

# California Blue Ribbon Commission on Children in Foster Care Final Recommendations to the Judicial Council

1

## 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.

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 American Indian 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.

1B

If foster care placement is necessary, children, families, and caregivers should have access to appropriate services and timely court reviews that lead to 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.
- 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 co-placement.
- 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 for transitional housing 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 before 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.

2

Recommendation 2  
Court Reforms

Because the courts are responsible for ensuring that a child’s rights to safety, permanency, and well-being are met in a timely and comprehensive manner and that all parties are treated fairly in the process, the Blue Ribbon Commission recommends that the Judicial Council and the trial and appellate courts make children in foster care and their families a priority when making decisions about the allocation of resources and administrative support.

2A

The trial and appellate courts must have sufficient resources to meet their obligations to children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- Consistent with Judicial Council policy, judges—not subordinate judicial officers—hear dependency and delinquency cases. Pending a full transition from subordinate judicial officers to judges (through reassignment or conversion of subordinate judicial officer positions to judgeships), presiding judges should continue the assignment of well-qualified and experienced subordinate judicial officers to juvenile court.
- The Judicial Council work with bar organizations, the Governor’s office, and state and local leadership to ensure that juvenile law experience is given favorable consideration during the judicial appointment and assignment process and well-qualified subordinate judicial officers and attorneys with juvenile law experience are encouraged to apply for vacant judicial positions.
- Presiding judges follow standard 5.40 of the California Standards of Judicial Administration and assign judges to juvenile court for a minimum of three years and give priority to judges who are actively interested in juvenile law as an assignment.
- The Judicial Council undertake a new judicial caseload study focused specifically on juvenile dependency courts. The study should take into account the court’s unique oversight and case management responsibilities and address the use of case managers to support judges in meeting their workloads.
- Pending completion of the study, presiding judges evaluate their current allocation of judgeships and resources and make adjustments as necessary. If reallocation of existing resources is not sufficient, the Judicial Council should seek additional funding to ensure full implementation of the standards and statutory requirements.
- The Administrative Office of the Courts (AOC) help courts comply with the judicial standard outlining the knowledge, commitment, and leadership role required of judicial officers who make decisions about children in foster care (see standard 5.40 of the California Standards of Judicial Administration). Presiding judges of the superior courts should receive training in the role and duties of juvenile court judicial officers as outlined in the standard.

2B

All participants in dependency hearings and subsequent appeals, including children and families, should have an opportunity to be heard and meaningfully participate in court.

The Blue Ribbon Commission recommends that:

- Judicial officers identify and engage all parties in each case as early as possible. A particular emphasis should be placed on finding fathers and identifying Indian tribes where applicable.
- Judicial officers and other stakeholders remove barriers that prevent children, parents, and caretakers from attending hearings. This includes addressing transportation and scheduling difficulties, as well as exploring telephonic appearances and other technological options.
- The Judicial Council and other stakeholders develop and implement laws and policies to promote relative finding, funding, assessment, placement, and connections.
- The Judicial Council provide an expedited process for all juvenile dependency appeals by extending the application of rule 8.416 of the California Rules of Court to all dependency appeals.
- The Judicial Council require the appointment of independent counsel for all children in juvenile dependency appeals.

2C

Judicial officers should ensure that local court practices facilitate and promote the attendance of children, parents, and caregivers at hearings.

The Blue Ribbon Commission recommends that:

- Hearings be available at times that do not conflict with school or work or other requirements of a family's case plan.
- To the extent feasible, hearings be set for a specific date and time. Delays should be minimized, and hearings should be conducted on consecutive days until completed.
- A concurrent criminal proceeding should not mean delay of a dependency case.
- All parties, including children, parents, and social workers, have the opportunity to review reports and meet with their attorneys before the initial hearing and in advance of all subsequent hearings.
- Hearings be timely and meet all federal and state mandated timelines. Continuances should be minimized, and the reasons for systemic continuances should be addressed by the local court and child welfare agency.
- All participants leave court hearings with a clear understanding of what happened, why decisions were made, and, if appropriate, what actions they need to take.
- The AOC provide judicial officers and court participants with education and support to create courtroom environments that promote communication with, and meaningful participation of, all parties, including children, that takes into account age, development, language, and cultural issues.
- The same judicial officer hear a case from beginning to end, when possible.
- Courts explore telephonic appearance policies and new technology options to ensure participation in juvenile court hearings.

2D

The court's ability to make fair, timely, and informed decisions requires attorneys, social workers, and Court Appointed Special Advocates (CASAs) who are well qualified and have the time and resources to present accurate and timely information to the courts.

The Blue Ribbon Commission recommends that:

- The Judicial Council advocate for the resources, including a stable funding source, necessary to implement the council’s recently adopted attorney caseload standards, to implement caseload standards for social workers, and to develop and implement caseload standards for social services agency attorneys.
- The Judicial Council take active steps to promote the advancement of juvenile law as a sought-after career. Accomplishing this recommendation requires:
  - Fair and reasonable compensation for court-appointed attorneys;
  - Adoption and implementation of a methodology for determining attorney effectiveness;
  - Forgiveness of student loans for attorneys who commit a substantial portion of their careers to juvenile law;
  - That public and nonprofit law offices hire and retain attorneys based on their interest in the field and encourage them to build careers in juvenile law; and
  - Collaboration with State Bar of California leaders to include juvenile dependency law as a mandatory area of study for the California Bar exam and create a State Bar juvenile law section.
- The Administrative Office of the Courts expand multidisciplinary training opportunities for court professionals and other participants, including caregivers, educational representatives, CASA volunteers, and tribal leaders. Training should include conferences as well as distance learning opportunities.
- The Judicial Council continue to support the development and expansion of CASA programs and to help make available CASA volunteers for all foster children in the dependency system. State funding for CASA programs should be expanded to allow for appointments in all cases.
- Local or regional legal advocacy resource centers be established to ensure that the nondependency legal needs of dependent children and their parents are appropriately addressed. This includes education, immigration, tribal enrollment or other requirements to receive the benefits of tribal membership, tort issues, and other issues.

2E

All courts should have nonadversarial programs available as early as possible and whenever necessary for children and families to use to resolve legal and social issues when appropriate.

The Blue Ribbon Commission recommends that:

- Mediation and other forms of alternative dispute resolution be available in all courts at any time in the proceedings.
- Families in all counties have access to other types of court proceedings—drug, mental health, and unified courts, for example—that can help them remain together or, if the children are removed, to stabilize and reunify the family as soon as possible.
- Presiding judges work with agencies to ensure that families in all counties have access to specific nonadversarial child welfare–based practices such as family group conferencing, team decisionmaking, and family team meetings.

2F

The Judicial Council should establish and implement a comprehensive set of court performance measures as required by state law (Welf. & Inst. Code, § 16545).

The Blue Ribbon Commission recommends that:

- The Judicial Council adopt and direct the AOC to work with local courts and state agencies to implement a rule of court that embodies the commission's following recommendations:
  - Court performance measures include those for safety, permanency, timeliness of court hearings, due process, and child well-being;
  - Court performance measures align with and promote the federal and California Child and Family Services Review outcome measures and indicators;
  - The California Court Case Management System (CCMS) collect uniform court performance data and have the capability to produce management reports on performance measures; and
  - Trial court performance measures be included in a separate Judicial Council–approved AOC Implementation Guide to Juvenile Dependency Court Performance Measures.
- These performance measures and management reports be used for the following:
  - To promote court accountability for ensuring fair and timely hearings and to inform improvements in local case processing;
  - To provide stakeholders and the public with an aggregate picture of the outcomes for children before the court and to increase the public's understanding of the court's role in the child welfare system; and
  - To measure compliance with statutory mandates and effective practices.
- The Judicial Council work with the Child Welfare Council and local courts and state agencies to develop uniform child well-being performance measures. Based on these measures, the AOC Center for Families, Children & the Courts should work with local courts to develop and implement educational tools that help courts improve child well-being outcomes.
- The Judicial Council and other stakeholders advocate at the federal, state, and local levels for the funding necessary to implement recommended court performance measures.

**3**

### Recommendation 3 Collaboration Among Courts and Partnering Agencies

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.

**3A**

The Judicial Council, trial courts, and state Department of Social Services should work cooperatively with all departments, agencies, and other stakeholders to ensure optimal sharing of information to promote decisionmaking that supports the well-being of children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- The Judicial Council continue its efforts to fully develop and implement the California Court Case Management System, as well as 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.
- CCMS permit judicial officers in dependency courts to access information about children and families who are involved in cases in other courts.
- CCMS 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 prioritizes 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.

**3B**

The presiding judge of the juvenile court and the county social services or human services director should convene multidisciplinary commissions at the local level to identify and resolve local system concerns, address the recommendations of the Blue Ribbon Commission, and build the capacity to provide a continuum of services.

The Blue Ribbon Commission recommends that:

- These multidisciplinary local commissions include participation from the courts; local government officials; public and private agencies and organizations that support children and families; children, parents, and families in the system; caregivers; and all other appropriate parties to the process.
- These commissions focus on key areas of local concern and activities, including:
  - Undertaking a comprehensive assessment of existing services available in the community; encouraging development of appropriate services that are not

available; coordinating services with tribal services and transitional services; and ensuring that children and families receive the support they need for reunification and permanency;

- Identifying and resolving barriers to sharing information among the courts, agencies, and schools;
- Communicating local needs and concerns to the Child Welfare Council; and
- Raising the visibility and public understanding of foster care issues in their communities.
- The AOC support local commissions in their efforts to collaborate and to avoid duplication with other efforts to achieve positive child welfare outcomes (including county efforts to develop system improvement plans as required by state law).
- All participating agencies prioritize children in foster care, and their families, when providing services.

3C

Courts, child welfare agencies, and other agencies should collaborate with Indian tribes and tribal courts to ensure that the rights of children, families, and tribes are protected and that Indian children and families have access to all appropriate services for which they are eligible.

The Blue Ribbon Commission recommends that:

- The AOC work with state trial courts and tribal courts to establish protocols for identifying and sharing jurisdiction between state and tribal courts and for sharing services, case management, and data among superior courts, tribal courts, and county and tribal service agencies. The protocols established should encourage a mutual understanding of and respect for the procedures in both the state and tribal courts and the challenges that all communities face in providing services for children and families. The AOC collaborate with the state to develop and offer judicial education and technical assistance opportunities to tribal court officers and staff and legal education to tribal attorneys, lay advocates, and service providers.
- The AOC work with the California Department of Social Services to offer ongoing multidisciplinary training and technical assistance to judges, court staff, attorneys, social workers, and other service providers on all of the requirements of the Indian Child Welfare Act.
- Indian children and families have access to the same services as other families and children regardless of whether their cases are heard in state court or tribal court.



4

Recommendation 4  
Resources and Funding

In order to meet the needs of children and families in the foster care system, the Judicial Council, Congress, the Legislature, the courts, and partnering agencies should give priority to children and their families in the child welfare system in the allocation and administration of resources, including public funding—federal, state, and local—and private funds from foundations that support children’s issues.

4A

The Judicial Council should urge Congress, the state Legislature, and state and local agencies—including agencies and organizations that provide health, mental health, education, substance abuse, domestic violence, housing, employment, and child care services—to prioritize the delivery and availability of services to children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- Congress and the state Legislature fund dissemination of evidence-based or promising practices that lead to improved outcomes for foster children and their parents. Examples include therapeutic foster care and drug courts.

4B

States and counties should be given permission to use federal funding more flexibly. Flexible funding should be used to address the needs of children and families in a timely manner that recognizes the child’s developmental needs and relationship with his or her parents, guardian, and extended family. The commission supports key financial recommendations of the Pew Commission on Children in Foster Care and encourages innovative funding strategies at the federal, state, and local levels of government.

The Blue Ribbon Commission recommends that:

- The Judicial Council urge Congress to adopt the following federal financing reform recommendations, based on those advocated in 2004 by the Pew Commission on Children in Foster Care, a national panel of experts that issued proposals around financing child welfare and court reforms:
  - Creation of an incentive model for permanency. Based on the adoption incentive, this model would encompass all forms of permanency, including reunification and guardianship, and would offer equal payment levels;
  - Federal adoption assistance for all children adopted from foster care;
  - Federal guardianship assistance for all children who leave foster care to live with a permanent, legal guardian;
  - Elimination of the income limit for eligibility for federal foster care funding;
  - Flexibility for states and counties to use federal funds to serve children from Indian tribes and children living within U.S. territories;
  - Extension of federal title IV-E funding to children in Indian tribes and the U.S. territories;
  - Reinvestment of local, state, and federal dollars saved from reduced foster care placements into services for children and families in the child welfare system;

- Reinvestment of penalties levied in the federal Child and Family Services Review process into program improvement activities; and
- Bonuses when the state demonstrates improved worker competence and lighter caseloads.

4C

No child or family should be denied services because it is unclear who should pay for them. Funding limitations that prohibit or delay the delivery of services to children and families should be addressed through coordinated and more flexible funding.

The Blue Ribbon Commission recommends that:

- The Judicial Council work with other branches of federal, state, and local governments to identify barriers to funding for services and to develop solutions.
- The Judicial Council should urge Congress to change any federal law that prevents federal funds from being coordinated among several agencies to support specific services.

4D

The Judicial Council, along with other stakeholders, should work to improve the foster care system by supporting those who provide care to dependent children.

The Blue Ribbon Commission recommends that:

- The Judicial Council and other stakeholders advocate for increasing foster care rates and supports to enable foster parents to care for their foster children.
- The Judicial Council and other stakeholders advocate for funding and other resources to provide statewide legal and informational support for caregivers so they understand the dependency process and know what to expect in court.

4E

The Judicial Council, the executive and legislative branches of federal and state government, local courts, businesses, foundations, and community service organizations should work together to establish a fund to provide foster youth with the money and resources they need to participate in extracurricular activities and programs to help make positive transitions into adulthood.

The Blue Ribbon Commission recommends that:

- Children in foster care and partnering agencies have access to reliable funding to support their access to extracurricular activities and transitional programs. These activities should include music and dance lessons, sports, school events, and independent living activities.
- Systemic barriers that prevent foster children from participating in the above events be eliminated, including transportation, licensing restrictions, and confusion regarding waivers and consents.

**4F**

Educational services for foster youth and former foster youth should be expanded to increase access to education and to improve the quality of those services.

The Blue Ribbon Commission recommends that:

- Courts and partnering agencies ensure that foster children receive the full education they are entitled to, including the support they need to graduate from high school. This includes tutoring and participation in extracurricular activities. The courts should require other agencies to justify any denial of such services to foster youth in school.
- The Judicial Council urge Congress and the state Legislature to strengthen current education laws to explicitly include all foster children and to fill funding gaps, such as the lack of support for transportation to maintain school stability.
- The Child Welfare Council prioritizes foster children’s educational rights and work with educators to establish categorical program monitoring to oversee compliance with education laws and regulations that support foster youth in school.
- The California Department of Education designate foster youth as “at-risk” students to recognize that foster care creates challenges and obstacles to a child’s education that other children do not experience and to increase the access of foster youth to local education programs.
- Foster Youth Services grants be expanded to include all children age five or older, including those in kinship placements, because close to half of foster children are placed with kin and Foster Youth Services is not currently funded to serve those children.
- The Judicial Council urge legislative bodies and higher education officials to expand programs, such as the Guardian Scholars, statewide to ensure that all current and former foster youth who attend college have access to housing and other support services and to waive tuition and other educational fees for current and former foster youth.