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May 6, 2021

Via email: FFPSA@cdss.ca.gov

California Department of Social Services
Attention: FFPSA Unit
744 P Street
Sacramento, CA 95814

Re: FFPSA Implementation Comments – Qualified Individual

Dear FFPSA Implementation Unit:

The Youth Law Center (YLC) writes to comment on the importance of clarifying the role, competencies, and certification of the Qualified Individual (QI), including its independence and autonomy from the placing agency and congregate care providers. Over the last 2 years, the Youth Law Center (YLC) has participated in the ongoing stakeholder group discussions facilitated by the California Department of Social Services (CDSS) on implementation of the federal Family First Prevention Services Act (FFPSA). YLC submitted written comments to CDSS on the initial print version of the proposed budget trailer bill implementing FFPSA to primarily raise concerns about the timing and coordination of key elements of the case planning process, including the Qualified Individual (QI), and the adequacy of provisions governing probation supervised foster youth. YLC's comments below are in response to the most recent QI proposals and discussions at the May 3, 2021 stakeholder meeting.

Comments on QI Proposals

YLC supports the current direction of the QI proposals, but would like to see further clarifications of the role, competencies, and certification of the QI. We are pleased to see that the timing of the QI process has been revised to take place, whenever possible, before the placement, of the child in an STRTP. However, the independent role of the QI should be clearly defined, the certification process should include at least an attestation that the QI is not employed by the placing agency or in any way affiliated with a STRTP provider, and the QI competencies should be defined and re-categorized.

Both the letter and the spirit of FFPSA require that the QI be independent of the placing agency and any STRTP providers. 42 U.S.C. 675a (d). FFPSA in essence requires an objective fresh look by someone outside the placing agency's usual group care placement decision process. While FFPSA implementation should build on California's existing CCR reforms, the state cannot simply rely on existing processes to fulfill federal requirements. For example, the QI duties are extensive (see below) and go far beyond what California requires for the IPC or even the mental health clinician on an IPC. County mental health plan clinicians could fulfill the role of the QI if they otherwise meet the requirements, but the WIC 4096 requirement that the placing agency be a member of the IPC automatically disqualifies the IPC from the QI role. Clearly explaining who and who cannot serve in the QI role, and including a process for assuring that the QI meets the independent requirement in the certification process are additional changes that are needed to ensure compliance with FFPSA.

YLC also believes that additional detail is needed to clarify the QI duties and define how competency is demonstrated. The QI process flow chart and other documentation should be revised to clarify that the QI engages the CFT early in the assessment process, not after the assessment has been completed. CFT engagement must be part of the assessment process and should begin as early in the process as possible. Also, the materials provided do not define what constitutes competence and suggest that competence may be attained simply through training. The Department must define competence and clarify how competence of the QI must be demonstrated. Once these clarifications have been made, the QI competencies chart should be revised and re-categorized into core competency areas that every QI must have proficient expertise and areas of specialized knowledge that QI's either have or must demonstrate that they are able to access others with proficient expertise to assist in conducting assessments for impacted populations.

Background in Support

The purpose of FFPSA is to limit the use of congregate care placements for children in foster care and support keeping children in families. Congress provided funding support and safeguards for state child welfare systems to develop a prevention and family support focused infrastructure to support FFPSA's goals. FFPSA was enacted three years after California's Assembly Bill 403 (2015), the Continuum of Care Reform (CCR), which too was designed to refocus California's child welfare system on keeping children in families and limiting the use of congregate care. Although FFPSA and CCR are similar in many ways, there are several requirements in federal law that go beyond and enhance the requirements currently required under California law.

Congress provided not only supports, but safeguards to ensure that states provide children in the child welfare system what they need to stay in families, rather than continue business as usual and rely on traditional practices of sending children to institutional settings to be served. FFPSA requires an assessment process by a clinician, who is independent of the placing agency and facility provider, that includes: an evaluation of the child's strengths and needs; engagement of the child, family, and permanency planning team; a determination of what supports are needed to keep the child in a family home; and a recommendation, if the child is not placed in a family home, of a facility placement that provides the most effective and appropriate level of care, in the least restrictive environment consistent with the child's short- and long-term permanency plan goals. 42 U.S.C. 675a(c).

In order to qualify for IV-E funding for the placement of an eligible child in a congregate care setting, states are required to have a QI ("qualified individual") independent of the placing and institutional provider agencies to provide a needs assessment and recommend how those needs should be met. The QI is defined as a trained professional or licensed clinician not an employee of the child placing agency or connected to, or affiliated with, any placement used by the agency. 42 U.S.C. 675a (d). FFPSA requires the QI to: (1) complete an assessment of the strengths and needs of the child; (2) work in conjunction with the child and family team to conduct the assessment; (3) determine whether the needs of the child can be met with family members, or in a foster family home, and if not, the setting that would provide the most effective and appropriate level of care in the least restrictive environment and be consistent with the short- and long-term permanency plan goals for the child; and (4) develop a list of child-specific short- and long-term mental and behavioral health goals. 42 U.S.C. 675a (c) (1)(A). Additionally, any QI recommendation for an institutional placement for the child must include the reasons why the child's needs cannot be met in a family, and a shortage or lack of foster family homes is not an acceptable reason for not keeping the child in a family setting. 42 U.S.C. 675a (c).

YLC appreciates the opportunity to participate in the FFPSA implementation stakeholder meetings and to provide comments. Please contact the undersigned if you have questions.

Respectfully,

Maria F. Ramiu
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