

March 16, 2015

The Honorable Harriette L. Chandler  
Majority Leader  
State House, Room 312C  
Boston, MA 02133

RE: Line Item 1599 - 7771  
Fair Hearing Evaluator  
Preliminary Report

Dear Honorable Ms. Chandler:

The General Appropriations Act for Fiscal Year 2015 included as line item 1599-7771 an ANF Reserve Appropriation of \$200,000 for the Office of the Child Advocate (OCA) to select an independent evaluator to assess the administrative hearing process of the Department of Children and Families (DCF). On October 31, 2014, the OCA filed an Initial Quarterly Progress Report with the Legislature indicating that the OCA had selected the Ripples Group to conduct this evaluation.

On January 30, 2015, the Ripples Group filed a Second Quarterly Progress Report with the Legislature. This report summarized the activities performed by the Ripples Group during the first phase of the project from November 2014 through January 2015. It also included the next steps in the project.

Line item 1599-7771 mandates that the evaluator provide a preliminary report on its findings to the Legislature by March 15, 2015. On behalf of the Ripples Group, I am submitting this preliminary report summarizing our activities performed during the Initial Immersion Phase, and Research and Analysis Phase, which has been underway since January 2015. This report also highlights the preliminary research and analysis findings, and outlines the next steps in the project.

During the Initial phase of the project, the Ripples Group focused on studying the DCF Fair Hearing Process (FHP), meeting with stakeholders in both the DCF Central Office and DCF Area Offices, and formulating hypotheses and proof points that would be used to evaluate the timeliness, fairness, and independence of the FHP. The main activities during this time included:

1. Establishing a Steering Committee that includes representatives from OCA and DCF.
2. Interviewing 20 subject matter experts from the Central Office staff, various Area Office staff, Hearing Officers, and independent attorneys.
3. Reviewing all relevant documents including the DCF organizational chart, current and previous Fair Hearing regulations, DCF Fair Hearing quarterly reports, Child Welfare League of America DCF Quality Improvement Report dated May 22, 2014, and The House Committee on Post Audit and Oversight and House Members of the Joint Committee on Children, Families and Persons with Disabilities Review of the Massachusetts Department of Children and Families dated January 13, 2015.
4. Observing three Fair Hearings (two in Malden, one in Framingham).

5. Presenting initial observations to the Steering Committee on January 14, 2015.

In the Immersion Phase of the project, The Ripples Group found evidence that could both confirm or refute the hypotheses formulated along the three dimensions of the project: timeliness, fairness, and independence.

Since January 2015, we have initiated the Research and Analysis phase of the project, and started testing our hypotheses using detailed qualitative and quantitative information. In this phase, The Ripples Group is focusing on collecting data and statistically significant information to leverage and test our hypotheses more conclusively, ultimately allowing us to formulate actionable recommendations for the OCA and the Legislature. Specifically, to date we have completed the following:

1. Analyzed Fair Hearing data from the DCF electronic database (FamilyNet) from 2005 to 2014 (16,473 lines of data).
2. Benchmarked the Massachusetts DCF Fair Hearing regulations. 110 CMR 10.00, against five other Northeast states (Connecticut, Rhode Island, New Hampshire, Vermont, New York).
3. Fielded an appellant survey to 1,038 past appellants during the 2007-2014 period. This survey closed on March 12, 2015.
4. Conducted a Fair Hearing Officer focus group at DCF.
5. Interviewed two attorneys with Fair Hearing experience.
6. Held a Steering Committee meeting on March 11, 2015.
7. Started reviewing randomly selected past Fair Hearing cases.

### **Fair Hearing Evaluation Preliminary Findings**

This report reflects our **preliminary** findings based on DCF FamilyNet data analysis. It is important to emphasize that these findings are based solely on system data, and have not yet been vetted with information from equally valuable sources that we will be reviewing and analyzing. Consequently, these preliminary findings are subject to modification in our final report.

The highlights of our preliminary findings on whether DCF's regulations, funding, staffing levels and processes provide for an administrative hearing process that is timely, fair, and independent are captured below:

Dimension	Key Findings
Timeliness	<ul style="list-style-type: none"> <li>• Fair Hearing requests have been increasing sharply in recent years, likely driven by high profile cases.</li> <li>• Despite the volume increase, timeliness, as measured in business days from the Fair Hearing request date to the case closing date, has improved vastly since 2010 for decided cases.</li> <li>• The backlog still remains a challenge given current processing capacity.</li> </ul>
Fairness	<ul style="list-style-type: none"> <li>• There is no evidence of systemic discrimination by race, gender, age, language or marital status in timeliness.</li> <li>• There is no evidence of systemic discrimination by race, gender, age, language or marital status in Fair Hearing reversal rates.</li> <li>• Having an attorney seems to lead to more frequent reversals.</li> </ul>
Independence	<ul style="list-style-type: none"> <li>• Reversal rates have increased significantly over time.</li> <li>• Superior Court appeals are fairly steady over time, and rarely result in reversals of a Hearing Officer decision.</li> </ul>

In the coming weeks, we will focus our efforts on analyzing the appellant survey responses, studying written Fair Hearing decisions and recordings, synthesizing all findings to date, and updating the Steering Committee in April.

We anticipate filing our Third Quarterly Report with the Legislature on May 1, 2015, and our Final Report on June 30, 2015.

We would like to thank the Legislature and the OCA for the opportunity to carry out this important project.

Regards,

Mete Habip  
The Ripples Group