

Federal judge brings the hammer down on unsafe caseloads

Lower Caseloads, Reforms and Oversight ordered

In December, after weeks of trial and nearly a year of deliberation, Senior US District Judge Janis Graham Jack issued a 250 page decision that has brought systemic failures in DFPS to the forefront. Judge Jack found that DFPS violated the constitutional rights of children in care to be kept from an unreasonable risk of harm by the State. The ruling states that the agency was deliberately indifferent to the needs of foster children, ignored decades of reports and recommendations to correct problems, and departed from professional judgement in implementing policies and procedures. The state has appealed the decision to the 5th Circuit Court of Appeals.

The decision echoes what TSEU members have been saying for years - we need lower caseloads to better protect the most vulnerable Texans. The ruling states, "DFPS has done little to address this problem. It has not created a caseload range, it has not hired enough primary caseworkers, and it has not instituted policies to reduce caseworker turnover."

This is an extremely important development that may lead not only to the establishment of concrete caseload standards, but also the staff required to make the standards a reality.

The ruling describes other internal reform efforts as failures and as unreasonable responses to protect the Texans we serve, which sends a clear message that the status quo is unacceptable. Judge Jack wrote, "The reality is that DFPS has ignored 20 years of reports, outlining problems and recommending solutions. DFPS has also ignored professional standards... The Court has no assurance that anything has changed. Of the two reforms to which DFPS pointed- CPS Transformation and Foster Care Redesign-one was instituted in the wake of this lawsuit, the other is an abject failure..."

WHAT'S NEXT?

Pending the state's appeal, a Special Master will be appointed by the Judge to produce and oversee an Implementation Plan. Children's Rights, the organization that filed the lawsuit, and DFPS will be involved in the selection of the Special Master, as well as the development of the Implementation Plan. The Court will make final decisions about the Special Master and the Implementation Plan, and will receive regular updates on whether goals have been met. The Special Master is to be appointed by 30 days from the Dec. 17th ruling, and the Implementation Plan is to be presented to the Court 180 days following the appointment.

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- US District Judge Janis Graham Jack

WHAT ARE THE GOALS?

CASELOAD STANDARDS

- The ruling requires that a Special Master, appointed by the Court, establish a recommended caseload within Conservatorship and CCL/RCCL and requires the state to meet these levels. While the ruling doesn't directly call for establishing standards in every part of the agency, the "Deliberate Indifference" towards case load levels is strongly criticized and condemned.

ACCURATE INFORMATION

- The smoke and mirrors method currently used to report case load levels will be replaced by a "per-child" case-load count. The ruling specifically criticizes the use of "fictive workers" made up out of overtime hours, and the inclusion of workers in training and secondary workers to bring down caseload calculations.

CLEAR VISION

- Despite numerous reports, studies, and recommendations, progress on reducing caseloads wasn't achieved because of a lack of "institutional memory." Internal reforms, transformations and redesigns repeated earlier experiments without addressing the most critical problem. Establishing caseload standards, and defining a reasonable workload as the level at which caseworkers are able to perform their basic functions and are not compelled to quit at an unreasonable rate, are important steps in improving services, lowering caseloads, and developing a stable workforce.

FPS DAY OF ACTION | MARCH 9 | the Capitol

TSEU/FPS members will be heading to the Capitol on Wednesday, March 9th to meet with legislative offices about the Federal Court ruling and to urge their support for caseload standards in all parts of DFPS. **Join us at the Capitol - the voice of frontline employees needs to be loud and clear - WE NEED LOWER CASELOADS NOW!**

For more details, contact your organizer, nearest TSEU office or TSEU/FPS Caucus Organizer Myko Gedutis
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