October 22, 2015

Senator Kathy Campbell
Chair, Health and Human Services Committee
Room 1402, State Capitol
Lincoln, NE 68509

Chairwoman Campbell and members of the Health and Human Services Committee,

Thank you for the opportunity to testify today. As a member of the Strengthening Families Act (SFA) normalcy stakeholder group, I will be summarizing stakeholder feedback and recommendations for how we can fully implement the normalcy provisions of the SFA to improve opportunities and outcomes for children and youth in foster care.

First, I would like to thank Senator Campbell for introducing LR 248 and for her long-standing commitment to seizing opportunities to implement best practices for children. I also want to thank the Division of Children and Family Services for their collaboration in this stakeholder process and their willingness to change the way they do business for the benefit of kids and families. Finally, I want to thank the many young people and stakeholders who came together and gave their time to provide input in this process.

Today, we released a report, which is included with my written testimony, summarizing the input and recommendations from over 300 stakeholders and young people across the state through two stakeholder meetings, stakeholder, youth and foster parent surveys and focus groups of young people and parents.

As you have heard, the Nebraska Department of Health and Human Services (DHHS) has made policy changes and issued proposed regulations regarding the agency's compliance with the SFA. In addition, as a result of Sen. Campbell and this Committee's leadership in recent years, our state statutes track the federal Fostering Connections Act and include a number of best practices related to Fostering Connections Act, which was the 2008 precursor to the SFA. So while Nebraska is already ahead of the curve in many ways, there is more work to be done to fully implement the SFA in Nebraska and improve outcomes as the federal law intends for children and youth.

These stakeholder recommendations focus on that additional work, and how Nebraska law and policy can be amended to make sure baseline requirements are met and to continue Nebraska’s path of instituting best practices in this area.

Recommendations

➢ Reasonable and Prudent Parent Standard (RPPS)

With regard to the SFA’s requirement that states implement the Reasonable and Prudent Parent Standard (RPPS) to allow foster parents to use their best judgment in determining in what age- and
developmentally-appropriate activities youth in their care may participate, stakeholders reached
consensus around several issues:

- **Nebraska statute should state** that children in foster care have the right to take part in age-
  and developmentally-appropriate activities.
- **A grievance process should be available** for youth who feel they have not been heard or are
  facing consistent disagreement about normalcy activities.
- **DHHS and the juvenile courts should work collaboratively to remove or reduce barriers**
to youth’s participation in age- and developmentally-appropriate activities.
- **Nebraska statute should include a description that the legal rights of biological parents**
  are not impacted by the RPPS (meaning parents whose rights have not been terminated still
  retain their constitutional and other existing rights with respect to their children and that those
  rights and their important role must be respected).
- **Nebraska statute should require** the juvenile court to provide oversight (i.e., make court
  findings) to ensure that, for all youth (not just those age 16 and older, as required by the SFA),
  the caregiver is following the RPPS and that the youth has regular, ongoing opportunities to
  engage in age or developmentally appropriate activities.

The stakeholder group and both groups of survey respondents (including every youth respondent)
also recommended that the **RPPS and normalcy should be applied to all children and youth**
(including those in the system due to child welfare, juvenile justice, status offense or mental health)
in all placements and levels of care. There was strong consensus for this recommendation.
However, because these are only initial recommendations, the stakeholder group did not have an
opportunity to develop specifics about how this recommendation should be implemented. For
instance, one issue to be considered is that, in the juvenile justice and mental health systems,
parental rights are not impacted in the same manner as they are in the child welfare system,
and therefore the authority of the state and placements regarding decision-making in these cases is also
different. However, there is a need for these other systems and levels of care to also implement
normalcy practices and standards, because of the important role of normalcy in development.
Therefore, stakeholders, including representatives from the juvenile justice and mental health
systems, will need to collaborate to further develop the recommendation about what this should
look like.

- **Youth Notice of Rights**

With regard to the SFA’s requirement that the state must document in the case plan, along with the
youth’s signature, that all youth ages 14 and older have been provided a list of their rights that are
explained to them in a developmentally-appropriate way, the stakeholder group discussed but
declined to recommend that these list of rights be provided to children at all ages. However, this
was an area of disagreement between the stakeholder group and the survey respondents, the
majority of whom felt that rights should be provided to younger children as well. However, there
was not strong agreement about the appropriate age to do so. Both the stakeholder group and the
survey respondents recommended that the **list of rights should include all rights under state
and federal law**, not just those enumerated in the SFA.¹ Of note, nearly all of the youth survey

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¹Those enumerated in the SFA include: rights with respect to education, health, visitation, court participation, and the
right to be provided with their credit report and assistance in repairing any problems, and to be provided with a copy of
their birth certificate, social security card, health insurance information, medical records and State ID or driver’s license,
as well as the right to stay safe and avoid exploitation. 42 U.S.C. 675a(b).
respondents (96% or 22 young people) believed that youth should be provided with a list of all rights.

Another of disagreement between the stakeholder group and the survey respondents surrounds an enforcement mechanism for these rights. The stakeholder group did not recommend that there be an enforcement mechanism in statute or otherwise to enforce these rights, although some stakeholders thought there were existing mechanisms in place. However, the majority of stakeholder survey respondents (86.6%) and the majority of the youth survey (87%) indicated that there should be an enforcement mechanism for these rights, meaning a way for youth to challenge it if they think these rights have been violated (such as through an administrative appeal, review by a juvenile court, etc.). This will be an area for further discussion.

➢ **Case Planning**

The case planning provisions of the SFA create a more youth-driven process to improve transition planning, including requiring that transition planning begin at age 14 (instead of age 16 under previous federal law), that youth be given the option to select up to two members of their case planning team, and that the plan is developed in consultation with the youth and describes the services needed for the youth to transition to “a successful adulthood,” previously called “independent living.”

With regard to these provisions, the stakeholders recommended that:

- **The case plan should document** what efforts were made to engage the youth in case planning (this should be required to be documented) and how the youth participated in the case planning process (but the stakeholder group did not think this should be required to be documented), and

- **Nebraska statute should require** the juvenile court to ask the youth if they participated in the development of their case plan and make findings about whether they were involved in case planning.

➢ **APPLA**

The permanency goal of APPLA was created by Congress to replace “long term foster care” and to encourage agencies to better meet the individual needs of a particular child for whom other permanency goals – like returning home, adoption or guardianship – are not appropriate. However, too often, APPLA has provided an easy way out for states: rather than continuing to look for planned permanent living arrangements for children and youth who they think will not or cannot be returned home, adopted, or placed with guardians, agencies often turn to independent living or residential placements rather than attempting to reengage family members or other important people in the youths’ lives who could be permanent connections. As a result of these concerns, this provision attempts to limit the use of APPLA to only those youth for whom other permanency goals are truly not appropriate. Specifically, the SFA directs states to eliminate the use of APPLA as a permanency goal for youth under age 16. However, for youth ages 16 or older (who under the SFA may still have a plan of APPLA), the SFA puts in place additional mechanisms to ensure permanent connections and support are still pursued.

The stakeholder group considered the idea of eliminating the use of APPLA for all children, not just those under age 16, but declined to make this recommendation, and the majority of stakeholder survey respondents agreed and responses were split on this issue in the youth surveys. However, there was agreement around changing language and formalizing efforts to ensure older youth that
still have a permanency plan of APPLA have supportive connections. More discussion in this area, about how Nebraska can improve permanency and supportive connections for older youth, is needed.

- **Pre-Discharge Documents**

The SFA requires that the state agency provide youth leaving foster care (who have been in foster care for at least six months) with their birth certificate, social security card, health insurance information, medical records and state ID or driver's license. The stakeholder group recommended **requiring a more comprehensive “discharge packet”** to be shared with youth that will include the documents mandated by the SFA, but also additional information on siblings, relatives, after-care services and benefits and on the opportunity to participate in the Bridge to Independence program. In addition, the stakeholder group recommended that the case plan should document **that the youth has received these documents and that juvenile court should be required to make a finding** at the last court review before discharge that the youth had access to the required documents before the case is closed.

Next steps

With many stakeholders involved in this process in a short timeframe, there were areas where consensus was not found and areas where follow up work is still needed, including considerations of RPPS activities, populations, funding and training, cultural considerations, and youth rights. The stakeholder group and smaller workgroups plan to meet in the coming months to consider these and other issues, and to continue collaborating to improve normalcy for youth.

Because there is a need going forward for this group’s work to continue, we would ask that the Committee consider establishing a subcommittee or task force, perhaps under the Children’s Commission, to monitor the implementation of the SFA and changes in Nebraska law, policy and practice going forward.

**Conclusion**

The Strengthening Families Act provides an important opportunity for children and youth in foster care. The recommendations in this report are the result of input of young people with foster care experience and a broad range of stakeholders, and we look forward to working together with this Committee, the legislative body and DHHS, with young people at the forefront, to implement these recommendations.

We want to again thank Senator Campbell for her leadership on these issues and this Committee for your important role in improving Nebraska’s foster care system.

Sincerely,

Sarah Helvey, J.D., M.S.
Child Welfare Director

Attachments:  *Letting Kids Be Kids: Nebraska’s Implementation of the Strengthening Families Act*
*SFA Stakeholder Recommendations Fact Sheet*
*Normalcy Infographic*