

Plaintiffs' Comments on Proposed Compliance Plan

Submitted May 24, 2006

III.A Placement Stability

1. Implement a statewide RFP for foster parent recruitment

The Settlement Agreement requires that performance under the recruitment and retention contracts shall be reviewed every six months. Since the contracts were implemented in January 2005, at least two performance reviews should be completed by now. The Panel, however, found that “no documentation [was] provided on actual performance to date.”

The Compliance Plan indicates that data collection will not be completed until May 2006. This delay in reporting on performance at least as to the retention/support service contract is inexplicable since the contractor, Lutheran Community Services NW¹ posts some data on its website.² We found four quarterly reports at this website - <http://lcsnw.org/ffk/about.html>

The most recent quarterly report³ raises several issues that we recommend be addressed in the Compliance Plan

- Children's Administration will not provide contact information for foster families to the contractor responsible for providing support to foster parents. As a result, support services “are limited to word of mouth and indirect advertising.”⁴
- The Department supplies “Attrition Rate” data for the regions. The data for 2004-2005 indicates a 23 % increase in homes closed in Region One while in the other regions, there appears to have been a decrease in homes closed ranging from 3 % in Region Six to 15 % in Region Two. However, the Department does not provide the retention/support services contractor with the reasons that foster homes are closed.

We recommend that the Department provide the contractor with names, addresses, and telephone numbers of foster parents.⁵ To the extent that there are any legal obstacles to providing this information to the contractor, the Plan should specify how it would address those obstacles.

¹ Lutheran Community Services has the contract for all regions except region 5.

² We could not find any similar reports related to recruitment.

³ “Retention and support systems are extremely hampered by two things: relevant data on the reasons families leave and contact information for foster parents. Both of these issues were raised prior to the beginning of this project and we are now entering the final six months of this 18-month project.” Lutheran Community Services NW, *Families for Kids: Retention and Support Services: Washington State-Quarterly Report October 2005 – December 2005*, at. 7

⁴ Id, at 5

⁵ In an earlier Quarterly Report, Lutheran Community Services was told that CA was working on a “protocol for beginning the daunting task for regions to get thousands of releases signed” so that Lutheran could contact foster parents directly. It appears this protocol was unworkable and not completed or implemented. See, Lutheran Community Services NW, *Families for Kids: Retention and Support Services: Washington State-Quarterly Report Initial Progress Report – March 31, 2005*, at 4.

We also recommend that the Plan be amended to require that the Department provide attrition rate data to the contractor, broken down by region.⁶

This Action Step addresses both recruitment and retention.⁷ However, the second sentence states “[t]he report ... will address recruitment on the state and regional level...” Any report must include information on both retention and recruitment.

The Compliance Plan indicates that a report “reviewing the status and performance of the recruitment and retention contracts” will be submitted. The table (at p. 2) indicates that data will be collected during May 2006. However, the type of data being collected is not specified. We recommend that the data to be reported include, but not be limited to, the following:

- Amount (in dollars) of contract and area covered
- Staffing of contracts (e.g., number of recruiters - full and part time, foster parent coordinators/liaisons⁸, etc.)
- Itemization of expenditures
- Number and type of homes at start of contract period
- Number and type of new homes added during the contract period
- Number and type of homes lost and reason(s) for leaving during the contract period
- Information gathered concerning reasons for home closure/loss
- Inquiries received from persons interested in foster parenting (e.g. Visits to and completions of Foster Parent Questionnaire http://www1.dshs.wa.gov/ca/fosterparents/be_fosterForm.asp)
- Applications requested
- Applications completed
- Number of persons starting training
- Number of persons completing training
- Number of new homes licensed
- Number of home licensed within 90 days of application.
- Changes in number of available beds
- Characteristics of newly licensed homes
- Strategies employed to recruit new homes and their effectiveness
- Strategies/services⁹ employed to retain current homes and their effectiveness

Since none of the required six-month reviews were completed, we believe that a report of this extent should be required.

⁶ In a December 2003 Report, the Children’s Administration indicated that they did “track reasons why foster parents have closed their license.” Washington State Department of Social & Health Services, *Report to the Legislature: Foster and Adoptive Home Placement*, at 11 (December 2003)

⁷ Subsection (c) requires “Finalize Recruitment & Retention RFP” by September 2004. Subsection (g) requires “Begin implementation of 18 month regional/statewide contracted recruitment & retention services contracts” by January 2005.

⁸ Foster Parent Newsletter March 2005 edition confirms that CA contracted with Families for Kids, a branch of Lutheran Community Services, to hire foster parent liaisons.

⁹ Subsection (h) requires “regional/statewide contracted support services” for foster parents. Although Lutheran Community Services *Quarterly Reports* specify the number of “support systems” they do not specify which type(s) of support services – Hubs, Buddy Systems, support groups, and mentoring - are available in each region nor the number of foster parents taking advantage of each support system. This kind of detail might help to explain why region 1 lost 23% more homes in 2005 than in 2005 while other regions improved. The report submitted under the Plan should provide this detail.

Since the term of the 18-month contract will end in July of this year, the report also should include the agency's recommendations concerning the renewal of the contracts.

2. Require Multi-disciplinary staffings for children in four or more placements
3. Develop a plan for Panel review and approval with input by Plaintiffs to provide multi-disciplinary and/or case staffings for children in three or more placements.

Action Step #3 required a very specific deadline – January 15, 2005 – for completion of the plan for staffings for children in three or more placements. Another draft is to be submitted by June 30, 2006. Once the Panel approves the final plan, the Department's Compliance plan will need to be revised to include updated timelines for implementation. Plaintiffs previously submitted extensive comments on the proposed plan and will not repeat them here.

The Department proposes that these two action steps "be combined" but what this means is unclear and the table on p. 4 does not clarify it. If the Department is suggesting that the text of both Action Steps be combined without alteration or deletion into a single Action Step, we have no objection.

4. Develop and implement policy to provide emergency respite to licensed foster care and relative caregivers to prevent disruption

An assessment of regional respite care needs was supposed to have been completed and respite services were supposed to be in place almost a year ago (July 2005). The Compliance Plan would only "begin phase-in plan for implementation" in October 2006.

The draft (March 10, 2006) Monitoring Report indicated that the Department identified "resource issues that need to be addressed prior to implementation." The Compliance Plan fails to mention those resource issues. No funds for respite care were requested in the 2006 DSHS decision package. The Plan should be revised to address how the resource issues were resolved. What resources and amount of funds are available for respite services? How have those funds been allocated among CA offices? How many respite homes are available in each region? How many respite homes are available in each office? What amount of respite care funds have been expended this fiscal year and how does it compare to previous years? How is the availability of respite services communicated to foster parents?

Further details should be provided on how respite services will be phased in. Will they be provided first in a particular region or to a particular group of foster caregivers? What other criteria will be used to phase-in respite service?

Respite care is a supportive service for foster parents - yet it seems to be completely separate from the supportive services provided under contract by Lutheran Community Services. The Plan should describe how respite care is coordinated with the other supportive services available under contract.

The Plan should also describe how the development of respite care homes is connected to overall recruitment and retention.

7. Revise and Implement Policy and Procedure to provide for the involvement of children and parents in assessments, development of case plans, and major decisions (including changes in placement)

This policy was due to be implemented more than six months ago. The Compliance Plan merely promises to supply data concerning the number of staff trained in the policy. This is inadequate.

The Plan should include a description of the extent to which this Action Step is being implemented. Data reporting the number of workers/supervisors who attended a training at which this new policy was discussed is an inadequate corrective action. If implementation of this policy cannot be tracked in CAMIS then an alternative method of determining compliance should be specified in the Plan.

III.B Mental Health

2. Increase utilization of No Wrong Door Staffings (NWD) to identify needs for family and connect to services and resources.

The Agreement requires the Department to increase the utilization of these staffings, which no longer exist. The Department proposes that this Action Step be deleted from the Implementation Plan as unnecessary and redundant.

The Shared Planning Meeting Process calls for meetings at specific intervals: four in the first year, and annually thereafter. These meetings can take the form of other meetings (such as a CHET staffing held within 30 days of the time that the Shared Planning Meeting is to take place). Plaintiffs believe that the Action Step, which requires implementation of the Shared Planning Process (Goal 3, AS 6), especially with its requirement to report on a semi-annual basis, as well as benchmarks related to Shared Planning Meetings will cover the intent of this Action Step. Therefore, Plaintiffs do not object to deletion of this action step.

3. In collaboration with community partners, utilizing CHET or any successor model, CA will identify regional service gaps and create plans to fill gaps through maximizing and developing local resources.

The Agreement requires the Department to identify gaps in service for children and to develop and implement plans to fill regional service gaps by 10/05. According to the Monitoring Report, the Department indicated it would complete the Action Step by 6/06. The Department now proposes to change the Action Step “to reflect existing regional structures” and substitute existing Executive Level Community Mental Health Councils for regional workgroups.

Plaintiffs agree that if an existing process satisfies the requirement of the Action Step there is no need to create a new and/or duplicative process. However, it is not clear that the Executive Level Community Mental Health Councils fulfill the Department’s obligation to “create plans.” The proposed or revised action steps suggested in the table at page 12 do not include any reference to a

plan “to fill gaps [in services] through maximizing and developing local resources.” Such a plan should be developed following completion of the needs assessment.

The timeline for completing the needs assessment is not acceptable. If a preliminary community needs assessment is not completed until December 2006, this won’t allow sufficient lead-time for DSHS to request funds to address these needs in the 2007-09 budget. A preliminary assessment must be completed no later than the beginning of September 2006.

Additionally, while the Department lists some of the members of the Council, it is not clear if every council must have representatives from certain agencies. Are the Councils legislatively mandated and their membership set by the legislation? Are there charters subject to the kind of revision called for in the revised action step – (b)? Plaintiffs do not know who is involved in these committees, and would request that we be allowed to appoint a representative to each region’s committee. A sub-step should be included requiring DSHS to immediately report to the panel as to whether funding is necessary to implement the plans, and to include such a request in their decision package to the Governor for the 07-09 budget. Additionally, Plaintiffs want to ensure that the Committee is using information from individual cases to identify service gaps.

4 . Implement newly developed agreements with each Regional Support Network.

The Agreement requires the Department to conduct informational sessions on the new RSN agreements in every region with particular focus on foster parents by 12/05. The Department is proposing to finish informational sessions by 7/06.

Plaintiffs need to know what occurs at informational sessions and who the participants have been. The informational sessions were supposed to have a “particular focus on foster parents.” Plaintiffs read this to mean that they were to include foster parents. Did this happen or did the sessions only involve staff? The Department should explain how the sessions had a “particular focus on foster parents” and the Plan should contain a sub-step requiring notification of the sessions to the Plaintiffs and to FPAWS.

5. Foster children’s mental health and substance abuse (when applicable) needs will be periodically reassessed by professionals, as indicated in their EPSDT or other relevant evaluation.

The Agreement requires the Department to implement the above policy by 12/05. The Monitoring Report indicated that the Department would finish implementation by 3/06. The Department now proposes completion of implementation by 7/06.

Plaintiffs do not object to the timeline, in general. However (especially given that this step has been delayed seven months without a given reason), a memo to staff, alone, is not enough to show compliance with a new policy. Consideration should be given to incorporating this policy into the Quality Assurance case reviews. Also, the Department should be required to identify whether financial resources are needed for compliance with the new policy, report to the panel no later than August, and include any request in its 07-09 decision package.

III C. Foster Parent Training and Information

1. Implement statewide after-hours crisis support line for foster parents and other caregivers.

In addition to the establishment of the crisis line, this Action Step requires that foster parents are to be provided with crisis cards (publicizing the resource). Crisis cards were to be distributed to all foster parents and “other caregivers” by December 2004. None were provided.

This Action Step also requires the submission of quarterly progress reports. Such reports should be used to assess the utilization, impact and efficacy of the crisis line. The first quarterly report was due in September 2005. None have been completed.

The Plan now promises to create the “crisis cards” “and provide to foster parents.” This is inadequate. The crisis line is supposed to be available “for foster parents and other caregivers.” Relatives caring for foster children as well as well as fictive kin should be included in the distribution of the crisis cards and other methods by which the line is publicized.

The Plan suggests that quarterly reports – none of which have been completed – be replaced “with a requirement for a report to the Panel covering the period ending December 2005.” We disagree that reports to the field based on information from the crisis line would not assist them. At the very least, quarterly reports should be provided to the retention and support contractors (e.g. LCS) even if regional breakdowns are not available. We agree that the Panel should be provided with such a report by June 2006, but recommend that the Plan require that the Department continue to provide the Panel with quarterly reports.

Given the failure to file any reports concerning the crisis line, we recommend that the contents of the report to be provided to the Panel and LCS be specified. At minimum, the report should include the following information:

- Description of the qualifications, training and number of staff who answer the crisis line.
- Cost of operating the line
- Number of calls, day of week, and time of day received
- Type of calls (i.e., the nature of the problem for which the foster parent is calling)
- Timeliness (e.g , are callers placed in hold? what is the wait time?) and nature of response (e.g. what service(s), if any, were provided?)
- Person responding to request – child’s caseworker, other caseworker, other employee?
- Adequacy of response in addressing and/or alleviating the crisis for which the foster parent called
- Consumer satisfaction with the service provided

Finally, absent from the Plan is any recognition that the crisis line is part of the overall supportive services – respite, LCS contract – for foster parents. There is no mention of how the crisis line might or should be integrated into the overall supportive services. For example: are callers to the crisis line, even if the immediate problem is resolved, referred for follow up and support to LCS? The Plan

should be amended to address the integration and coordination of all supportive services – e.g., crisis line, respite care, LCS mentoring, hubs, etc.

2. Develop and implement cross training between foster parents and staff.

The Panel's Monitoring Report indicated that the Department reported 18 joint training sessions were held in 2005. The Panel noted that there was no information "on number of participants by role category and location..." The Compliance Plan indicates that the Department will provide a report on the number of participants. This report of sheer numbers is inadequate. In order to determine that joint training is being carried out "statewide" as required under the Settlement Agreement, the location/offices from which foster parents and staff come who attend the trainings must be specified. Furthermore, since the same foster parent or staff may attend multiple trainings, the report should provide the unduplicated numbers of staff and foster parents attending.

3. Require written notification to licensed foster parents and relative caregivers and provide support to increase their participation in meetings, staffings, and hearings involving planning for children in their care.

This policy was to be implemented in September 2005 and reports on the levels of compliance and participation to be submitted. No compliance reports have been completed.

The Department purports to have no data on the implementation of this policy and suggests that the case review process still "under development" be used to measure compliance. Data from the case review process will not be available until August 2007. Given that this provision basically restates the federal law in effect since 1999, any further delay is unacceptable. The Department must come up with a quick alternative for assuring that this policy is actually being implemented in the field.

The Department also appears to overlook that there are two components to this Action Step – notice and support to increase participation. Any Compliance Plan must specify how the agency is providing support to foster caregivers so that they may attend not only hearings, but also staffings and other meetings involving children in their care. There is no indication that the Department has taken the first step – attempting to determine what obstacles prevent foster caregivers from attending – so this must be the first part of any corrective action plan in this area.

5. Provide training for licensed foster parents and relative caregivers on policy revisions and engaging families and children.

The Compliance Plan promises to provide the number of participants. This Action Step applies to all licensed foster parents and relative caregivers. More than just the numbers of participants should be provided. The locations (regions/offices) of foster caregivers must be identified in order to determine if there are some areas of the state in which foster caregivers have not had the required training. The agency must also provide assurances that the numbers of participants are unduplicated.

6. DLR licensors develop and implement annual assessment and development plans for foster parents and relative caregivers utilizing feedback and input from DCFS workers, foster parents, and relative caregivers.

The annual evaluations required by this provision were supposed to begin in September 2005. The timeline was not met because funding was not received. The Department reported to the Panel that it had “alternative approaches to achieve substantial compliance” and that its review would be completed in March 2006.

The Compliance Plan makes no reference to “alternative approaches.” The Department states that it has completed steps (a) and (b) but the Table on page 21 indicates that step (a) will not be completed until July 2006 and (b) not until October 2006. Under “Budget appropriations” there is no indication that the agency will seek funding for this step yet it indicates that it will be implemented in January 2007.

While the current Action Step requires that the DLR licensor conduct the assessment, it appears that the Department suggests altering this Action Step - replacing the DLR staff assessment of foster parents with a self-assessment. Without seeing this proposed self-assessment and without a description of what, if any, role DLR staff will play in developing a plan for the foster parent, we cannot determine if this modification is warranted.

7. Develop and implement a policy requiring ongoing training for licensed foster parents

This policy was implemented more than two years ago – February 2005. The Department proposes providing documentation on the participation of foster parents in training but does not specify the contents of the report. As in many other sections of the Compliance Plan, the contents of the report to be submitted to Panel should be specified. It should include, among other items,

- Number (unduplicated) of foster parents (by office/region) completing training
- Subject matter of training completed
- Type of training completed (e.g., web-based vs. classroom)
- Evaluation of training and its efficacy

8. Licensed foster parents and relative caregivers shall be provided with the results and recommendations of all the department’s screenings and assessments, including the Pre-Passport or its successor, for children placed in their homes five days after its completions unless expressly limited by law or a child’s lawful assertion of confidentiality. Licensed foster parents and relative caregivers shall be provided a copy of the child’s passport or its successor at the time of placement but no later than five days after its completion, unless expressly limited by law or a child’s lawful assertion of confidentiality.

This policy was to be implemented in September 2005. Implementation of the policy was to be measured through the case review process starting in January 2006. Neither of these deadlines was met.

The Department proposes implementing the policy by July 2006 but delaying any measurement of compliance until August 2007. This delay in determining the extent of compliance is unacceptable. Previous data suggests that foster parents routinely do not receive timely and necessary information about the children placed in their homes. Barring any information to suggest that past problems have been remedied and that this information is being provided, the Compliance Plan must describe what steps the Department will take to ensure that foster parents are getting the required information. Strategies for ensuring that this information gets in the hands of foster parents must be laid out.

9. Licensed foster parents and relative caregivers will be encouraged and supported to participate in staffings of pre-passports (or successors) for children placed in their homes.

This provision recognizes the importance of foster parents being informed and involved in the identification and discussion of the child's needs early on in the placement. The pre-passport referred to here is now the CHET. This mandate was supposed to be implemented in September 2005. The Panel found that there was no data on whether foster caregivers were notified of the agency's obligations to provide support so that they could participate in the staffings. The Panel also was provided with no data on the extent to which the policy was implemented.

The Department points out that it does not have the capacity to electronically track and document if it is implementing this mandate. Its suggested delay of determining whether this provision is being implemented until 2007 or 2008 is unacceptable. The Plan must describe the services in place to support foster caregivers' participation, the adequacy of those services, and how the agency will address the need for other, additional supportive services.

III.D Unsafe/Inappropriate Placements

1. Increase contact between social worker and family, child and caregivers to at least once every 30 days.

According to the Agreement, the necessary policy changes required to increase contact between social worker and family, child and caregivers to at least once every 30 days were to have been implemented by October of 2005. Additionally, the Department is required to make significant improvements (75 % increase from baseline) in this area by the end of FY (June 30) 2006.

The Monitoring Report indicates that this step was incomplete.

First, in its Compliance Plan, CA acknowledges this is an important safety issue but requests more time. While Plaintiffs appreciate and accept the Department's offer to meet and discuss this action step, Plaintiffs do not agree to delaying the start-up of 30 day visits until March of 2007 and state-wide implementation until March 2008. As previously mentioned, the Department is required to

make a 75 % increase from baseline in this area by the end of FY (June) 2006. The proposal has implementation starting nine months after improvements are to be shown. To propose an inconsistent action step at this point is inappropriate, especially given that the Department has not indicated what funds will be necessary to comply with the benchmark.

Second, the Department proposes to delete the reference to caregivers and parents in the action step. The Department has offered to work with the Panel to develop a separate action step regarding visits to caregivers. Any deletion of caregivers (including parents where children are placed at home under an in-home dependency) from this action step must be premised upon the creation of such an action step, and, ideally, a corresponding outcome and benchmark. Plaintiffs have no objection to separating out such an action step, but object to anything less than monthly visits to caregivers (again, including parents where children are placed at home).

Third, CA seeks to alter the standard from “every 30 days” to “monthly.” The benchmarks use both terms and should be clarified as well. Plaintiffs understand the proposal to be, and do not generally object, if it is merely to permit one visit each and every calendar month. However, to avoid clustering visits (having two visits in a row and then no visit for 60 days), the visits should never be more than 40 days apart. Thus, if a child was visited on February 5th, it would be acceptable for the child to be visited on March 15th of the following month. If “monthly” suggests an “average” over a year, plaintiffs would object. It obviously does not serve the interests of child safety for a child to meet with her social worker three times in three days in the third month of placement.

Fourth, the Department proposes to delete subparts (g) and (h) on the grounds that performance cannot be adequately measured until the baseline is set. Since the baseline is to be set (under the benchmarks) on June 1, 2006 (based on FY 05 data), Plaintiffs are agreeable to reporting starting at that point. However, frequent reports are critical for a number of reasons, not the least of which is ensuring stakeholders that progress is being made.

Finally, the Plaintiffs believe that the action step should set out specific timelines for the Department identifying and requesting the amount necessary to achieve this Action Step (and the relevant benchmark).

III.E Sibling Separation

1. Increase quality and frequency of visits between children and their siblings.

A revised policy covering this requirement was due to be approved by January 2005, implemented no later than April 2005, and quarterly progress reports issued starting in June 2005. The Panel found that this was not done. The Compliance Plan indicates the relevant policy will be reviewed and approved by April 2006.

The Department proposes “consolidating” two related Action Steps of the Implementation Plan/Settlement Agreement – 5(c)(1) and 5(c)(5) – by deleting Action Step 5(c)(5). While the two Action Steps are similar, there is a significant difference. Action Step 5(c)(5) requires that the agency “Develop and implement policies and protocols regarding visitations for children, *parents* and

siblings” (emphasis added) but Action Step 5(c)(1) makes no reference to visitation between parents and children in foster care. We have no objection to a true consolidation of these Action Steps and propose that the new Action Step simply read

“Develop and implement policies regarding visitations for children, parents and siblings, which policies shall address, among other things, increasing the quality and frequency of visits among siblings in foster care and between parents, their children, and siblings in foster care.”

The Compliance Plan also proposes delaying the establishment of a baseline for performance until August 2007. This is unacceptable and conflicts with the Panel’s Implementation Plan under which the baseline for the relevant benchmark (G2O1B1) is to be established in 2006. This should not be changed.

Sibling visitation is not a new requirement, the agency is already more than a year behind, and no documentation has been provided to explain the reason for the long delay in implementing these action steps. The Compliance Plan proposal for annual reporting is also unacceptable. Reporting out should be done no less frequently than semi-annually, and must commence when the data for the baseline is due, in November of 2006.

3. Hire and train relative search staff to support finding relative resources and supporting Family Team Meetings.

The Agreement requires the Department to hire and train relative search staff to support finding relative resources and supporting Family Team Meetings. The additional staff also was to assist in completing initial assessments of caregivers. Some of the sub-steps were subject to the 2005 budget request, in which relative search staff were not funded.

Although the Department indicated it needed additional resources to implement this Action Step (but failed to request funding in the 2006 budget session), it now “proposes to achieve the same outcome within existing resources.” Consequently, the Compliance Plan suggests deleting the word ‘Hire’ from the Action Step. It also proposes another substantive change – deleting the obligation to support Family Team Meetings.

The requirement to support Family Team Meetings should not be deleted from the Action Step. The Department should be required to renew its funding request in its 2007-09-decision package. There is no reason to believe that the Department’s original assessment that additional staff was necessary to implement this Action Step was wrong. With caseworkers stretched so thin they are unable even to conduct 30 day visits, it is unlikely that existing staff have the time to do a more effective job carrying out relative searches. The proposal to “consider use of experts” is vague and non-committal. Additionally, no action step should end with “begin implement(ation).” If the Department is suggesting that improvements in relative searches are to be phased in it should explain this in the Compliance Plan. In any case, sub-steps should be added to reflect the deadline for statewide implementation and reporting out on implementation status starting no later than three months after implementation begins. The Department should also clarify what electronic tools will be used, the reasons for adopting such tools (e.g. successful use in other jurisdictions) and what the cost will be to implement.

4. Implement case conferences prior to dispositional hearing, as required by 2004 legislation.

The Agreement requires the Department to implement case conferences as required by legislation adopted in 2004. Practice guidelines for these pre-dispositional conferences were to be adopted and implemented by 12/04 and quarterly reporting to begin the following month.

The Department has requested that this action step be marked as complete. In doing so, it misreads the statute and its obligations under the law enacted in 2004. It suggests that since the date of the case conference is set by the court, the Department has no role or obligation related to case conferences. This assertion is inaccurate and conflicts with the explicit provisions of RCW 13.34.067. That statute requires

Following shelter care and no later than thirty days prior to fact-finding, **the department shall convene** a case conference as required in the shelter care order to develop and specify in a written service agreement the expectations of both the department and the parent regarding voluntary services for the parent. (emphasis added)

While the Court may schedule case conferences, it is the Department that actually conducts the case conferences, not the judge. The purpose of the case conference is “to develop a written service agreement following the shelter care hearing.” Implementation of case conferences requires more than the entry of a date for the conference. It requires that the caseworker actually meet with the parent and develop the service agreement. A case conference can be a multidisciplinary team meeting, family group conference, or prognostic staffing. Again, each of these is conducted by the Department not by the court.

The Department must show, not just assert, that case conferences are being conducted (unless excused by the court).¹⁰ While the Department indicates it cannot track the implementation, a sample of cases should be reviewed and the reviewers should produce a report on implementation as well as on the outcomes of these conferences. Information in the report should include:

- Are the case conferences being held no later than 30 days prior to the fact finding as required by law?
- Are older children being invited, as per policy?
- How often are other staffings being substituted for case conferences?
- When the case conferences are not held, why?
- Are the conferences lasted the expected 60-90 minutes?
- How often the conference includes the GAL, counsel for the child, etc.

III.F Services to Adolescents

2. Offer support services to foster youth until age 21.

The Agreement requires the Department to offer support services to foster youth until age 21. More specifically, it requires the Department, in collaboration with community partners, to develop a policy regarding discharge from care to enable youth to receive services until they are 21, unless they

¹⁰ The Compliance Plan makes the unsupported assertion that “case conferences ... have been fully implemented in the context of the dependency process.” Compliance Plan, at 29.

wish to opt out earlier and include policies requiring youth to be involved in a private or public educational, vocational program or employed to meet the criteria to remain in care.

The Monitoring Report indicates that this step is incomplete, and notes that the documentation received by the Panel does not allow the Panel to assess the relationship between services that are provided and population needing/wanting services.

The Department proposes to convene a workgroup to develop the required policy, and requests extension of the time frame for this Action Step given that HB 2002, extending some services to some youth who remain in care was not passed until the 2006 session.

We approve of the Compliance Plan for this Action Step, including the extension of the time frame. We think it is particularly important that policies be developed allowing youth who are employed to meet the criteria to remain in care, as the department states that they plan to do. With respect to the revised step for original sub-step (f), we see no need to revise the original sub-step. The original sub-step is more specific, and states the groups of people who must be oriented, including youth and community partners. The revised sub-step (“Communicate”) is unnecessarily vague, and the supporting documentation does not include any documentation of youth-specific communication. Finally, the final sub-step (“Implement”) needs additional clarification. If it means that implementation will be complete by September 2006, it should state this clearly. If it means that implementation will begin, there should be additional sub-steps detailing how implementation will be accomplished and when it will be complete.

5. Establish post-guardianship support program.

6. Develop and implement regional resource centers for post-adoption kinship and post-guardianship families.

The Agreement requires the Department to establish a post-guardianship support program. This includes developing and implementing regional resources centers to provide referrals and facilitate access to services by December 2004, providing crisis support and other immediate support through the implementation of a statewide RFP for foster parent support services by January 2005, and providing access to pre-service and post-service training provided by the Resource Family Training Institute by May 2005.

The Department is also required to develop and implement regional resource centers for post-adoption kinship and post-guardianship families, including the same sub steps listed above.

The Monitoring Report indicates that both of these action steps are incomplete. It does not appear that the Department provided any documentation of ongoing progress on any of the sub-steps.

In its Compliance Plan, the Department proposes deleting these two Action Steps.

Plaintiffs do not agree with the proposal to delete these two Action Steps.¹¹ These action steps were explicitly agreed to by both parties in the Settlement Agreement, and are a part of the Implementation Plan. While these steps may have been developed “in part to complement the department’s proposed legislative changes” to the guardianship provisions of RCW 13.34, as the Department states in their Compliance Plan, they were in no way dependent upon those legislative changes being approved. The Department also makes the point in their Compliance Plan that the services to be provided under these Action Steps “do not directly address issues listed in Section 2.3” of the complaint. However,

¹¹ If the Panel thought it was appropriate, we would be open to combining these two action steps, considering that they share the same sub-steps.

the Department was free to agree to Action Steps, such as the above, that clearly serve the plaintiff class, even if they do not follow “directly” from Section 2.3 of the complaint.

Additionally, Plaintiffs strongly disagree with the argument that children in dependency guardianships are not members of the class. The plaintiff class, as defined in the Settlement Agreement, includes children “whose custody has been placed in the Department of Social and Health Services, DCFS, by court order in a dependency or termination action under RCW 13.34 or by voluntary placement agreement between DCFS and the child’s parent or guardian.” Children in dependency guardianships fit this definition – they are dependents of the state of Washington, pursuant to an active dependency action under RCW 13.34. As RCW 13.34.232(4) states, a child in a dependency guardianship shall “remain dependent for the duration of the guardianship.”

The Department’s argument that the class of children does not include youth in dependency guardianships because dependency guardianships are permanent plans of care is incorrect and unsupported by law. Guardianships are inherently temporary situations because DCFS may regain sole custody of these children, and the dependency guardian is appointed “for the limited purpose of assisting the court in the supervision of the dependency.” RCW 13.34.030(4). Dependency guardianships can be modified or terminated by motion by any party. RCW 13.34.233(2). The temporary nature of dependency guardianships has also been established in several cases that examined the distinction between dependency guardianships and termination proceedings. See *In re Dependency of K.S.C.*, 137 Wn.2d 918, 930, 976 P.2d 113 (1999); *In re Dependency of FS.*, 81 Wn. App. 264, 265, 913 P.2d 844 (1996).

Accordingly, the Department should acknowledge that children in dependency guardianships fall squarely within the class of children protected by the *Braam* Settlement Agreement, and develop a plan to comply with the action steps they agreed to that are designed to serve these children.

With respect to post-adoption kinship families, even though children in those families are not technically in the legal custody of DCFS, they were in the custody of DCFS, and will go back into DCFS custody and into the class if the adoption fails. It makes perfect sense that the Department agreed to establish a post-adoption support program and develop regional resource centers as part of its obligation to the plaintiff class to increase placement stability. For these reasons, Plaintiffs believe the Action Step should stand as is, and the Department should develop a plan to comply with this Action Step as a part of this Compliance Plan.

With respect to the citation of the wrong KCF II Action Step for Action Step 6(c)(5), we are uncertain why this means that a citation to the proper KCF II Action Step (21.1.4) should not just be inserted. The Implementation Plan states that this Action Step was “Originally 21.1.3” as of the time of the Settlement Agreement, and as the Department states in their Compliance Plan, the number simply changed to 21.1.4 in the final draft of the KCF II Plan. The language for that KCF II 21.1.4 is as follows:

Expand support for guardianship providers to include:

- a. Develop and implement regional resource centers for post-adoption families, permanent kinship families and guardianship providers.
- b. Access to ongoing training through the Resource Family Training Institute.

Plaintiffs believe that the above appropriate Action Step should be included as was intended, and that the Implementation Plan and the Monitoring Report should be amended to reflect the proper

numbering of this Action Step as of the more recent KCF II Plan.¹² The Department should come up with a plan to comply with this Action Step as a part of this Compliance Plan.

9. Offer caregivers training on educational advocacy skills.

The Agreement requires the Department to offer caregivers training on educational advocacy skills, which includes development and distribution of educational information packets in collaboration with the education sector. The implementation of the distribution plan was to begin in December 2005. According to the Panel's documentation that was sent to the panel, they began implementation in February 2006, and it is ongoing.

Plaintiffs are pleased to see the progress on this Action Step, and if the Department continues with its plan, it appears that this step will be complete by the next Monitoring Report. However, since implementation of the distribution plan did not begin until after December 2005, it was appropriate that it was marked incomplete for the reporting period covered by the Monitoring Report, which was through the end of December 2005.

10. Develop and implement tutoring and mentoring services, in conjunction with existing community resources, to improve educational outcomes for adolescents in out-of-home care.

In the Settlement Agreement, this Action Step refers to KCF II 15.1.2, which reads as follows:

Develop and implement tutor/mentoring plan to improve educational outcomes for children in out-of-home care (9-16 year olds). Subject to 2005 budget request.

- a. Identify tutor and mentoring needs of children in out-of-home care (5/05)
- b. Budget decisions (7/05)
- c. Hire regional volunteer coordinators to recruit volunteer tutors and mentors (9/05)
- d. Volunteer coordinators complete development of regional plans, including communication of the mentoring/tutoring program to staff, youth, caregivers and community partners (12/05)

The Monitoring Report indicates that this Action Step is incomplete, and notes that educational contractors were given this responsibility, and that they started work on February 2006. However, this is an overstatement of what the educational advocates are to do under their contract.

In its Compliance Plan, the Department proposes deleting this Action Step and "substituting" another step, 6(c)(7), which is complete through the performance period. It explains that contracted education coordinators will be developing region specific inventories of tutoring and mentoring services, but not actually providing tutoring or mentoring services.

Plaintiffs do not accept the proposal to eliminate this Action Step. As it existed in the Agreement and in the version of KCF II that existed at the time of the Agreement, 6(c)(7) and 6(c)(10) were two separate action steps. Action Step 6(c)(7) referred to KCF II 15.1.3, a separate action step, with separate requirements.

¹² It appears that the Department appears to have officially abandoned the Kids Come First II plan. Therefore, since the KCF II document will no longer be updated, references will be historical only and will serve to contextualize the action steps.

The complication resulted from the fact that in the revised version of KCF II, there was no Action Step that perfectly encompassed the original 15.1.2, and a part of another Action Step that did not capture the requirements of 15.1.2 was substituted. What should have happened is that the original KCF II step, 15.1.2, as it existed at the time of the Settlement Agreement, should have been incorporated into the Implementation Plan. Given this, the Implementation Plan should be amended with the original version of KCF II 15.1.2, and the Department should develop a plan to comply with this Action Step, including a requirement to renew its funding request in its 2007-09-decision package.

