of safety and COVID-19 prevention. Virtual visits were not encouraged in any organized fashion in the past and once the parties were able to connect this way, some family members were able to see each other more often, albeit remotely. Post-pandemic, we can see that this experience with remote visiting will be useful as a way to provide families with *additional* opportunities to maintain contact, augmenting instead of replacing the in-person visits. Of course we all hope in-person family visits resume in full measure and frequency, at or above the levels ACS prescribes, as soon as the situation with COVID-19 allows.

Regarding Int. 148, we support any effort at preventing youth homelessness. We must say, first and foremost, that discharging children to families (families of origin, kin or fictive kin, or adoptive parents) should always be the goal for every child in care. For those youth for whom it is not possible or practical, or for whom independent living is the youth's preference, we should be providing every possible support. When we look at young adults from intact families, economically-stable families, families with privileges and advantages, we recognize they continue to need the support and backing of capable, caring adults into their mid-twenties. Youth leaving foster care may not be coming from an advantaged place and should not be cast out of care to "sink or swim." In addition to other transitional supports, rental voucher assistance is very important to keeping former foster youth in stable housing. We encourage the Committee and Council to provide this funding, and ask that consideration also be given to Runaway and Homeless Youth (RHY), many of whom face the same family and personal disadvantages as foster youth but without a formal foster care placement.



We at COFCCA would be happy to answer any questions the Council members may have, or to arrange for members to see their local child welfare agencies in action. We thank you for allowing us to submit our testimony.



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Testimony of Jimmy Meagher, Policy Director
Safe Horizon

Committee on General Welfare
Hon. Stephen T. Levin, Chair

Safe Horizon's Testimony on Int. 0148-2018
with Additional Recommendations

11.24.2020

Good afternoon, and thank you for the opportunity to provide testimony before the Committee on General Welfare. My name is Jimmy Meagher, my pronouns are he/him/his, and I am Policy Director at Safe Horizon, the nation's largest non-profit victims services organization. Safe Horizon offers a client-centered, trauma-informed response to 250,000 New Yorkers each year who have experienced violence or abuse. And we are increasingly using a lens of racial equity to guide our work with clients, with each other, and in developing the public positions we hold.

Safe Horizon has programs across New York City's five boroughs where we provide critical support and services to victims and survivors of all forms of violence and abuse. One program that is especially relevant to this conversation about housing justice for young people is our Streetwork Project. Streetwork works with homeless and street-involved young people up to age 25 to help them find safety and stability. Many homeless young people face a day-to-day struggle to survive which can lead to physical and emotional harm. Homeless youth may have experienced family abuse, violence, rejection, and instability that led to their homelessness. We welcome these young folks, help them navigate complex systems, and provide essential resources at our Drop-In Centers, at our overnight shelter, and through our street outreach teams. This work can be incredibly challenging but also rewarding. Our work at Streetwork did not pause during this pandemic. Rather, our dedicated team continued to respond to homeless and at-risk young people in need of shelter, services, and understanding.

Safe Horizon's Streetwork Project has been doing this community-based work for decades. Young people experiencing homelessness need and deserve housing and economic justice. That is why we support the spirit of Int. 0148-2018 while challenging the City to go even further.

It is a noble and commonsense idea to count time in foster care as homelessness when determining such youth's eligibility for rental assistance programs. We support this and additional efforts to make permanent, safe, and affordable housing accessible to young people experiencing homelessness and unstable housing.

However, this particular bill will affect a relatively small percentage of Streetwork's clients. Int. 0148-2018 will have no effect on Runaway and Homeless Youth (RHY) and young people in DYCD shelters who have had no contact with child welfare or with the foster care system. Our clients are not eligible for vouchers, and time spent in homeless youth programs (such as DYCD shelters) does not count. We therefore encourage the City Council to build on this legislation, think bigger, and go further. We encourage the City to count time in youth shelters as homeless time. And we ask that the City give homeless youth programs like Streetwork and others the ability to distribute vouchers.

The young people currently or formerly in foster care face many of the same obstacles as RHY, but there is actually little overlap between these two populations. Frequently when we advocate for housing resources for RHY, the policy solutions we hear from our government leaders are resources only for former foster youth, which again is important but not expansive enough. Most RHY are not eligible for those resources.

Resources for former foster youth are for youth who aged out of foster care into homelessness, which is defined in NYC as a young person who is currently homeless, who left foster care less

than two years ago, and who was in foster care for at least a year after their sixteenth birthday. This excludes older youth who left foster care more than two years ago. This also excludes all of the young people whose families were investigated by ACS but who were never removed from their parents' custody. These are young people who can become unaccompanied homeless youth. And this excludes all of the young people who were reunited with their families when they were around sixteen years old, which is another trend we see in child welfare systems to lower the number of young adults these systems are responsible for. We see this especially with young people with disabilities. Reunification does not mean that their families were ready to care for them; rather, this just means that ACS does not have to. This increases the chances of the young people we are talking about to become homeless.

Many of our clients have never had any prior contact with child welfare and subsequently the foster care system. Even among our clients who have had contact with the child welfare system, almost none of them are eligible for housing resources because of it.

Many years ago when the City first introduced LINC vouchers, the City promised DYCD programs that our clients would have immediate access to those vouchers. Our clients did not receive access to those vouchers. Now, as housing advocates fight for increased value to FHEPS vouchers, which we recognize is vitally important, RHY providers are advocating that our clients have equal access to the same housing resources as other homeless New Yorkers. We are not asking for a "special" housing voucher for RHY; we are asking for equal access. Over the years as new vouchers have been introduced, RHY have had zero access to the vouchers that already existed. The City has introduced vouchers for folks on public assistance (PA), for folks who are working, for folks on disability income, for folks who went in and out of shelters, etc. We have worked with clients who have met all of these criteria, except they weren't DHS or HRA shelter residents so they were unable to access these essential vouchers. Finally, last year, when the City announced that they had created a voucher that would help clients like ours, we discovered that this was yet another voucher for DHS clients - DHS residents who are young adults. The young people we work with do not go into DHS shelters for many reasons, including safety concerns. DYCD programs still have no access to any vouchers for our clients.

We would like for our clients to have equal access to the housing resources that DHS and HRA shelter clients have. Right now, many of our clients have begun leaving youth shelters to enter DHS shelters just so they can get housing assistance. Young people know that if they remain in youth shelters, they will have fewer paths out of homelessness. DHS shelters are not always safe for the young people we work with. We work with so many clients who will not go (back) to DHS shelters, and since that is currently the only way that they will be able to exit homelessness, they become chronically street homeless.

Int. 0148-2018 is a step in the right direction, sure, but it does not go far enough. It closes a gap in policy that allows more young people to access housing options. That is a good thing. Please build on this legislation to help all homeless young people who are involved in other systems outside of foster care and/or DHS. We can and must do better for New York's young people, including RHY.

Thank you for the opportunity to testify today.

SHELTERING ARMS

Children and Family Services

Embracing Hope and Building Futures for Generations

**Testimony delivered by Samantha Guyadeen, Fair Futures Coach
Prepared for the NY City Council General Welfare Committee
November 24, 2020**

Good afternoon. My name is Samantha Guyadeen. I've been working in the capacity of a Fair Futures Coach at Sheltering Arms since September 2019. Sheltering Arms is one of the City's largest providers of education, youth development, and community and family well-being programs for the Bronx, Manhattan, Brooklyn, and Queens. We serve more than 15,000 children, youth, and families each year, and employ nearly 1,200 staff from across New York City.

Prior to working as a coach, I worked as a case planner from February 2018-September 2019. Working with youths in foster care, especially as a coach, has been one of the most rewarding and heartwarming experiences of my life. Daily, I utilize the coaching culture, collaborating with many providers who assist our youth in numerous aspects of their life. My youths are always appreciative of my support and guidance. Many are grateful for my weekly and holiday check-ins as they do not have an abundance of consistent individuals in their lives. Being there to support them in their everyday struggles and on their road to success has been one of the highlights of my life.

The relationship between a youth and their coach vs. youth and their case planner is incredibly different. A coach's main focus is the youth, they work with youths specifically, dedicated to support them with their career, education, housing, and personal goals. On the other hand, case planners partner with families to create service plans for parents and children to address their needs. They monitor and document safety, well-being, and progress of case. Case planners also collaborate with service providers to monitor service progress and needs, participate in Family Team Conferences and Family Court Hearings. Due to the hectic daily responsibilities of case planners, youths do not get that individual attention that they need. This results in youths feeling overlooked and not cared for.

I believe the consistency provided by a coach is key. Being a youth in foster care, consistency is not something most are familiar with. If you ask a youth how many case planners they've had, the number will baffle you. Myself, being a youth in foster care from the age of 16-years-old to 21-years-old, I did not have consistent support. While I graduated from Hunter College and have accomplished a lot given where I started, I believe if I had a coach I would've felt more secure in the decisions I made and would have dared myself to do more. The pressure of feeling like no

one has your back is horrendous You do less, you're terrified to do more, terrified to fail. You end up not living up to your full potential.

With the consistent motivation and support that a coach provides many youths will not only realize how resilient they are but how much potential and power they have. For our youths having a coach, having that consistent support and guidance is essential. The Fair Futures program is essential, I stand by it 100%.

Thank you,
Samantha Guyadeen

Additional Statements from Sheltering Arms on Int. 0148-2015

As an agency that operates both foster care and RHY programs (Drop-In, Crisis, Transitional, and Rapid Rehousing), we are concerned that this Intro overlooks youth in the RHY system and unnecessarily classifies the time spent by youth in foster care as homelessness.

Our proposed changes echo those you have heard from other providers:

- Give priority for housing vouchers to youth in foster care without counting their time in foster care as homelessness
- Include both youth in foster care and in RHY under the "at risk and vulnerable" population eligible for rental assistance.
 - NY1515 housing agreement did exactly this by (<https://www1.nyc.gov/site/hra/help/15-15-initiative.page>) treating BOTH populations as vulnerable. The agreement allows 16 to 24 years olds in FC and RHY to access a resource without prioritizing one population over the other.
 - We support the recommendations set forth by the Coalition for Homeless Youth:
 - Require DSS to amend the CityFHEPS rule to recognize time spent in DYCD funded youth shelters as "homeless" for meeting the eligibility criteria for accessing vouchers as "shelter residents and persons who are street homeless" in §10-4 of the rule. This would grant RHY equal access to vouchers for homeless individuals based on their lived experience of homelessness and not limited to what system they seek shelter in.
 - Require DSS to amend the CityFHEPS rule to recognize youths time spent in foster care as meeting the eligibility criteria for accessing vouchers as "city residents who are not in an HRA or DHS Shelter or Street Homeless" in § 10-03 of the rule.

For any questions, please reach out to Mikayla Terrell, Chief of Staff:
mterrell@shelteringarmsny.org



Testimony of
Coalition for the Homeless
and
The Legal Aid Society
on
Oversight: Foster Care Task Force Progress
Intro. 0148-2018

Submitted to

The New York City Council's Committee on General Welfare

Giselle Routhier
Policy Director
Coalition for the Homeless

Beth Hofmeister
Attorney, Homeless Rights Project
The Legal Aid Society

November 25, 2020

The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to submit testimony before the New York City Council's Committee on General Welfare regarding rental assistance for youth.

Intro. 0148-2018

The bill seeks to amend the administrative code of the City of New York to require that the Department of Homeless Services (DHS) recognize time spent in foster care as homelessness for the purpose of meeting rental voucher eligibility requirements. While we support the goal of expanding access to housing resources for youth, this bill must be significantly amended. Much has changed since it was introduced in 2018. In particular, the City of New York streamlined many of its City-sponsored vouchers into the CityFHEPS program. As a result, the programs that are referenced in the bill are no longer active or applicable, and the context for the need has significantly shifted.

Under CityFHEPS, both youth involved with the New York City Administration for Children's Services (ACS) and runaway and homeless youth in the Department of Youth and Community Development (DYCD) shelter system are already granted conditional access to CityFHEPS vouchers based on their living in a "CityFHEPS qualifying program." These changes occurred after New Yorkers with lived experience and a wide range of advocates, including both the Coalition for the Homeless and The Legal Aid Society, submitted public testimony during the rule-making process as the City created the CityFHEPS program. However, neither ACS- nor DYCD-involved youth have actually gained access to vouchers because memoranda of understanding have not been enacted between the Department of Social Services (DSS) and ACS or DYCD. Moreover, we understand that both ACS and DYCD submitted recommendations to DSS about who should be eligible for CityFHEPS under the qualifying exception, and those recommendations were largely ignored. Therefore, much remains to be done to allow ACS- and DYCD-involved youth to access CityFHEPS vouchers. There are mechanisms in place to do so now, but those mechanisms need improvement.

We recommend two amendments to the CityFHEPS rule: First, DSS should be required to amend the CityFHEPS rule to recognize that youth who have spent time in DYCD-funded youth shelters meet the eligibility criteria in order to access vouchers as "shelter residents and persons who are street homeless" in §10-4 of the rule. This would end the discrimination against runaway and homeless youth who have sought shelter in DYCD-funded youth shelters rather than DHS shelters. Second, DSS should be required to amend the CityFHEPS rule to recognize that time spent by youth in foster care meets the eligibility criteria for accessing vouchers as "city residents who are not in an HRA or DHS Shelter or Street Homeless" in §10-03 of the rule. These youth should be granted rental vouchers in the event they become homeless shortly after exiting foster care. These changes are important for acknowledging the unique experiences of young people who interact with ACS and/or DYCD while ensuring they actually have the ability to access rental assistance through the CityFHEPS program.

Throughout the process of amending the bill and seeking policy changes related to rent assistance for youth, we recommend that the City Council and the General Welfare Committee solicit opinions from youth who have lived experience with ACS and DYCD, as well as advocates who work in each of these two systems. Notably, youth involved in *both* the ACS and DYCD systems, not just ACS, must be consulted.

We thank the Council for your steadfast advocacy on behalf of homeless New Yorkers both prior to and during this pandemic. We genuinely appreciate the spirit of this bill and its overarching goal. Both the Coalition for the Homeless and The Legal Aid Society remain ready to meet and engage in further advocacy on behalf all young New Yorkers.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. This dedication to justice for all New Yorkers continues during the COVID-19 pandemic.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 2,000 attorneys, social workers, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal, and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

In addition to representing over 90 percent of young New Yorkers who are Family Court-involved, the Legal Aid Society is uniquely positioned to speak on issues of law and policy as they relate to homeless New Yorkers. The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the *Callahan* and *Eldredge* cases. The Legal Aid Society is also counsel in the *McCain/Boston* litigation in which a final judgment requires the provision of lawful shelter to homeless families. Legal Aid is currently monitoring two class action lawsuits. The first is *C.W. v. The City of New York*, a federal class action lawsuit on behalf of runaway and homeless youth in New York City, and . Along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, Legal Aid settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness. Legal Aid and Coalition have also recently brought two lawsuits against the City to ensure New Yorkers experiencing homelessness are provided safe temporary housing during the pandemic (*Fisher v. The City of New York*) and internet access in shelter for students who are trying to attend school remotely (*E.G. v. The City of New York*).

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which is

now in its fourth decade. The Coalition also protects the rights of homeless people through litigation involving the right to emergency shelter, the right to vote, the right to reasonable accommodations for those with disabilities, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly homeless women; and permanent housing for formerly homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen, which usually distributes about 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx, is now regularly serving more than 1,100 meals per night and distributing emergency supplies during the COVID-19 pandemic. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries. In response to the pandemic, we are operating a special Crisis Hotline (212-776-2177) for homeless individuals who need immediate help finding shelter or meeting other critical needs.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981, the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws.

Leidy Poveda – Advocating for:

Res 1320-2020

Title: US Dept of Agriculture to expand the number of retailers that are permitted in the Supplemental Nutrition Assistance Program online purchasing program to ensure vulnerable communities in NYC can safely access healthy food.

- Although Amazon and Walmart accept Snap, they are not enough to service SNAP recipients. Instacart and Peapod, two of the biggest retailers that deliver groceries do not accept SNAP. Big retailers like Costco and BJs accept SNAP benefits in store, but not for online order delivery. This is one of the biggest problems the bill is attempting to address, Vulnerable citizen are unable to take advantage of this option. As stated in the NYC council website “For vulnerable food-insecure communities, senior citizens, people with disabilities, mobility impaired individuals and those who lack transportation, affordability is only part of the issue” Many communities do not have the access to healthy food because their nearest grocery store only carries fast easy processed food, they don’t have fresh organic produce available. The food delivery platforms can help keep communities healthy by providing these delivery methods to SNAP recipients who are unable to reach healthy choices due to lack of access.

Due to COVID many individuals will become recipients of SNAP because of have lost their jobs due to the crisis. This means that, there will be an increase in food insecurity as well as even fewer access to food in general not to mention healthy food. According to the Center on Budget and policy priorities, “More than 6 million people signed up for SNAP between February and May and increase of 17% in just 3 months.” With this increase it will be even harder to access food through the retailers that accept SNAP, many items will not be available, living the vulnerable behind.

Cohen makes a great point when he says, “it is fundamentally unfair that families who already struggle to put food on the table are left out of critical grocery delivery services because of their ability to pay.” Everyone should have the same options when buying groceries. This isn’t a luxury but a necessity and everyone, specially those suffering from chronic illnesses have the right to access healthy foods through a delivery service.

- The main goal is to make grocery delivery available in communities that are SNAP recipients who most likely live in areas categorized as food deserts, for communities that are targeted by unhealthy businesses that sell liquor and tobacco. These communities were also greatly affected by COVID-19 and are struggling to just keep alive. The lack of access to food delivery in these neighborhoods have also contributed to the exposure of COVID-19, families were forced to leave their homes when it was recommended to stay indoors. This expansion in retailers needs to pass so that communities can count on this option when there are no healthy options near them, and if we do get another wave of COVID-19 they can stay home relieving lines at grocery stores and supermarkets.
- If the expansion in retailers to accept SNAP benefits happens, we will see a positive impact health wise. Nutritious foods could help reduce the incidence of heart disease and other health

related illnesses. I do believe that families want to do better regarding eating healthy, but some just don't have access to these products. Many community organizations know that healthy initiatives can impact community health and by having this delivery option they can increase the fruit and vegetable consumption, they can also benefit from programs that promote healthy shopping and cooking. If food security is provided for vulnerable communities, we might also see a reduction in medical urgencies. It is shown that these households spend 45 % more on medical care than food secure households. The other way it can impact health in a positive way, would be by having fewer people at supermarkets, if there is another surge in COVID cases, and even if we do not have another COVID surge, we can also prevent some of the flu contaminations, most likely they will have their groceries delivered.



November 24, 2020

**TESTIMONY OF
Sarah K. Chiles
Executive Director**

**PRESENTED TO
The New York City Council**

**REGARDING
The Foster Care Taskforce**

Good Afternoon. My name is Sarah Chiles. I am the executive director of the Redlich Horwitz Foundation, and we are a funder of the public-private partnerships of the Foster Care Excellence Fund, which has supported two Taskforce priorities: improving placements with kinship families through Home Away from Home and expanding education and career services to youth in care through Fair Futures. I'd like to thank my colleagues from the Conrad N Hilton Foundation, NY Community Trust, Doris Duke Charitable Foundation, Tiger Foundation, Stavros Niarchos Foundation, the Ira decamp Foundation, and the Warner Fund for their commitment to supporting these child welfare initiatives over the years.

I also want to express our gratitude to Chair Levin and Commissioner Hansell for their leadership and commitment to this important Taskforce. During the first-ever NYC Council Foster Youth Shadow Day in 2016, young people in and aged out of foster care called on the Council and this administration to address the multitude of challenges facing children and families in child welfare, and you and your colleagues answered that call. The result has been real change and improvements across the system - rather than a taskforce report collecting dust – and the Foster Care Excellence Fund commends you for the hard work it took to get here.

But there is still much work to be done: our city still has close to 700 young people aging out of foster care each year without the critical supports they need to have a fair shot at success. These young people aging out are 98% people of color and 34% LGBTQIA+. Reducing the harm this system has done to them is clearly a racial and social justice imperative for the City. We urge you to fulfill the promise of Taskforce Recommendation #16 that sets an objective to provide comprehensive services to these young people to achieve educational, career and housing goals. The City chose to remove these children from their families and never achieved permanency for them. It is our responsibility and duty to support them by expanding the



proven Fair Futures model of coaching and other supports to young people aged out of care ages 21-26 so that they can thrive.

TESTIMONY

The New York City Council Committee on General Welfare
Stephen T. Levin, Chair

Oversight: ACS Interagency Foster Care Task Force Progress

November 24, 2020

The Legal Aid Society
Juvenile Rights Practice
199 Water Street
New York, NY 10038

Prepared by:
Lisa Freeman
Director, Special Litigation and Law Reform Unit
Anna Blondell
Staff Attorney

The Legal Aid Society wishes to thank Chair Levin and the members of the Committee on General Welfare for this opportunity to share our perspective on the ACS Interagency Task Force Final Report, released earlier this year.

The Legal Aid Society

As you are aware, The Legal Aid Society is the nation's largest and oldest provider of legal services to low-income families and individuals. The Society operates three major legal practices – Civil, Criminal and Juvenile Rights – providing comprehensive legal services throughout New York City. The Legal Aid Society's Juvenile Rights Practice provides legal representation to children who appear before the New York City Family Courts in all five boroughs in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children. Our perspective comes from daily contact with children and their families, and frequent interactions with the courts, social service providers, and State and City agencies whose practices impact our clients and their families. In addition to representing many thousands of children each year in trial and appellate courts, The Legal Aid Society pursues impact litigation and other law reform initiatives on behalf of our clients.

NYC's Child Welfare System

Every day, The Legal Aid Society zealously advocates for marginalized, disenfranchised, and oppressed New Yorkers. The injustices our clients face are rooted in racial inequities that permeate every part of our legal system. In the child welfare system, implicit bias and exposure bias have led

Justice in Every Borough.

to the hyper-surveillance of low-income Black communities and communities of color for decades. The statistics demonstrate that disproportionate representation of these communities in the child welfare system is even more stark in New York City than in the rest of the state. African American children in NYC are 6.2 times more likely to be reported to the Statewide Central Register of Child Abuse and Maltreatment (“SCR”) as white children, the report is 7.8 times more likely to be indicated, and the child is 12.8 times more likely to be admitted into foster care, according to 2014 data.¹ Latinx children in NYC are likewise more likely to be implicated in an SCR record when compared to their white counterparts and are 5.4 times more likely to be involved in an indicated case.² In the rest of the state, Black children are only 2.3 times more likely to be involved in an SCR report than white children, 2.3 times more likely to be involved in an indicated report, 4.9 times more likely to be admitted to foster care.³ The overrepresentation of Latinx youth in the rest of the state is even smaller. Latinx children are only 1.1 times more likely than white children to be involved in an SCR report, and 1.1 times more likely to be involved in an indicated report.⁴ While black children represent 24.3% of the City’s youth, they make up over 55% of the population in foster care.⁵ While the rate of family separation has decreased over the past decade, Black families and families of color still experience family separation and disruption at the hands of child welfare services at disproportionately higher rates than their white counterparts in New York City.⁶

¹ https://ocfs.ny.gov/main/bcm/DMR_Section%20Seven%20of%20Grant%20RFP_2015.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ https://ocfs.ny.gov/main/bcm/DMR_Section%20Seven%20of%20Grant%20RFP_2015.pdf

⁶ See, e.g., “What’s Behind the Drop in New York City Foster Care Numbers?...” (January 2018), by Child Welfare Monitor, <https://childwelfaremonitor.org/2018>

Not surprisingly, poverty plays a key role in the quantity of cases of abuse and neglect called in against Black and Latinx families in the City. According to a study by the Center for New York City Affairs, the 10 community districts in New York City with the highest rates of child poverty had four times more child welfare investigations on average than the 10 community districts in New York City with the lowest rates of child poverty.⁷ The study showed a significant overlap in the concentration of child poverty and of Black and Latinx residents.⁸ However, despite the increased number of investigations, there was no corresponding increase in the indication rate in Black and Latinx neighborhoods. The study demonstrated unusually high rates of investigation rather than correlative rates of actual abuse and neglect in poor Black and Latinx communities in New York City, as poverty is often mistaken for neglect, which has a disparate impact on communities of color who are more likely to be poor in NYC.

Improving Permanency Outcomes

Kinship Foster Care

We commend the Foster Care Task Force for recommending and ACS for taking steps to improve permanency outcomes for children in foster care. In particular, we applaud ACS for its work to increase kin placements for children ACS removes from their parents, as highlighted in Task Force Recommendation #1. Social science research establishes that placing a child with relatives eases the trauma of family separation, minimizes the need for the child to adjust to an entirely new

⁷ <http://www.centernyc.org/data-brief-child-welfare-investigations>

⁸ *Id.*

environment, and reduces the likelihood that a child will develop behavioral and psychological disorders.⁹ As the federal Children’s Bureau has found, “[k]inship care can reduce the trauma that children may have previously endured and the trauma that accompanies parental separation by providing them with a sense of stability and belonging in an otherwise unsettling time.”¹⁰ As reported in ACS’s own Foster Care Taskforce Report, children placed with kin caregivers are able to preserve community and family ties; have reduced trauma and higher rates of behavioral and emotional well-being; are more likely to achieve permanency through reunification, adoption or guardianship; and are less likely to re-enter foster care.¹¹ We are pleased to see that ACS has increased the proportion of children placed with kin from 31% to over 40% and created 10 new Kinship Specialist positions in its Division of Child Protection.

Despite these improvements, the Report fails to recognize that some viable potential kin caregivers are being unfairly denied certification as foster parents. ACS continues to refuse to exercise its discretion to certify as foster parents certain potential kin caregivers due to their prior SCR history, their criminal record or the criminal record of a household family member. ACS must look more critically at its practice in this area. At the very least, it should utilize the guidance delineated in the Office of Children and Family Services Administrative Directive 18-OCFS-ADM-08 and practice guides with regard to evaluating a foster parent with SCR or criminal history. ACS

⁹ The Annie E. Casey Foundation, “Stepping Up for Kids: what government and communities should do to support kinship families,” policy report, KIDS COUNT (“Particularly for foster children placed with kin, several studies have found that children in kinship foster care are better able to adjust to their new environment and are less likely to experience behavioral problems and psychiatric disorders than those in the general foster care population”); Downes, et al., Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care, Arch Pediatr Adolesc Med. 2008;162(6):550-556, published online June 2, 2008.

¹⁰ Children’s Bureau, “Working with Kinship Caregivers,” BULLETIN FOR PROFESSIONALS, June 2018

¹¹ Interagency Foster Care Taskforce, Final Report, March 2020

<https://www1.nyc.gov/assets/acs/pdf/testimony/2020/taskforcemarch2020.pdf>

must use its discretion to ensure children are placed with relatives whenever it is safe to do so. Too often, children are denied foster placement with their relatives based on incidents that occurred decades earlier which have no bearing on their current ability to care for the child.

We would also note that while the Task Force's recommendations to improve permanency outcomes focused on strengthening Family Time and increasing kinship care, they failed to address the importance of reducing the number of youth in foster care overall. The exigencies of the COVID-19 pandemic have revealed how critical it is to prevent children and young people from coming into care initially. ACS's testimony at this hearing on November 24, 2020, highlighted how the sudden and pressing demands of the COVID-19 pandemic pushed the organization to reevaluate thousands of children in care to determine if on-going removal from their family was necessary to ensure their safety. ACS testified that they have engaged in a similar review this fall. We commend such a review, but believe that ACS must make all efforts to ensure that no child is removed from or kept from their family unnecessarily. The omission of such recommendations from the Task Force helps to highlight the inadequacy of its composition, lacking legal organizations that represent children and parents in Family Court proceedings and adequate representation of those directly affected by the child welfare system.

Residential Treatment Centers

While we recognize that Foster Care Task Force made recommendations addressing many of the biggest issues confronting our clients in foster care, we must bring attention to additional aspects of our clients' foster care placements that remain unaddressed. As ACS recognizes, some foster care placements are more harmful than others. Congregate care programs, specifically residential

treatment center (“RTCs”), are large institutions and are considered by the NYS Office of Children and Family Services (“OCFS”) and ACS to be the most restrictive foster care placement setting for children in foster care. RTCs are often large, emotionally-charged environments where outbursts are common. Our clients who have been segregated in RTCs describe cultures of chaos, violence and fear.

Young children who are placed in RTCs frequently receive inadequate care and treatment, and are subject to myriad harms, including, but not limited to, exposure to physical restraints, seclusion, isolation from their families and communities, and the negative outcomes associated with prolonged institutionalization, such as frequent psychiatric hospitalizations, inability to form appropriate emotional attachments, an increased risk of sexual exploitation and homelessness, and involvement in the juvenile and criminal legal systems.

Some of the children that ACS institutionalizes in RTCs remain trapped there for years. Abundant research reveals that children confined to prolonged institutional care often suffer a lost sense of belonging and an inability to forge meaningful, long-term connections with adults.¹² They live without privacy and personal space, with little to no control of their surroundings or choice with regard to whom they live with. Their possessions are restricted and a highly restrictive structure is imposed universally, regardless of a child’s individual preference or need. The culture of institutionalization deprives children of developmentally appropriate opportunities to navigate

¹² U.S. Children’s Bureau, Information Memorandum Re: Foster Care as a Support to Families, ACYF-CB-IM-20-06 (April 29, 2020), available at <https://www.acf.hhs.gov/sites/default/files/cb/im2006.pdf>; Avery, R., An Examination of Theory and Promising Practice for Achieving Permanency for Teens Before They Age Out of Foster Care, 32 Children and Youth Services Review 399-408, Cornell University (2009).

family life. This in turn delays permanency and sets youth up to fail when they are eventually permitted to reunify with their family.

The research is clear: with the right community-based services and supports, most young people can succeed and fare best in families.¹³ However, ACS continues to institutionalize hundreds of children,¹⁴ often for years or even a decade, in RTC placements. The absence of any recommendation focusing on reducing the population of young people segregated in RTCs, or reducing the length of stay children face once they have been institutionalized, is deeply troubling.

The Children's Center

We have been concerned for years that ACS is overly reliant on congregate care facilities, including the Children's Center, to house older youth, youth who are disabled within the meaning of the Americans with Disabilities Act ("ADA"), and youth with mental health concerns, due to a lack of adequate arrays of foster homes to services those youth. As a result of inadequate numbers of foster homes, when ACS is unable to identify a proper placement youth who have languished in the Children's Center or other pre-placement facility are simply segregated in residential treatment centers where they are alienated from their families.

Similarly, we are aware of youth who are placed in the Children's Center and have languished there because ACS is not able to locate a home that can provide the reasonable accommodations necessary to handle their needs. The Children's Center, intended to be a

¹³ See SAMHSA and Nat'l Inst. Of Mental Health, "Mental Health: A Report of the Surgeon General," at 168 (1999); see also Lay, J. & Lewis, K. (2018) National Health Law Program, Children's Mental Health Services: The Right to Community-Based Care.

¹⁴ <https://www1.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2020/10.pdf>

“temporary, short-term residence for children awaiting long-term placement,” is not designed to serve the long term needs of any children. The alarmingly high number of children at the Children’s Center is further compounded by anecdotal evidence that children are held at the Children’s Center for weeks, months and even over a year.

Deputy Commissioner Julie Farber testified on November 24, 2020, that the recent census at Children’s Center has been “relatively low” over last several months. However, that “relatively low” number was still between 30-60 children at a time. It is critical to note that the Children’s Center was designed to house fifty-five children.¹⁵ It has been over capacity repeatedly since at least December 2017 and most likely throughout 2016 and 2017. In February 2019, ACS’s own data show that the average number of children reached a high of 87.¹⁶ The issue is not simply a surge in children at the Children’s Center, but a corresponding dramatic increase in the length of their stay.

As former ACS Commissioner Gladys Carrion stated, the Children’s Center is “designed [as a place] for children to be for a couple of hours, not even days.”¹⁷ It certainly is not the least restrictive, most homelike setting to which children are entitled. Yet youth, particularly those with higher needs and adolescents generally, are languishing at the Children’s Center and suffering as a result. Currently, we have multiple clients who have languished in ACS pre-placement centers or hospitals because ACS is unable to locate foster homes capable of addressing their needs. This is uniquely troubling in instances where our young clients are disabled under the ADA.

¹⁵ https://www.nbcnewyork.com/investigations/i-Team-Exclusive_-ACS-Children_s-Center-Beyond-Capacity_New-York-397146051.html

¹⁶ <https://www1.nyc.gov/site/acs/about/flashindicators.page>

¹⁷ https://www.nbcnewyork.com/investigations/i-Team-Exclusive_-ACS-Children_s-Center-Beyond-Capacity_New-York-397146051.html

Improving Health and Mental Health:

COVID-19 Has Profoundly Affected Children in the Child Welfare System

While obviously not anticipated by the Foster Care Task Force, COVID-19 has wreaked havoc on families in New York City and has had a profound effect on the child welfare system. The COVID-19 pandemic and subsequent city-wide shut down have elevated the critical need for attorneys for children to receive timely notifications regarding where the children we represent are placed within the foster care system. Too often, young children are removed from family members, moved between foster homes, or sent into group care without any notice to our staff. Without advanced notification of an anticipated move, our staff is not able to act to minimize the trauma of multiple shifts through the foster care system. Effective April 20, 2020, the Family Court Act and the Social Services Law were amended to require a local social services district (“LSSD”) to report any anticipated change in placement to the attorney for the child forthwith, but not later than one business day following either the decision to change the placement or the actual date the placement change occurred, whichever is sooner. Nonetheless, ACS routinely provides untimely notices of placement changes.

A lack of access to the courts has had a significant impact on the majority of children in foster care who have been deprived of in-person visitation with their families and critical mental health services. COVID-19 has had a profound effect on children across the state, as children have been cut off from friends, routines, school counselors, and the sense that life is orderly or predictable. Mental health professionals predict a “looming mental health crisis among children and adolescents, as fallout from the COVID-19 pandemic continues to rain down across New York.” Children in foster care are already vulnerable, dislocated and often suffering from the loss of

significant relationships, notwithstanding COVID-19. COVID-19 is likely to have a severe and negative impact on children in foster care. According to the American Academy of Pediatrics, children in foster care are uniquely vulnerable to the negative emotional harms of social distancing as “social distancing can re-awaken feelings of loneliness and isolation that many children in foster care have experienced.” Furthermore, most children in foster care have struggled with instability, and “changes like physical distancing during COVID-19 can trigger traumatic memories or symptoms.” Moreover, the Centers for Disease Control and Prevention (“CDC”) reports that children and teens, as well as people with pre-existing mental health conditions, may respond more strongly to the stress and anxiety surrounding the COVID-19 outbreak. Additionally, children who have intellectual disabilities and those who suffer from mental illness, as a significant proportion of children in foster care do, may need extra support due to the stress of isolation.

Lack of family therapy to ensure reunification

While the Interagency Task Force made some recommendations regarding improving mental health outcomes for children in care, the on-going and stark shortage of available family therapy remains unresolved. Family therapy is a critical component of most service plans for youth in placement. Meaningful and consistent family therapy can improve the family dynamics that may have led to the placement, and, in cases where the youth is placed in a more restrictive level of care, can address any obstacles to stepping a youth down to a less restrictive placement. Family therapy can also help address children’s mental health needs and can address obstacles to discharge from the foster care, including family conflict. However, family therapy is often not immediately available to families who have children placed in care. Instead, families often wait for months on waitlists for

critical and necessary therapy, unable to reunify in the absence of the service and penalized for the lack of available therapeutic treatment slots.

Lack of after-care services for clients reunifying with family

One area where our clients continue to be woefully underserved has been the lack of after-care services for clients reunifying with their families after placement – especially for those children and young people who had been placed in congregate care settings and are on trial discharge to their families while still technically in the care and custody of ACS. The lack of available services in the community, and the absence of efficient coordination between agency case planners and those community providers too often result in our clients being discharged to their families without any of the necessary services to support and maintain the reunification, such as mental health services, family therapy, educational assistance, respite care, and medical services, among others. The consequence to our clients is severe: frequently, they are returned to foster care and their relationships with families are further strained.

In one instance, a young client who had spent seven years in a congregate care facility was reunified with his mother with only a small portion of his necessary service plan in place at the time of the trial discharge. Inevitably, that trial discharge failed and the youth was returned to congregate care, where he has remained for the past three years. Another client was reunified with his family with absolutely no services in place, and without any medical insurance. His family was unable to treat serious medical conditions that arose, and were simply told by ACS that if caring for their child was too difficult, they could drop him off at an ACS center in their borough. This young person was

also, predictably, returned to foster care as his family was unable to care for him without supports and services in the community.

Ensuring at least six months of after-care are provided to every family would be a critical step towards ameliorating the stress and trauma of foster care placement, while tangibly assisting families to remain successfully reunified.

Psychotropic Medication Oversight

ACS testified that it has finally gotten access to the Medicaid prescription records for individual children in its custody through PSYCKES, NYS' web-based application that includes some Medicaid prescription data. This access is a long overdue step forward that does not go nearly far enough. ACS has a legal duty to ensure that children in its care are not being subjected to unnecessary or harmful psychotropic medication.¹⁸ While ACS asserts that it will be able to use this access to create aggregate reports on children in its custody by this winter, this ever-eluding deadline should not placate the City Council. A year and a half ago, this Committee held hearings regarding Int. 1358, a bill mandating reporting on the use of psychotropic medication among children in foster care and ACS then testified that it made no sense to set up a parallel system when it was about to gain access to state data. That data has yet to emerge, and that data would not provide all of the

¹⁸ The vital need for rigorous and effective oversight of psychotropic medication use for children in foster care is well established in federal law and best practice. The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires states to develop a plan for the ongoing oversight and coordination of health care services for children in foster care, including mental health care and prescription medications. The Child and Family Services Improvement and Innovation Act amended this provision to require that these plans include protocols for the appropriate use and monitoring of psychotropic medications. Outlining the changes in the law, the federal ACF stated that "oversight of psychotropic medication use is necessary in order to responsibly and effectively attend to the clinical needs of children who have experienced maltreatment" and urged "close supervision and monitoring" and "careful management and oversight" in the use of psychotropic medications for children.

information that ACS should be gathering to effectively oversee the treatment of children in its care. Moreover, there have been no assurances that this aggregate data will be made available to City Council or to the public.

Studies consistently reveal significantly higher rates of psychotropic medication use for children in foster care than in the general population. For example, one study estimated that the rate of psychotropic medication use for youth in foster care varied by state from 13 to 52 percent, compared to about 4 percent for youth in the general population. Another study found that children in foster care were prescribed antipsychotic medication almost nine times more often than children not in foster care (12.37% versus 1.4%). This study further found that one in five children were prescribed two different antipsychotics, and more than one in ten children received four or more psychotropic medications.

Many children in foster care exhibit behaviors related to the abuse and trauma they have endured, either prior to or as a result of their placement in foster care. All too often, these children are denied adequate therapeutic counseling and mental health support to treat underlying issues, but are instead given powerful psychotropic medications without any additional services.

When prescribed appropriately and monitored closely these drugs can have significant benefits for those with mental health conditions. However, these medications can cause profound and, at times, permanent adverse effects including psychosis, suicidal thoughts, development of diabetes, irreversible movement disorders, rapid weight gain and other life-threatening conditions. These drugs can be even more harmful if improperly used or combined with other medication. Moreover, there is little research on the impact of these drugs on the developing brains of children

and many of these medications have not been approved by the U.S. Food and Drug Administration as safe and effective for children.

These risks are amplified for children in foster care for several reasons. First, they are often living with caretakers who do not have full information or detailed knowledge of their trauma history, mental health needs or medical records. Children are moved frequently between placements and even the agencies employing the foster parents often lack complete medical histories. At the same time, biological parents and youth are not always provided with full information on the benefits and risks of a medication or alternative treatments. In addition, parents may be coerced to consent to medication by virtue of the Family Court proceedings against them. As a result, youth are routinely placed on psychotropic medications without appropriate exploration of alternative forms of treatment, without additional therapeutic services and without proper attention to potential drug interactions, over-medication, and adverse side effects.

Data can identify and provide the opportunity to address problematic prescribing practices. In 2012, the U.S. Administration for Children and Families (ACF) issued guidance to states on implementing effective oversight of psychotropic medications for youth in foster care. Included in that guidance were descriptions of “[p]atterns that may signal that factors other than clinical need are impacting the prescription of psychotropic medications.” Referred to as “outlier practices,” these practices include “instances where children are prescribed too many psychotropic medications, too much medication, or at too young an age.” New York’s Office of Children and Family Services (OCFS) has also enumerated specific circumstances that warrant review.

It is also problematic when children in foster care are given these powerful drugs without any other supports or services in place. Psychosocial services, mental health treatments and therapies can be used instead of, or in conjunction with, psychotropic medication. Combined treatment of psychosocial therapy and psychotropic medication can be more effective than either treatment alone for certain conditions. Additionally, the American Academy of Child and Adolescent Psychiatrists (AACAP) has recommended practices for child welfare agencies in overseeing the mental health treatment of children in foster care, including active monitoring to assure safe utilization of psychotropic medications. AACAP explained that children in state custody “often have no consistent interested party to provide informed consent for their treatment, to coordinate treatment planning and clinical care, or to provide longitudinal oversight of their treatment.” Thus, “[t]he state has a duty to perform this protective role for children in state custody.

National child welfare standards call for “[e]ffective medication monitoring at the client and agency level,” and outline a variety of quality assurance methods for overseeing medication practices at a systemic level. These methods include a system of tracking medication and all medical history/records for children in foster care, a mechanism for automatic flagging of certain problematic prescribing practices, system strategies to improve the oversight of prescriptions, and other internal quality assurance initiatives. OCFS similarly recommends that local agencies perform system-wide oversight and have the capacity for independent review of psychotropic medication prescriptions for children in its care.

To ensure compliance with federal law, child welfare standards, and OCFS guidance, ACS must develop systemic oversight and monitoring of children in foster care who have been prescribed

psychotropic medication. While access to PSYCKES will assist ACS in these efforts, in order to provide appropriate required oversight and accountability City Council must pass Int. 1358. The bill would address these issues directly by requiring ACS to collect data from each of its contracted foster care provider agencies about the use of psychotropic medication by children in its legal custody. By collecting this data, ACS and City Council will be able to observe prescribing trends for each foster care agency, with the data disaggregated to show trends by gender and ethnicity. The data collected will allow ACS to track problematic prescribing practices on a systemic level and provide feedback to and require corrective action from agencies that demonstrate high rates of these dangerous practices. The bill will facilitate the proper systemic oversight of the prescription of these powerful drugs to this vulnerable population of youth and allow for public transparency and accountability.

Improving Education Services for Children in Foster Care

For the past two decades, The Legal Aid Society has worked with the Department of Education, the Administration for Children's Services, foster care agencies, courts, and other players in the child welfare system to incorporate education advocacy into child welfare practice and improve educational outcomes for youth in foster care. The Legal Aid Society strongly supported the education-related recommendations contained in the March 2018 Interagency Foster Care Task Force Report. We are concerned that the City has not fully implemented many of those recommendations.

The Task Force’s Recommendation #4 called on the Department of Education to fund dedicated guidance counselors and social workers for children in foster care. This recommendation has not been implemented. The DOE points to the fact that it hired 100 “Community Coordinators” in 2019, but these individuals primarily serve students in temporary housing. Indeed, when the DOE published a “work guide” to define the Community Coordinators’ roles during the COVID-19 pandemic, the guide made no mention of servicing students in foster care.¹⁹ A companion document listing “frequently asked questions” sets forth the “core functions” performed by Community Coordinators, none of which include serving students in foster care.²⁰ Only later in the FAQ does the DOE briefly mention that the Community Coordinators may also “give guidance to... key school staff on supports, services and other resources for foster care students experiencing trauma or other social emotional disruptions.”²¹ Foster youth seem to have been added to the Community Coordinators’ plates as an afterthought. Neither ACS nor DOE has presented any data showing the extent to which these Community Coordinators have engaged with youth in foster care or the impact they may have had. The City’s failure to implement Recommendation #4 during the past two years has deprived thousands of children in foster care of the opportunity to receive meaningful support from school-based guidance counselors and social workers.

The Fair Futures initiative has been a welcome and successful effort to implement Recommendation #5, which called on the City to provide academic enrichment services, tutoring

¹⁹ STH Community Coordinators Work Guide, available at <https://docs.google.com/document/d/1tWcEed1dYuDDOD5qxdfavXEUcSO66w117iT18A1cw2c/edit>

²⁰ DRAFT – Frequently Asked Questions: STH Community Coordinators, p. 2-3, available at https://docs.google.com/document/d/1qqdJwTa42PO2nx6-guwNwjqKKeT_Xi22N27rWS9FAnA/edit

²¹ Id. at 5.

and social emotional supports to middle school students in foster care. Fair Futures funds tutors, coaches, and education specialists who provide youth in foster care with academic support, mentoring, high school application assistance, and college advising. We urge the City to baseline funding for Fair Futures to ensure the program's long-term viability.

ACS points to the DOE's Success Mentors program as evidence of the City's efforts to address chronic absenteeism among middle school and high school students, noting that the program has worked with 81 students in foster care. It is unclear, however, whether the program has had a positive impact on attendance and promotion rates for students in foster care. The Legal Aid Society strongly encourages the DOE and ACS to provide an analysis of the program's impact so that the program can be expanded or modified, as appropriate.

The Legal Aid Society greatly appreciates the DOE's efforts to provide better guidance about the rights of students in foster care and better service coordination to meet these students' needs, in furtherance of Recommendation #6. During the past year, the DOE has added a page on students in foster care to its website and has drafted written guidance for staff about the rights of children in foster care. The DOE worked collaboratively with ACS, foster care agencies and advocates in producing those resources, and incorporated feedback from various stakeholders, including Legal Aid. The guidance, however, does not carry the weight of regulation. In particular, the DOE must take immediate steps to amend outdated regulations pertaining to transportation for students in foster care.

Most disappointing to Legal Aid has been the City's failure to create a DOE position or office dedicated to coordinating services for students in foster care, as called for in Recommendation

#6. We have testified about this issue before City Council multiple times, most recently in May 2020. Despite a genuine effort to create policies and procedures that reflect the rights and needs of students in foster care, the DOE's approach is still piecemeal. Currently, responsibility for children in foster care rests with a wide range of different DOE staff members and offices: enrollment, transportation, special education, guidance, office of legal services, students in temporary housing, and academic policy, to name a few. There is no central DOE resource that schools, foster care agencies or families can turn to when they have questions about students in foster care. There is also no central resource to assist in setting policies relating to school stability, transportation, parental rights and involvement, access to records, consent for special education evaluations and services, court orders, data sharing and analysis, or credit transfers for students in foster care who change schools. A DOE office for students in foster care would help provide accurate and authoritative information about the educational rights of students in foster care. At the very least, the DOE should establish a senior level position to focus on the needs of these vulnerable students.

Conclusion

Thank you to the Committee for holding this important hearing and giving us the opportunity to submit testimony. We would be happy to work with the Committee to address any of the issues we have addressed.

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