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Youth, Rights & Justice

# Nonplacement Litigation & Settlement Summary

# Settlement Agreement Goal

“All parties share the goal of providing every foster child and young adult with placement in a safe setting that is the least restrictive, most family-like and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the foster child or young adult.”

Final Settlement Agreement, Section V. A.

# Settlement Agreement Education Obligations

**Attendance** “If a foster child or young adult is temporarily lodged while school is in session, DHS shall transport the foster child or ensure the foster child is transported, and shall offer to transport or offer to arrange for the transportation of the young adult, to the school where the foster child is enrolled, subject to the application of a reasonable and prudent parent standard to excuse the foster child or young adult from school.

**Enrollment** Where the juvenile court has made a determination that it is not in the best interest of the foster child or young adult to continue attending the school he or she attended prior to the temporary placement or any other school in that school district, then DHS shall take all necessary steps to enroll the foster child, and any young adult who wishes to be enrolled and is eligible for enrollment, in a new school within three business days. If the foster child was not enrolled in any school prior to the temporary lodging, DHS shall take all necessary steps to enroll the foster child in a school where the foster child is eligible to be enrolled within three business days, and then transport the foster child or ensure the foster child is transported to school once enrolled, unless an appropriate placement has been located for the foster child which has committed to accepting the foster child within a short period and it would be more disruptive to the child to change schools.

**Ensure Adequate Educational Services**<sup>4</sup> Nothing in this Settlement Agreement, \*\*\*excuse[s] any preexisting legal obligation of DHS to ensure that the foster child or young adult has adequate educational services.”

# Nonplacement Lawsuit Timeline

2012-2013	Children stayed in ODHS offices, hospitals past discharge date, and juvenile detention facilities. ODHS started housing children in hotels.
2016	Oregon Law Center and Youth, Rights & Justice sued the State of Oregon over ODHS nonplacement behavior.
2018	Parties entered into a settlement agreement. The settlement required <u>what</u> outcomes ODHS must achieve but left <u>how</u> the outcomes would be accomplished to ODHS.
2016-2020	ODHS increasingly placed children in out-of-state facilities.
2022	Settlement agreement would have terminated if OHDS demonstrated substantial compliance.
2019, 2022	Enforcement actions regarding ODHS noncompliance.
2024	Special Master Dr. Marty Beyer issued Report.
2026	Settlement agreement terminates.

# Agreement Limits on ODHS's Use of Hotels

## Reduce Number of Children & Young Adults ODHS Places in Hotels

June-December 2018: No More than 120

January –June 2019: No More than 90

July –December 2019: No More than 45

January –June 2020: No more than 23

July – December 2020: No more than 12

## Reduce Number of Hoteling Occasions per Episode of Care

Each child will have no more than two occasions per episode of care.

Each young adult will have no more than three occasions per episode of care.

## Reduce Number of Days in Hotel

Each Child Ages 0-10: Up to 5 nights

Each Child Ages 11-17: Up to 12 nights

Each Young Adult 18-20: Up to 21 nights

# August & September 2025 Numbers

## Number of Children & Young Adults ODHS Placed in Hotels

August – 20 Kids

Ages: Number of Kids

10-13: 6

14-17: 10

18-21: 4

September – 21 Kids

Ages: Number of Kids

10-13: 4

14-17: 15

18-21: 2

## Average Number of Hoteling Occasions per Episode of Care

Children 10-17:

1.8 Occasions

Young Adults 18-20:

5 Occasions

## Average Number of Days in Hotel per Age Group

Children 10-17:

38 Nights

Young Adults 18-20:

326 Nights

## Hotel Exits to Next Placement 1/1/2021-8/31/2022      Number

Regular Family Foster Care (non-relative)	59
Left Placement Without Permission	28
Residential Treatment - Facility	23
Temporary Relative Visit	16
Trial Reunification with Parents	9
Relative Foster Care	8
I/DD - Foster Care	7
I/DD - Group Home	7
Residential Treatment – Home	6
I/DD - Stabilization and Crisis Intervention	6
Emergency Room	5

# What Has Worked?

# Preventative, Collaborative Staffing

Preventative collaborative staffing, coordinated by ODHS, that focuses on a particular child's or young adult's individual strengths and needs and individualized supports required for that child's or young adult's caregivers to meet those needs, have prevented ODHS placing some children/young adults in hotels.

*"The high costs of TL prevention are often the result of services not being provided much earlier, less expensively and from resources other than state funds. Had children's behaviors soon after entering care been treated, through therapy and IEPs, for example, and their caregiver been supported to teach emotional regulation and improved comprehension, many of them might not have required costly contracts to manage behavior in an older, less trusting child."*

Special Master Report, page 5.

# Youth, Rights & Justice SchoolWorks Program

97% Children not attending school are re-enrolled or reinstated in school.

86% Children with behavior challenges have fewer disciplinary referrals and/or behavior interventions.

87% Children who were academically behind demonstrate academic improvement.

89% Children struggling with chronic absenteeism show reduced absence rates.

96% Children who need special education/support services now have services in place.

SchoolWorks provides legal representation for child welfare involved students or their parents to ensure that students get the support they need to enroll and stay in school, and to succeed and graduate. SchoolWorks services lead to improved attendance, better academic outcomes, and more accessible special education supports.

# Recommendations

# The Third Placement Alarm

*In Oregon, 39% of children in foster care have more than two placements.*

Dr. Beyer concludes that placement instability “*has become business as usual*” in Oregon.

*Placement instability starts the cycle of loss of school and friends and increased feeling they do not belong, reduced trust and increased alertness for small indications of rejection, and their behavior reflects their anger and sadness, which overwhelms the caregiver, and the child/youth moves again, changing schools, friends, therapists. Placement instability is a major cause of emotional outbursts.*

*It is recommended that each community have an automatic alarm when a child is about to enter a third placement.*

When the third placement alarm sounds, DHS will conduct an individualized assessment and develop a strength/needs based plan for the child and caregivers.

Special Master Report, pages 12, 14.

# Individualized Assessment & Development of Strength/Needs Based Plan

ODHS will convene a group of all the adults in the child's life, and the child, if able to participate, to develop a strengths/needs-based plan that specifically meets the child's needs and supports the caregiver to meet those needs.

The participants will:

- *Recognize the strengths of the child, family and caregiver, and*
- *Identify the needs behind the behaviors that the caregiver and school are having difficulty managing. These are not service needs. They are needs connected to the child feeling emotionally unsafe due to trauma and the child not comprehending due to delayed development. But each need is unique in how it drives behavior for that child.*

To develop the plan, the group identifies the child's, family's and caregiver's strengths and needs and asks the following questions:

- *What would it take to meet each need?*
- *What is each adult's role in meeting each need?*
- *What would support their caregiver and parent to meet their needs?*

# The Constraints of CANS

All children receive a CANS (Child and Adolescent Needs and Strengths) assessment within 60 days of entering care. CANS results identifies a child's supervision level and determines eligibility for a level of care payment that is in addition to the base rate reimbursement to the resource parent.

*"Reliance on the CANS may have both impeded "clinical" thinking by non-clinicians and made many individuals consider it unnecessary to understand the unique needs of this child behind their behavior. To know a child/youth has a high score on trauma symptoms or cognitive or social problems does not tell anyone on their team what the unique, specific needs behind their behavior are."*

Special Master Report, page 14.

Thank  
you

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