

# Youth Law News

Journal of the National Center for Youth Law



Vol. XXVIII No. 1

JAN - MAR  
2007

## Braam v. State of Washington: New Developments Under the Reform Process

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Tremendous progress has been made in the almost three years since the settlement agreement in *Braam v. State of Washington* was signed. *Braam* was a case filed in 1998 by current and former foster children against the state of Washington. Plaintiffs sought damages for injuries caused by the state foster care agency's practice of shuttling the children from one foster home and facility to another. The parties settled the case in 2004. The settlement agreement calls for the state to take specific steps and meet certain criteria during the following years in order to improve the lives of foster children. This spring is a very exciting time in the settlement process as three new developments take place. First, the *Braam* Panel will release its first report on benchmark data this Spring. Second an innovative way of measuring foster parent training and support – the foster parent survey – will be debuted. And finally, the *Braam* Panel recently published a list of professional standards to be used in enforcement of the settlement agreement.

### **Benchmark Data to be Released This Spring: Are the Lives of Foster Children Improving, and How Much?**

The next few months are a particularly important time in the *Braam* reform process. The Panel will release its third six-month monitoring report this Spring. Although the Panel has previously released two monitoring

reports, those reports evaluated the Department of Social and Health Services' (the "Department") performance on action steps. The third report will be the first to track benchmark data. The use of benchmark data in the *Braam* case is a hallmark of the settlement agreement.

The distinction between actions steps and benchmark data is important. Under the settlement agreement, the Department is responsible not only for completing specific tasks by set deadlines ("action steps"), but also for meeting benchmarks that measure changes in the lives of foster children throughout the state. In essence, while the action steps are equivalent to a list of chores, the benchmarks ask whether the house is actually getting any cleaner. As such, the report on benchmarks will tell us whether the lives of foster youth in Washington State are truly improving.

Once the third monitoring report has been released, NCYL will provide updates and analysis of the Department's progress on the benchmark measures at <http://www.braamkids.org> and <http://www.youthlaw.org>.

### **The Braam Foster Parent Survey – A New Approach to Measuring How Foster Parents are Trained and Supported**

One of the more innovative processes to measure data in the *Braam* settlement agreement – the use of parent surveys – will begin this Spring. The

settlement agreement calls for the measurement of most benchmarks by using administrative data that the Children's Administration (CA) – the division of the Department responsible for foster care – keeps in case files and a centralized database. Examples include the number of times a child's placement with a family or facility changes or the length of time from a child's entry into the system to his or her receipt of an initial health screening. However, in a groundbreaking approach to measuring system improvement, the *Braam* settlement agreement requires that some of the benchmark data be gathered directly from foster parents themselves through a foster parent survey. The use of a foster parent survey provides a very exciting opportunity to track the day-to-day experiences of the foster parents and relative caregivers who are the backbone of the system.

The survey will inform benchmark data on foster parent training and support, including the percentage of caregivers that receive adequate training and support for their responsibilities and the percentage of caregivers that receive adequate information about the needs of children placed with them. The settlement requires that these numbers significantly improve over the course of the settlement.

Conducting a survey of this size and importance involves many considerations. One key concern is making sure that foster parents feel free to

share their opinions. Sadly, there is often a level of mistrust between foster parents and foster care agencies. Because foster parents and other stakeholders in the case felt strongly that anonymity in the survey was crucial to ensure honest participation and assuage any foster parent concerns about retaliation, the survey will be conducted by an independent research body -- Washington State University's Social and Economic Sciences Research Center (SESRC). SESRC will share only summary results with the Panel, the Children's Administration, and the Plaintiffs in order to prevent any possible identification of individuals through answers to specific questions.

This Spring and Summer SESRC will conduct the survey over the phone with approximately 1,200 foster parents and relative caregivers from the six Department of Social and Health Services regions in Washington State. The foster parents interviewed will be randomly selected out of the entire pool of foster parents and relative caregivers in the state. The willingness of foster parents to participate in the survey during pilot testing was very promising.

SESRC developed the 30 to 45 minute survey with input from public panel meetings, an advisory group, and focus groups including foster parent representatives from each region. The survey questions probe the day-to-day experiences of foster parents. For example, the survey questions whether a caregiver received health information for their foster child within 30 days after the child was placed in their home, inquires how often the social worker has private and individual visits with the child, and asks how often (or whether) the child had contact with siblings. The *Braam* Panel will use the survey responses to determine the baseline measure for 2006. For each remaining year of the settlement, CA will be responsible for improving over the 2006 baseline data. CA's progress will be measured by future surveys.

### **Braam Panel Releases Professional Standards**

This past March marked the *Braam* Panel's publication of its list of professional standards. The *Braam* settlement agreement required the *Braam* Panel, in collaboration with the Department and with substantial input from the Plaintiffs, to establish professional standards to be used in the event of enforcement proceedings. Professional standards refer to standards of practice for the child welfare agency (here, the Children's Administration) that establish clear expectations for the treatment of children in the foster care system. These standards clarify expectations for social workers as well as the state administration.

Under the settlement agreement, the parties agreed that the standards established by the Panel would be used if the case goes back to court in the event the Department fails to complete action steps or reach benchmarks. The issue in such an enforcement proceeding would be whether the Department's noncompliance with the Implementation Plan constitutes a substantial departure from professionally accepted standards. This comes from the Supreme Court of Washington's decision stating that under the relevant legal standard, a substantial departure from professionally accepted standards that harms children is a constitutional violation. For example, if it is a professionally accepted standard to visit a child every 30 days, and children are being visited only every 6 months and are harmed in their foster homes as a result, the constitutional rights of the foster children are violated. It is important to note that the *Braam* agreement does not require full compliance with nor include a mechanism to monitor whether standards are being followed in each and every case. Instead, they provide the professional standards to be used in an enforcement proceeding, as explained above; standards which also set "clear expect-

## **The Braam Implementation Plan**

The Braam Panel created an Implementation Plan under the settlement agreement. For each of the substantive areas covered in the settlement agreement, the plan sets out four things: goals, outcomes, benchmarks, and action steps.

### **Goals**

The goals are broadly stated and form the framework for the more specific outcomes, benchmarks, and action steps. For example, the main goal in the area of placement stability is that "each child in the custody of the Department shall have a safe and stable placement with a caregiver capable of meeting the child's needs." Braam Settlement Implementation Plan, February 3, 2006, p.9; Braam Final Settlement, July 31, 2004, p.6. For the most part, these goals existed in the original settlement agreement.

### **Outcomes**

Outcomes are somewhat narrower; they "identify specific, required results that will advance the child welfare system towards a stated goal." Under each outcome, the Panel developed one or more benchmarks, with the purpose of providing "a measure to enable the Panel to monitor the progress of the Department in meeting the specific outcome identified." Braam Final Settlement, July 31, 2004, p.4.

### **Benchmarks**

Benchmarks are specific percentage increases or decreases from a baseline of current performance, based on data from fiscal year 2005.

### **Action Steps**

The action steps are specific tasks the Department must complete. These tasks were designed to help the Department achieve the targeted improvements for foster children.

tations for the treatment of children in the foster care system” for the Children’s Administration and individual caseworkers.

The *Braam* Panel’s professional standards are composed of selected standards from the Council on Accreditation (COA). In a small number of cases in which the Panel found the latest edition of the COA standards to be insufficient, the Panel added its own interpretations. These incorporate concepts from other sources such as the American Academy of Pediatrics and COA standards that were not selected for full inclusion by the Panel.

While the Panel decided not to include goals, benchmarks, or outcomes of the Implementation Plan as professional standards, those will be monitored separately through the Panel’s regular reporting process. And while the Panel also chose not to include state statutes as professional standards, the Panel has noted that “[a]s with goals, outcomes and benchmarks, the Department must comply

with statutes even though they have not been included as professional standards...”

All standards apply to all children in the *Braam* class, including both those children living in licensed settings and those living in unlicensed relative placements. There are a few exceptions that are noted in the standards themselves.

The existence of these standards is another unique feature of the *Braam* settlement agreement. As child welfare in individual states is increasingly guided by national professional standards, having these standards in place gives Washington State an opportunity to be at the forefront of model child welfare practice by making them an integral part of the operation of the Washington State foster care system.

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## Example of the Braam Panel’s Professional Standards

Some of the professional standards adopted by the Braam Panel are listed here. These standards derive from the Council on Accreditation standards for public agencies. The full list can be found at <http://www.coastandards.org>.

### Foster Care 18.06

A manageable workload, which includes caseload and other agency responsibilities: makes it possible for workers to meet practice requirements; does not impede the achievement of outcomes; and takes into consideration the qualifications and competencies of the worker and case status and complexity. Braam Panel Interpretation: Generally, caseloads do not exceed 18 children or 8 children with special therapeutic needs. Case complexity can take into account intensity of child and family needs, size of the family, and the goal of the case.

### Foster Care 2.04

The child receives an initial health screening from a qualified medical practitioner within 72 hours of entry into care to identify the need for immediate medical or mental health care and assess for infectious and communicable diseases. Braam Panel Interpretation: The mental health screening identifies suicidal ideation or history of suicide attempts and aggressive, dangerous, self-destructive, or psychotic behaviors.

### Foster Care 12.01

The family foster care worker meets separately with the child and the parents at least once a month to:

- a. Assess safety and well-being;
- b. Monitor service delivery; and
- c. Support the achievement of permanency and other service plan goals.

Braam Panel Interpretation: Therapeutic foster care providers visit with the child at least twice a month.

### Kinship Care 7.04

Sibling relationships are maintained through placement together or through communication, visits, and shared activities.

## Braam Chronology

1998	<b>Case filed.</b> Current and former foster children sue the state of Washington, seeking damages for injuries caused by the state’s foster agency practice of shuttling the children from one foster home or facility to another.
2000	<b>Case Amended.</b> Injunctive relief sought on behalf of statewide class of children.
Dec 2003	The Washington State Supreme Court decides <i>Braam v. State of Washington</i> , holding that foster children have a substantive due process right to be free from harm in the state’s care.
July 2004	<b>Settlement Agreement.</b> The agreement covers six substantive areas: placement stability, mental health, safe and appropriate placements, foster parent training and information, sibling placement, and services to adolescents.
Feb 2006	<b>Implementation Plan.</b> The <i>Braam</i> Oversight Panel releases the Implementation Plan. See <a href="#">The Braam Implementation Plan</a> , below, for specifics.
March 2006	<b>1<sup>st</sup> Monitoring Report released.</b> The report tracks the performance of the Department on action steps.
Sept 2006	<b>2<sup>nd</sup> Monitoring Report released.</b> The report tracks the performance of the Department on action steps.
March 2007	<b>Professional Standards.</b> The <i>Braam</i> Panel releases its list of professional standards
April 2007	<b>3<sup>rd</sup> Monitoring Report to be released.</b> This report will be the first to track the performance of the Department on meeting specific benchmark standards.