

## Public Policy Recommendations: 2009-2010

**The goal of the Porch Light Project is to safely reduce the number of children in Pennsylvania's foster care system by assuring a legal and permanent family for every child.**

### **RECOMMENDATION 1:**

Require county children and youth agencies to engage in family finding efforts – the diligent search and recruitment of relatives and extended kin including *both* maternal and paternal family members in order to keep children safely in their family networks.

- Family finding should occur at the onset of involvement with child welfare services and be updated at least annually.
- Family finding efforts should be considered and acted upon in all case reviews and court proceedings.

#### ***Why does it matter?***

When parents and their children become involved in the child welfare system, it is critical that the child welfare agency effectively identify, engage and involve extended family and kin in case planning and service delivery. Once identified, the extended family and kin become a support network that provides the immediate family with both greater and long-term resources that improve child safety, strengthen families and help secure a permanent or forever family. Family finding should be required statewide for every family involved with the child welfare system.

#### ***Where we are now?***

The State Supreme Court and the Department of Public Welfare are leading a court improvement program in Pennsylvania called the Permanency Practice Initiative. This initiative is being implemented in 14 counties to improve permanency outcomes for children in foster care.<sup>i</sup> Family finding is one of the strategies that the court improvement initiative has prioritized. Initial implementation of family finding searches were conducted for 40 families, which resulted in 250 lasting relative resources – doubling the number of supportive family members. Family members reported a 28 percent increase in child safety and a 67 percent increase in child well-being as a result of the family resources identified through family finding.<sup>ii</sup>

Counties can now access a family finding search database through the Department of Public Welfare. Under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, grants will be made available to states to help fund intensive family finding efforts. The Commonwealth is applying for a grant.

### **RECOMMENDATION 2:**

Assure that all families involved in the child welfare system have the opportunity to engage in family conferencing – a process that helps families identify resources, identify challenges, and develop action plans to address the underlying reasons the family has become known to the child welfare system or reason the child is not safe.

- Family conferencing may not be deemed appropriate for some families such as certain cases involving domestic violence and/or sexual abuse.

#### ***Why does it matter?***

Family group conferencing is a family-driven decision making process. It has been shown to help families identify broader resources, promote child safety and establish service plans that more quickly and effectively address the concerns that led to the child welfare agency's involvement with the family. The



practice also is effective in reducing the amount of time children are in foster care, increasing the involvement of paternal relatives and improving family functioning.

Family Group Decision Making (FGDM) is a specific form of family group conferencing that includes a meeting of which a portion of the time is spent by families developing their own family service plans independent from any professional involvement. This process encourages families to utilize the resources within their own familial unit and community, as well as take responsibility for their own well-being.<sup>iii</sup> According to a recent Family Group Conference survey of more than 2000 family members or friends of family conducted by the State FGDM Implementation Team and the University of Pittsburgh, 96 percent of respondents recommended the practice of Family Group Decision Making as a process that helps produce an agreed upon plan to address family concerns.

### ***Where are we now?***

In 2008, 35 counties in Pennsylvania were utilizing family group conferences, and many other counties are working to implement the practice.<sup>iv</sup> In FY 2008-2009, the Department of Public Welfare provided special evidence-based grant funding to 40 counties to support the implementation of Family Group Decision Making. In FY 2009-2010, 62 counties will receive special grant funding to implement the practice. Under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, grants will be made available to states to support Family Group Decision Making. The Commonwealth is applying for a grant.

## **RECOMMENDATION 3:**

Enact child welfare financing that increases funding for in-home and community-based services and provides financial incentives to improve child and family safety, permanency and well-being outcomes.

- A greater share of state support should be in place for services that improve child and family outcomes.
- Contracts with counties and private providers should be driven by improved outcomes and designed to reward positive performance.

### ***Why does it matter?***

The way the child welfare system is financed in Pennsylvania has significant impact on the lives of children and families. Financing should be closely tied to desired child and family outcomes and grounded by a performance-based system of outcome measurement and accountability. Financing reform complements other activities that are promoting practices and procedures that lead to better outcomes for children and families who encounter the child welfare system such as the Permanency Practice Initiative and the National Governor's Association child welfare policy academy. As previously noted, the Permanency Practice Initiative is a court improvement project that is being undertaken in 14 counties to improve permanency outcomes for children in foster care. Pennsylvania is among six states participating in National Governor's Association child welfare policy academy. Under this initiative 16 counties<sup>v</sup> (along with additional counties that are voluntarily participating) are working with national and state experts to: reduce the number of children entering care; shorten length of stay for those in care and/or improve permanency outcomes to reduce returns to care; and, develop and implement strategies for sustaining the effort over time.

Several states have implemented funding policies that incentivize best practices and outcomes. In only two years, Florida has been able to reduce the number of children in foster care by 29 percent through financing that incentivizes family and least restrictive placement settings.<sup>vi</sup> Throughout a 10-year period, Illinois achieved a 67 percent reduction due to a focus on financing early intervention and permanency services, such as guardianship and adoption.<sup>vii</sup>

### ***Where we are now?***

The Pennsylvania Department of Public Welfare has established the goal to safely reduce the number of children in foster care by 20 percent by 2010. The Permanency Practice Initiative and the National Governor's Association child welfare policy academy help support this goal. In addition, the Department of Public Welfare is advancing amendments to the Public Welfare Code that will alter the Needs Based Budgeting process in a way that prioritizes services that strengthen families and promote permanency for children in foster care. These amendments seek to rein in administrative costs, incentivize best practices and reinvest savings into further reducing the number of children entering and in foster care.

## **RECOMMENDATION 4:**

Create a legal means to establish formal and enforceable post-adoption contact agreements between birth and adoptive families in cases deemed appropriate by the courts.

### ***Why does it matter?***

Post-adoption contact policies that exist in other states have shown to decrease the length of time it takes for some children to be adopted from foster care because birth parents are more willing to agree to the adoption process due to knowing the adoptive family and having an established means for post-adoption contact. Likewise, other jurisdictions have found that children may be more willing to consider adoption when they know that continued contact with birth family members is possible.

### ***Where are we now?***

Post-adoption contact between birth and adoptive families in public adoptions can and does occur in Pennsylvania. However, there is no formal or enforceable agreement that is facilitated by the child welfare or adoption agency and approved by the courts to support such contact. Twenty-three other states currently have formal processes in place to establish and enforce post-adoption contact.

## **RECOMMENDATION 5:**

Allow the courts to reverse the termination of parental rights for a child who remains in foster care without another permanent family for three or more years when deemed appropriate and when will aid in successful reunification with the birth family.

### ***Why does it matter?***

Pennsylvania should eliminate every barrier to children achieving a permanent or forever family. For some children, this may mean reversing the court decision that terminated their parent's right to raise them. Termination of parental rights occurs when issues related to a family's involvement with the child welfare system are unresolved after an extended period of time. Following termination of parental rights, children are freed for adoption. However, sometimes children are in foster care long periods of time before being adopted – and some children never find a forever family. There are situations when a child's birth parents' circumstances change for the better and the concerns that previously inhibited their ability to parent no longer exist. It is in these cases in which children languish in foster care without permanence and a situation has changed for the better that the court should have the legal authority to reverse a termination of parental rights decision and again seek to reunify the child with birth parents.

### ***Where we are now?***

Pennsylvania does not have legal means to reinstate parental rights after they have been terminated and the child has been freed for adoption. In 2006, California passed a law that provides for the reinstatement of parental rights if a child was freed for adoption for at least three years and the child's adoption is unlikely to occur and if a court finds that reinstatement of parental rights would serve the child's best interests.

## **RECOMMENDATION 6:**

Assure that children in foster care and their birth parents receive appropriate legal representation:

- Provide adequate state support to pay for legal representation.
- Require legal representatives for dependent children and families to follow the rules of professional conduct as outlined in the Juvenile Act or similar rules which should be established for parent representation.
- Urge the Pennsylvania Department of Public Welfare and the Pennsylvania State Supreme Court to collaborate in the creation and utilization of a standard model county contract for legal representation. Link state reimbursement to county utilization of the model contract. The model would include the following key elements:
  - Adherence to the provisions of the Juvenile Act or other similar policies related to quality legal representation; appropriate attorney caseload size limits; and, minimum legal training requirements for attorneys as part of certification to represent children and families in relevant court proceedings.
- Urge the Pennsylvania State Supreme Court to establish a training certification program and enforce a minimum training requirement for judges involved in child welfare court proceedings.
- Require training for child welfare professionals on the duties of legal representatives.
- Provide information to all parents and youth involved in dependency court proceedings on the duties of legal representatives.

### ***Why does it matter?***

The court system provides a critical role in protecting vulnerable children, strengthening families, making life changing decisions and making sure that the issues that led to safety risks for the child are being addressed in an effective and timely manner. Decision making for children is best when all parties have voice and legal representation; therefore, it is imperative that legal representatives who are charged with representing children and families before the courts are equipped to assist them as they navigate the complexities associated with child welfare system involvement and court decision making.

### ***Where we are now?***

No minimum training requirement or certification exists for judges or attorneys specific to dependency court law and proceedings. In addition, youth and parents need training on the court process and the powers and duties of those who are to legally represent them.

Parents have the right to legal representation in dependency court proceedings if they cannot afford it. However, there is no statewide uniformity in how legal representatives are assigned to represent parents, nor quality standards for effective parent representation. There are powers and duties in the Pennsylvania Juvenile Act that appointed guardian ad litem are to follow when representing children; however these quality standards do not apply to attorneys who represent parents.

## **RECOMMENDATION 7:**

Require a minimum of three-month permanency review hearings by the courts for all children in foster care.

### ***Why does it matter?***

Requiring more frequent permanency review hearings will expedite permanency for children in foster care, promote greater accountability of all parties and help assure that the courts are informed and able to adequately engage family members in court decision making.

It is imperative that county children and youth agencies and the courts work efficiently and collaboratively if the outcomes of vulnerable children and their families are to improve and the goal of reducing the number of children in foster care is to be achieved.

### ***Where we are now?***

Permanency review hearings only need to occur every six months per the Pennsylvania Juvenile Act. However, the State Supreme Court and the Department of Public Welfare are piloting three-month permanency review hearings in the 14 counties participating in the Permanency Practice Initiative.<sup>viii</sup> Some counties have been independently implementing expedited hearings which have shown to decrease the amount of time children are in foster care.

## **RECOMMENDATION 8:**

Establish a foster care bill of rights for children including:

- Age and developmentally appropriate freedoms.
- Freedom from harassment, corporal punishment, abuse, and discrimination.
- Placement in the least restrictive and most family-like setting that will meet the child's safety needs.
- Access to medical, dental, vision, behavioral health and other needed services, including age-appropriate consent to treatment.
- Permission to visit and maintain contact with birth family members.
- Quality and regular visits with assigned caseworker.
- Education stability and workforce and life skills development.
- Opportunity to be heard and participate in dependency court proceedings.
- Option to remain in foster care after age 18 and up until age 21, including the right to re-enter care if a child leaves after age 18.
- Requirement for the courts to inquire if the youth has been informed of their rights.
- Clear guidance to foster parents to assure they are duly informed of the rights of children in their care.
- Universal grievance procedure that outlines the rights of each child in foster care.



### *Why does it matter?*

The foster care system is to be a temporary intervention to protect children from further abuse and neglect while efforts are made to assure they are part of a permanent family. While children are in foster care, it is important that the system entrusted with their care is providing for their safety, permanency and well-being. Children need and deserve certain basic rights while in foster care. While these rights may be listed in various laws, regulations and other legal documents, it makes sense to compile and codify a basic list of rights that can be used statewide.

### *Where we are now?*

Pennsylvania's child welfare system is state operated and county administered. Therefore, children in foster care can be treated differently from county to county. Pennsylvania does not have a foster care bill of rights or a universal list of protections of which every child in foster care is informed. California, New Jersey and Florida have laws that establish a bill of rights for children in foster care.

## **RECOMMENDATION 9:**

Increase the use of reunification, adoption and legal guardianship as permanency goals for children in foster care and create criteria which limit and decrease reliance on the permanency goals of emancipation and long-term foster care (Another Planned Permanent Living Arrangement).

- All other permanency goals (reunification, adoption and guardianship) should be considered, planned for, ruled out and documented by the county children and youth agency in a filing to the court prior to the agency recommending a permanency goal change to APPLA emancipation.
- All children in foster care regardless of their permanency goal must receive permanency services and supports toward achieving their goal.
- County children and youth agencies cannot recommend APPLA as a permanency goal for children age 16 and under without approval of the county children and youth administrator or his or her designee.

### *Why does it matter?*

Ideally, all children in foster care should have a permanency goal that would lead to a legally permanent family through reunification with their birth parents, adoption or legal guardianship. APPLA and emancipation do not meet that objective. However, there are situations in which an alternate permanency option is appropriate for youth. Determining the right permanency goal for a child requires many parties and a thorough process of engaging the child and all family members in the decision. Pennsylvania should ensure that, statewide, as many children as possible have permanency goals that lead to a legal and permanent family and not long-term foster care or emancipation without permanent connections.

### *Where we are now?*

Too many children, especially youth, have a goal of Another Planned Permanent Living Arrangement (APPLA). More than 24 percent of children ages 13 and older in foster care have a permanency goal of APPLA, and approximately one-third of children 16 and older. Currently there is no process established for county children and youth agencies to consider, plan for and rule out permanency goal options for children or an expectation that they document and make a specific filing to the court that includes information on how the agency came to the decision to rule out other options and select a permanency goal of APPLA. The Juvenile Act places this responsibility of ruling out permanency options on the courts with no requirement for how the agency assists the courts through case documentation or specific filing. Pennsylvania needs to increase the number of children, especially youth, who have a permanency goal of reunification, adoption or guardianship. Currently 1,100 youth age out of foster care every year without a permanent family.

## **RECOMMENDATION 10:**

Require county children and youth agencies to collect and annually report information on the race and ethnicity of children and families at the point of referral, investigation and acceptance for child welfare services.

### ***Why does it matter?***

Children of color are disproportionately represented in Pennsylvania's foster care system. African-American children are represented six times more in foster care than white children, and Latino children are represented three times more in foster care than white children. These rates are alarming. More information is needed to pinpoint the specific child welfare practice issues that must be addressed to safely combat racial and ethnic inequities in the child welfare system. To adequately address the existence of racial and ethnic disproportionality, Pennsylvania must take the first step of collecting information on the race and ethnicity of all children and families at *all* key service delivery points.

### ***Where we are now?***

There currently is no statewide data collection of race and ethnicity information of children and families served by the child welfare system with the exception of information on children who are in foster care. In fact, current Pennsylvania law prevents information on race and ethnicity from being collected through the Statewide Child Abuse Registry, which catalogs allegations and substantiations of child abuse.

- i Fourteen counties are currently participating in the Permanency Practice Initiative: Allegheny, Blair, Butler, Carbon, Chester, Dauphin, Jefferson, Lackawanna, Lehigh, Montgomery, Northampton, Venango, Washington and York.
- ii Administrative Office of Pennsylvania Courts, Office of Children and Families in the Courts. (2009). *Family Finding Results Phase 1* [PowerPoint Slides]. [Personal communication — April 2, 2009]
- iii Merkel-Holguin, Lisa and Nixon, Paul and Burford, Gale (2002). *Learning with Families: A Synopsis of FGDM Research and Evaluation in Child Welfare Protecting Children*. Pg 2-11. [Electronic version] American Humane Association. Retrieved from <http://www.americanhumane.org/assets/docs/protecting-children/PC-pc-article-fgdm-research.pdf>
- iv University of Pittsburgh, School of Social Work, Pennsylvania Child Welfare Training Program (2008) Family Engagement Executive Summary
- v Sixteen counties are currently enrolled in the National Governor's Association's child welfare policy academy. They include Allegheny, Bucks, Clarion, Clinton, Dauphin, Erie, Lancaster, Lawrence, Lehigh, Luzerne, McKean, Montgomery, Northampton, Philadelphia, Schuylkill, and York. Several additional counties have voluntarily chosen to participate in the foster care reduction efforts coordinated through the National Governor's Association child welfare policy academy.
- vi Casey Family Programs (2009). Strategic Consulting Division
- vii Ibid.
- viii Fourteen counties are currently participating in the Permanency Practice Initiative: Allegheny, Blair, Butler, Carbon, Chester, Dauphin, Jefferson, Lackawanna, Lehigh, Northampton, Snyder, Venango, Washington and York.