



State of Connecticut

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October 3, 2016

Senator Martin Looney
President Pro Tempore
Legislative Office Building, Room 3300
Hartford, CT 06106-1591

Representative Brendan Sharkey
Speaker of the House of Representatives
Legislative Office Building, Room 4100
Hartford, CT 06106-1591

Dear President Looney and Speaker Sharkey:

After reviewing the "2016 Revised Exit Plan" approved by U.S. District Judge Stefan R. Underhill regarding federal court oversight of the state's Department of Children & Families, I believe it is essential that legislative leaders hold a public hearing on this order as soon as possible. Immediate discussion is needed to ensure that the legislature is not limited by a small window of time during next year's session in which to address this very complicated and far reaching issue.

As you are aware, the exit plan will be submitted to the legislature within three days of the opening of the 2017 legislative session and we will have just 30 days to review and act upon it.

We need to ensure that this agreement made between only two parties, the plaintiff and the Department of Children & Families, is open to input from all experts and advocacy groups, including but not limited to the Office of the Child Advocate. If approved this agreement will have a long-term impact on the state of Connecticut, therefore input from all parties including advocacy organizations and families must be taken into consideration prior to making any legislative decision on this matter.

Given the fact that the state has not been able to appropriately meet the measures of the court monitor for decades including the last six years under the current administration, we need to look at this situation with extreme caution and care and perhaps with fresh eyes. The outcome measures Connecticut continues to fail to meet are extremely serious. The state consistently fails to:

- meet the needs of children in its care
- engage in adequate case planning,
- begin and complete abuse investigations in a timely manner, and
- appropriately manage in-home case worker-child visitation.

These failures are prolonged issues within DCF which remain serious issues of concern today. In fact, not only has DCF continued to fail to meet these same measures under the current administration, but for most of that time, has failed them by a larger percentage than before. Thus, claims of progress must be critically examined.

Given the state's persistent failure to meet these critical measures, and given the dramatic changes in DCF policies and programs primarily designed to meet the laudable goal of keeping children in their homes or with family members, but creating new and unique challenges and risks, one must question whether simply modifying an exit plan over a decade old is even sufficient. For example, the Family Assessment Response program was developed under this administration as a way to handle low risk cases without conducting full investigations. Unfortunately, due to poor risk assessment and monitoring practices, cases that never should have been considered "low risk" have been referred to FAR with tragic results. For example, two year old Londyn Sack died in her home as a result of a homicide. She was allowed to stay in her home under the FAR program despite a long and serious history of alleged abuse and neglect. According to the Child Advocate, her case never should have been treated as "low risk" or assigned to the FAR program.

The proposed Revised Exit Plan, while setting timelines for the commencement of an investigation, does not appear to address the risk assessment tools used by DCF to evaluate and classify cases in the first instance. Requiring DCF to declare a case "low risk" more quickly will not improve child safety one iota and, in fact, could result in more cases being misclassified as case workers rush to meet deadlines. We need a full public dialogue about this Revised Exit Plan and whether it meets the current needs of the children being served by DCF.

In light of the above, it is essential that we have a full and open public discussion to determine:

- (1) Why does DCF continue to fail to meet children's needs and fail to meet five other critical quality measures?
- (2) Will the Revised Exit Plan assist DCF in meeting these measures and if so, how?
- (3) Does the Revised Exit Plan address the challenges created by new DCF policies, such as the FAR program, and the risk assessment failures identified by the Child Advocate and others and if so how?

Further, while I am certainly in favor of efforts to protect funding for child services throughout the state, I also cannot ignore that this court order treads on separation of powers. At a time when the state is dealing with this same issue as it relates to an overreaching Connecticut Supreme Court ruling on school funding, we similarly have to consider the impact of the court acting beyond its authority and how each branch of government must work in balance with the others. This court ordered plan could set precedent and result in control over large areas of state policy as well as budgeting and spending being ceded by the legislature to the Judiciary Branch.

I would hope that the current administration and legislative leaders do not need a court order to ensure that they themselves properly fund critical services provided by the Department of Children & Families. It is the responsibility of the legislature to set policy and spending priorities. However, seeing how Democrat budgets have targeted core social services for funding cuts in past difficult budget years, I certainly understand the concern. A court order that supersedes the will of the legislature and binds future legislatures to a court ordered spending plan and oversight for an unknown period of time simply because the current leadership lacks the political will to adequately prioritize and fund child services has to be weighed carefully.

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I expect some individuals may argue in favor of waiting until after this year's election to discuss this court order with the newly elected legislature. However, I believe that waiting so long will make it difficult to fully grasp the impact of this order in such a short period of time. We need to start hearing from child care experts, advocates and families now. We need to better understand the intricacies of the budget structure this order would lock the state into to determine if it is the system that makes the most sense.

We have to think not only about the system today, but also whether this structure will work for all future years to come. Since Commissioner Joette Katz has yet to increase the number of measures met by the Department of Children & Families during her entire time thus far as commissioner, we must recognize that the state is no closer to ending federal court oversight today than we were before Commissioner Katz took office. We have to look at this order objectively and give the public a significant amount of time to weigh in and help lawmakers fully understand the challenges faced by the agency and how such a court order would play out or make any impact on the state actually meeting the needs of the most vulnerable children in Connecticut.

It's important to note that this plan was negotiated and agreed to by Commissioner Katz, represented by private counsel, and the particular plaintiffs to this action. DCF's private counsel should be obligated to make a full explanation of the breadth and magnitude of the document that they negotiated to bind the legislature now and in the future. The Office of the Child Advocate, the legislature, other advocacy groups, families and other interested parties deserve the opportunity to share their input now as well.

I believe that starting the conversation now is necessary to ensure that lawmakers can make a decision in the best interest of Connecticut's children without being rushed through a very complicated issue during the first thirty days of a busy legislative session. This is our duty and we owe the public, families impacted by DCF and others a thoughtful and transparent look at whether this plan is in the best interests of the children of our state.

I look forward to working together to begin organizing public hearings as soon as possible.

Sincerely,



Len Fasano
Senate Minority Leader

cc: Governor Dannel P. Malloy
Commissioner Joette Katz, Department of Children and Families