

MASSACHUSETTS CHILD WELFARE/COVID-19 COALITION

May 11, 2020

Governor Charlie Baker
Massachusetts State House
24 Beacon Street
Office of the Governor
Room 280
Boston, MA 02133
constituent.services@state.ma.us

Dear Governor Baker:

We recognize the challenges COVID-19 has placed on you and your administration and appreciate your leadership in this time of crisis.

We are a coalition of advocates who are deeply committed to the well-being of children and youth in the care and custody of the Massachusetts Department of Children and Families (DCF) and who are witnessing first-hand the vulnerabilities of children and youth involved with DCF during this pandemic.

We are communicating directly with Commissioner Spears of DCF on a number of priority issues identified by our coalition, but we are reaching out directly to you on one time-sensitive, critical issue that we understand has not been brought to your attention: DCF support for young adults ages 18 up to 23.¹

We write, at the outset of National Foster Care Month, to respectfully request that you act immediately to protect the health and safety needs of youth who are aging out of DCF during the pandemic. During a time when many youth are able to rely on their families for critical support, youth in foster care must rely on the child welfare system to ensure their safety, health, and well-being. Your action is needed to ensure that the needs of these young people are met and to ensure that young adults are not left without support in a time when they need it the most. We are aware that youth currently and formerly under the responsibility of DCF are without stable placements or residences, meaning that youth in and from the child welfare system are becoming and remaining homeless during this pandemic. This is unconscionable.

¹ DCF provides services to young adults up until age 22. DCF will continue services to a young adult until age 23 if the young adult requires the services in order to complete an Associate's or higher degree. 110 C.M.R. § 23.02. DCF can also elect to utilize federal Chafee funds for youth formerly in foster care up until age 23.

Youth aging out of the child welfare system in Massachusetts are among the most vulnerable in our state, and that vulnerability has significantly increased during the current public health crisis. As of 2018, Massachusetts had the third highest rate in the nation of youth leaving the foster care system without achieving permanency (i.e., reunification, adoption, or guardianship).² Over 800 young people turned eighteen in 2018 in the Massachusetts child welfare system without reunification, adoption or guardianship.³ They continue to rely on DCF to act as their support system and safety net, or they are on their own.

Youth who have aged out of care recently and who will leave the system during the COVID-19 crisis are already at a high risk for homelessness, lack of income, instability and illness. The Commonwealth stepped in and took custody of these youth because of alleged abuse or neglect, and now the Commonwealth needs to provide stability to these young people during a time of crisis when it is clear that they require more, not less, support from DCF.

Below are the actions we request that your administration take to promote the health, safety, and well-being of older youth in and from foster care during the COVID-19 crisis. Our main priority at this time must be to keep young people housed and connected to services and caring adults so that they are able to make a successful transition to adulthood.

We request that you follow the lead of the governors and administrations of other states including [Alaska](#), [California](#), [Connecticut](#), [Georgia](#), [Illinois](#), [Michigan](#), [Ohio](#), [Rhode Island](#), and South Carolina as well as the District of Columbia and act to protect this vulnerable population during this time by ensuring that these youth continue to receive essential and individualized services from DCF during and following the pandemic.

The actions below will help ensure that we achieve these goals.

- 1. Place a moratorium on discharging any young adult from extended foster care during this crisis, retroactive to March 10, 2020 when you declared a State of Emergency and continuing until at least six months beyond the end of the crisis.**

DCF must impose a moratorium on discharging young adults from extended foster care during the pandemic. We have outlined the urgent need for this action above. We understand that DCF believes closely reviewing the decision to close cases and the ability of young adults to appeal case closures through the fair hearing process provides an adequate remedy for youth. It does

²<https://datacenter.kidscount.org/data/tables/6277-children-exiting-foster-care-by-exit-reason?loc=23&loct=2#ranking/2/any/false/37/2632/13051>

³In 2018, there were 854 youth who attained the age of 18 in the care of DCF. <https://www.aecf.org/m/resourcedoc/massachusetts-fosteringyouthtransitions-2018.pdf>.

not.⁴ DCF has also indicated that many young adults do not want to continue to work with DCF and therefore preventing case closure would not be appropriate in these cases. Young adults often separate from DCF, however, because DCF is unable or unwilling to provide the services or housing resources that address their individual needs. In order to adequately support and retain these youth, DCF needs to commit time and resources to developing individually tailored family action and transition plans that truly engage youth beyond age 18 and that, in particular, ensure appropriate housing for these young people.

In addition to being the right thing to do, a moratorium on case closure also complies with current law often ignored in practice. Pursuant to G.L. c. 119 § 29B(c), the Juvenile Court maintains oversight of the cases of DCF-involved youth between the ages of 18 and 22 and must approve the transition plan collaboratively developed by the young adult and DCF before the court case can be dismissed. Because the Juvenile Court did not review these cases since the closure of the courts on March 16, 2020, any case closed by DCF since that time has occurred in violation of the law.

2. Suspend any requirements for extended care related to participation in school, higher education and training, program participation, and treatment.

DCF should suspend requirements for extended foster care during this crisis so that all youth can access it. This program can be a lifeline for young people at this time as it can provide a safe place to shelter and social distance. For many, however, activities that are typically required to remain eligible for extended care, such as work, school, and programs under 110 CMR 23.03, have been cancelled or eliminated. These requirements must be suspended during the crisis.

Although DCF has indicated that States are restricted in suspending these requirements by the federal mandates for extended care, this is not the case. Massachusetts law specifically makes eligible for extended foster care those outside the federal categories. G.L. c. 119, § 23(f) (“[DCF] shall offer to continue its responsibility to any young adult who is under the custody, care, or responsibility of [DCF] including, **but not limited to**, those persons who meet any of the criteria set forth in 42 U.S.C. § 675(8)(B)(iv)....”) (emphasis added). And DCF has deemed

⁴According to the DCF 2019 Annual Report, there were only 17 appeals of young adult case closures in FY 19.

https://www.mass.gov/files/documents/2019/12/30/ANNUAL%20REPORT%20FY2019_0.pdf

With over 800 foster youth turning age eighteen without permanence each year and more than a third of those cases being closed before the youth reach age 22, this low number of appeals suggests that this process is not accessible for these youth. Regardless, during this unprecedented pandemic, DCF should be focusing on ensuring youth continue to receive services and on improving transition planning for young adults.

eligible for extended foster care certain categories of young adults beyond those eligible under federal law.⁵

3. Require DCF to provide expedited processes for young adults to re-enter care that allow their immediate needs to be met.

Re-entry into DCF care is a crucial safety net available to young adults who aged out of care and are under age 22. DCF must expedite access to that care now. Re-entry is an important mechanism for responding to the immediate needs of youth in crisis who may be on their own and no longer able to sustain their employment or education. The closure of DCF offices makes re-entry unavailable or unnecessarily difficult for young people in need. DCF must develop a process to identify and respond to these cases and provide placement and services to youth immediately so that their time in unsafe situations can be reduced. An expedited process could include educating young people that re-entry exists, facilitating their connection with these resources, and establishing presumptive eligibility for re-entry to care based solely on the young adult's date of discharge.⁶

4. Work with DCF and the legislature to secure additional dedicated funds for DCF to increase support to current and former foster youth to meet their immediate basic needs during the crisis.

The Commonwealth must dedicate funding to former and current foster youth during this crisis. Like many in Massachusetts, young adults in and who have left foster care are now struggling to make ends meet in this time of health and economic crisis. As young people with less family and adult support, there are fewer social networks and resources on which current and former foster youth can rely. Some youth may not have a bank account, credit history or savings. Our capacity to get funds to youth quickly and provide them case management and connection with services, including housing, is vital. It will be lifesaving if we can increase the capacity of DCF to outreach to more young people who are on their own and respond to their needs. The Commonwealth can do this by mapping a strategy to increase federal reimbursement for this population, including through Chafee funds, which can serve youth up to age 23, and by supplementing federal funds with state funds.

⁵Massachusetts, for example, extends foster care up to age twenty-two and even twenty-three in some cases, where the federal extension applies only to those up to age twenty-one. Compare 110 C.M.R. § 23.02 (DCF provides services and support up until age 23) with 42 U.S.C. § 675(8)(B)(iii) (permitting States to elect to extend foster care up until age 21).

⁶DCF has told this Coalition that youth can seek a fair hearing if they are denied re-entry. This remedy is too slow, burdensome and too high a bar; instead, DCF must do whatever it can to support young adults in this time of pandemic.

We have enclosed for your consideration the text of a proposed executive order that would enact these much-needed protections for one of the most vulnerable populations in the Commonwealth.

Thank you for your urgent action to ensure that youth aging out of the foster care system have the resources and supports they need to survive and thrive.

Sincerely yours,

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On behalf of the Child Welfare/COVID-19 Coalition:

Children's Law Center of Massachusetts
Citizens for Juvenile Justice
Disability Law Center
Freitas & Freitas, LLP
Friends of Children
GLBTQ Legal Advocates and Defenders
Greater Boston Legal Services
Massachusetts Advocates for Children
Massachusetts Law Reform Institute
Mental Health Legal Advisors Committee
More Than Words

cc: Linda Spears, Commissioner, Department of Children and Families
Marylou Sudders, Secretary, Executive Office of Health and Human Services
Representative Denise Garlick, Vice-Chair, Joint Committee and Ways and Means
Representative Kay Khan, Chair, Joint Committee on Children, Families and Persons with Disabilities
Senator Sonia Chang-Diaz, Chair, Joint Committee on Children, Families and Persons with Disabilities
Senator Joanne Comerford, Chair, Senate Coronavirus Working Group
The Honorable Amy Nechtem, Chief Judge, Juvenile Court
Maria Mossaides, Child Advocate
Michael Dsida, Esq. Committee for Public Counsel Services