

97-2

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

OCT 14 1994

JAMES W. McCORMACK, CLERK

By: [Signature]
DEP CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

ANGELA R. and CARRIE G.,)
by their next friend, Merry)
Alice Hesselbein; DAVID M.,)
a minor, by his next friend,)
Georgia Jackson; JESSE T.,)
LISA S., SERENA M. and)
CRYSTAL P., by their next)
friend, Dottie Gray;)
ERIC D., by his next friend,)
Charlotte Carlson; and)
CHARLES S. and DAMON T., by)
their next friend, Earlon)
Major; on their own behalf)
and on behalf of all)
others similarly situated,)
Plaintiffs,)

No. LRC-91-415

ORDER OF DISMISSAL
AND APPROVAL OF SETTLEMENT

vs.

JIM GUY TUCKER, in his)
official capacity as Governor)
of Arkansas, and TOM DALTON,)
in his official capacity as)
Director of the Arkansas)
Department of Human Services,)
Defendants.)

I. Introduction

The parties have consented to the entry of this Settlement Agreement and have requested that this Court dismiss the action, retaining jurisdiction solely to enforce the terms of the Settlement Agreement (and to resolve the issue of attorneys' fees

1 2 4

and costs, if the parties are unable to agree).

The Settlement Agreement is the outcome of negotiations and bargaining, conducted in September and October 1994, in which all parties were represented by plaintiffs' and defendants' counsel.

Under the terms of the Settlement, the defendants retain full administrative control over the Division of Children and Family Services, and retain discretion to devise the means by which to achieve compliance with the Settlement Agreement.

II. Disclaimer of Liability

By agreeing to the Settlement Agreement and to the entry of this Order, defendants do not acknowledge or admit that they, DHS or DCFS have in any way violated the United States Constitution, any federal statute or regulation, or any state code provision, policy or procedure.

III. Parties

The provisions of the Settlement Agreement shall apply to and be binding upon the parties to this civil action, and upon their employees, successors-in-interest, and assigns.

The undersigned representatives of the plaintiffs and defendants certify that they are fully authorized subject to the Federal Rules of Civil Procedure to enter into and to execute the terms and conditions of the Settlement Agreement and to legally bind the parties, including all members of the certified plaintiff class.

IV. The Plaintiff Class

The parties to this action reached agreement regarding

definition of the class and stipulated that this action should be certified as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedures.

The parties agreed and the Court ordered the plaintiff class to be defined as follows:

All children who, since July 1, 1988, have or will become known to DHS by reason of a complaint of abuse or neglect, and all children who are now or will be in the custody of DHS as the result of an emergency 72-hour placement or an abuse, neglect, or Family in Need of Services (FINS) petition.

V. Confidentiality

Plaintiffs' counsel shall maintain the confidentiality of any information contained in any documents provided to them during the course of this litigation or provided under the terms of the Settlement Agreement, which may identify specific individuals where the confidentiality of such information is provided by law.

VI. Enforcement and termination

The Settlement Agreement constitutes a final and binding determination of plaintiffs' causes of action and entitlement of relief. The claims and defenses of the parties are merged into this Order, and are res judicata. The action shall be dismissed, and this Court shall retain jurisdiction of this matter solely for the purpose of enforcing the terms of the Settlement Agreement. See Kokkonen v. Guardian Life Insurance Co., 114

S.Ct. 1673 (1994). The Settlement Agreement shall terminate, by its own terms, in five years from the date of entry of the Agreement, unless enforcement proceedings are pending before this Court.

VII. Attorneys' fees

Plaintiffs and defendants reserve the issue of entitlement to and amount of attorneys' fees, and plaintiffs' claims for costs of this action. The parties agree to meet in good faith in an attempt to settle this issue. If no settlement is reached by November 30, 1994, all counsel shall submit briefs raising all issues of attorneys' fees and costs to this court.

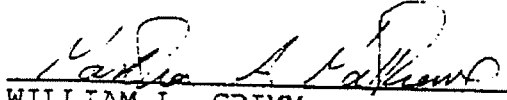
Accordingly, the Court hereby orders that this action be dismissed, that the Court shall retain jurisdiction solely for the purpose of enforcing the terms of the Settlement Agreement (and of resolving the issue of attorneys' fees and costs, if the parties are unable to agree), and that the Settlement Agreement is approved as fair, reasonable, and adequate to protect the interests of the plaintiff class.

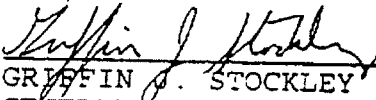
IT IS SO ORDERED, THIS 13th DAY OF October, 1994

George Howard, Jr.
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 10-17-94 BY [Signature]


Approved by:


 WILLIAM L. GRIMM
 MARTHA A. MATTHEWS
 NATIONAL CENTER FOR YOUTH LAW
 114 Sansome Street, Suite 900
 San Francisco, CA 94104-3820
 (415) 543-3307



 GRIFFIN J. STOCKLEY
 CENTRAL ARKANSAS LEGAL SERVICES
 209 West Capitol Avenue, Suite 36
 Little Rock, AR 72201
 (501) 376-3423

MONA TEAGUE
 OZARK LEGAL SERVICES
 26 East Center Street
 Fayetteville, AR 72701
 (501) 442-0600

Attorneys for Plaintiffs


 ANGELA JEGLEY, #78-100
 Assistant Attorney General
 Office of Attorney General
 323 Center, Suite 200
 Little Rock, AR 72201
 (501) 682-2007

Attorney for Defendant Tucker


 DEBBY THETFORD NYE
 Chief Counsel #80-107
 DHS Office of Chief Counsel
 P.O. Box 1437
 Little Rock, AR 72203
 (501) 682-8934

Attorney for Defendant Dalton

FILED / 1974
JAMES V. HANCOCK, CLERK
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

ANGELA R. and CARRIE G.,)
by their next friend, Merry)
Alice Hesselbein; DAVID M.,)
a minor, by his next friend,)
Georgia Jackson; JESSE T.,)
LISA S., SERENA M. and)
CRYSTAL P., by their next)
friend, Dottie Gray;)
ERIC D., by his next friend,)
Charlotte Carlson; and)
CHARLES S. and DAMON T., by)
their next friend, Earlon)
Major; on their own behalf)
and on behalf of all)
others similarly situated,)
Plaintiffs,)

No. LRC-91-415

JOINT MOTION FOR DISMISSAL
AND APPROVAL OF SETTLEMENT
AGREEMENT

vs.

JIM GUY TUCKER, in his)
official capacity as Governor)
of Arkansas, and TOM DALTON,)
in his official capacity as)
Director of the Arkansas)
Department of Human Services,)
Defendants.)

JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

The parties hereby jointly move this court to dismiss this action under Fed. R. Civ. Pro. 41(a)(1)(ii) (stipulated dismissal), retaining jurisdiction solely to enforce the

Settlement Agreement (and to resolve the issue of attorneys' fees and costs, if the parties are unable to agree). See Kokkonen v. Guardian Life Insurance Co., 114 S.Ct. 1673 (1994). The parties also request that this Court approve the attached Settlement Agreement as a fair, reasonable, and adequate settlement of the claims of the plaintiff class.

Federal Rule of Civil Procedure 23(e) provides that a "[a] class action shall not be ... compromised without the approval of the court." The proper inquiry, upon a request by the parties to approve a settlement of a class action, is whether the settlement agreement is fairly and properly entered into, is not illegal or against public policy, and is fair, reasonable, and adequate for the members of the plaintiff class. Allen v. Alabama State Bd. of Educ., 612 F. Supp. 1046 (D.Ala. 1985); see also San Francisco NAACP v. San Francisco Unified School Dist., 576 F.Supp. 34 (D.Cal. 1983); Kave v. Fast Food Operators, Inc., 99 F.R.D. 161 (D.C.N.Y. 1983); In Re Federal Skywalk Cases, 97 F.R.D. 365 (D.Mo. 1982).

The settlement in this case is the outcome of intensive negotiations during September and October, 1994, in which all parties were represented by negotiating teams including plaintiffs' and defendants' counsel. Many provisions of the settlement are based on Act 1 of the First Extraordinary Session of 1992 and submissions made to this Court in February 1992. The revisions made by the parties in negotiating this settlement reflect progress made by the Division of Children and Family

Services between 1992 and 1994, new circumstances and problems facing the Division, and innovations in child welfare practice.

Prior to and during these negotiations, plaintiffs engaged in substantial discovery, including extensive document requests, review of Oversight Committee reports, depositions of DCFS administrators and employees, and interviews with foster parents, private service providers, guardians ad litem, health care providers, and other potential witnesses. The information obtained through this discovery process was used in developing the settlement (especially the provisions on immediate action needed in certain problem areas).

The Settlement Agreement sets forth casework and performance standards, and requires the defendants to ensure that the Arkansas Department of Human Services (DHS) and Division of Children and Family Services' (DCFS) child welfare system fully comply with these standards by the end of the five-year term of the Agreement. The substantive provisions of the Settlement Agreement constitute a comprehensive set of standards to be met by the Division of Children and Family Services, addressing all the major areas addressed by plaintiffs' Complaint, including: child protective services; family services; case planning and case review; foster care; health care for foster children; staff resources and training, etc.

The Settlement Agreement also contains an implementation planning process, in which the Director of DCFS develops a yearly plan for the progress to be made towards full compliance with the

Agreement; this plan is reviewed by the Standards Committee. Each year's plan must meet certain requirements set forth in the Settlement Agreement: it must address all areas of DCFS's operations covered by the Agreement; must ensure that, in each area, safeguards essential to protect the health and safety of children are promptly implemented; and must be reasonably calculated so as to fully achieve the standards set by the Agreement within five years. The plaintiffs have the right to challenge the plan if, in their view, it fails to meet these standards.

This implementation planning process gives DCFS the authority to determine the methods for achieving the standards set forth in the Settlement Agreement and developed by the Standards Committee, and to make annual adjustments based on the progress achieved during the preceding year towards full compliance with the Agreement.

After the Director has developed the year's plan, the Settlement provides that the Standards Committee shall set forth outcome and performance measures to determine compliance with the year's plan. These measures will be used by an independent organization to conduct a program evaluation of DCFS service delivery at the end of each year. Each year's plan, and the outcome and performance measures developed by the Standards Committee, are incorporated into the Settlement Agreement and are enforceable. If the independent program evaluation shows a failure to comply with the plan, plaintiffs may seek enforcement

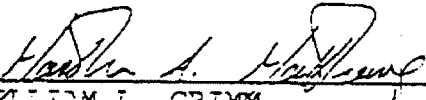
from this Court.

The parties agree that the Settlement Agreement constitutes a fair, reasonable, and adequate settlement of all the claims of the plaintiff class, and hereby request that this Court approve the settlement and enter the proposed Order.


WHEREFORE, all parties respectfully move this Court to find the settlement is fair, reasonable, and adequate and grant the Joint Motion for Dismissal and Approval of Settlement, and adopt the proposed Order as set forth.

DATED: October , 1994

Respectfully submitted,




 WILLIAM L. GRIMM
 MARTHA A. MATTHEWS
 NATIONAL CENTER FOR YOUTH LAW
 114 Sansome Street, Suite 900
 San Francisco, CA 94104-3820
 (415) 543-3307




 GRIFFIN A. STOCKLEY
 CENTRAL ARKANSAS LEGAL SERVICES
 209 West Capitol Avenue, Suite 36
 Little Rock, AR 72201
 (501) 376-3423

MONA TEAGUE
 OZARK LEGAL SERVICES
 26 East Center Street
 Fayetteville, AR 72701
 (501) 442-0600

Attorneys for Plaintiffs


ANGELA JEGLEY #78-100
Assistant Attorney General
Office of Attorney General
323 Center, Suite 200
Little Rock, AR 72201
(501) 682-2007

Attorney for Defendant Tucker


DEBBY TRETTFORD NYE #80-107
Chief Counsel
DHS Office of Chief Counsel
P.O. Box 1437
Little Rock, AR 72203
(501) 682-8934

Attorney for Defendant Dalton

SETTLEMENT AGREEMENT

I. CHILD PROTECTIVE SERVICES

The Division of Children and Family Services (DCFS) shall maintain an around-the-clock, statewide intake process for accepting complaints of child maltreatment. A uniform process for screening and assessing an allegation of child maltreatment shall be used for each complaint.

The family assessment resulting from an allegation of child maltreatment shall begin within 72 hours of the report, or within 24 hours if severe maltreatment (ACA 12-12-509) is indicated. The child (subject of the report) shall be interviewed or examined, and such interview shall be outside the presence of the person alleged to have abused the child (ACA 12-12-510). The assessment shall also include an interview of the child's parents or caretakers, and a determination of when a child (subject) should be referred to a physician, psychologist, or psychiatrist for a medical or psychological examination. During the assessment, DCFS shall determine if services are necessary to assist the family and allow the child to remain at home or if separation of the child from his or her birth family is necessary.

The family assessment shall be completed within 30 days of the initial report, and a finding regarding the allegation of child maltreatment shall be made at that time. A standardized protocol for conducting child protective family assessment shall be followed. DCFS shall fully cooperate with and participate in

multi-disciplinary child abuse response teams.

When a report of abuse or neglect is founded, but DCFS determines that the child shall remain in the home, the caseworker shall maintain a level of contact with the family adequate to protect the child from further abuse or neglect. The appropriate frequency for caseworker visit to the child and family is no less than weekly. Any deviation from this frequency shall be dictated by the needs of the child and family, documented in the case record, and approved by the supervisor.

A staffing shall be conducted before closing any protective services case. The caseworker, supervisor, any service providers involved with the family, the parents, and the child, if age-appropriate, shall participate in the staffing.

Complaints of child maltreatment alleged to have occurred in an out-of-home setting shall be assessed by specially trained staff who are organizationally placed and supervised apart from the staff who place children in out-of-home settings, or who study or approve those settings.

II. FAMILY PRESERVATION

The Family Preservation Services Act of 1991 (Ark. Code Ann. §9-16-101 et seq.) defines family preservation services as programs to be carried out by DCFS.

Consistent with the provisions of state law, this Agreement seeks to ensure that all families determined to be appropriate for family preservation services, after June 30, 1995, receive them.

The Department of Human Services (DHS) recognizes that meaningful change takes time and commitment of all involved. DHS shall provide services to preserve and reunify families. These services will be available to families on the basis of individual needs without regard to the family's point of entry into the human services system. In addition, the services provided shall have the following characteristics:

1. Services are based on a family-centered service delivery model where all family members, not just the child, are served.
2. Services are goal-oriented.
3. The family participates as a partner and is active in planning and implementing the plan of service.
4. The family worker's responsibilities are:
 - a. providing concrete services (e.g. housing, transportation, cash assistance, rental deposit, food, and the like).
 - b. providing direct, therapeutic intervention both to the family and to the individual.
 - c. concentrating on building skills and family strengths.
 - d. providing for appropriate follow-up services and linkages, both formal and informal, beyond the family preservation services.

DHS shall ensure the availability of an array of community-based family preservation and family support services on an interdivisional basis through the implementation of the following strategies:

1. Continuation of the statewide expansion of DCFS intensive family preservation services.
2. Development of the array of family preservation services within DHS to the following families:
 - a. Families who have children needing immediate (within 24 hours) out-of-home placement.
 - b. Families whose circumstances are disintegrating to the point that out-of-home placement will occur more than 24 hours and less than two (2) weeks unless there is an intensive response.
 - c. Families whose children have been in out-of-home placement no more than thirty (30) days.
 - d. Families whose children have been in out-of-home placement at least thirty (30) days but no more than twelve (12) months.
3. Development of the array of family support services within DHS to the following families:
 - a. Families whose children have been abused and/or neglected.
 - b. Families where children have not been maltreated but are in need of services.
4. Caseload size, number of hours of contact with the family per week, quickness of response, and duration of service will vary. However, the structure for family preservation and family support services shall be:
 - a. Capacity to respond quickly to referrals shall occur,

- between 1 hour and 24 hours, any time of the day or night as well as any day of the week.
- b. In-home services to family shall be available 24 hours a day, 7 days a week, as needed.
 - c. Services are provided in the home and community.
 - d. Services are time-limited.
 - e. Multiple contacts by DCFS shall occur with family during the week.
 - f. Small family service worker caseloads.
 - g. Planning and the delivery of services shall be interdivisional.
 - h. Services are provided through non-categorical funding.
5. DHS supports the philosophy that family preservation services shall be presumed to be appropriate for most families. See Arkansas Code Ann. 9-227-341. Only under the following circumstances shall family preservation services be inappropriate:
- a. Other less intensive services are more appropriate.
 - b. The danger/harm to the child, family, and/or community is too great. See Arkansas Code Ann. 9-27-328 (b).
 - c. The child has no parent or adult caretaker.

III. SERVICES TO FAMILIES AND CHILDREN

Family preservation services encompass a comprehensive service system continuum that is based upon addressing the life needs of the child and family. Family preservation services for families

with a child needing immediate placement is one component of this service continuum. However, this service will have little lasting value in the absence of community-based settings to address ongoing emotional, social, and economic needs of families. Services in this continuum include parenting education, respite care, case management, adolescent parent services, housing, transportation, cash assistance, and placement.

A. Array of Services

In its effort to expand the array of services for families, DHS shall undertake the following:

1. Services shall be provided to birth, foster, and adoptive families and shall be available across division lines. Specifically, caseworkers shall ensure that services are made available to foster parents in order to prevent placement disruption, when necessary and in the child's best interests.
2. Services shall be provided at a time and place accessible to the family. They shall be provided in the family's home whenever appropriate, and otherwise in an accessible community location, with transportation and child care provided.
3. The array of services available and accessible to families shall include, but is not limited to the following:
 - a. counseling
 - b. information and referral assistance
 - c. parent aide/homemaker services
 - d. transportation/child care

- e. respite care
 - f. parenting education
 - g. substance abuse treatment services, both in-patient and out-patient services
 - h. cash assistance
 - i. psychological assessment and treatment
 - j. psychiatric services
 - k. job training and placement
 - l. out-of-home placement
4. DCFS shall maintain a fund to support birth families, adoptive families, and foster families. The fund will have two purposes:
- a. To prevent children from entering foster care due to the parents' financial inability to meet the children's basic needs; and
 - b. To meet the incidental needs of children in care, such as, school field trips, registration fees for sports teams, camping, etc.

The funds shall be promptly available to Family Service Workers, and the annual budgeted amount shall be no less than \$270,000, which is the current funding level.

B. Visitation

Connections between a child and his or her birth family are critically important to the child's growth, development, and well being, especially during out-of-home placement. Further, the

chances for successful family reunification are greatly reduced if a child has not had routine and frequent visitation with family members.

Caseworkers shall ensure that families and children have reasonable opportunities for personal visits, communication by telephone, and involvement in life events such as teacher conferences and school and community events. DCFS shall develop plans with family members to ensure that visitation occurs between a child in care and his or her birth parents and siblings, whether or not the siblings are also in care. Visits shall begin within five days of a child's placement in out of home care.

The appropriate frequency for visitation with parents is no less than weekly, with the frequency increasing as the family is prepared for reunification. The appropriate frequency for visitation with siblings is no less than every two weeks. Any deviations from these frequencies will be dictated by the family's needs and the case plan goal, and documented in the child's case record. The preferred location for visits is in the parents' home, or if that is not possible, in the most homelike setting possible; office visits will be a last resort.

C. Preparing children for independence

DCFS shall ensure that each child in DCFS custody aged 14 or older for whom the goal is not reunification shall be provided with instruction for development of independent living skills, including: health care, securing and maintaining housing,

purchasing and preparing food, purchasing and caring for clothing, securing transportation, managing money, obtaining and maintaining employment, and accessing community resources. This instruction shall also include discussions of the reasons the child is in care, and the child's plans for leaving care and for maintaining relationships with family and social support systems.

Each foster child aged 16 or older shall be assessed every six months to determine his or her progress in acquiring independent living skills. DCFS shall provide, either directly or through contract, those services identified in the assessment that are necessary to help the child achieve independence.

Each foster parent caring for, or interested in caring for, a child aged 14 or older, and each caseworker responsible for any children aged 14 or older, shall receive training in helping children acquire independent living skills.

IV. FOSTER CARE

A. Placement criteria

DCFS shall ensure that the out of home care setting is the least restrictive possible and is matched to the child's custodial and therapeutic needs. Relatives shall be considered for placement first. Placements shall be chosen to ensure that foster parents have the skills and training sufficient to deal with the child's special needs and any handicapping condition; to keep the child in close proximity to the child's birth family and, if possible, to maintain enrollment in the school the child attended before

placement; and to match as closely as possible the child's ethnicity and culture. If a child's mental health care provider recommends therapeutic foster care, the child's caseworker shall promptly seek a therapeutic foster placement for the child.

Siblings should live together in the same foster home. Siblings may be placed separately only upon a written determination by administrative-level staff (designated by the DCFS Director) that placement of the siblings together would be detrimental to their best interests (e.g. one sibling has an unaddressed history of abusing the other), or is otherwise not possible at the time of initial placement. In these cases, DCFS will ensure that the reasons for separation are regularly reassessed and targeted recruitment efforts continue, to reunite the siblings.

B. Placement resources

DHS shall, on an annual basis, recruit and/or contract with a sufficient number of foster care providers, including therapeutic foster care providers, so as to ensure that all children are placed in the least restrictive, most family-like setting that meets their individual needs and is in close proximity to the homes, schools, and communities in which they resided prior to entering DHS custody, and that takes into account the importance of placing siblings together and of ethnic/cultural matching. The expressed preferences of the foster care providers (e.g. as to age, sex, and special needs) shall be followed when placing children.

The development of additional therapeutic foster homes shall

be done in collaboration with other Divisions of DHS. This shall include the community mental health centers and existing private, non-profit therapeutic foster care programs, and shall be coordinated with the state's Children and Adolescent Service System Program (CASSP) whenever possible. DCFS shall ensure that all therapeutic foster homes in which it places children meet the standards promulgated for therapeutic foster care.

In this placement resource planning process, DCFS shall ensure that additional placement resources are developed for adolescents, including adolescents with emotional and behavioral problems, through, e.g., targeted recruitment and/or contracting, and specialized training for foster parents on the needs of adolescents.

C. Foster parent training, evaluation and approval; board rates

Except for placements with relatives, no child shall be placed until the foster care provider has completed pre-service training. No new placements of children shall occur with foster care providers who have not satisfied the annual in-service training requirements. (A DCFS administrator designated by the DCFS Director may grant an exception to this restriction, for up to 60 days. The administrator shall review the quality of care provided by the foster parents, and the reasons for failing to complete the in-service training on time, in deciding whether to grant an exception.)

No person shall be approved as a foster parent until he or she

has satisfactorily completed DCFS's pre-service training curriculum for a minimum of thirty hours of pre-service training. For each foster parent, an individualized training plan shall be developed taking into consideration the age and characteristics of children for whom the foster parent is caring and the expressed preferences of the foster parent. Continuing approval shall require a minimum of fifteen hours of training for each foster parent with qualified training staff each year after the first year. All pre-service and in-service training of foster parents shall include an evaluation process.

The approval process for foster care providers shall concurrently educate foster parents on the characteristics of children in out-of-home care, and assess their capability to meet those needs and their compliance with the DCFS standards for approval of foster homes.

DCFS shall reevaluate each foster home's continued ability to care for children at least annually and whenever there is a major life change, as defined in DCFS policy, in the lives of the foster parents; or when the foster parents' annual in-service training hours are more than sixty days overdue.

DCFS shall review regular and specialized foster care board rates no less than every two years, and make adjustments as necessary to maintain an adequate array of placement resources.

D. Providing information to foster parents

Foster parents shall be considered as team members working

with other child welfare professionals for the family. Complete information regarding a child's health, reasons for entering care, probable length of placement, and siblings shall be provided to foster parents at the time of placement. As additional information is obtained by the caseworker, it shall be promptly shared with the foster parents. Case plans, visitation plans, and health plans shall be given to the child's foster parents within five days of the completion or revision of these plans. Foster parents shall attend each staffing concerning children placed with them.

E. Supervision of placements

Children in foster care shall be visited regularly by their caseworkers. The purpose of these visits shall be to keep open communication with the child, to assess the quality of the care being provided the child, to determine the extent to which the child's developmental, medical, intellectual, and emotional needs are being met and to assess the child's adjustment to the foster home, foster parents, other persons in the home, and to school. Visits shall include a private conversation with the child to aid in assessing the quality of care being provided. Caseworkers shall document the date of each visit and summarize the results of each visit in the child's case record.

The appropriate frequency for caseworker child visitation is no less than weekly. Any deviation from this frequency shall be dictated by the needs of the child and the circumstances of the placement, documented in the child's case record, and approved by

the supervisor.

DCFS shall notify a child's birth parents and guardian ad litem if the child is the subject of a report of child maltreatment, within five days of the report. If the allegation is that child maltreatment occurred in the foster home, the guardians ad litem for all children placed in the foster home shall be notified.

F. Changes in placement

Changes in placement shall be made only after notification of the foster child, foster parent, the child's guardian ad litem, the child's birth parent, and the court having jurisdiction over the child. The notices shall be sent in writing two weeks prior to the proposed change, shall specify reasons for the proposed change, shall convey to the guardian ad litem the address of the proposed new foster home or institution; and shall convey to the child the name and telephone number of his/her guardian ad litem, and a statement that if the child objects to the change in placement, the guardian ad litem may be able to assist in challenging the change.

Exceptions to the advance notice requirement shall be made if the child's health or welfare would be endangered by delaying a change in placement. In these cases, within 24 hours of the change in placement, the child's guardian ad litem and birth parent shall be notified of the change, and the guardian ad litem shall be given the name and address of the new foster care provider.

V. HEALTH CARE FOR FOSTER CHILDREN

DCFS shall assure that the following activities are implemented:

1. development and monitoring of agency health policies and procedures;
2. completion of initial health care screening for every child;
3. collection of health history information for every child;
4. completion of Comprehensive Health Assessments for every child;
5. preparation of health plans for every child;
6. integration of health plans with the case plan for each child;
7. maintenance of current health information, profiles and reports for each child;
8. tracking of appropriate and timely health and mental health care for each child;
9. recruitment and development of service agreements or contracts with health providers for those services necessary as identified in the child's health plan;
10. assessment of whether contracted health services are being provided as appropriate;
11. monitoring of health providers to assure that services are delivered in a timely fashion and that complete written reports of their activities are submitted;
12. collection, abstraction, and summarization of appropriate health information for each child (or a defined representative sample, if appropriate), including medical histories and reports from health providers;

13. obtaining complete medical records for a problem-oriented review, when appropriate;
14. reviewing periodically (but not less than every six months in conjunction with administrative case reviews) the appropriateness of each health plan;
15. obtaining of aggregate health data, and submitting an annual report to the agency director on the collective services provided, on unmet needs, and on health system problems; and
16. development and facilitating of health training programs for caseworkers, caretakers, parents or guardians, children, and health providers.

A. Initial Health Screening

1. A child who enters the custody of DCFS shall receive an initial health screening not more than 24 hours after removal from home, if the reason for removal is an allegation of severe maltreatment under Arkansas Code Ann. 12-12-503 (10), or there is evidence of acute illness or injury. In these cases, the screening shall be conducted by a physician, and special examination procedures shall be used as appropriate.
2. All other children who enter DCFS custody shall receive an initial health screening no more than 72 hours after removal from home.
3. The initial health screening shall comply with CWLA Standard 2.3, and shall fulfill the following purposes:
 - a. to provide the necessary information so that the family

- service worker or health care aide is able to complete the Medical Passport ;
- b. to identify and begin treatment for any acute or chronic health problems, and provide any needed medication;
 - c. to identify and continue any ongoing treatment or medication;
 - d. to detect and treat communicable diseases;
 - e. to document any injuries caused by child abuse and preserve evidence; and
 - f. to reveal any special needs relevant to the proper choice of placement.

B. Initial treatment

If the initial health screening indicates that treatment or further evaluation is needed, DCFS shall ensure that such treatment or evaluation is promptly provided.

C. Foster parent involvement in health care

The foster parent shall accompany the child to receive health screenings and health treatment, and shall consult with the child's health care providers about the child's health care needs. DCFS shall provide assistance to enable the foster parent to accompany the child to health care visits.

D. Gathering and maintaining health records

DCFS shall ensure that each child's health care history, as

described in CWLA Standard 2.1, is gathered from health care providers who have evaluated or treated the child, the child (if age-appropriate), the child's parents, previous caregivers, and school records. DCFS shall ensure that caseworkers have access to Health Department records and Medicaid records of treatment prior to the child's placement, and that caseworkers check these sources of health history for each child. The child's health history information shall be given to the physician who conducts the comprehensive health assessment.

All information gathered as to the child's health history, and all records of health screening, assessment and treatment during placement, shall be placed in the child's case file.

If the child returns home, or is adopted, all the child's health records shall be given to the child's parents or adoptive parents. If the child enters an independent living program, the health records shall be given to the child, and the child shall be assisted in maintaining and updating them.

E. Medical passport

The purpose of the Medical Passport is to maintain a brief, readable, and current summary of the child's health history and current health status, for use by present and future caregivers of the child. The Passport shall be developed and maintained as follows:

1. At the time of the initial health screening, a brief narrative summary of the child's current health status and health

history shall be prepared and given to the foster parent. This summary shall be revised and expanded with any additional information available at the time of the comprehensive health assessment.

2. After each health visit, the foster parent (or DCFS staff) shall record the date of the visit, the condition or problem addressed and the diagnosis and treatment (or the type of periodic screening and the results of the screening), and the health care provider's name and telephone number.
3. The Medical Passport shall be given to the new caregiver whenever the child is moved, or to the child if the child enters an independent living program.

F. Comprehensive health assessment and health plan

1. A comprehensive health assessment of each child shall be completed within 60 days of removal from home. This assessment shall comply with CWLA Standard 2.6 and 2.7.
2. The assessment shall be conducted under the supervision of a physician and a qualified mental health practitioner. The physician should, if possible, be the child's ongoing health care provider. Whenever possible, the family service worker, health care specialist, birth parent, and foster parent shall be involved in the assessment, to ensure that as much information about the child as possible is available to the examining professionals.
3. A written plan specifying any conditions requiring treatment,

the recommended treatment, the schedule for treatment, the names of health care providers responsible for treatment, and the results of treatment as it occurs, shall be completed within 14 days of the comprehensive health assessment, and updated at least every six months. This plan shall be provided to the child's foster parents and birth parents. Birth parents shall be informed about any medical treatment scheduled for their child and shall be involved in and informed about their child's health care.

G. Periodic reassessment of children's health; ongoing treatment

Following the initial screening and comprehensive health assessment, DCFS shall ensure that periodic medical, dental, mental health, vision and hearing evaluations are conducted by qualified providers, according to the periodicity schedules adopted by the Arkansas Department of Health.

These periodicity schedules establish generally applicable standards; DCFS shall request inter-periodic screens where indicated by the needs of the child.

DCFS's duty to provide proper care to children in its custody requires that all essential treatment be provided in a timely manner.

H. Improving access to mental health care

DCFS shall develop and implement a statewide plan for improving foster children's access to mental health services.

through consultation with the Division of Mental Health and private providers of mental health services. This plan shall emphasize early detection and treatment of foster children's mental health problems, and the use of home- and community-based services whenever possible to avoid restrictive residential and institutional placements.

VI. CASE MANAGEMENT

DHS and DCFS are committed to preserving families. However, there are a limited number of situations when a child can not safely remain at home and must be removed from his/her family. While there is considerable harm inherent in being separated from one's family, DCFS shall ensure that a child in out-of-home care does not become a victim of a neglectful system of care. DCFS will ensure that children are placed in the care of persons who are well-trained to ameliorate the effects of being separated from one's family and that both staff and foster parents work to help the child maintain meaningful connections with their families.

A. Case planning

A thorough assessment of a family's strengths and needs is essential to the development of appropriate plans for the family. DCFS shall ensure that the assessment of a family begins with the first contact, whether it results from a child maltreatment complaint, or is in response to any other family need. The family will be the primary source of information for the assessment. The

assessment, the resulting report, and a case plan for the family shall be completed within 30 days of the child's entry into care or the opening of a protective services or supportive services case.

An adequate case plan is one developed with the involvement of the birth parents, the child, and the foster parents if the child is in foster care.

All case plans shall include: the goal for the child and family, a description of the problems or conditions which necessitated the opening of the case or the removal of the child from the home, and the specific actions to be taken by the parents, the child, and the caseworker to eliminate or correct the identified problems or conditions, and the period during which these actions are to be taken; the social and other family services to be provided to the parents and the child, and a timetable for provision of these services.

In cases where the child is placed in foster care, the case plan shall also fully comply with Ark. Code 9-27-303(6).

B. Case staffings

Following the initial case staffing at which the case plan is developed, a case staffing shall occur for each child in foster care, and each child who is the subject of a protective services case, within three months of the date the child entered care (or the protective services case was opened), and at least every six months thereafter. The caseworker, supervisor, foster parents, and the child (if age-appropriate) shall participate in the staffing;

the birth parents shall be invited and encouraged to participate in the staffing.

Case staffings shall address the status of key protections including: the child's legal status; supervision of the home environment or of the foster home; parental and sibling visitation; education and health issues.

During the staffing, the case plan shall be reviewed, and compliance with the case plan by the caseworker, the birth parents, the foster parents and the child shall be determined. The case plan shall be updated as necessary to reflect progress made, new factual circumstances, and new goals.

A special case staffing shall be held whenever a child has been in three or more out-of-home placements within a 12-month period. This staffing shall include the caseworker, supervisor, current foster parents, the child if age-appropriate, and administrative staff designated by the DCFS Director. The staffing shall address the reasons for the frequent moves, and determine what steps will be taken to prevent future placement disruptions.

C. Case review hearings

The status of each child shall be reviewed at least once every six months by a judicial review process. The status of each child in foster care shall be reviewed no later than eighteen months after the original placement, so that a determination regarding the future status of the child can be made.

D. Permanency planning

After December 31, 1995, no foster child shall have a case plan goal of reunification for longer than 12 months, unless otherwise ordered by the court; exceptions may be made only after review of the case and approval by administrative staff designated by the DCFS Director.

VII. STAFFING

DHS shall recruit, hire, and take steps to ensure retention of qualified staff in sufficient numbers in order to meet family-centered caseload and supervisory standards. To this end, DHS shall:

1. Develop and implement targeted recruitment plans for those areas of the state with the highest vacancy rates.
2. Enhance DCFS's ability to attract qualified applicants through its educational stipend program for undergraduate and graduate social work students, its request for salary upgrades for direct service staff, the capacity to allow direct service staff to work "flex time," and the expansion of acceptable degrees for the family service worker positions.
3. Provide incentives to tenured staff through the continuation of the educational assistance and staff development programs for experienced staff.

DCFS shall attain the following caseload standards, within a three year period from the date of the entry of the Order of Dismissal.

For purposes of this agreement, full staffing means the availability of funded positions in a sufficient number to achieve compliance with the staffing standards stated below. DCFS may achieve full staffing and at the same time have vacant positions due to day-to-day personnel transactions, if the vacant positions are in the normal operational hiring process.

1. The caseloads of Family Service Workers, who are responsible for the initial assessments of reports of abuse and neglect, and/or the maintenance of a caseload of in-home family services and out-of-home placement cases, shall not exceed fifteen (15) cases.
2. The caseloads of Family Service Workers whose caseloads consist solely of intensive family preservation services cases shall not exceed six (6) cases.
3. The caseloads of Family Service Workers who, in addition to the types of cases listed in 2.a, also have intensive family preservation service cases, shall be determined by a caseload weighing formula in which each intensive family preservation service case counts as three (3) cases. (For example, such a worker could have two intensive family preservation cases and nine other cases).
4. Family Service Workers II (FSWIIIs) shall supervise no more than seven (7) employees, including FSWIs and aides.
5. Family Service Workers III (FSWIIIs) shall supervise between two (2) and five (5) FSWIIIs.
6. There shall be no less than one social service aide for every

three (3) FSWIs.

7. DHS shall ensure that adequate clerical and secretarial support is provided.

DCFS acknowledges the necessity of establishing staffing ratios, and agrees that those contained herein represent the best current statement of adequate child welfare worker-to-case ratios. In light of the anticipated restructuring and redesign of the Arkansas child welfare system, it is the intention of DCFS to develop a methodology to establish a staffing standard more reflective of a workload analysis specific to the family centered model to be implemented in Arkansas. DCFS may substitute alternate standards as a result of a workload analysis, if a methodology is submitted to and agreed upon by the Standards Committee.

VIII. TRAINING

DHS shall promote family-centered casework, supervision, and management practices through interdivisional educational and training opportunities through the following strategies:

1. DHS shall work with undergraduate, graduate, and professional schools that train professionals to work with families to explore the feasibility of implementing basic curriculum changes. DHS, in collaboration with colleges and universities, shall develop interdisciplinary core courses for all students focusing on the basic values of working with families in a non-deficit perspective.

2. DHS shall train its agency administrators on managing so that family-centered practice is the norm. This training shall focus on how to revise and set policies, procedures, and decision-making practices necessary to implement such a practice agency-wide.
3. DHS shall develop pre-service and in-service training for all caseworkers and supervisors. The training shall focus on working in a non-deficit model, reframing issues, and cultural competence. Prior to assuming significant independent casework (direct services), all new caseworkers and supervisors shall undergo a training evaluation and demonstrate satisfactory practice ability.
4. Each caseworker and supervisor shall receive a minimum of 24 hours of in-service training annually. This training shall implement an individual training needs assessment and plan which shall be updated annually.
5. DCFS shall ensure that training for caseworkers and supervisors, and training for foster parents, is coordinated and consistent, and shall conduct joint training whenever possible.
6. DHS shall develop and implement a community education plan to assist the Agency's move from an intervention-after-placement mode to one of keeping families together.
7. DHS shall offer training to the judiciary on family-centered practice, its values, principles, and philosophy.
8. DHS shall, in collaboration with the Schools of Social Work

and professional organizations such as the National Association of Social Workers, continue its plan for improving the recruitment of persons holding a degree in social work from an accredited program, and for creating opportunities for current employees to pursue such a professional degree.

IX. MANAGEMENT INFORMATION SYSTEM

DCFS shall develop and maintain a unified management information system which will provide timely and accurate data for use in planning and decision making and will ease the burden of paperwork on family service workers. The system will include the following:

1. information sufficient to support local and statewide planning to meet substitute care needs
2. accessibility to all DCFS staff having responsibility for placement of children.

X. QUALITY ASSURANCE

Responsibility for DCFS's compliance with the provisions of this Agreement lies with every work unit in the Division. By providing regular and accurate information to management, supervisors, and caseworkers, this system allows both a compliance-focused review and clear indications regarding the effectiveness of services. DCFS's Quality Assurance system shall:

1. Review individual cases and program information on a regular and systematic basis;

2. Respond to information from both internal and external sources;
3. Provide continual feedback to operations;
4. Aggregate and analyze monitoring and evaluation data; and
5. Ensure aggressive agency response and track outcomes.

Monitoring for compliance with the safeguards relating to direct work with children and families is the responsibility of the Quality Assurance Unit, as well as the day-to-day responsibility of casework supervisors and managers. Field Monitors conduct reviews by convening a group including the birth parents, the child, if age appropriate, the foster parent (or group care staff person), county staff and staff from other agencies involved with the family. The reporting of compliance data is case- and county-specific. Correction of deficiencies, exposed through the Field Monitoring Review, is the immediate responsibility of the family service worker assigned to the family and the worker's supervisor. Area Managers are also notified and are to ensure corrective action is taken in individual cases and to take action to prevent similar deficiencies from recurring.

Area Managers and County Supervisors shall, through use of field monitoring data, other management data, and the results of these review, monitor compliance with these safeguards. Where Counties and Areas are not fully in compliance, action plans shall be developed and implemented. These plans shall address local issues and shall identify systemic issues requiring response and

action from DHS and/or DCFS management. Information from local action plans will be incorporated into the quality assurance system in order to provide guidance to management so that the appropriate action is taken in the areas of training, staff allocation, funding, personnel action, program planning and resource development.

Another key source of data and information about the effectiveness of services is the performance monitoring system. In addition to compliance reports, indicating the extent to which cases have met federal and state mandates, this system shall produce the following reports:

1. Characteristics and flow reports which will report client characteristics, agency processes and flow of cases through the system;
2. Performance reports focusing on the impact of services on families;
3. Contract monitoring reports which indicate the extent to which contract providers have achieved similar outcomes as DCFS, and the extent to which performance criteria delineated in the contract have been met.

XI. AREAS FOR IMMEDIATE STATEWIDE IMPLEMENTATION

A. Adoption

DCFS is committed to reunifying families. However, there are a limited number of situations when a child can not safely return home. Recognizing the harm inherent in being separated from one's

birth family, DCFS shall ensure that permanency is achieved in a timely manner. To this end, DCFS shall take the following actions immediately:

1. A review of those cases in which children currently have the permanency goal of adoption shall be held, and barriers that are preventing goal attainment shall be identified and removed if possible. If adoption cannot be achieved in a timely manner, the permanency goal for the child shall be reassessed.
2. After completion of this initial review, individual case staffings shall be held on those children whose goal is reunification and who have been in out-of-home care for eighteen (18) months or longer. The appropriateness of the permanency goal shall be addressed, and the goal shall be changed if necessary, and barriers that are preventing goal attainment shall be identified and corrected.

3. Siblings placed apart without adequate documentation
DCFS shall conduct a specialized review of situations where siblings are currently living apart and reassess if the decision is warranted. The Director shall designate qualified staff to initiate and complete such an analysis within 90 days of the entry of the Order of Dismissal.

C. Support for foster parents

Foster parents are considered a team member working with other child welfare professionals for the family. There should be a

genuine partnership and feeling of cooperation among foster parents and DCFS staff. The care foster children receive is significantly affected by the quality of this relationship. Because there is wide variation in the quality of this relationship, DCFS shall implement the following action step.

The DCFS Director shall immediately appoint a staff person as a ombudsman to:

1. Receive and resolve issues and concerns raised by foster parents (e.g. late and/or incorrect board payments, unmet service needs);
2. Identify systemic barriers which need resolution;
3. Work with local DCFS staff and local foster parent associations in order to improve working relationships, and
4. Work with executive staff to resolve systemic barriers.

D. Foster home reevaluations

As with birth families, it is critical that DCFS develop and maintain meaningful relationships with foster parents. One way in which this relationship is fostered is through the annual reassessment process. DCFS shall immediately identify those foster homes overdue for reevaluation who have children placed in them, and reevaluate those homes. DCFS shall also immediately review the existing recruiter/trainer contracts to ensure that there are adequate funds to complete the reevaluation function in a timely manner. If appropriate, the contracts will be amended. If further resources are necessary, additional staff will be assigned. The

backlog of overdue reevaluations will be eliminated within 120 days of the entry of the Order of Dismissal.

E. Child protective services investigations

Whenever there is a report of alleged child maltreatment, the safety and protection of the child is paramount and shall have immediate attention. DCFS shall dedicate additional staff to eliminate the current backlog of child maltreatment reports within 120 days. Complaints of severe maltreatment, and cases where the child remains in the home, will be the first priority.

XII. IMPLEMENTATION, EVALUATION, AND ENFORCEMENT

The substantive provisions of this Agreement set forth the casework standards and outcomes to be achieved by the end of the term of the Agreement (or by a specific deadline included in the provision itself), which shall be five years from the date the Agreement is entered by the Court. The Agreement does not, however, include implementation plans within the five-year period, with the exception of certain urgent problems designated as immediate priorities.

1. DCFS shall annually develop a plan for the following year which identifies by priority those tasks DCFS will accomplish in furtherance of the Settlement Agreement's identified child welfare standards. Each year's plan shall address the progress to be made during the year in all areas covered by the Agreement, and shall ensure that, in each area, safeguards

essential to protect the health and safety of children are promptly implemented. Each year's plan shall be reasonably calculated to fully achieve the standards set by the Agreement within five years, and shall discuss the rationale for choosing the year's goals and priorities in light of the standards set by the Agreement.

The Director of DCFS shall present a draft of the plan to the Committee and meet with the Committee to discuss it, before issuing the final plan. Plaintiffs' counsel may request a written statement from the Standards Committee as to the adequacy of the annual plan. If, following the issuance of the Committee's statement, plaintiffs' counsel are dissatisfied, they may seek enforcement of the Agreement by the Court.

2. A five-member Standards Committee shall be established, consisting of:
 - the Director of DCFS, who shall chair the Committee;
 - one of plaintiffs' counsel,
 - one of defendants' counsel,
 - one member chosen by plaintiffs
 - a fifth member chosen by the DCFS Director and the member chosen by plaintiffs.

All Committee members must be Arkansas residents.
(Plaintiffs' counsel may substitute out-of-state counsel as necessary.)

3. The Standards Committee shall receive the annual plan, and establish performance and outcome measures to be used to determine whether the goals of the plan have been met for that year's progress toward full compliance with the Settlement Agreement. (In establishing outcome measures, the Committee shall consider the measures recommended by the 1993 Zellar report.)
4. Committee members shall have full access to all data and reports produced by DCFS, to set outcome measures to be attached to the annual plan.
5. By December 1, 1994, DCFS shall issue an initial plan for January through June 1995. By January 1st of each year thereafter, DCFS shall issue its annual plan. By March 31, 1995 and annually thereafter, the Standards Committee shall issue the outcome measures to be attached to the DCFS annual plan for the upcoming fiscal year.
6. At any time and upon request of the DCFS Director or any other Standards Committee member, the Committee and the Director may confer with other administrative staff to determine the extent of progress toward the annual goals, and resolve any questions or problems that have arisen. The Standards Committee shall convene at least one mid-year meeting to discuss progress toward the annual goals.
7. An annual independent evaluation of DCFS shall be conducted by the Center for the Study of Social Policy (CSSP), in Washington, DC. The DCFS Director will enter into a contract

- with CSSP subject to terms and conditions agreed upon by DCFS and the contractor. In the event that CSSP is unavailable or unwilling to contract to provide the evaluation, the Standards Committee shall designate an individual or organization to conduct the annual evaluation, selected pursuant to the request for proposal process defined by state law.
8. The evaluation shall include: a case file reading of statistically significant samples of foster care and protective services cases and foster homes files; surveys or interviews with caseworkers, supervisors, administrative staff, private service providers, foster parents, foster children, and birth families receiving services from DCFS; and site visits. Monitoring criteria shall include the standards set by the Agreement, and the performance and outcome measures set by the Standards Committee for that year.
 9. By September 30, 1995 and annually thereafter, the results of the evaluation shall be summarized in a written report by the monitoring organization, stating whether and to what extent DCFS has complied with the plan for that year, and DCFS's progress towards achieving full compliance with the standards set by the Agreement.
 10. The Director of DCFS shall use the results of each year's program evaluation to establish the annual plan for the coming year.
 11. DCFS shall contract and pay for the annual evaluation, and shall reimburse the members of the Standards Committee for

their reasonable expenses and provide them with a reasonable per diem allowance. (As a member of the Standards Committee, plaintiffs' counsel shall be reimbursed on the same basis as the other Committee members.) The Standards Committee shall have the authority to hire consultants by requesting DCFS to enter into contracts. The total amount will not exceed \$30,000 annually.

12. The yearly performance standards and outcome measures developed by the Standards Committee shall be incorporated into the Settlement Agreement, and shall be enforceable; if any annual program evaluation demonstrates a failure to comply with the standards or outcome measures for that year, the plaintiffs may seek enforcement by the Court.