DHR

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SOCIAL SERVICES COUNTY LETTER NO. 08-01

TO: County Departments of Family and Children Services
Regional Staff
State Staff

FROM: Mark Washington, Assistant Commissioner
Division of Family and Children Services

RE: Court Appointed Special Advocate (CASA) access to Division of Family and Children Services (DFCS) case files.

CASAs Participation in Family Team Meetings (FTMs).

Foster Parents Bill of Rights and Grievance Procedure for Private Provider Foster Homes.

DATE: December 4, 2008

This county transmittal serves to clarify the requirements of O.C.G.A. Section 15-11-9.1, (House Bill 270, 2007 legislative session), allowing CASAs, who meet the requirements of the statute, reasonable access to DFCS case files and O.C.G.A. Section 49-5-281(d) (Senate Bill 188, 2007 legislative session) mandating DFCS to enact a Foster Parents Bill of Rights for foster homes approved through private agencies. Lastly, clarification will be provided on allowing a CASA to participate in FTMs.

House Bill 270 Court Appointed Special Advocate (CASA) access to Division of Family and Children (DFCS) case files

Effective July 1, 2008, CASAs who are appointed as lay guardians ad litem are granted access to DFCS case records for children for whom they have been appointed. The role of the CASA is to advocate for the best interest of their assigned child by:

1. Conducting an independent assessment to determine the facts and circumstances surrounding the case;
2. Maintaining regular and sufficient in-person contact with the child;
3. Submitting written reports to the court regarding the child's best interest;
4. Advocating for timely permanency for the child;
5. Requesting a judicial citizen review panel or judicial review of the case;
6. Collaborating with the child's attorney, if any;
7. Attending all court hearings and other proceeding to advocate for the child's best interest;
8. Monitoring compliance with the case plan and all court orders; and

9. Reviewing all court related documents.

To that end; House Bill 270, granted individual CASAs, who are appointed as lay guardians ad litem, access to all DFCS hard copy and electronic (Georgia SHINES) records for children for whom they have been appointed. Prior to allowing the CASA access to DFCS records the social services case manager must:

1. Verify that the CASA has been appointed after meeting the requirements of "an affiliated court appointed special advocate program." The county department should assure itself that the CASA program in its court is operated with the approval of the juvenile court which screens, trains and supervises the CASA volunteers.
2. Verify the court order appointing the CASA as a lay guardian ad litem. Make sure that the CASA has been appointed to the child whose records he/she is requesting to review. A CASA may only review records of a child for whom he/she has been appointed.
3. Be present when the file (hard or electronic copy) is being reviewed. DFCS staff must be physically present during the review, no CASA will be allowed unmonitored access to DFCS records.

Furthermore, DFCS local office staff may not allow the CASA to remove the DFCS records from the office. Although there is no requirement for DFCS to provide the CASA with copies of DFCS files, upon request, portions of the file may be copied. Due to current budgetary constraints request by the CASA to copy the file may not be considered reasonable. The time required to make copies and the cost of providing copies should be considered in determining if the request to provide copies is reasonable.

CASA Participation in FTMs.

FTMs are a voluntary decision making process available to families working with DFCS. FTMs allow the parent/guardian or custodian to self identify and address the issues of safety, permanency and well being which brought their children to the attention of DFCS. Families choosing to participate in this process must identify individuals to serve on their team. Although team membership can fluctuate, the identified team will be the decision making body throughout the life of the case. DFCS must assist the family to understanding the purpose of the team and the value of having a diversified team membership. Possible team members include the family, extended family, individuals identified as fictive kin and formal resources (e.g. DFCS, CASA, mental health, education and other agencies).

CASAs are a valuable asset that should be included on each family team. The CASA serves as the advocate for the child and can provide valuable support for the family with the court. If allowed to participate as a team member the CASA can gain; first hand knowledge of the work being done by the family and hear the family voice the knowledge and wisdom they have gained from participating in services. Membership in the team will allow the CASA to feel added confidence in supporting the team's recommendations to the court regarding permanency for the child. Therefore, local office DFCS workers will advocate for the child advocate to be a member of each family team.

Senate Bill 188, The Foster Parents Bill of Rights and Grievance Procedure for Private Provider Foster Homes

O.C.G.A. Section 49-5-281(d) (Senate Bill 188, 2007 legislative session), also effective July 1, 2008, required DFCS in collaboration with the Georgia Association of Homes and Services for Children (GAHSC) and the Adoptive and Foster Parent Association of Georgia (AFPAF) to develop and implement a Foster Parents Bill of Rights and Grievance Procedure to apply to all foster homes approved by private providers. In an effort to be consistent between DFCS homes and private homes, a workgroup was developed to modify the existing procedure for DFCS homes to fit the unique nature of private provider homes. Effective immediately DFCS staff will begin utilizing the procedure outlined in The Foster Parents Bill of Rights and Grievance Procedure for Private Provider Foster Homes. The new Bill of Rights, see attachment, will be posted to ODIS, the DFCS foster parent website and will also be available in hard copy for distribution during special investigation.

Attachment:

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The Foster Parent Bill of Rights and Grievance Procedure

-- Regarding Private Provider Foster Parent's Grievances --

This document relates only to grievances foster parents serving with licensed Child Placing Agencies may have against their private agency as related to the Bill of Rights, O.C.G.A. § 49-5-281.

The Governor, General Assembly, Division of Family and Children Services and licensed Child Placing Agencies recognize the need for a systematic process of expression, examination and resolution of foster parent grievances. It is further recognized that as people work together, conflicts will arise which may result in the deterioration of the quality of relationships and the quality of care provided. Each foster parent has the right to file a grievance when he/she has an irreconcilable difference.

This grievance procedure applies to foster parents who are approved by a licensed Child Placing Agency to care for children in DHR custody and relates only to the provisions of the Foster Parents Bill of Rights. This process is not intended for providers of residential care.

By implementation of this policy, foster parents have the right to file complaints and discuss concerns with their private agency and others approved herein to address valid complaints. Care should always be taken to mention only case situations, not case names. Care should also be taken to avoid discussion with other individuals not listed above as this might be considered to be in violation of the rules of confidentiality.

When circumstances warrant taking the measure to file a complaint regarding the Foster Parent Bill of Rights, foster parents should never feel alone in the process. This document provides for the support for the foster parents throughout the grievance process. The foster parent can request assistance from the Georgia Association of Homes and Services for Children who will provide a trained pool of advocates to assist and support foster parents throughout the process. Foster parents can contact the Georgia Association of Homes and Services for Children at 404-572-6170 or www.gahsc.org to make an advocate request.

NOTE: Foster parents may choose not to have a GAHSC advocate, but rather a personal support person of their choosing. These individuals are not provided the same access to confidential information, and will be limited to portions of the grievance process which does not violate confidentiality laws.

Actions taken by the licensed Child Placement Agency when a complaint is filed should never

be retaliatory or punitive in nature. No person who files a grievance should be punished, discriminated against, threatened, or retaliated against in any way for filing such action. Caution should be taken to prevent this from becoming the agency vs. the foster parent situation. Foster parents are partners in the planning for children and have every right to have their opinions and concerns heard as well as the right to be considered as a valuable part of the professional service team.

When evidence proves that a staff member has retaliated against a foster parent, that staff member may be subject to disciplinary action, subject to the personnel rules and regulations of the licensed Child Placing Agency.

General Guidelines

Licensed Child Placing Agencies must have a grievance procedure that addresses a grievance, complaint or concern by one of their foster parents regarding the foster parent's rights under the Foster Parent Bill of Rights. This procedure must include the following steps.

STEP ONE: Informal Level

Foster parents should try to communicate directly with the agency staff person involved in the situation in an attempt to resolve the matter. This should occur within a reasonable amount of time.

STEP TWO: Supervisory Level

If step one does not resolve the situation, the matter should then be brought to the attention of the staff person's immediate supervisor who will get involved to try to resolve the matter. This should occur within a reasonable amount of time.

STEP THREE: Executive Director/CEO Level

If step two does not resolve the situation, then the aggrieved foster parents are to present the problem in writing to the licensed Child Placing Agency's Executive Director/CEO explaining: (a) the issue/problem; (b) a summary of the efforts that have been taken to resolve the problem; and (c) why those efforts have not been sufficient to satisfactorily resolve the situation. The Executive Director/CEO will then attempt to resolve the situation. This should occur within a reasonable amount of time.

STEP FOUR: The Board of Director Level

If step three does not resolve the situation, then the aggrieved foster parents are to present the problem in writing to the Board Chairperson with a copy given to the Executive

Director/CEO explaining: (a) the issue/problem; (b) a summary of the efforts that have been taken to resolve the problem; and (c) why those efforts have not been sufficient to satisfactorily resolve the situation. The Board Chairperson will address the issue with the Board to provide the Board's resolution of the situation.

Final Decision:

The decision of the licensed Child Placing Agency's Board of Directors is final and determinative on all issues in regards to any grievance.

Reports to State DFCS

Grievances reaching Level Four within a licensed Child Placing Agency shall be reported to the State DFCS Division Director providing a summary of the process, including what occurred at each step. The report shall include a summary written by the foster parents providing a perspective of why they are not satisfied with the decision of the Board. This should occur within a reasonable amount of time.

Review of Grievance Procedure – After six months of implementation of this Grievance Procedure, a review of its effectiveness will be made and revisions suggested.

Grievable Issues

Under section 49-5-281 of the Official Code of Georgia Annotated, foster parents have the following rights, which are subject to the grievance procedures outlined in this policy.

1. The right to be treated by the Division of Family and Children Services of the Department of Human Resources and other partners in the care of abused children with dignity, respect, and trust as a primary provider of foster care and a member of the professional team caring for foster children;

2. The right not to be discriminated against on the basis of religion, race, color, creed, gender, marital status, national origin, age, or physical handicap;

3. The right to continue with his or her own family values and beliefs, so long as the values and beliefs of the foster child and the birth family are not infringed upon and consideration is given to the special needs of children who have experienced trauma and separation from their families. This shall include the right to exercise parental authority within the limits of policies, procedures, and other directions of the Division of Family and Children Services and within the limits of the laws of the State of Georgia;

4. The right to receive both standardized pre-service training, including training in Division of Family and Children Services policies and procedures and appropriate ongoing training, by the placing agency at appropriate intervals to meet mutually assessed needs of the child and to improve foster parents' skills and to apprise foster parents of any changes in policies and procedures of the Division of Family and Children Services and any changes in applicable law;

5. The right to be apprised of information, laws, and guidelines on the obligations, responsibilities, and opportunities of foster parenting and to be kept informed of any changes in laws, policies, and procedures regarding foster parenting by the placing agency in a timely manner and at least annually;

6. The right to receive timely financial reimbursement according to the agreement between the foster parents and the placing agency and to be notified of any costs or expenses for which a foster parent affiliated with the placing agency may be eligible for reimbursement.

7. The right to receive information from the placing agency on how to receive services and reach personnel 24 hours per day, seven days per week;

8. The right prior to the placement of a child to be notified by the placing agency of any issues relative to the child that may jeopardize the health and safety of the foster family or the child or alter the manner in which foster care should be administered;

9. The right to discuss information regarding the child with the placing agency prior to placement. The Division of Family and Children Services will provide such information as it becomes available as allowable under state and federal laws;

10. The right to refuse placement of a child in the foster home or to request, upon reasonable notice, the removal of a child from the foster home without fear of reprisal or any adverse affect on being assigned any future foster or adoptive placements by the placing agency;

11. The right to receive any information through the placing agency regarding the number of times a foster child has been moved and the reasons therefore; and to receive the names and phone numbers of the previous foster parents if the previous foster parents have authorized such release and as allowable under state and federal law;

12. The right, at any time during which a child is placed with the foster parent, to receive from the placing agency any and all additional pertinent information relevant to the care of the child;

13. The right to be provided with a written copy of the individual treatment and service plan concerning the child in the foster parent's home and to discuss such plan with the case manager, as well as reasonable notification of any changes to that plan;

14. The right to participate in the planning of visitation with the child and the child's biological family with the foster parents recognizing that visitation with his or her biological family is important to the child;

15. The right to participate in the case planning and decision-making process with the Division of Family and Children Services regarding the child as provided in Code Section 15-11-58;

16. The right to provide input concerning the plan of services for the child and to have that input considered by the department;

17. The right to communicate for the purpose of participating in the case of the foster child with other professionals who work with such child within the context of the professional team, including, but not limited to, therapists, physicians, and teachers, as allowable under state and federal law;

18. The right to be notified in advance, in writing, by the Division of Family and Children Services or the court of any hearing or review where the case plan or permanency of the child is an issue, including periodic reviews held by the court or by the Judicial Citizen Review Panel, hearings following revocation of the license of an agency which has permanent custody of a child, permanency hearings, and motions to extend custody, in accordance with Code Section 15-11-58;

19. The right to be considered, where appropriate, and in accordance with the policies and procedures of the placing agency, as a preferential placement option when a child who was formerly placed with the foster parents has reentered the foster care system;

20. The right to be considered, where appropriate, as the first choice as a permanent parent or parents for a child who, after 12 months of placement in the foster home, is released for adoption or permanent foster care;

21. The right to be provided a fair and timely investigation of complaints concerning the operation of a foster home;

22. The right to an explanation of a corrective action plan or policy violation relating to foster parents; and

23. The right, to the extent allowed under state and federal law, to have an advocate present at all portions of investigations of abuse and neglect at which an accused foster parent is present. Child abuse and neglect investigations shall be investigated pursuant to Division of Family and Children Services policies and procedures, and any removal of a foster child shall be conducted pursuant to those policies and procedures. The Division of Family and Children Services will permit volunteers with the Adoptive and Foster Parent Association of Georgia and the Georgia Association of Homes and Services for Children to be educated concerning the procedures relevant to investigations of alleged abuse and neglect and the rights of accused foster parents. After such training, a volunteer will be permitted to serve as an advocate for an accused foster parent. All communication received by the advocate in this capacity shall be strictly confidential.