



January 15, 2021

Commissioner Sheila Poole
Office of Children and Family Services
52 Washington Street
Rensselaer, New York 12144-2834

By email

Dear Commissioner Poole:

CHAMPS-NY is a statewide coalition of advocates and providers working for policy and practice change to support children, families, and caregivers in child welfare. Lawyers For Children is a not-for-profit legal corporation that provides legal and social work services to individual children in foster care in New York City and advocates for statewide child welfare reform.

Thank you for meeting with members of CHAMPS-NY in December. Since we spoke, the President signed into law the Consolidated Appropriations Act, 2021, which combines a \$1.4 trillion year-end funding package with a \$900 million dollar COVID-19 relief package, and which contains several important provisions for the child welfare system. As you know, the legislation includes the Supporting Foster Youth and Families through the Pandemic Act (H.R. 7947), which includes a number of critical provisions to support older youth in foster care.

We are writing to urge OCFS to act quickly to ensure that the protections offered by that legislation are implemented in New York without delay, and that New York is able to access all possible federal funding to cover the cost of implementing its provisions. To that end, we hope that you will quickly take the following steps:

Issue Guidance Regarding Implementation

We hope OCFS will quickly issue guidance regarding implementation of the federal legislation to replace the pilot program created to protect youth aging out of care last July. We hope the new guidance will include the following provisions to ensure that children and families receive the maximum protection that the legislation offers:

- A clear explanation of the expansiveness of the emergency prohibition on discharging youth “solely on account of their age.” OCFS guidance should clearly state that no youth over the age of 21 can be discharged (1) without their consent and the consent of their attorney, (2) without a safe and stable place to live that is expected to last for at least 12 months (as set forth in 18 NYCRR 430.12), or (3) for any reason that would not be acceptable for a youth who is under the age of 18 (for example, a youth over the age of 18 may not be discharged for failing to participate in an education program). Without this explanation, the prohibition on discharging youth due to their age may be misunderstood and misapplied.
- A process to identify and immediately notify all eligible youth of their rights to expanded Chafee supports, the moratorium on leaving care, and the opportunity for voluntary re-entry, as applicable.
- Guidance to all placement and service providers currently serving eligible youth directing them to continue placement and services and to avoid any immediate disruption as implementation begins.
- A statement that youth who are pursuing higher education are eligible for extended foster care. *This protection is particularly crucial for young people who are living in campus housing that may be disrupted due to the pandemic, leaving them with no place to go.*

Work with the Legislature to Enact Necessary Changes to the Family Court Act

We urge you to take whatever steps are necessary to ensure that youth over the age of 21 remain IV-E eligible, as necessary to claim federal funding. To that end, we hope you will work quickly with the Governor and the legislature to ensure that legislation is enacted including:

- A temporary modification of the Family Court Act to give the family court jurisdiction over youth who are over the age of 21 for the purpose of holding permanency hearings and making the findings that are necessary for IV-E claiming; and,
- Further amendment to S.8834/ A.10581, which Governor Cuomo signed into law on December 15, authorizing youth who have left foster care after age 18 to voluntarily return to care prior to age 21 without requiring compliance with educational and vocational requirements, and without waiting for prior court approval during the New York State COVID-19 state of emergency. Further amendment is necessary to allow youth to re-enter up to age 22, as provided for in the federal legislation.

Develop a Robust Public Education Campaign

The new legislation requires the development of a public education campaign targeting youth who left care, but have not yet reached age 22, to notify them of their right to re-enter foster care. We hope OCFS will develop a multi-pronged approach to this campaign, including requiring social services districts to reach out directly to youth, providing information to colleges and universities where current and former foster youth

may be enrolled, and using social media to spread the word. We would be happy to work with you to help develop and implement this campaign.

Ensure Eligible Youth Receive New Chafee Resources

We urge OCFS to incorporate processes for finding older youth who are eligible for the expanded Chafee supports, including the flexibility and increases to the individual Education and Training Voucher Program awards (up to \$12,000 per youth) for youth through age 26, into the outreach efforts to youth eligible for reentry. As you know, the legislation is intended to put cash assistance into the hands of as many youth as possible – as quickly as possible – before September 30, 2021. In developing a plan for the Chafee allocation, we hope OCFS will use insights gained from the pilot project serving transition-age youth, and prioritize providing these youth direct financial assistance and housing supports.

Embrace Opportunities for Expansion of Kinship Navigator Programs

We also urge the State to take advantage of the new funding for kinship navigator programs. While we understand that implementation guidance from the Children’s Bureau is forthcoming, we hope OCFS will seize all opportunities to support these programs in light of their importance and recent reductions in state funding.

Finally, we urge you to consult with families, child welfare service providers and child and family advocates as you develop a plan to use the funds discussed above, preventive services and other child welfare relief funds, to ensure these funds are used to address the most urgent needs facing children and families in the most effective manner. We stand ready to collaborate with you in this process.

We look forward to your response to our suggestions.

Sincerely,

On behalf of CHAMPS-NY:

Children’s Defense Fund-New York

Families Together in New York State

Schuyler Center for Analysis and Advocacy

CASA of New York State

Lawyers For Children