

# NYS OFFICE OF CHILDREN AND FAMILY SERVICES'

*Response to the*

## 2008 Report and Recommendations of NYS Citizen Review Panels for Child Protective Services



Governor David A. Paterson



Commissioner, Gladys Carrión Esq.

July 2009



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**The Office of Children and Family Services’**  
*Response to the*  
**2008 Report and Recommendations**  
**of NYS Citizen Review Panels**  
**for Child Protective Services**

**INTRODUCTION**

The New York State Office of Children and Family Services (OCFS) is pleased to have this opportunity to partner with the Citizen Review Panels for Child Protective Services by continuing our shared commitment to improving the child welfare system in New York State. The panels’ 2008 annual report ([www.citizenreviewpanelsny.org](http://www.citizenreviewpanelsny.org)) is a comprehensive document that outlines areas for realignment and reinvestment, and makes recommendations for change. We welcome the dialogue with the panels as we strive to achieve safety, permanency and well-being for the children and families in New York State who are served by the child welfare system.

**SYSTEM REFORM**

Building on the response submitted last year that made many recommendations related to system reform, OCFS will highlight areas that continue to be on the reform agenda and report on the status of the reform effort.

The 2007 annual report recommended that OCFS focus on child welfare reform from a systemic view. OCFS agreed to perform an assessment of the system, and has contracted with Eric Brettschneider, former co-chair of the New York City Citizen Review Panel, to lead this effort. Mr. Brettschneider has initiated this work by interviewing over 150 stakeholders in the child welfare system, and is drafting a preliminary review of the system. OCFS is currently seeking funding from Casey Family Programs to support the additional consultants needed to shape the reform agenda and move the discussion forward.

OCFS concurs that system reform of child protective services would require a multi-pronged approach that should include a community based, family centered system that values the informal support networks families need to sustain themselves once the “system” has moved from their lives. We fully support a model that emphasizes the strengths of families and communities, and relies less on institutions and government intervention.

Additional specific information related to recommendations from 2007 and 2008 will be addressed later in this document.

## **Part 1: Child Protective Reporting**

### **Eliminate anonymous reports**

The Citizen Review Panels recommend that OCFS look carefully at the policies and practices related to child abuse and maltreatment reporting. The recommendations include a request to eliminate educational neglect reports and anonymous reporting.

OCFS has given both of these issues attention and consideration. Elimination of anonymous reporting is highly controversial across the state, and local districts have not been supportive of making this change. In an era where the liability and impact for not protecting a child is very high, social services districts have been reluctant to narrow the front door, concerned that barriers to reporting maltreatment may put more children at risk.

OCFS will continue to vet this recommendation with stakeholders and counties, but is not prepared to actively pursue changing this mandate.

### **Eliminate educational neglect reports**

In regard to educational neglect reports, OCFS has taken several significant steps to further its understanding of the issues and alternatives. With support from Casey Family Programs, OCFS commissioned the Vera Institute to conduct a one-month preliminary assessment of educational neglect in New York State with an eye toward improving responses to allegations of educational neglect. This assessment, conducted in December 2008, included data analysis and stakeholder interviews with child protective, school, probation and service providers in Albany County and New York City. The assessment revealed the following:

- The majority of educational neglect reports accepted by the SCR involve children in their teens.
- School personnel account for most of the SCR reports involving youth ages 6 to 17.
- More than half of investigations of educational neglect are unsubstantiated. In 2007, 56 percent (15,948/28,372), of the educational neglect allegations were closed as unsubstantiated. However, the 44% indication rate is higher than the statewide indication average for all abuse/neglect reports.
- Child protective workers and service providers report that a significant portion of educational neglect cases involve families with longstanding, complex maltreatment concerns.

Stakeholders from all parts of the system, including child protective workers, said they thought the traditional child protective system's investigatory approach is not appropriate for many of the situations that underlie educational neglect reports.

The child protective approach as it is designed is consistent with the allegation of educational neglect for families at risk; however, the lack of services and school/community partnerships to address the issue is inconsistent with the needs of the families and youth.

This preliminary assessment was Phase I of our review. OCFS intends to commission Vera for a "Phase II" effort, again with the support of Casey Family Programs. The next phase is proposed to be a three-month effort to identify the most promising avenues for innovation, in terms of impact on youth, potential cost savings, and political viability, including the following activities:

1. Obtain input from a wider group of stakeholders on the findings and options from Vera’s preliminary assessment, including:
  - a. Youth and parents
  - b. Organizations such as the Center for Family Representation and senior officials in New York City’s child welfare system
  - c. Child welfare officials in other counties besides New York City and Albany
  - d. Education officials
2. For one county, review a small number of educational neglect cases to better understand underlying circumstances.
3. Possibly conduct further analysis of statewide data on child protection outcomes and court outcomes for educational neglect reports.
4. Conduct cost analysis of educational neglect reports.
5. Further explore models for dealing with teen truancy/educational neglect.

OCFS is committed to continuing to explore this issue and making recommendations for change, as is evidenced by this effort. While we cannot unilaterally eliminate educational neglect reports from the child protective system, we are interested in developing alternative interventions for those families where child protective is not the most effective method of dealing with truancy. We intend to establish a work group with representatives from State Education Department (SED) to further its involvement in creating alternative supports while youth are in school.

#### Review statutory requirements for SCR clearance to eliminate entire categories

In 2008, the number of individuals and employers requesting clearance information, mostly related to impending hiring decisions, increased by 11% to about 241,000 inquiries. The key challenge is maintaining a timely response to agencies requesting clearances for those individuals whose prior history poses legitimate concerns regarding the safety of children for whom they might assume responsibility.

To address portions of the clearance process which are labor intensive, OCFS has begun work on a system to allow requests for clearance to be filed online. When implemented, the online system will allow direct query of the database for approved parties, and will allow “no hits” results, which represent over 97% of total clearance requests, to be transmitted to the requesting organization immediately.

In efforts to reduce risk to child safety in caregiver settings, we agree that access to other databases may provide a more complete picture of those most likely to abuse a child’s trust. Because access to criminal history databases would require legislative changes, we would support a deliberate study process to include the following, among other things:

- available state databases which may inform child safety decisions, and current statutory and practical limitations on their use
- review of current statutes pertaining to types of caregiver arrangements which should be subject to database reviews
- state-to-state comparisons of the categories of caregivers subject to database clearance and the time periods reviewed as relevant to a determination of risk

#### Improve mandated reporter training after a review of both indicated and unfounded reports, to increase the quality of reports to the SCR

OCFS agrees on the importance of having mandated reporters confident in their responsibilities for reporting on child maltreatment. Over the last several years, OCFS has made substantial efforts to strengthen mandated reporter training. The training curriculum developed by OCFS and used by its own training staff has been accepted by the State Education Department as the standard for the 215 agencies SED approves to be training providers for the approximately 500,000 professionals it currently licenses. The curriculum is available in versions customized to the needs of medical professionals, school officials, law enforcement, child day care providers, and social services professionals.

In addition to upgrading training content for mandated reporters, OCFS has made further investments in the methods for delivering training. The curriculum is now available free of charge to all mandated reporters in the state in an online version, designed with safeguards to determine that new mandated reporters understand both their legal responsibilities and what constitutes an effective report. This allows mandated reporters to review the material as frequently as they want to, and offers consistency in the information being communicated. The online training was released April 14, 2009, and the expectation is that over 10,000 individuals will be trained using this technology by July 1, 2009. Further, OCFS is investigating whether newly trained mandated reporters can be connected to SCR intake staff for a simulated “practice call” to validate skills acquired in training and increase confidence in exercising their mandated reporting responsibility.

Efforts to target training by provider type and to monitor variations among and between mandated reporter groups on key indicators of training outcomes should be assessed in relation to what the law requires of mandated reporters. The legal standard for discharge of their reporting responsibility is “reasonable cause to suspect”; in other words, requesting an investigation of the circumstances of the child. While lower than the “some credible evidence” standard used by CPS investigators to indicate or unfound SCR reports, the “reasonable cause” standard allows some reporting of situations later shown to be without evidence, so that situations involving potential or real danger to a child are not overlooked and the preventive component of child protection that supports parents in keeping their children safe may be exercised.

## **Part 2: Invest in Prevention**

### **Extend the current Child Welfare Financing Law of 2012 and restore 65/35 state/local funding for child welfare, including COPS programs and services**

OCFS is pleased to report that the Child Welfare Financing Law has been extended through 2012, as an uncapped funding stream for preventive services. In addition, Community Optional Preventive Services (COPS) was restored in the 2009-10 budget with a \$5 million reduction and supports programs that were operational in October 2008. The budget requires the districts to report the outcomes for the COPS-funded programs to OCFS so that a more accurate assessment of the program values can be made.

### **Continue to provide leadership and support for implementation of the Family Assessment Response (FAR)**

In 2008, OCFS received six applications from local social services districts to implement differential response, or Family Assessment Response (FAR), as it is called in New York State. As of early 2009, the six districts (Erie, Chautauqua, Tompkins, Onondaga, Orange and Westchester) have begun to track some portion of CPS reports in the alternative track. Several districts chose to begin implementing FAR with reports alleging educational neglect, while others have included a broader range of allegations. OCFS expects to receive at least nine new applications from additional districts intending to implement FAR in 2009. OCFS has been able to secure training and technical assistance for districts from the American Humane Association. This includes onsite training for community stakeholders and district staff, as well as onsite coaching post implementation. OCFS has received financial support from the Marguerite Casey Foundation to assist districts in providing wraparound services to families engaged in the family assessment model.

The enabling legislation allowing for the piloting of dual track in New York State (excluding NYC) is set to expire in 2011. Based on the evaluation of the program's efficacy around the state, a decision will be made regarding promotion of and codification of the dual track initiative into permanent state statute.

### Invest in home visiting programs and parent education programs

OCFS sees investment in home visiting as an essential component in New York's child abuse prevention strategy. Despite a challenging fiscal environment, the COPS-funded Nurse Family Partnership programs in New York City and the 39 Healthy Family New York sites across the state will be continued at near prior year funding levels. Working with the Schuyler Center for Advocacy and Analysis, OCFS and other state agencies that sponsor various delivery designs for home visiting have come together with a comprehensive strategy to make home visiting available in all of New York's counties; and, where possible, with program designs best matched to unique needs of each high-risk family served.

This year, OCFS has undertaken a third comprehensive evaluation of its Healthy Families New York program model, building on the design and data of the previous two evaluations to determine the return on investment of taxpayer funds from this particular approach to home visiting. To the extent possible, the evaluation will also consider the same cost variables as were weighed in the national cost/benefit analysis of the Nurse-Family Partnership.

Upon receiving notification from the White House that President Obama was proposing that federal funds would be provided for Nurse Family Partnerships, OCFS reached out to New York State's two U.S. senators and asked that they consider broadening the bill language to include paraprofessionals as part of the home visiting models. OCFS has worked in concert with the National Association of Public Child Welfare Administrators (NAPCWA) to promote this concept and weighed in on NAPCWA's testimony to Congress. In addition, OCFS submitted testimony for the record to Congress for the Ways & Means Committee's subcommittee hearing on home visiting models. OCFS staff worked in concert with Congressmen Rangel and McDermott to inform the subcommittee of Healthy Family New York's (HFNY) success and how our model contains the evidence-based evaluations sought by the President's proposal. HFNY was highlighted in the testimony given by Healthy Families America to Congress.

The continued financial and programmatic support of parent education programs is one of the highest priorities of the Children and Family Trust Fund, administered by OCFS. The fund currently supports four evidence-based parenting programs for high-risk families in targeted communities and 17 Family Resource Centers across the state.

Despite strong evidence that the Upstate Shaken Baby Syndrome Education Project has contributed to a sustained 50% reduction in the incidence of SBS in the areas served by the campaign, OCFS remains committed to continuing evaluation of the outcomes produced by its investment in public awareness. An important first ingredient in such evaluations is a consistent and well-supported method for collecting and coding morbidity and mortality data. OCFS and the Department of Health have started work this year on a collaboration initiated to support a statewide approach to fatality review and prevention. One potentially valuable byproduct of this collaboration will be the ability to correlate public awareness efforts on behalf of child safety with the incidence data collected through statewide reviews of child deaths. Consideration should be given to expanding the purview of this interagency group at some later date to include relevant morbidity findings for high risk infants and children.

Child advocacy centers (CACs) and multi-disciplinary teams (MDTs) are a strategy used by OCFS to increase accessibility of services, prevent further child abuse or maltreatment, and prevent the removal of children from their homes. CAC resources are used to enhance the MDT's ability to investigate, prosecute and manage cases of child abuse and neglect while preventing further trauma to the family. Increased accessibility of services is a central premise of the CAC. The MDT's primary goal is to improve coordination

among these services, including law enforcement, child protective services, health care and other community agencies involved in child abuse investigations and in the protection of abused or neglected children.

Per statute, all cases of physical abuse, sexual abuse and child deaths must be investigated by an approved MDT or, if an MDT is not in place, such cases must be investigated jointly by child protective services and law enforcement. This approach is designed to bridge gaps among collaborative systems and synchronize and align activities necessary to achieve the best outcomes for children. This integrated approach improves knowledge, practice and consistency of response by all team members. OCFS funds 44 child advocacy centers and multi-disciplinary teams in 40 counties throughout the state.

### **Part 3: Address Racial Differences in Child Welfare**

OCFS has embarked on an initiative to identify, address, and reduce disproportionality and ultimately eliminate racial disparity in child welfare and juvenile justice. We are actively developing an agencywide initiative that will include building our capacity to do this work with local districts and counties as part of the Child and Family Services Review and Performance Improvement Plans (CFSR/PIP), and work that we are currently doing with the Governor's Juvenile Justice Task Force, where disproportionate minority contact (DMC) is a central theme and focal point.

The Disproportionate Minority Representation / Cultural Competence (DMR/CC) Committee, which started to work in earnest in 2007, has been renamed to align with the language and vision of the work on a national level. On February 27, 2009, with the approval of our Commissioner, the former DMR/CC Committee was renamed the OCFS Committee on Racial Equity and Cultural Competence. (RECC). The RECC Committee has division-specific subcommittees all reporting to the Executive Office, which then reports to the Governor's Office on a quarterly basis.

On April 1, 2009, OCFS disseminated Child and Family Services Review Program Improvement Plan data packets to the 13 counties with the highest placement rates. The packets included data on DMR in four key decision areas (SCR Reports, Indicated Reports, Foster Care Entries, and Admission into Foster Care). Districts are being asked to review and analyze this data and, where applicable, incorporate strategies to address DMR in their local program improvement plans. OCFS will provide technical assistance on analyzing the data, and will offer support in the way of providing some training to those districts requesting such assistance.

OCFS is currently discussing plans with the Child Welfare League of America (CWLA) and Casey Family Programs for capacity building and development through training and technical assistance in DMR and Cultural Competence for OCFS staff and for our stakeholder partners in the local districts with the highest placement rates. Most of these have high disparity rates for black and Hispanic/Latino children and families also. We hope to identify three or four districts that are willing to collaborate with OCFS.

### **Part 4: Invest in the Child Welfare Workforce**

#### **Revise civil service requirements for child welfare positions**

As part of the Child and Family Services Review Program Improvement Plan, OCFS will be focusing our efforts around Workforce Development. A component of this work includes OCFS's continuing work with Civil Service to provide support for local district need for flexibility in the hiring process. This past fall, a representative from Civil Service provided an overview of the civil service process at the Director of Services White Eagle Conference. Districts were able to ask specific questions about the process and learn from each other strategies for working with the county civil services offices. OCFS will continue our efforts to advocate for more flexibility for local districts as well as provide opportunities for districts to learn from each other.

## Improve recruitment/retention practices

Also under the Workforce Development initiative, OCFS is looking to assist districts and voluntary agencies in their efforts to enhance recruitment and retention practices. In collaboration with the New York Public Welfare Association (NYPWA) and the Council of Family and Child Caring Agencies (COFCCA), OCFS encouraged districts and voluntary agencies to publicly join OCFS in promoting child welfare as a profession. Together we are targeting our efforts in two areas: assisting in developing tools to aid in the recruitment and retention of highly qualified caseworkers; and increasing public awareness and understanding of the professional role of caseworkers in child welfare. The theme of the campaign is **“Caseworkers Make a Difference.”** Working with the Governor’s office to promote the professional role of caseworkers, OCFS was pleased to announce in April the Governor’s proclamation that 2009 is the “Year of the Child Welfare Caseworker.”

To date, several tools have been developed to assist with recruitment efforts, including posters and a recruitment DVD – “Caseworkers Make a Difference.” These materials were distributed to districts and voluntary agencies as well as placed on the “Caseworkers Make a Difference” webpage located on OCFS’s website. Each month, caseworker profiles are added to the webpage detailing the work caseworkers do in the area of child protective services, foster care, prevention, adoption, home finders, etc. Districts and agencies can utilize these videos when recruiting qualified candidates.

Additionally, on April 23, 2009, OCFS hosted a symposium inviting all the schools of social work, local districts, and voluntary agencies to participate in a discussion on how to better prepare students for working in the field of child welfare in the 21<sup>st</sup> century. With high rates of turnover, districts and voluntary agencies want to hire staff who are best suited and trained for this work, and much of this work needs to happen on the college level. Over 60 attendees participated in an open discussion of what programs/curriculum are currently working and should be replicated, and where the gaps are in preparing students that need further exploration. Next steps are being examined.

## **Part 5: Federal Agenda**

### Child Care and Development Fund (CCDF) (Earmark/Appropriations)

Congress should consider increasing the discretionary (non-mandatory) funds for the CCDF to reflect the increased work participation rates in the reauthorized Temporary Assistance for Needy Families (TANF) law, part of the Deficit Reduction Act (DRA), to enable states to maintain funding for the working poor. The Congressional Budget Office (CBO) has estimated that to maintain current service levels, up to an additional \$9 billion would be needed in Child Care and Development Block Grant (CCDBG) funds over five years. Additionally, under the CCDF regulations enacted by the federal Department of Health and Human Services Administration for Children and Families (DHHS/ACF), states must increase their market rates biennially. This creates an unfunded mandate to the states, as no additional federal funds are appropriated to help support these federally prescribed increases. For example, New York State needs an additional \$87 million in funding for state fiscal year (SFY) 2009-10 just to maintain the number of slots that are being funded during the current SFY, due to the costs of the market rate increases that were adopted in October 2007 and the projected increases in the market rates that must begin October 2009, which will affect the second six months of the next SFY. This has been a major focus of OCFS and OTDA with our Congressional delegation. It will continue to be so until appropriate funding levels are dedicated to CCDF.

### Income Eligibility Determinations: (Legislative/Policy)

Congress should consider eliminating the outdated "look back" provision that ties eligibility under Title IV-E of the Social Security Act (SSA) for federally reimbursed foster care maintenance payments to the income levels for the former Aid to Families with Dependent Children (AFDC) program that were in effect as of July 16, 1996. Ideally, all children in foster care should be eligible for Title IV-E regardless of their family

income. At a minimum, the Title IV-E income eligibility levels should be adjusted for inflation to reflect the changes in the economy that have occurred over the last 12 years. The current funding scheme unfairly reduces the number of children for which states receive Title IV-E reimbursement. It has been estimated that without an income standard, the Title IV-E rate would increase by as much as 35 percent. Currently, the percentage of cases that are Title IV-E eligible is 50 percent. Based on current foster care levels this would translate into over \$200 million in additional federal foster care reimbursement to New York State (NYS) if the income test were eliminated from the eligibility determination. This will be a pivotal portion of any Congressional action to reform child welfare financing. Senator Baucus has stated that upon the resolution of health care reform, he will focus upon reforming child welfare financing.

### State Automated Child Welfare Information Systems (SACWIS) Issues:

#### “State-wideness” (Legislative/Policy)

Congress or DHHS/ACF should clarify under SACWIS that a “single statewide system” refers only to the infrastructure for the reporting of child welfare information by the state and federal governments, and that systems that include bi-directional feeds of data are acceptable for SACWIS compliance. DHHS/ACF’s current interpretations of state-wideness in ACF Action Transmittal ACF-OISM-001 that preclude bi-directional feeds of data fail to consider the unique circumstances that occur in state-supervised, locally administered states or state-administered systems that have extensive voluntary or contract agency networks. Broadening this interpretation to accommodate current technology would allow the state to achieve compliancy sooner and at a lesser cost. Another clarification that would allow states to meet the SACWIS requirement for a “single statewide system” at a lesser cost, and more quickly, would be for DHHS/ACF to further clarify that the SACWIS requirement for a “single statewide system” does not require the current narrow interpretation of ACF Information Memorandum ACYF-CB-IM-07-03 regarding how a Service Oriented Architecture (SOA) must meet the SACWIS requirement of a “...single system (including application software) throughout the State [which] must encompass all political subdivisions which administer programs provided under title IV-E.” If New York is allowed to implement SOA in a more flexible manner, there could be tremendous savings across all the human services agencies information systems, and New York's path to SACWIS compliance could be greatly eased.

“State-wideness” is not impaired if a locality or contract provider of child welfare services adopts differing user interfaces, so long as the reporting continues to operate through the single statewide system. Currently, some states are unable to achieve SACWIS compliance without including all the functionality needed by each locality and contract agency no matter how large or complex it is, even though such functionality is not necessary or practical for smaller users. Implementing this requirement would significantly expand the size and scope of the affected states’ SACWIS programs, resulting in unnecessary risk of project failure and/or unnecessary expenses that could be mitigated by modern data transmission, sharing, and cleanup initiatives. This requirement is impractical and should be eliminated, especially given the dire fiscal circumstances states are currently facing. Upon the naming of a new ACF undersecretary, OCFS will arrange to meet with this person to present our SACWIS issues and seek a positive resolution.

#### Relief for New York State (Legislative/Policy)

DHHS/ACF has indicated that NYS may face a significant fiscal disallowance if it fails to achieve SACWIS compliance. DHHS/ACF must be convinced that the benefits arising over the past 15 years from NYS’s current statewide child welfare system (CONNECTIONS) more than outweigh the amount of the federal financial participation received by NYS. On December 12, 2007, OCFS provided DHHS/ACF with a business case that documents that every dollar spent on CONNECTIONS resulted in \$2.92 in benefits. OCFS contends that there should be no disallowance assessed against NYS for SACWIS non-compliance due to the benefits supported by the CONNECTIONS system, such as the reduction of Average Length of Stay in Foster Care, improved case management functionality, decreased overdue child protective investigations, and many other operational and programmatic improvements. Upon the naming of a new

ACF undersecretary, OCFS will arrange to meet with this person to present our SACWIS issues and seek a positive resolution.

#### Title IV-B, Subpart 2 – Safe and Stable Families (Earmark/Appropriations)

Funding should be increased for this program, which supports important services for families involved in the child welfare system that prevent or reduce the need for foster care. At a minimum, the level of funding should be maintained. The current House Appropriations bill would reduce the discretionary funding for this program by \$15 million. In addition, DHHS/ACF regulations currently require that a specified portion of the Title IV-B, Subpart 2, funds be spent on each of the five eligible services categories. States should be provided greater flexibility to spend these capped child welfare prevention dollars in the manner that best suits each state's needs. OCFS staff will continue advocating for Title IV-B flexibility with our Congressional delegation and with our human services advocacy groups.

#### Re-establishment of Title IV-E waiver authority (Legislative/Policy)

Previously, Title IV-E child welfare waivers allowed states the ability to test new approaches to child welfare. With the challenging fiscal times all states and the federal government are now facing, it is important to re-establish authority for Title IV-E waivers so that states can develop creative and innovative ways to provide federally required child welfare services without being impeded by prescriptive federal statute and regulation. This may not be necessary if a reform of child welfare finance is realized in the 111<sup>th</sup> Congress.

#### Elimination of 25-bed limit under Title IV-E for publicly operated facilities (Legislative/Policy)

Given the challenging fiscal times, states should be able to receive Title IV-E funding for eligible youth in public facilities regardless of the size of the facilities. The current 25-bed limitation on Title IV-E funding for publicly operated facilities unnecessarily precludes states from operating larger facilities that might result in a lower cost per child due to economies of scale. Applying a cap on the number of beds in public facilities that does not apply to private facilities is an unfair disincentive to the states, especially when tied with the other stringent Title IV-E eligibility criteria and the AFDC look-back date tied to 1996 income levels. This initiative is part of a child welfare finance strategy with Congressman Rangel's office.

#### McKinney-Vento Homeless Prevention Act Reauthorization (Legislative/Policy)

On May 20, 2009, President Obama signed into law a bill to reauthorize HUD's McKinney-Vento Homeless Assistance programs. The bill was included as part of the Helping Families Save Their Homes Act. The McKinney-Vento reauthorization provisions are identical to those included in two bills introduced earlier in 2009, both known as the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. The Senate bill (S. 808) was introduced by Senators Jack Reed (D-RI), Kit Bond (R-MO), and 11 other senators. The House bill (H.R. 1877) was introduced by Representatives Gwen Moore (D-WI), Judy Biggert (R-IL), and five other House members.

The HEARTH Act will provide communities with new resources and better tools to prevent and end homelessness. The legislation:

- Increases priority on homeless families with children, by providing new resources for rapid re-housing programs, designating funding to permanently house families, and ensuring that families are included in the chronic homelessness initiative.
- Through the Emergency Solutions Grant program, significantly increases resources to prevent homelessness for people who are at risk of homelessness, doubled up, living in hotels, or in other precarious housing situations.

- Continues to provide incentives for developing permanent supportive housing and provides dedicated funding for permanent housing renewals.
- Grants rural communities greater flexibility in utilizing McKinney funds.
- Modestly expands the definition of homelessness to include people who are losing their housing in the next 14 days and who lack resources or support networks to obtain housing, as well as families and youth who are persistently unstable and lack independent housing and will continue to do so. The effort to include disadvantaged youth was spearheaded by many human services organizations. OCFS staff was involved in the advocacy for this new law.

#### Title IV-E Eligibility and Child and Family Services Reviews (Legislative/Policy)

The case samples for the Title IV-E eligibility reviews should better reflect the number of children in the state who receive Title IV-E funding. Congress also should consider permitting a state that is the subject of a fiscal penalty (disallowance) as a result of a primary or secondary Title IV-E foster care eligibility review or a Child and Family Services Review to reinvest the penalty dollars to correct deficiencies and to support the state's other efforts and initiatives to improve its child welfare system. This will be addressed in the overarching child welfare finance reform legislation that is promised to be introduced in the second half of the 111<sup>th</sup> Congress.

#### AmeriCorps – (Legislative/Policy)

Congress should consider allowing states to spend any unused funding for prior member service years to extend current year member service applications. AmeriCorps has received additional funding through the American Recovery and Reinvestment Act (ARRA). These funds must be encumbered by September 30, 2010. Because of ARRA increases, this is not an optimal time to pursue this request.

#### Title IV-B Maintenance of Effort (MOE): (Legislative/Policy)

States should be allowed to use the same state funds for child welfare services to meet both TANF MOE and Title IV-B, Subpart 2, MOE requirements similar to the ability to use state funds for child care services to meet both the TANF MOE and CCDF MOE.

#### Child Care Market Rates (Legislative/Policy)

DHHS/ACF CCDF regulation, 45 CFR 98.43, requires states to determine market rates for child care providers based on a biennial survey of child care providers. Conducting the market rate survey is time consuming, labor intensive and expensive for states. There are other federally acceptable economic cost/inflation measures available to all states. These measures, such as the consumer price index (CPI), are updated on a periodic basis and could be used to update rates between surveys while allowing states to conduct the market rate survey every four years. DHHS/ACF should eliminate the regulatory requirement to conduct a biennial survey and allow states the option to conduct the market rate survey every four years while using other federally acceptable economic cost/inflation measures such as the CPI between surveys. This is part of an overall strategy with Congressman Rangel's office.

#### Limited English Proficiency (Earmark/Appropriations)

Congress should provide additional funds to support the obligations of Title VI of the Civil Rights Act of 1964 (which prohibits recipients of federal financial assistance from discriminating based on national origin) and the initiatives contained in Executive Order 13166 (designed to better enforce and implement the existing obligation to provide meaningful access to programs and services to the limited English proficient [LEP] an agency services. The services that would provide meaningful access to LEP individuals include, but are not limited to, oral interpretation and written translation services; the provision of vital documents and other materials in languages other than English, reflecting the LEP population that the agency services;

and hiring of bilingual/multilingual staff to better serve the LEP population. Of the 50 states, NYS has the second largest percentage of foreign-born residents. Many of these residents are persons with limited English proficiency. NYS is also committed to providing language assistance to hearing and visually impaired individuals who are limited in English proficiency.

#### Adoption Incentives Formula: (Legislative/Policy)

Although Congress addressed a different baseline year in HR 6893, the Fostering Connections to Success Act, it should reconsider revising the formula for incentives to the states for finalizing the adoptions of foster children who are freed for adoption. The current formula is based on the total number of foster children who are adopted, which penalizes states that have a reduction in that number because their overall foster care populations have been reduced. NYS proposes an alternative measure using the percentage of children in an admission cohort whose most recent permanency goal is adoption (“eligible children”) who are discharged from foster care to adoption within two years of entering foster care. Each state would be expected to increase the proportion of eligible children discharged to finalized adoption within two years of admission by 5% each year over the previous year’s performance. All states that meet or exceed the expected 5% performance target in a given year would receive federal incentive monies for that year. The amount of the available federal incentive monies a state receives would be based on the proportion of eligible children in that state compared to the total number of eligible children in all of the states eligible for an award. In addition, OCFS would not be supportive of language that would change the match rate from an open-ended funding stream to a capped federal allocation. This request will be part of an overall strategy that OCFS is working on with Congressman Rangel’s office.

#### Limitations on Administrative Costs: (Legislative/Policy)

The Deficit Reduction Act limits Title IV-E reimbursement for administrative costs on behalf of children who are living with relatives who have not been finally approved as foster parents. This is inconsistent with the provisions in Title IV-E regulatory language that relatives should be granted a priority in foster care placements and that case management activities are provided for all foster children regardless of whether they are receiving Title IV-E funds. As with other disincentives created by the DRA, OCFS has informed NYS’s Congressional delegation of the effects on the state. We can add this to the list of items we wish to see in the child welfare finance reform legislation promised to the states by Senator Baucus’ office during the second half of the 111<sup>th</sup> Congress.

#### Adam Walsh Act Prescriptive Language Fix (Legislative/Policy)

States should have the flexibility to opt out of the federal history criminal background check requirements and reinstate the systems they had in place to protect children from predators without eliminating the possibility of placement with certain family members. OCFS, New York City and California tried unsuccessfully to garner support in Congress to maintain the opt-out provisions. OCFS staff, along with Governor Paterson’s Washington, D.C., office, New York City’s lobbyist and the lobbyist for the County Welfare Directors Association of California, advocated strongly with the Center for Missing and Exploited Children to articulate our concerns that certain families would be prohibited from caring for their relatives’ children if the prescriptive language in the law is not addressed. To date, the center is as equally concerned as Congress members are that any changes in law could allow for inappropriate placements of children. It was decided that this small coalition could collect data that would support our position and request for a legislative action to permit the “opt-out” in our two states alone.

#### Social Services Block Grant (SSBG) (Earmark/Appropriations)

Congress should consider restoring funding for the SSBG to its original authorized amount of \$2.38 billion. At a minimum, appropriations for the SSBG should not be reduced below the current \$1.7 billion. The previous administration proposed a \$500 million cut for three consecutive years to this program.

### Chafee National Youth in Transition Database (Earmark/Appropriations)

DHHS/ACF has enacted a rule to require that states begin on October 1, 2010, tracking and reporting data and outcomes on current and former foster youth at ages 17, 19 and 21. Fiscal penalties may be assessed against states that do not attain the required participation rates for current and former foster youth. Funding should be appropriated to support the significant changes that need to be made to states' computer systems and to pay incentives to former foster children to participate in the required data collection.

### **CONCLUSION**

In conclusion, OCFS maintains its strong commitment to furthering the protection of children in New York State as is evidenced by the actions outlined in this document. We look forward to our ongoing dialogue and work with the NYS Citizen Review Panels in our mutual goals to improving the child welfare system for all our families and children.