



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on August 23, 2013

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Title	Agenda Item Type
Children in Foster Care: California Blue Ribbon Commission Resolution and Report	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	August 23, 2013
Recommended by	Date of Report
California Blue Ribbon Commission on Children in Foster Care Hon. Richard D. Huffman, Chair	July 29, 2013
	Contact
	Christine Cleary, 415-865-8792 <a href="mailto:christine.cleary@jud.ca.gov">christine.cleary@jud.ca.gov</a>

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### **Executive Summary**

The California Blue Ribbon Commission on Children in Foster Care, reporting on its ongoing implementation activities, recommends adopting the attached resolution declaring December 4, 2013, to be Keeping Kids in School and Out of Court Day to encourage courts and local communities to take special measures to address the issues of chronic absenteeism, truancy, and school discipline policies that can lead to negative outcomes for our state's public school children and youth.

### **Recommendation**

The California Blue Ribbon Commission on Children in Foster Care (BRC) recommends that the Judicial Council adopt a resolution declaring December 4, 2013, to be Keeping Kids in School and Out of Court Day.

A copy of the proposed resolution text is attached at pages 7–8.

## **Previous Council Action**

The Judicial Council unanimously accepted the recommendations of the commission in 2008, and both the former Chief Justice and the current Chief Justice extended the commission and its charge to work on implementing those recommendations.

In addition, the Judicial Council adopted rule 5.651 of the California Rules of Court concerning the educational rights of children coming before the juvenile court, effective January 1, 2008, to ensure that the juvenile court would consider the educational rights and needs of all dependent and delinquent children at each court hearing, consistent with statutory requirements.

California Standard of Judicial Administration, standard 5.40, concerning juvenile court matters was adopted by the Judicial Council as section 24, effective January 1, 1989. The council amended section 24, effective January 1, 2000, to add significant content pertaining to the educational needs of children subject to the jurisdiction of the juvenile court, including a direction to the court to provide oversight on educational issues and require case plans and court reports to address educational needs.

The BRC last reported to the Judicial Council on August 31, 2012, on its implementation progress and on the Chief Justice's new charge to the commission to create an initiative to keep kids in school and out of the courts and, if outside funding could be found, to hold a California summit on the issue. The council directed commission staff to seek outside funding.

## **Rationale for Recommendation**

### **Purpose of resolution: To encourage courts and communities and to advance public education**

The council has long recognized the critical need for juvenile court judges to oversee and advocate for appropriate educational resources for the youth under their jurisdiction, as seen, for example, by the adoption of standard 5.40 of the Standards of Judicial Administration and rule 5.651 of the California Rules of Court. This need is premised on research demonstrating that youth who succeed in school are more likely to become successful adults who do not engage in criminal behavior.

Recent research has shown that school discipline and attendance policies may be counterproductive and lead to disengaging youth from school rather than improving student behavior and overall educational outcomes. This disengagement affects the courts in a number of ways. Because youth who are truant or subject to school discipline that keeps them out of school are more likely to become involved in the juvenile justice system, policy changes that improve attendance and the use of out-of-school suspension will reduce the number of juvenile offenders who come before the court. For example, data suggests that children in foster care are more likely to struggle with school discipline issues and attendance problems, which do not serve their interests. Because juvenile courts regularly review the status of these youth, the court has an

opportunity to ensure that the educational needs of foster youth are addressed and educational outcomes are improved.

The Chief Justice attended a New York conference in March 2012 that inspired the California Keeping Kids in School and Out of Court Initiative. The conference was a call to action for members of the judiciary to use their powers as conveners and leaders to begin forging and maintaining productive collaborations with key stakeholders to curb these disturbing truancy and school policy trends. Differing communities have successfully used this collaborative approach in various ways—for example, by forming court/school partnerships, including truancy and other collaborative courts, and modifying disciplinary policy to effectively address behavior problems earlier so that students can successfully remain in school and out of court.

The proposed resolution is, in part, a call to action for courts and communities in California. At the request of the Chief Justice, Assemblymember Roger Dickinson and President pro Tempore of the Senate Darrell Steinberg are coauthoring a parallel legislative resolution to designate December 4, 2013, as “Keeping Kids in School and Out of Court Day” in California. The resolution is in recognition of the Judicial Council’s upcoming summit, which is designed to bring teams of stakeholders together to work on strategic plans to improve school discipline policies and address chronic absenteeism in a manner that will keep more children attending and engaged in school and out of our juvenile courts.

Adoption of the attached resolution declaring December 4, 2013 to be Keeping Kids in School and Out of Court Day will demonstrate the commitment of the judicial branch to partner with other interested stakeholders and to use the summit as a starting place to address the issues of chronic absenteeism, truancy, and school discipline policies that can lead to negative outcomes for our state’s public school children and youth, including poor academic performance, increased likelihood of dropping out of school, and increased likelihood of getting involved in the juvenile justice system. In addition, it will advance the public education goals of the initiative by helping to draw public attention to the issues.

#### **Update on May 2013 Blue Ribbon Commission meeting**

The BRC had its annual in-person meeting in Los Angeles on May 1, 2013, in conjunction with the Family Law Education Program. At the meeting the commission adopted new and revised recommendations concerning permanency and data and information sharing. See Attachments A–E for a copy of those recommendations and memoranda in support of the changes. Following is a summary of the changes:

- **Data and Information Sharing.** In 2006, at the commission’s request, the Judicial Council adopted a Resolution on Data Sharing recognizing that (1) for agencies and courts to fulfill their responsibility to secure safety, permanence, and well-being for foster children, they must be able to timely track the progress of children, appropriately identify groups of children in need of attention, and efficiently identify sources of delay in court proceedings; and (2) state judicial leadership should use data to ensure accountability by every court for

improved outcomes for children and to inform decisions about allocating resources across the court system.

In 2008 the commission presented a recommendation to the Judicial Council on data and information sharing that, from the judicial branch's perspective, was largely based on the development of the California Case Management System (CCMS). CCMS has since been decommissioned. However, the need for courts and agencies to share information so that informed decisions can be made about children's safety and well-being remains great. Moreover, other advances in the landscape call for a revised and updated recommendation on this important topic.

In 2012, the California Child Welfare Council (CWC) adopted a Statement on Information Sharing, Data Standardization and Interoperability (see Attachment D). The CWC statement:

- Acknowledges the importance of accessing and using standard information sharing frameworks, models, and data elements;
- Envisions an inclusive, integrated state and local information technology strategy that leverages and supports improving the care provided to children and families by holistically addressing their needs; and
- Provides for greater availability of timely program data—such as education, mental health, substance abuse, and primary health-care data—for evaluating program performance.

At the May 2013 meeting, the commission adopted a revision of its original recommendations that incorporates the CWC's statement and strikes its recommendations that relied on CCMS.

- **Permanency.** The commission went through its recommendations on permanency with an eye to increasing their focus on family reunification. It adopted a new recommendation that courts, to the extent possible, work to increase family reunification outcomes by holding interim hearings. (See Attachment E.)

### **Planning for December 2013 summit**

The Keeping Kids in School and Out of Court Summit will bring together judicial officers, educators, juvenile justice and child welfare professionals, and community leaders to put a spotlight on the problem of truancy and school discipline policies that create a school-to-prison pipeline for California's children and youth; to highlight some successful solutions to the problem; and to engage local teams to return to their home counties with a strategy to keep kids in school and out of court. Presiding juvenile judges in each county will be invited to bring a multidisciplinary team of up to eight members to the summit.

The summit is set for December 4, 2013, to be held in conjunction with the Beyond the Bench conference, which will take place on December 2–3 in Anaheim, California. This partnership

will lower the cost of the summit by integrating summit and Beyond the Bench planning. In addition to cost-cutting advantages, holding the summit the day after Beyond the Bench allows the possibility of including relevant learning opportunities at the larger conference on the issues that will be addressed at the summit, so that summit participants would be exposed to key material on promising interventions and other critical information before the summit by participating in summit-related workshops and presentations that will be offered the day before. Key highlights in the planning are listed below:

- **Chief Justice’s charge.** In May 2012, the Chief Justice charged the Blue Ribbon Commission on Children in Foster Care, if outside funding could be secured, with creating an initiative on keeping kids in school and out of court, to culminate in a statewide summit on the issues of truancy and school discipline and their effect on outcomes for children and youth.
- **Fundraising efforts.** As directed by the Judicial Council in August 2012, fundraising efforts are ongoing. The initiative has generated significant interest in the philanthropic community. At this time, secured and anticipated support is as follows:
  - The Walter S. Johnson Foundation awarded a \$30,000 planning grant to the initiative, effective July 1, 2013.
  - The Zellerbach Family Foundation invited a proposal for \$50,000, which was submitted and has been recommended to the board for funding at its September meeting.
  - The California Endowment invited a proposal for \$100,000, and staff will be meeting with the endowment to work out the details.
  - Federal funds from the State Court Improvement Project are also providing support for the initiative.
- **Commission workgroup.** The Truancy/School Discipline Workgroup, chaired by Presiding Judge of the Juvenile Court of Sacramento County Stacy Boulware Eurie, is providing support and direction to help carry out the Chief Justice’s charge via quarterly telephone conferences. Two Judicial Council members, Judge Teri L. Jackson and Judge David De Alba, joined the workgroup after the August 2012 meeting.
- **Collaboration with California Department of Education and other agencies.** Superintendent of Public Instruction Tom Torlakson has agreed to cosponsor the summit with the Chief Justice. The California Department of Education is an active partner in the summit planning. Attorney General Kamala Harris and Health and Human Services Secretary Diana S. Dooley have also been invited to cosponsor the event.

### **Comments, Alternatives Considered, and Policy Implications**

Adoption of the proposed resolution will likely have no policy implications other than to encourage courts, local communities, and the public to consider and address the issues it presents.

## **Implementation Requirements, Costs, and Operational Impacts**

There are no anticipated implementation requirements, costs, or operational impacts associated with the adoption of this resolution.

### **Attachments**

1. Proposed Judicial Council of California resolution, at pages 7–9
2. Attachment A: New Permanency Recommendation, adopted by Blue Ribbon Commission on May 1, 2013
3. Attachment B: BRC Revised Data Sharing Recommendation, adopted by Blue Ribbon Commission on May 1, 2013
4. Attachment C: Proposed Revisions to Recommendations on Information Sharing memo to Blue Ribbon Commission, dated May 1, 2013
5. Attachment D: California Child Welfare Council’s Statement on Information Sharing, Data Standardization and Interoperability, dated June 22, 2012
6. Attachment E: New Recommendation on Interim Hearings memo to Blue Ribbon Commission, dated May 1, 2013

# JUDICIAL COUNCIL OF CALIFORNIA

## Resolution

**Whereas**, consistent with its commitment to improving the lives of children and their families, the Judicial Council is hosting a statewide summit in December 2013 focused on keeping kids in school and out of court;

**Whereas** more than 700,000 suspensions involving over 365,000 students occur in California's public schools each year;<sup>1</sup>

**Whereas** more than 1.8 million students are truant in California public schools each year;<sup>2</sup>

**Whereas** African-American students represent only 6.5 percent of the enrollment in California public schools but receive 19 percent of the total suspensions;<sup>3</sup>

**Whereas** students with disabilities face the highest risk of suspension of any students in California;<sup>4</sup>

**Whereas** children in foster care are more likely to be suspended and experience problems with chronic absenteeism;<sup>5</sup>

**Whereas** suspension rates have been increasing since the 1970s, with racial disparities in suspension rates increasing at very high rates;<sup>6</sup>

**Whereas** suspension and chronic absenteeism are linked to academic failure, higher school dropout rates, and involvement in the juvenile and criminal justice systems;<sup>7</sup>

**Whereas** almost half of all suspensions in California are for disruption and defiance rather than acts of violence, or acts involving weapons or drugs;<sup>8</sup>

**Whereas** research shows that schools with high rates of suspension do not have better attendance or academic performance than demographically similar schools with much lower rates of suspension;<sup>9</sup>

**Whereas** implementation of evidence-based and promising practices to respond to disruptive student behavior and improve school climate, such as Schoolwide Positive Behavioral Interventions and Supports and Restorative Justice Practices, have allowed schools to reduce their rates of suspension and improve school climate;<sup>10</sup>

**Whereas** court-based interventions such as truancy courts have shown promise in reducing chronic absenteeism and improving academic performance;<sup>11</sup>

**Whereas** juvenile courts are actively engaged in monitoring the educational needs of the children under their jurisdiction, and juvenile court judges are encouraged to take an active role in their communities to encourage adequate support and services for at-risk youth as well as to develop a close liaison with school authorities;<sup>12</sup>

**Whereas** children in foster care with more stable placements experience better educational outcomes and are more likely to graduate;<sup>13</sup>

**Whereas** State Superintendent of Public Instruction Tom Torlakson has focused resources of the California Department of Education in assisting school districts in California to implement new approaches to school discipline and attendance that will lead to safer and more effective schools in California;

**Whereas** the Judicial Council has determined that keeping students in school and out of our court system is an important objective for all of California, and is hosting a December 4, 2013 summit to bring collaborative teams from many California counties together to plan for reforms that will address the impact of existing school discipline policies and the challenges of chronic absenteeism;

**Whereas**, the Legislature is committed to working to reduce unnecessary suspensions and ensure that all students in California have an opportunity to thrive in a safe and supportive school environment and to that end has introduced a resolution to declare December 4, 2013 Keeping Kids in School and Out of Court Day in California;

**Whereas** the Judicial Council is committed to working with the Governor, the Legislature, and local courts and communities to keep kids in school and out of court;

**Now, therefore, be it resolved** that I, Tani G. Cantil-Sakauye, Chief Justice of California, on behalf of the Judicial Council of California, do hereby proclaim December 4, 2013 to be Keeping Kids in School and Out of Court Day, during which multidisciplinary teams from across California will be gathering to develop collaborative plans to improve school discipline practices and improve school attendance so that children in California will succeed in school and avoid involvement in criminal activity.

In witness whereof

I have hereunto set my hand this 23rd day of August, 2013

Attest:

TANI G. CANTIL-SAKAUYE  
Chief Justice of California and  
Chair of the Judicial Council of California

STEVEN JAHR  
Administrative Director of the Courts

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<sup>1</sup> California Department of Education 2011–12 Suspension, Expulsion, and Truancy Report: Suspension by Federal Offense Statewide Suspension Counts by Ethnicity.

<http://dq.cde.ca.gov/dataquest/SuspExp/suspbyeth.aspx?cYear=2011-12&cType=ALL&cCDS=34673143432572&cName=Statewide&cLevel=State&cChoice=SusEthOff>

<sup>2</sup> California Department of Education 2011–12 Suspension, Expulsion, and Truancy Report: Suspension, Expulsion, and Truancy Rates Statewide. <http://dq.cde.ca.gov/dataquest/SuspExp/suspexplrate.aspx?cYear=2011-12&cType=ALL&cCDS=34673143432572&cName=Statewide&cLevel=State&cChoice=SusExpRt>

<sup>3</sup> See footnote 2.

<sup>4</sup> Daniel Losen, Tia Martinez, and Jon Gillespie, *Suspended Education in California*, The Civil Rights Project, UCLA, April 10, 2012. <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/summary-reports/suspended-education-in-california/SuspendedEd-final3.pdf>

<sup>5</sup> AOC Briefing: Truancy and School Discipline: An Overview of the Literature and Statistics, November 2012, p. 5. [http://www.courts.ca.gov/documents/AOC\\_Briefing\\_-\\_Truancy\\_and\\_School\\_Discipline.pdf](http://www.courts.ca.gov/documents/AOC_Briefing_-_Truancy_and_School_Discipline.pdf)

<sup>6</sup> Daniel Losen and Tia Elena Martinez, *Out of School and Off Track: The Overuse of Suspensions in Middle and High Schools*, The Civil Rights Project, UCLA, April 8, 2013.

[http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/Exec\\_Sum\\_OutofSchool\\_OffTrack\\_UCLA.pdf](http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/Exec_Sum_OutofSchool_OffTrack_UCLA.pdf)

<sup>7</sup> Council of State Governments Justice Center and Public Policy Research Institute (2011). *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*. Council of State Governments Justice Center: New York, NY.

[http://knowledgecenter.csg.org/drupal/system/files/Breaking\\_School\\_Rules.pdf](http://knowledgecenter.csg.org/drupal/system/files/Breaking_School_Rules.pdf)

<sup>8</sup> California Department of Education 2011-12 Suspension, Expulsion, and Truancy Report: 48900(k) Defiance Suspension and Expulsion Statewide. <http://dq.cde.ca.gov/dataquest/SuspExp/defbyscheth.aspx?cYear=2011-12&cType=ALL&cCDS=34673143432572&cName=Statewide&cLevel=State&cChoice=DefByEth>

<sup>9</sup> See footnote 7.

<sup>10</sup> American Psychological Association Zero Tolerance Task Force, "Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations," *American Psychologist*, 2008.

<http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>

<sup>11</sup> See footnote 5, pp. 11–15.

<sup>12</sup> See California Rules of Court, rule 5.651

[http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_651](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_651) and Standard of Judicial Administration 5.40 [http://www.courts.ca.gov/cms/rules/index.cfm?title=standards&linkid=standard5\\_40](http://www.courts.ca.gov/cms/rules/index.cfm?title=standards&linkid=standard5_40)

<sup>13</sup> See footnote 5, p.15.



# JUDICIAL COUNCIL OF CALIFORNIA

## Resolution

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**Whereas** more than 700,000 suspensions involving over 365,000 students occur in California's public schools each year;

**Whereas** more than 1.8 million students are truant in California public schools each year;

**Whereas** African-American students represent only 6.5 percent of the enrollment in California public schools but receive 19 percent of the total suspensions;

**Whereas** students with disabilities face the highest risk of suspension of any students in California;

**Whereas** children in foster care are more likely to be suspended and experience problems with chronic absenteeism;

**Whereas** suspension rates have been increasing since the 1970s, with racial disparities in suspension rates increasing at very high rates;

**Whereas** suspension and chronic absenteeism are linked to academic failure, higher school dropout rates, and involvement in the juvenile and criminal justice systems;

**Whereas** almost half of all suspensions in California are for disruption and defiance rather than acts of violence or acts involving weapons or drugs;

**Whereas** research shows that schools with high rates of suspension do not have better attendance or academic performance than demographically similar schools with much lower rates of suspension;

**Whereas** implementation of evidence-based and promising practices to respond to disruptive student behavior and improve school climate—such as School-wide Positive Behavioral Interventions and Supports, as well as Restorative Justice practices—have allowed schools to reduce their rates of suspension and improve school climate;

**Whereas** court-based interventions such as truancy courts have shown promise in reducing chronic absenteeism and improving academic performance;

**Whereas** juvenile courts are actively engaged in monitoring the educational needs of the children under their jurisdiction, and juvenile court judges are encouraged to play active roles in their communities to encourage adequate support and services for at-risk youth and to develop close liaisons with school authorities;

**Whereas** children in foster care with more stable placements experience better educational outcomes and are more likely to graduate;

**Whereas** State Superintendent of Public Instruction Tom Torlakson has focused resources of the California Department of Education in assisting school districts in California to implement new approaches to school discipline and attendance—approaches that will lead to safer and more effective schools in California;

**Whereas** the Judicial Council has determined that keeping students in school and out of the court system is an important objective for all of California and is hosting a December 4, 2013, summit to bring collaborative teams from many California counties together to plan for reforms that will address the impact of existing school discipline policies and the challenges of chronic absenteeism;

**Whereas** the Legislature is committed to working to reduce unnecessary suspensions and ensure that all students in California have an opportunity to thrive in a safe and supportive school environment and, to that end, has introduced a resolution to declare December 4, 2013, Keeping Kids in School and Out of Court Day in California; and

**Whereas** the Judicial Council is committed to working with the Governor, the Legislature, and local courts and communities to keep kids in school and out of court;

**Now, therefore, be it resolved** that I, Tani G. Cantil-Sakauye, Chief Justice of California, on behalf of the Judicial Council of California, do hereby proclaim December 4, 2013, to be Keeping Kids in School and Out of Court Day, during which multidisciplinary teams from across California will gather to develop collaborative plans to improve school discipline practices and improve school attendance so that children in California will succeed in school and avoid involvement in criminal activity.

*In witness whereof, I have hereunto set my hand this 23rd day of August, 2013*

Attest:

TANI G. CANTIL-SAKAUYE  
Chief Justice of California and  
Chair of the Judicial Council of California

STEVEN JAHR  
Administrative Director of the Courts

**New Permanency Recommendation (Adopted by BRC May 1, 2013)**

Add to Recommendation 1B:

- The courts, whenever possible, work to increase reunification outcomes by holding interim hearings after 45 or 90 days, particularly in the case of very young children, to check on the availability of services, ensure that families and workers are complying with case plans, and review any barriers to a timely and stable transition home.

**BRC Revised Data Sharing Recommendation (May 1, 2013)****Recommendation 3: Collaboration Between Courts and Their Child Welfare Partners**

In California, the courts share responsibility for the safety and well-being of children and youth in foster care with a range of agencies, including child welfare, education, alcohol and drug treatment, mental health, public health, and Indian tribal councils.

This means that families are often involved with more than one agency at a time. These agencies have independent and sometimes conflicting policies and regulations that inhibit communication and sharing of data and information. We learned that because of this problem, judges and attorneys sometimes lack full knowledge of a child's health, mental health, education, language, or citizenship. This means the courts must sometimes make decisions without a complete or accurate picture of the child and his or her family.

We found that this leads to a situation where court-ordered services to benefit families and children sometimes conflict with other court orders or mandated services from other agencies. And the courts and child welfare agencies do not always know what services exist in the community. Often there is limited availability of essential services.

The commission adopted the following recommendations to solve this problem. We believe that collaboration is a critical piece of the foster care puzzle. We know that together we can serve children and families more effectively.

**Recommendation 3**

The Judicial Council, trial courts, and California Department of Social Services should work cooperatively with all departments, agencies, and other stakeholders to ensure optimal sharing of information to promote decision-making that supports the well-being of children and families in the child welfare system consistent with the California Child Welfare Council 2012 Statement on Information Sharing, Data Standardization and Interoperability.

**Recommendation 3A**

The Judicial Council, trial courts, and California Department of Social Services should work cooperatively with all departments, agencies, and other stakeholders to ensure optimal sharing of information to promote decision-making that supports the well-being of children and families in the child welfare system *consistent* with the California Child Welfare Council 2012 Statement on Information Sharing, Data Standardization and Interoperability.

Because the courts share responsibility with child welfare agencies and other partners for the well-being of children in foster care, the courts, child welfare, and other partnering agencies must work together to prioritize the needs of children and families in each system and remove barriers that keep stakeholders from working together effectively.

**The Blue Ribbon Commission recommends that:**

- All California courts, to the extent practicable, use the National Information Exchange Model (NIEM) and unified form to develop, disseminate, and support standards and processes in leveraging education, mental health, substance abuse, and primary healthcare data and information both to preserve existing state and local court investments in information technology and to create more flexible, adaptive systems;
- All California courts, to the extent practicable, incorporate standardized and interoperable data gathering mechanisms specifically designed to allow analysis of court procedures, any court-based delays, and child and family outcomes in dependency cases consistent with national standards;
- The development of dependency components within any court case management system allows for appropriate exchange of education, mental health, substance abuse, and primary healthcare data that maximizes the information available regarding how the courts and the child welfare system are serving children and families and meeting the federal outcome measures specified in the Child and Family Services Reviews and the California Child Welfare Outcomes and Accountability System; and
- Courts and agencies share data and information to improve service to children and families in accordance with applicable state and federal privacy and confidentiality laws.



## Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL AND COURT OPERATIONS SERVICES DIVISION

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# MEMORANDUM

<p>Date May 1, 2013</p> <p>To Blue Ribbon Commission on Children in Foster Care Hon. Richard D. Huffman, Chair</p> <p>From Teri Kook Chair, Data and Information Sharing Workgroup</p> <p>Subject Proposed Revisions to Recommendations on Information Sharing</p>	<p>Action Requested Approve Revised Recommendations</p> <p>Contact Christopher Wu Executive Director to the Commission 415-865-7721 phone 415-865-7217 fax christopher.wu@jud.ca.gov</p>
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### Background and Need for Revision

In 2006, at the commission's request, the Judicial Council adopted a Resolution on Data Sharing recognizing that in order for agencies and courts to fulfill their responsibility to secure safety, permanence and well-being for foster children they must be able to timely track the progress of children, appropriately identify groups of children in need of attention, and efficiently identify sources of delay in court proceedings, and that state judicial leadership should use data to ensure accountability by every court for improved outcomes for children and to inform decisions about allocating resources across the court system.

In 2008 the commission presented a recommendation to the Judicial Council on data and information sharing that, from the judicial branch's perspective, was largely based on the development of the California Case Management System (CCMS). CCMS has since been decommissioned. However, the need for courts and agencies to share information so that informed decisions can be made about children's safety and well-being remains great. Moreover, there have been other advances in the landscape that call for a revised and updated recommendation on this important topic.

The California Child Welfare Council (CWC) adopted a 2012 Statement on Information Sharing, Data Standardization and Interoperability (see attachment). The CWC Statement:

- acknowledges the importance of accessing and using standard information sharing frameworks, models, and data elements,
- envisions an inclusive, integrated state and local information technology strategy that leverages and supports improving the care provided to children and families by holistically addressing their needs, and
- provides for greater availability of timely program data, such as education, mental health, substance abuse, and primary healthcare data, for evaluating program performance.

The CWC was established by the Child Welfare Leadership and Accountability Act of 2006 and serves as an advisory body responsible for improving the collaboration and processes of the multiple agencies and the courts that serve the children in the child welfare system. The CWC is co-chaired by the Secretary of the California Health and Human Services Agency, Ms. Diana Dooley and Justice Vance Raye, Administrative Presiding Justice of the Third District Court of Appeal, the designee of the Chief Justice of California, Tani Cantil-Sakauye. The CWC is charged with monitoring and reporting on the extent to which the agencies and courts are responsive to the needs of children in their joint care;

In 2011, Congress reauthorized for 2012-2016 the Court Improvement Program (CIP) grants to the highest court in each participating state. California has participated in CIP since 1994. The renewed CIP soundly emphasizes:

- Continuous Quality Improvement (CQI) and the data collection and performance measurements that are required to achieve CQI;
- collecting data and developing data collection infrastructure;
- sharing data with the child welfare agencies, state departments of education and other state agencies responsible for child well-being; and
- automated efforts to achieve interoperability with other systems through the use of a national data exchange standard such as:
  - the National Information Exchange Model (NIEM);
  - Medicaid Information Technology Architecture (MITA);
  - National Health Service Information Authority (NHSIA); and
  - bi-directional interfaces with Statewide Automated Child Welfare Information Systems (SACWIS);

Many California Courts, the California Department of Social Services, and other state and County agencies are currently engaged in the development, redesign, or enhancement of their case management systems affording the unique opportunity for sharing education, mental health, substance abuse, and primary healthcare data among the judicial branch, child welfare agencies, education and other appropriate entities. These projects, such as those in the Superior Courts of Orange and San Luis Obispo Counties, have the potential to demonstrate the power of interoperability and early interagency collaboration for subsequent initiatives. In addition, the

National Center for State Courts and the National Consortium for Court Functional Standards have partnered on the development of a number of national standards for courts and developed a set of functional standards and interoperability toolkits.

### Recommended Revision

The commission's Final Report and Recommendations, which was released in 2009, contained the following rationale for and statement of its third overarching recommendation, encouraging collaboration among courts and agencies serving children and families, which is still relevant today:

#### **Recommendation 3: Collaboration Between Courts and Their Child Welfare Partners**

In California, the courts share responsibility for the safety and well-being of children and youth in foster care with a range of agencies, including child welfare, education, alcohol and drug treatment, mental health, public health, and Indian tribal councils.

This means that families are often involved with more than one agency at a time. These agencies have independent and sometimes conflicting policies and regulations that inhibit communication and sharing of data and information. We learned that because of this problem, judges and attorneys sometimes lack full knowledge of a child's health, mental health, education, language, or citizenship. This means the courts must sometimes make decisions without a complete or accurate picture of the child and his or her family.

We found that this leads to a situation where court-ordered services to benefit families and children sometimes conflict with other court orders or mandated services from other agencies. And the courts and child welfare agencies do not always know what services exist in the community. Often there is limited availability of essential services.

The commission adopted the following recommendations to solve this problem. We believe that collaboration is a critical piece of the foster care puzzle. We know that together we can serve children and families more effectively.

#### **Recommendation 3**

Because the courts share responsibility with child welfare agencies and other partners for the well-being of children in foster care, the courts, child welfare, and other partnering agencies must work together to prioritize the needs of children and families in each system and remove barriers that keep stakeholders from working together effectively.

The commission further made a specific recommendation (3A in the original report) that courts and agencies collaborate by sharing data and information to promote informed decisionmaking. Because that recommendation refers several times to the California Case Management System (CCMS), which has since been decommissioned, and in order to recognize recent strides towards better data sharing, including recommendations adopted by the California Child Welfare Council, the workgroup recommends the following amendments to Recommendation 3A:

The Judicial Council, trial courts, and California Department of Social Services should work cooperatively with all departments, agencies, and other stakeholders to ensure optimal sharing of information to promote decision-making that supports the well-being of children and families in the child welfare system *consistent with the California Child Welfare Council 2012 Statement on Information Sharing, Data Standardization and Interoperability*.

**The Blue Ribbon Commission recommends that:**

- ~~The Judicial Council continue its efforts to fully develop and implement the California Court Case Management System and other data exchange protocols, so that the judicial branch, the California Department of Social Services, and other trusted partners will be able to exchange essential information about the children and families they are mandated to serve.~~
  - ~~California Case Management System permit judicial officers in dependency courts to access information about children and families who are involved in cases in other courts.~~
  - ~~California Case Management System and the state Child Welfare Services/Case Management System promote coordinated data collection, data exchange, and filing of documents, including electronic filing, between the courts, social service agencies, and other key partners and track data that permits them to measure their performance.~~
  - ~~The Child Welfare Council prioritize solutions to federal and state statutory and regulatory policy barriers that prevent information sharing between the courts and their partners and that cause delays in the delivery of services and, hence, delays in permanency for children.~~
  - ~~Data systems in the various agencies evolve to capture the growing complexity of California demographics, including issues such as limited English proficiency, use of psychotropic medications, and disabilities.~~
- All California courts, to the extent practicable, use the National Information Exchange Model (NIEM) and unified form to develop, disseminate, and support standards and processes in leveraging education, mental health, substance abuse,

and primary healthcare data and information both to preserve existing state and local court investments in information technology and to create more flexible, adaptive systems;

- All California courts, to the extent practicable, incorporate standardized and interoperable data gathering mechanisms specifically designed to allow analysis of court procedures, any court-based delays, and child and family outcomes in dependency cases consistent with national standards;
- The development of dependency components within any court case management system allows for appropriate exchange of education, mental health, substance abuse, and primary healthcare data that maximizes the information available regarding how the courts and the child welfare system are serving children and families and meeting the federal outcome measures specified in the Child and Family Services Reviews and the California Child Welfare Outcomes and Accountability System; and
- Courts and agencies share data and information to improve service to children and families in accordance with applicable state and federal privacy and confidentiality laws.



# CALIFORNIA CHILD WELFARE COUNCIL



EDMUND G. BROWN, JR.  
Governor

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Secretary, California Health and  
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Cochair, California Child Welfare Council

TANI G. CANTIL-SAKAUYE  
Chief Justice of California and  
Chair of the Judicial Council

VANCE RAYE  
Administrative Presiding Justice  
Cochair, California Child Welfare Council

June 22, 2012

## ***Statement on Information Sharing, Data Standardization and Interoperability***

The California Child Welfare Council (“Council”) acknowledges the importance of legal protections concerning confidentiality for children, families, and caregivers served by state and local agencies, the courts, and other public and private entities. The Council acknowledges these entities deal with extremely personal and sensitive information in attempting to provide an array of services and resources to meet the complex needs of children, families, and caregivers. Given this complexity and the vast number of programs and services involved, the Council also acknowledges that children, families, and caregivers are best served in a system that allows for fully informed decisions and timely access to information to meet the needs of this population.

The Council further acknowledges the importance of accessing and using standard information sharing frameworks, models, and data elements. Standardization provides a basis for interoperable systems and reusable data exchanges. This is necessary to advance an effective integrated system of care that ensures children and families assisted by the child welfare system and those who serve them are appropriately informed and acquire timely access to comprehensive information.

The Council envisions an inclusive, integrated state and local information technology strategy that leverages and supports:

- Improving care provided to children and families by holistically addressing their needs (e.g., “no wrong door”);
- Improving connections among comprehensive health services (including mental, behavioral, substance abuse, etc.), human services, and education services;
- Reducing cost of operation and maintenance for all levels of government and the private sector through sharing reusable data exchanges and information technology resources; and
- Providing greater availability of timely program data for evaluating program performance.

The Council envisions comprehensive information linkages within workplaces dedicated to routine and systemic sharing across jurisdictional boundaries while ensuring confidentiality and legal protections for children, families, and caregivers with respect to personal and sensitive information.

The Council enthusiastically affirms its continued commitment to the exchange of child welfare information between federal and state government, tribes and tribal organizations, local public entities, the courts, and authorized child-serving private entities. The Council is further committed to research and analysis of data to achieve continuous improvement across systems—further enhancing informed public policy decision making.

The Council joins the California Blue Ribbon Commission for Children in Foster Care in endorsing information technology systems that allow for appropriate data exchange and maximizes the information available regarding how the courts and the child welfare system are serving children and families and meeting the federal outcome measures specified in the Child and Family Services Reviews and the state's Child Welfare Outcomes and Accountability System as implemented in Assembly Bill 636.

Therefore, the Council urges collaborative and cooperative efforts by federal and state government, local public agencies, the courts, tribes and tribal organizations, and authorized child-serving private entities in undertaking and implementing information sharing initiatives and transforming the way we share information with each other. The Council also urges that these entities reinforce the central attributes of its information sharing policy—to ensure that child welfare information is shared comprehensively and routinely; to provide information responsive to the needs of each other; and to present that information in forms useful to children, families, and caregivers.

The Council supports and encourages, to the extent practicable, the use of national, nonproprietary, and interoperable standards to leverage and preserve existing state and local investments in information technology and create more flexible, adaptive systems.

Furthermore, the Council recommends moving forward aggressively to document, develop, and expand information gathering and sharing capabilities to permit each entity to participate more fully and uniformly in information sharing efforts and to draw upon existing relationships and agreements whenever possible to lend leadership and assistance to implementation. The Council encourages the leadership of all child- and family-serving systems to advance the ability to share data across those systems.

The Council recommends and urges all information technology efforts involved in the exchange of information regarding children and families served by the child welfare system to:

- Establish a common data element vocabulary;
- Promote the development, sharing, use, and reuse of information technology processes, applications, data structures, and infrastructures required to enable data exchanges;
- Use common frameworks and models, such as the Service-Oriented Architecture (SOA) model, to encourage flexible applications;
- Use interoperable standards developed and maintained by Federal entities and intergovernmental partnerships, such as the National Information Exchange Model (NIEM) standard, as the basis for information exchanges; and
- Use common or uniform confidentiality/privacy agreements consistent with Federal and State laws.

Furthermore, the Council recommends the dynamic use of standardization so the goals of improving care and connections, reducing costs, and providing timely data are achieved over time as policies, practices, and technologies evolve from the changing needs of children and families and adapt to the continuous improvements in child welfare services.



## Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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# MEMORANDUM

Date	Action Requested
May 1, 2013	Approve New Recommendation
To	Deadline
Blue Ribbon Commission on Children in Foster Care	N/A
Hon. Richard D. Huffman, Chair	Contact
	Chris Cleary
From	Lead Staff to the Commission
Hon. Dean Stout, Chair	415-865-8792 phone
Permanency & Reunification Workgroup	christine.cleary@jud.ca.gov
Subject	
New Recommendation on Interim Hearings	

## Background

Interim reviews are non-statutory court hearings designed to address a specific issue or issues. They can be useful to the juvenile dependency court to avoid delays and to address problems early in the case.

The most useful interim reviews address one or more of the following issues:

1. Paternity
2. Application of the Indian Child Welfare Act (ICWA)
3. Service Plan Compliance
4. Visitation
5. Receipt of Psychological and other reports
6. Progress towards adoption post Termination of Parental rights

The interim review should be a short hearing and not require a long social worker report. One page forms have been developed that permit the social worker to check boxes. If, however, there is a problem, the social worker can address that issue in the report. Some juvenile courts set 30

or 45 day interim hearings in every case to make certain that the issues listed above are all in place. Waiting until the six month review often is too late to give the family a fair opportunity to reunite successfully with their child.

The National Council of Juvenile and Family Court Judges' *Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases* recommends that courts should have the ability to conduct review hearings more frequently than the minimum intervals:

Frequent review hearings require that courts have sufficient personnel to conduct the hearings properly. Whatever the frequency of mandatory review, the court should have the ability to conduct hearings more frequently than the minimum intervals. Where review hearings are mandated at least every six months, it should still be common to hold reviews at two or three month intervals at particularly critical stages of a case. In special circumstances, it also should be common to bring matters back to court on short notice. (*Guidelines*, p. 68.)

The *Guidelines* also recommend more frequent hearings for permanency planning:

If the goal of family reunification is not to be abandoned by default, one year should be considered a maximum time for the first hearing designed to make a long-term placement decision. For younger children whose emotional relationships are likely to break down quickly after separation, a shorter time is essential. (*Guidelines*, p. 80.)

**RECOMMENDATION:** That the Blue Ribbon Commission recommend that courts (individually or through a local blue ribbon commissions) consider implementing interim reviews.

### **Proposed Recommendation**

Add to Recommendation 1B:

- The courts, whenever possible, work to increase reunification outcomes by holding interim hearings after 45 or 90 days, particularly in the case of very young children, to check on the availability of services, ensure that families and workers are complying with case plans, and review any barriers to a timely and stable transition home.

**Attachments:**

- Full text of current Blue Ribbon Commission on Children in Foster Care Recommendation 1.
- Juvenile Court Corner: Interim Hearings, by Hon. Leonard Edwards (Ret.) (from *The Bench*)

## Recommendation 1: Reasonable Efforts to Prevent Removal and Achieve Permanency

Because families who need assistance should receive necessary services to keep children safely at home whenever possible, the Blue Ribbon Commission recommends that the Judicial Council, the California Department of Social Services, and local courts and child welfare agencies implement improvements to ensure immediate, continuous, and appropriate services and timely, thorough review for all families in the system.

### **Recommendation 1A**

Children and families need access to a range of services to prevent removal whenever possible. All reasonable efforts should be made to maintain children at home in safe and stable families. The courts should make an informed finding as to whether these efforts actually have been made.

The Blue Ribbon Commission recommends that:

- The courts and partnering agencies tailor resources to make sure they have sufficient information and time to establish that all reasonable efforts have been made to prevent removal.
- All children and families receive timely and appropriate mental health, health care, education, substance abuse and other services, whether children reside with their own parents or with relatives, foster parents, guardians or adoptive parents or are in another setting.
- At the earliest possible point in their involvement with the family, child welfare agencies engage family members, including extended family wherever they may live, to support the family and children in order to prevent placement whenever possible. Child welfare systems should develop and improve internal protocols for finding family members.
- The courts and partnering agencies work to reduce the disproportionate number of African-American and Native American children in the child welfare system.
- Judicial officers, attorneys, social workers and other professionals who serve foster children and their families increase the diversity and cultural competence of the workforce.
- The Judicial Council work with local, state, and federal leaders to advocate for greater flexibility in the use of federal, state, and local funding for preventive services.

### **Recommendation 1B**

If foster care placement is necessary, children, families, and caregivers should have access to appropriate services and timely court reviews that lead to prompt reunification with family

whenever it is possible, or, when it is not, to alternative permanency as quickly as possible. Service delivery and court review should ensure that all reasonable efforts are made to return children home, to make sure families and workers comply with case plans, and to achieve timely and stable transitions home or, if necessary, to place with relatives or in another permanent, stable family.

The Blue Ribbon Commission recommends that:

- The Judicial Council work with state and federal leaders to advocate changes in law and practice to increase and encourage more relative placements; including:
  - Addressing funding disparities;
  - Developing greater flexibility in approving relative placements whereby relatives would not, by virtue of federal law, be held to the same standard as nonrelatives; and
  - Formulating protocols to facilitate swift home assessments and placement with family members when appropriate.
- The courts and child welfare agencies expedite services for families and ensure that foster children maintain a relationship with all family members and other important people in their lives.
- **[THIS COULD BE AN APPROPRIATE PLACE FOR A RECOMMENDATION ON INTERIM HEARINGS.]**
- Because family reunification is the preferred form of permanency in the overwhelming majority of child welfare cases under federal and state law, the Judicial Council and the state Department of Social Services work together to urge Congress to provide financial incentives to state child welfare agencies for the successful reunification of families, similar to the incentives provided for the successful completion of adoptions from the child welfare system.
- The courts and child welfare agencies ensure the provision of appropriate postpermanency services for newly reunified families.
- The courts ensure that children who cannot return home receive services and court reviews to enable them to successfully transition into a permanent home and into adulthood. This includes paying attention to each child's language, development, and cultural needs in making decisions about home and school placements, visitation, education, and mental health needs. It also means making sure they have consistent community ties and help from supportive adults, such as mentors, as they grow up.
- All court participants continuously review and make extraordinary efforts to preserve and promote sibling connections and coplacement.
- Children and families receive continuous and comprehensive services if a child enters the delinquency system from foster care.

- The Judicial Council and the state Department of Social Services work together to urge Congress, the state Legislature, and state and local agencies to ensure that THP-Plus programs sustain a level of funding sufficient to maintain and expand program capacity to meet the demonstrated need of youth aging out of the foster care system.
- The Judicial Council work with federal and state leaders to support or sponsor legislation to extend the age when children receive foster care assistance from age 18 to age 21. This change should apply to those children who at age 18 cannot be returned home safely, who are not in a permanent home, and who choose to remain under the jurisdiction of the court. If the court terminates jurisdiction prior to a youth's 21st birthday, the youth should have the right to reinstatement of jurisdiction and services.
- The Judicial Council work with local, state, and federal leaders to develop practices, protocols, and enhanced services to promote both placement and placement stability of children and youth in family-like, rather than institutional, settings.