

Legislative Post Audit Performance Audit Report Highlights

Highlights

Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Part 2

Report Highlights

September 2016 • R-16-010.2

Summary of Legislator Concerns

Legislators were interested in a comprehensive review of the foster care system. Part 1 of the audit focused on safety concerns and was released in July 2016. Part 2 of the audit focuses on compliance with applicable state and federal laws governing the foster care system. Part 3 will examine foster care costs, resources and outcomes and will be released in 2017.

Background Information

In fiscal year 2015, the Kansas Department for Children and Families (DCF) spent about \$205 million to serve about 6,300 children in foster care. Foster care is complex and involves many agencies and individuals, including the courts, case management contractors, and others.

If a child is determined to be in need of care, case management contractors and child placing agencies work together to locate a home for the child. Case management contractors are responsible for providing services and monitoring the progress of children in foster care.

QUESTION: Does DCF Ensure That All Applicable State and Federal Laws Governing the Foster Care System in Kansas are Followed?

- DCF has to meet many state and federal requirements for the foster care program.
 - State requirements apply to such areas as licensing requirements, contractor expectations, and aspects of the foster home.
 - Federal requirements include similar specific requirements as well as requirements for the overall system.
- DCF had not followed some of the safety and living condition requirements we reviewed in Part 1 of this audit (issued in July 2016).
 - Initial background checks were completed for prospective foster parents, but not always for others in the home.
 - Not all monthly case-management visits with the foster child were completed.
 - DCF did not ensure that licensed foster homes had sufficient financial resources.
- According to the 2014 and 2015 statewide single audits, DCF materially complied with most, but not all federal requirements.
 - The contracted auditors reviewed six general areas related to foster care and identified two areas with issues in both the 2014 and 2015 statewide single audits. These involved DCF controls related to monitoring and paying the contractors.
- DCF self-reported data shows Kansas met or exceeded about half of the federal outcome requirements for fiscal year 2016, but did not meet the others.
 - As a condition of receiving federal funding, DCF must report data about children in its care—known as outcome data.
 - DCF has consistently met the requirements related to placing children with relatives and siblings, but has not consistently met those related to timeliness or stability.
- DCF must implement a program improvement plan to address issues identified by a 2015 federal review, called the Child and Family Service Review (CFSR).
 - The review found that DCF was in compliance with about one-third of the categories assessed, but not in substantial compliance with the rest.
 - DCF was required to submit a program improvement plan to address each problem area.

SUMMARY OF RECOMMENDATIONS

- This report contains no recommendations.

AGENCY RESPONSE

- The agency generally concurred with the audit findings.

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PERFORMANCE AUDIT REPORT

Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Part 2

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
September 2016**

Legislative Division of Post Audit

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September 21, 2016

To: Members, Legislative Post Audit Committee

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Senator Anthony Hensley	Representative John Barker
Senator Laura Kelly	Representative Tom Burroughs
Senator Jeff Longbine	Representative Peggy Mast
Senator Julia Lynn	Representative Ed Trimmer

This report contains the findings from our completed performance audit, *Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Part 2*. We would be happy to discuss the findings, or any other items presented in this report with any legislative committees, individual legislators, or other state officials.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Frank". The signature is fluid and cursive, with a large loop at the end.

Scott Frank
Legislative Post Auditor

This audit was conducted by Laurel Murdie, Lynn Retz, Daniel McCarville, Daria Milakhina and Amanda Schlumpberger. Chris Clarke was the audit manager. If you need any additional information about the audit's findings, please contact Chris Clarke at the Division's offices.

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Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Part 2

Kansas' foster care program is administered by the Department for Children and Families (DCF) and has been privatized since 1997. The department currently contracts with two service providers—KVC Behavioral Healthcare (KVC) and St. Francis Community Services (St. Francis)—to provide foster care services across the state. The foster care program is charged with protecting children who may be physically or mentally abused or neglected. The department may provide preventive services to a family when child abuse is suspected with the goal of keeping the child in the home. However, if preventive services are not successful or if the danger to the child appears to warrant action, the department may ask the county or district attorney to petition the court to place the child in its custody.

After a court order places a child in the department's custody, the child may be reintegrated with the family (only with the written permission of the court), with relatives or friends of the family, with a foster family, in a group home, or in an appropriate state-operated facility. Child welfare case management providers, through contracts with the DCF, work with the child and family to resolve issues so the child can return home. If it is not possible for a child to go back to their family, parental rights may be terminated by the court or voluntarily surrendered. At that point the child is available for adoption.

This performance audit answers the following question:

Does DCF ensure that all applicable state and federal laws governing the foster care system in Kansas are followed?

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in **Appendix A** on page 15. The full audit scope covers seven questions. In January 2016, the Legislative Post Audit Committee decided to split the audit into parts. Questions one, two and three were addressed in Part 1 which was released in July 2016. This report covers question four. The three remaining questions related to privatization will be released in a later report.

We took several steps to answer question four. As documented in Part 1 of the audit, we evaluated agency and contractor compliance

with state and federal requirements to ensure the safety of children through the foster care system, including compliance with monthly safety checks, background checks, and compliance with regulatory requirements for licensing foster homes. We also assessed DCF compliance with other federal laws and requirements by reviewing DCF reports, federal audit results, and results from the statewide single audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page 7, following an overview of the foster care system.

Overview of the State's Foster Care System

In Fiscal Year 2015, the Kansas Department for Children and Families (DCF) Spent About \$205 Million to Serve About 6,300 Children in Foster Care

Foster care is intended to give children a temporary home until the child can be reunited with their family or while adoption is pending. Children in foster care have been determined to be a “child in need of care” by a court. Statutes define children to be in need of care for reasons such as physical, emotional, mental, or sexual abuse, lacking adequate parental care or subsistence, or failure to attend school or otherwise exhibiting a lack of parental control.

Once declared a child in need of care, the child is most commonly placed with either a foster care family or relatives, although there are other types of out-of-home placement settings such as residential facilities. The child’s placement is intended to be temporary until the court has decided that the child can be safely reunified with family or the child is adopted.

About 6,300 children were in foster care in 2015, and the number has increased in recent years. Over the past few years, the number of Kansas children in foster care steadily increased from an average of about 5,200 foster children in fiscal year 2008 to about 6,300 in fiscal year 2015, more than a 20% increase.

These children are placed throughout the state, and most are in licensed foster care homes. Of all children in foster care during fiscal year 2015, about 58% of children were placed in licensed foster homes, 32% were placed with relatives, and the remaining 10% were placed in group residential or other settings.

Kansas spent \$205 million on prevention and protection services in fiscal year 2015, with the majority going to foster care contractors. Prevention and Protection Services is a division within DCF that oversees foster care, adoption, family preservation, and the Kansas Protection Report Center. In fiscal year 2015, DCF spent about \$205 million for prevention and protection services. About \$142 million of that amount were payments to foster care contractors. The balance of expenditures included costs to oversee foster care service providers, and to fund adult protective services and the protection report center.

Many Agencies and Individuals are Involved in the Foster Care System

Several entities are primarily responsible for ensuring the safety and interests of the children, families, and foster parents in the Kansas foster care system. The removal of a child significantly affects the lives of the parents, the child, and other

family members. Consequently, it is important for the foster care system to have sufficient controls in place to ensure the best interest of the child is the focus of all decisions made throughout the process. This requires multiple entities to be involved in the process at different levels and with different responsibilities, as described below.

- **DCF is ultimately responsible for the safety and well-being of foster care children.** DCF has a primary role in recommending whether a child should be removed from their home, who should have custody, and whether parental rights should be terminated. Additionally, the department is responsible for licensing foster homes.
- **Case management contractors provide services for foster care children and their families to help ensure case plan goals are achieved.** Kansas privatized its foster care services in 1997. The most recent contracts started on July 1, 2013 when DCF selected two contractors to provide case management services across the state. This includes services to ensure parents can resume responsibility for the child in the home and complete case plan goals. For example, case plan goals can include completing parenting classes, counseling, or substance abuse intervention. These contractors also work with child placing agencies that recruit foster families and help regulate licensed foster homes.
- **The courts make decisions regarding who receives custody of foster care children.** Although DCF and contractors make recommendations, ultimately the court decides whether a child should be removed from their home, who should have custody, and whether parental rights should be terminated.

The federal government provides funds to the Kansas foster care system and monitors the state's performance through the Administration for Children and Families (ACF). ACF is a division of the federal U.S. Department of Health and Human Services and administers the foster care program. ACF provides foster care funding to states for children removed from their parents due to maltreatment, lack of care, or lack of supervision. ACF monitors Kansas' performance, and may withhold funds if Kansas does not meet federal benchmarks related to the state foster care system.

***The Foster Care System
is Complex and
Involves Many Steps***

DCF and law enforcement investigate allegations of abuse or neglect and make recommendations to the courts on whether children should be removed from their homes. DCF receives complaints regarding potential children in need of care through the Kansas Protection Report Center. After investigation (sometimes conducted in cooperation with law enforcement), if DCF staff determine that a child is unsafe in a home, the agency can request

that the county or district attorney file a petition to remove the child from their parents' care. Through a series of hearings the court decides whether the child should be returned to their parents or removed and placed in DCF custody.

If a child is determined to be in need of care, contractors and child placing agencies work together to locate a home for the child. Once a child enters DCF's custody, a foster care contractor must locate a placement for that child. The placement is typically either a licensed foster care home or a relative of the child. Each licensed foster care home is sponsored by a child placing agency, which provides support and oversight of licensed foster care homes. DCF must approve all placements.

Contractors provide case management services and monitor progress of children in the foster care system. Contractors are responsible for developing a case plan for the child and providing the necessary services to help the child achieve permanency and ensure the child's well-being. Contracted case-management staff monitor a child while in foster care through monthly individual visits with the child. They also monitor the progress being made to achieve case plan goals, which must be completed prior to reintegration with the child's family.

The courts, with input from the contractor and DCF, decide when to reunite a child with their original family or to approve an adoption. The courts periodically review the child's case plan and progress made towards achieving case plan goals required before the child and their parents can be reunited. The court may decide that the child is safe to return home, or, the court may also decide that reunification is no longer a viable goal. In this case the child becomes eligible for adoption after parental rights have been relinquished or terminated.

After a child returns home or is adopted, contractors continue to provide services for up to a year. These services—known as aftercare—are intended to support both the child and the family, and help ensure the child will be safe in the home and will not need to re-enter foster care in the future.

Question 4: Does DCF Ensure That All Applicable State and Federal Laws Governing the Foster Care System in Kansas Are Followed?

DCF has to meet many state and federal requirements for the foster care program. (p. 7). DCF had not followed some of the safety and living condition requirements we reviewed in Part 1 of the audit (p. 8). According to the 2014 and 2015 statewide single audits, DCF materially complied with most, but not all federal requirements (p. 9). Further, DCF self-reported data shows Kansas met or exceeded about half of the federal outcome requirements for fiscal year 2016, but did not meet the others (p. 11). Finally, we found DCF must implement a program improvement plan to address issues identified by a 2015 federal review (p. 12).

DCF Has to Meet Many State and Federal Requirements for the Foster Care Program

In providing foster care services, DCF has to comply with both federal and state laws. These requirements are extensive, with some overlap. Often, such requirements are intended to help ensure that DCF has appropriate processes and safeguards to ensure children are safe while in the foster care system, and that they progress in a timely manner. Other requirements are more technical in nature and apply to administrative operations such as accounting and reporting.

- **State requirements apply to areas such as licensing requirements, contractor expectations, and aspects of the foster home.** Kansas statutes and regulations specify the type of background check and inspection needed for licensure. Laws also require physical and mental health services be provided for children in foster care. Further, state laws address permanency planning and periodic court hearings to assess progress. Finally, state laws specify aspects of the foster home including the limit on number of children in a foster home, square footage requirements and financial sufficiency.
- **Federal requirements include similar specific requirements as well as requirements for the overall system.** For example, federal law also requires monthly in-person visits with the children in foster care to assess their safety and requires certain background checks for persons living or working in the foster home. Federal law also has systemic aspects which require DCF to monitor the contractors, ensure proper accounting, ensure the quality of services provided, measure the progress of children, and report periodically. Failure to meet federal requirements can potentially put the state's federal funding in jeopardy.

To assess whether DCF was meeting state and federal requirements, we focused on certain safety requirements as reported in Part 1, reviewed audit work performed by our

contracted auditors and other federal auditors, and reviewed DCF's self-reported compliance. In Part 1 of this audit, we checked compliance with state and federal requirements related to safety and living conditions. In doing so, we reviewed DCF documentation and conducted file reviews onsite at contracted case management offices. As reported in Part 1 of this audit, our review focused on checking:

- whether required state and federal background checks had been completed,
- whether monthly in-person visits happened with children while they were in care,
- whether children had adequate sleeping space, and
- whether foster homes met financial resource requirements.

In addition to the audit work our staff completed in Part 1, we also reviewed the work of other auditors and reports compiled by DCF regarding federal requirements. These included the statewide single audit for state fiscal years 2014 and 2015; the results of a federal U.S. Department of Health and Human Services review called the Child and Family Service Review for 2015; and self-reported data DCF is required to report to the federal government. The results of these reviews are discussed in the following sections.

DCF Had Not Followed Some of the Safety and Living Condition Requirements We Reviewed in Part 1 of This Audit

Our work for Part 1 of this audit included reviewing compliance with state and federal laws related to ensuring the safety of children in foster care. These centered on background checks for people living and working in foster homes and relative placements, monthly in-person visits by case-management staff, and several aspects of the home itself. A summary of the requirements we reviewed and the results are shown in **Figure 4-1** on page 9. As the figure shows, in Part 1 we found DCF was not in full compliance with several of the laws included in our review.

Some key safety and living condition requirements we reviewed as part of our work in Part 1 and the results are summarized below.

- **Initial background checks were completed for prospective foster parents, but not always for others in the home.** We found that prospective foster parents and relative placements had initial fingerprint-based background checks completed, as required by law. However, only two of the 65 other persons in the home we reviewed had been checked. (Part 1, page 15-16)
- **Not all monthly case-management visits with the foster child were completed.** For about one-third of the 194 foster care cases we reviewed, evidence showed that case-management staff conducted the required monthly in-person visits. However, for a

small number of the cases we reviewed, we saw evidence that these federally and state required visits did not happen each month. For a majority of the cases we could not determine whether the visit happened or we questioned the quality of the visit. (Part 1, page 19)

- **DCF did not ensure that licensed foster homes had sufficient financial resources.** Our targeted review of 12 licensed foster homes showed DCF does not verify income information provided by foster families to determine if they have sufficient financial resources. (Part 1, page 33)

Figure 4-1 Summary of Federal and State Requirements Reviewed in Part 1		
Area Assessed	Requirement Met?	Details
Requirements Related to Background Checks - Pages 15-17 of Part 1		
Initial fingerprint-based background checks against KBI/FBI criminal history database for :		
Prospective Foster Parents	✓	Files we reviewed had this check
Prospective Adoptive Placements	N/A	Did not review adoptive files for this
Prospective Relative Placements	✗	Files we reviewed showed 11 of 29 individuals had not been checked
Initial name-based background checks against KBI's criminal history data database for:		
Anyone in the home age 10 or more	✗	Files we reviewed showed five individuals over age 10 had never been checked
Initial name-based checks against the child abuse registry maintained by DCF for:		
Prospective Foster Parents	✓	Files we reviewed had this check
Prospective Adoptive Placements	N/A	Did not review adoptive files for this
Anyone in the home age 10 or more	✓	Files we reviewed had this check
Requirements related to Licensed Foster Homes - pages 31-33 of Part 1		
Sufficient financial resources for licensed foster homes.	✗	DCF does not verify any information to ensure this.
Number of children in licensed foster homes.	✓	Although homes in our review exceeded the limit, exceptions had been granted
Sufficient sleeping space for children in licensed foster home.	✓	Although homes in our review exceeded the limit, exceptions had been granted
Exceptions allowed for foster home licensing requirements, if in best interests of child.	✗	98% of exceptions granted with no evidence of DCF scrutiny or assessment of whether in the child's best interest.
Requirements related to foster care monthly visits - pages 18-21 of Part 1		
Monthly in-person visits by caseworker with children in foster care.	✗	Vast majority (about 65%) of cases we either couldn't tell whether visits happened (59%) or saw evidence that visits did not happen (7%).
Monthly visits of the licensed foster homes by the child placing agency.	✗	Vast majority (87%) of cases we couldn't tell whether visits happened. Required documentation of the visit was missing.
Source: LPA analysis of law s and case file review s from Part 1 of the report.		

According to the 2014 and 2015 Statewide Single Audits, DCF Materially Complied with Most, but Not All Federal Requirements

Each year our office contracts with an external audit firm to assess whether major state programs (including foster care) are in compliance with federal requirements. This audit is commonly referred to as the statewide single audit. Auditors rely on file reviews, and internal control test work related to accounting and monitoring controls. We reviewed the results of the 2014 and

2015 statewide single audits (the most recent available) for areas related to foster care.

The contracted auditors reviewed six general areas related to foster care and identified two areas with issues in both the 2014 and 2015 statewide single audits. Figure 4-2 below lists the areas assessed, the test work completed and the results for fiscal years 2014 and 2015. As the figure shows:

- **Auditors found no deficiencies related to allowed costs, cash management, matching contributions.** The auditors checked expenditures and transactions to ensure they had appropriate support and approval. They also checked that matching contributions were from allowable sources. In addition, DCF was able to resolve a report finding from 2014 in the 2015 audit.
- **Auditors found issues with DCF controls related to monitoring and paying sub-recipients (contractors).** As the figure shows, auditors found evidence that some payments to the contractors were not adequately supported in both 2014 and 2015. Further, auditors found a variety of issues with contractor monitoring in 2014, and one issue in this area for 2015. In both cases the findings were downgraded from a material weakness in 2014 to a significant deficiency in 2015. This means that DCF had made progress, but that the finding was not completely resolved.

Figure 4-2 Results of Statewide Single Audit Work Related to Foster Care Fiscal Years 2014 and 2015			
Area of Compliance Tested	Met in 2014?	Met in 2015?	Comment
Activities and Allowed Costs - Auditors checked administrative expenditures and payroll, looking for supporting documentation, proper accounting, and appropriate time period.	✓	✓	--
Cash Management - Auditors tested transactions to ensure that draw downs were timely, had appropriate approvals and were recorded accurately.	✓	✓	--
Eligibility - auditors verified payments were made to eligible beneficiaries, benefits were calculated correctly, and that eligibility was documented in case files. Auditors also checked that payments made to contractors had adequate support.	✗	✗	2014 Material Weakness: Three out of 40 payments to contractors were not appropriately supported 2015 Significant Deficiency: One out of 60 payments to contractors were not appropriately supported
Matching, Level of Effort, Earmarking - Auditors checked that required matching contributions were met, recorded correctly in the general ledger, and that matching contributions were from allowable sources.	✓	✓	--
Reporting - Auditors tested controls over DCF processes and procedures for all programs. One quarterly foster care report was tested for completeness and adequate support.	✗	✓	2014 Significant Deficiency: (a carry-over finding from the previous year) Two subrecipients did not report correctly.
Subrecipient Monitoring - Auditors tested the subrecipient documents to verify: -DCF obtained proper information prior to the subaward, -DCF provided award information and requirements, -DCF monitoring provided reasonable assurance that federal funds were used for authorized purposes, complied with laws, regulations and provisions of contracts, and achieved performance goals, -DCF audited subcontractors.	✗	✗	2014 Material Weakness: DCF did not obtain proper information, DCF did not provide the contractor with the award information, DCF has not established monitoring controls of the contractors. 2015 Significant Deficiency: DCF did not provide the contractor with the award information.
Significant deficiency means there are one or more deficiencies in internal control over compliance with the requirements of the federal program that is important enough to bring to the attention of those charged with governance. Material weakness means one or more deficiencies in internal control over compliance with the requirements of the federal program that there is a reasonable chance that the agency is not complying with the requirements of the federal program, and the non-compliance is not being caught and corrected.			
Source: Kansas statewide single audits for FY 2014 and FY 2015 conducted by CliftonLarsonAllen under contract with LPA.			

DCF Self-Reported Data Shows Kansas Met or Exceeded About Half of the Federal Outcome Requirements for Fiscal Year 2016, but Did Not Meet the Others

We reviewed DCF's self-reported outcome data for fiscal years 2013 through 2016. As a condition of receiving federal funding, DCF is required to report data about children in its care—known as outcomes data. To determine if the state is meeting the specific federal outcomes, DCF regularly measures these areas and submits reports to the federal government. We reviewed the last four fiscal years of outcome data. Our summary of that data is included in **Figure 4-3** below. Several requirements are new for 2016. As the figure shows, according to outcome data compiled by DCF, the agency has consistently met or exceeded about half of its outcome requirements.

Figure 4-3 Summary of DCF Compliance with Federal Outcomes Fiscal Years 2013-2016					
Requirements DCF generally met	Standard	FY 13	FY14	FY15	FY 16
Percent of children in foster care for three or more years	Less than 47.8%	34.2%	33.0%	32.8%	36.1%
Percent of children in a family-like setting	More than 90%	95.5%	95.2%	94.7%	94.2%
Percent of children in out-of-home care living with a relative	More than 29%	31.6%	31.0%	32.4%	32.9%
Percent of children in out-of-home care placed with at least one sibling	More than 78%	78.6%	78.8%	78.4%	79.1%
Percent of children who re-enter foster care within 12 months of discharge (new for 2016)	Less than 8.3%	--	--	--	7.5%
Rate of victimization per 100,000 days in foster care (new for 2016)	Less than 8.5	--	--	--	4.0
For children in foster care 24 or more months, the percent discharged within 12 months and before turning 18 (new for 2016)	More than 30.3%	--	--	--	31.6%
Requirements DCF did not consistently meet	Standard	FY 13	FY14	FY15	FY 16
Percent of children who are adopted within 12 months of terminating parental rights	More than 45.8%	44.2%	45.1%	42.6%	42.1%
Percent of children who are adopted within 24 months of entering care	More than 26.8%	32.1%	32.9%	25.5%	23.0%
For children in foster care 12-23 months, the percent discharged within 12 months and before turning 18 (new for 2016)	More than 43.6%	--	--	--	41.5%
Percent of children who's parental rights were terminated have a permanent home by age 18	More than 96.8%	89.8%	90.2%	91.2%	90.7%
Percent of children over age six who attend the same school as prior to removal from the home	More than 25%	19.1%	14.5%	15.8%	14.9%
Percent of children in out-of-home placement for one year or more who progress to next grade level	More than 70%	n/a	70.1%	35.5%	58.2%
Rate of moves per 1,000 days in foster care (new for 2016)	Less than 4.12	--	--	--	6.6
For children new to foster care, percent discharged within 12 months of entering foster care and before turning 18 (new for 2016)	More than 40.5%	--	--	--	39.7%
(a) Outcomes that did not meet federal standard are shaded grey Source: Unaudited performance data as of 9/12/16 published by DCF					

DCF has consistently met the requirements related to placing children with relatives and siblings, but has not consistently met those related to timeliness or stability. The data show that DCF has consistently met federal requirements related to family preference. This includes placing children in relative placements (as opposed to licensed foster care homes) and keeping siblings together. In addition, DCF has also consistently met requirements for minimizing the maltreatment of children while they are in care.

As the bottom portion of *Figure 4-3* shows, DCF has not consistently met some requirements related to timeliness, such as, adoption within 12 months of termination of parental rights. DCF has also not consistently ensured that children progress to the next grade level and remain in the same school that they were in prior to entering foster care. Further, DCF did not meet the federal limit on the average number of moves for each foster child (this is new for 2016).

Note, during the course of our work (between August 2016 and September 2016), DCF changed several of the fiscal year 2016 results significantly. Thus, the reader should view the self-reported outcome results with caution.

DCF Must Implement a Program Improvement Plan to Address Issues Identified by a 2015 Federal Review

Finally, we also reviewed the results of a federal audit conducted by the U.S. Department of Health and Human Services in late 2015 called the Child and Family Service Review (CFSR). These reviews are conducted approximately every five years and are intended to ensure that DCF is in substantial compliance with certain federal child welfare requirements. The 2015 review included an analysis of child-welfare data as reported by the contractors and DCF, an on-site review of 65 cases, and interviews with stakeholders. DCF received the final report in late 2015.

The review found that DCF was in compliance with about one-third of the categories assessed, but not in substantial compliance with the rest. DCF was in compliance with standards regarding protecting children from abuse and neglect (including minimizing maltreatment), its quality assurance system and responsiveness to the community. However, the areas of non-compliance included the case review system, licensing and recruiting foster homes, stability in living situations, and children receiving adequate services to meet physical and mental health needs. A table summarizing each area assessed and DCF performance is included in *Appendix B*.

DCF was required to submit a program improvement plan to address each problem area. The plan details the improvement activities, when they will be completed, and how the state will measure and report its progress. DCF submitted its plan to the federal government in June 2016, and officials are awaiting its approval. Once approved by the U.S. Health and Human Service's Administration for Children and Families, DCF plans to implement these strategies and activities immediately and continuing through December 2018.

The level of non-compliance identified during the 2015 review had an estimated penalty of \$535,000 in withheld funds. However, the penalty is currently suspended during the plan implementation period. If Kansas successfully resolves the non-compliance within this period, the penalty will be rescinded.

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit at its December 2015 meeting. The committee had approved a comprehensive audit of DCF and the foster care system. Subsequently, the questions included in this scope statement were selected by the Foster Care Scope Statement Subcommittee.

Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System

Kansas' foster care program is administered by the Department for Children and Families (DCF) and has been privatized since 1997. The department currently contracts with two service providers—KVC Kansas and St. Francis—to provide foster care services across the state. The foster care program is charged with protecting children who may be physically or mentally abused or neglected. The department may provide preventive services to a family when child abuse is suspected with the goal of keeping the child in the home. However, if preventive services are not successful or if the danger to the child appears to warrant action, the department may ask the county or district attorney to petition the court to place the child in its custody.

After a court order puts a child in the custody of the department, the child may be placed back with the family with the written permission of the court, with relatives or friends of the family, with a foster family, in a group home, or in an appropriate state-operated facility. Child Welfare Case Management Providers, who are private contractors with the state, work with the child and family to resolve issues so the child can return home. If it is not possible for a child to go back to the family, parental rights may be taken away by the court or voluntarily surrendered. At that point the child is available for adoption.

The questions included in this scope statement were selected by the Foster Care Scope Statement Subcommittee for consideration by all members of the Legislative Post Audit Committee. At its December 2015 meeting, the Legislative Post Audit Committee considered an audit request by Representative Jim Ward intended to evaluate whether DCF had discriminated against same-sex couples through its child placement process. Although the committee did not approve that request, it established the subcommittee to develop a comprehensive audit request of DCF and the foster care system.

A performance audit in this area would address the following questions:

- 1. Is DCF following adequate policies and procedures to ensure the safety of children during the removal and placement process?** To answer this question, we would identify which types of factors and best practices should be considered and implemented as part of the removal and placement process to ensure children's safety (according to professional associations such as the National Association of Social Workers). Interview department officials and review documents as necessary to understand the department's policies and procedures for child removals and child placements (with either the child's original family, with foster parents, or with adoptive parents). As part of that work, we would also determine whether the department allows CINC children to be placed in homes that also house juvenile offenders. We would review the department's policies and procedures to determine whether appropriate factors were included and whether best practices had been sufficiently implemented. Moreover, based on sample of cases, we would review department files and interview staff to determine whether department staff and foster care

contractors followed the department's removal and placement policies and procedures as designed.

2. **Does DCF's child placement process help ensure that children are placed in foster care or adoptive homes with a sufficient living space and sufficient financial resources?** To answer this question, we would interview DCF officials and review department policies and procedures to determine whether factors such as household size, living space, or household income considered by DCF and others when making child placements in foster care or adoptive homes. We would also review foster care licensing requirements and professional literature to determine whether there were any suggested limits on family size, home square footage, or minimum family income that should be considered when making placement decisions. Moreover, we would review DCF files for children placed in very large foster care or adoptive families to determine whether those homes provide sufficient space for the children and to determine whether the financial resources of the families appeared sufficient. In performing that work, we would also interview DCF staff and others involved in the placement decision to identify whether there were ever any concerns raised about these types of home situations and if so, how they were addressed.
3. **Are DCF's criteria for recommendations regarding the removal and placement of children designed to help keep families together as much as possible?** To answer this question, we would interview DCF to understand their specific role in the removal and placement processes as well as the private contractors they oversee. We would also determine which criteria DCF and contractor staff use when removing children from their homes and which criteria they use to make recommendations of a child's placement in either a foster care or an adoptive home. We would compare that to professional literature and best practices in this area developed by organizations such as the U.S. Department of Health and Human Services. We would conduct a DCF and contractor staff survey and would interview other foster care professionals and stakeholders as necessary to collect their opinions on whether the criteria used by DCF and its contractors helps keep families together as much as possible. Based on that collective information, we would determine if DCF's placement and removal criteria are sufficient to help ensure that children are not removed from their families too quickly and that children from the same home are placed together whenever possible.
4. **Does DCF ensure that all applicable state and federal laws governing the foster care system in Kansas are followed?** To answer this question, we would interview DCF officials and would work with the Office of Revisors staff to identify all state and federal laws related to the foster care system in Kansas, including any financial requirements. Further, we would work with DCF staff to determine how they ensure compliance with those laws and requirements through their established policies, procedures, and contractual agreements with private contractors. For a sample of cases, we would determine whether DCF staff and contracted staff appear to adhere to those policies and procedures as designed and would determine the primary causes for any non-compliance we identified including any sanctions DCF imposed on staff for any violations. In addition, we would work with DCF and federal state agency officials as necessary to determine the consequences, if any, of any violations of state or federal law we identified.
5. **Do foster care contractors have sufficient capacity to provide necessary foster care services?** To answer this question, we would collect and analyze historic information to determine contractors' staffing and caseloads before and after being awarded their contracts with the state and interview officials regarding any trends we identified. Collect information from each contractor to determine and compare their average staff caseloads and the specialized services they provide for children in their care (e.g. mental health services) to best practices, other

contractors, and over time. Work with DCF and contractor officials to identify trends in the number of children in foster care and receiving specialized services in recent years. Review any information the DCF maintains related to contractor performance and complaints. For any problems we identified, we would interview contractor and department officials as necessary to better understand those issues and to determine what has been done to resolve them.

6. **Has the privatization of foster care and adoption significantly affected outcomes for children and families?** To answer this question, we would interview DCF officials and would review DCF records to determine what types of outcomes they have consistently tracked (in areas such as assessments, removals, reunifications, and placements) before and after the privatization of foster care and adoption. We would also interview DCF officials to determine how the foster care and adoption system has changed over time and how that might affect the outcomes they measure. We would compile readily available outcome data for all phases of the foster care and adoption process and compare those outcomes before and after privatization, and would follow up with DCF and Contractor officials about any trends noted in the comparison.
7. **Has the privatization of state foster care and adoption significantly affected the cost of those services to the state?** To answer this question, we would interview DCF staff and review available data to determine how much foster care and adoption cases cost Kansas before and after privatization on a per child basis. We would also interview DCF officials to determine how the foster care and adoption system has changed over time and how that might affect system costs. We would compare current privatized costs for foster care and adoption services to costs prior to privatization after accounting for relevant factors such as inflation and wage increases over time. Similarly, we would identify other states with foster care and adoption systems similar to Kansas and with similar outcomes, and would work with officials from those states to collect cost information that could be compared to our own. In doing all of this work, we would determine the state's share of funding for these costs both before and after privatization.

Estimated Resources: 5 LPA staff

Estimated Time: 11 months (a)

- (a) *From the audit start date to our best estimate of when it would be ready for the committee; LPA would intend to release several reports during this 11-month period. Note: Our ability to answer questions 6 and 7 on privatization will be subject to how much and what type of records have been maintained since privatization of the foster care and adoption system.*

APPENDIX B

Results of 2015 Child and Family Services Review

This appendix summarizes the findings by the U.S. Department of Health and Human Services in late 2015 for the Child and Family Service Review (CFSR). The table summarizes each area assessed and DCF's performance as either in compliance, not in compliance or an area for improvement.

Appendix B Results of 2015 Child and Family Services Review				
		Not in Compliance	Needs Improvement	In Compliance
Outcomes				
Safety	Children are first and foremost protected from abuse and neglect			x
	Timeliness of Initiating investigations of reports of child maltreatment			x
	Recurrence of maltreatment			x
	Maltreatment in Foster Care			x
	Children are safely maintained in their homes whenever possible and appropriate	x		
	Services to family to protect children in the home and prevent removal or re-entry into foster care		x	
	Risk and safety assessment management		x	
Permanency	Children have permanency and stability in their living situations	x		
	Stability of Foster Care placement		x	
	Permanency Goal for child		x	
	Achieving reunification , guardianship, adoption or other planned permanent living arrangement		x	
	Permanency in 12 months for children entering foster care	x		
	Permanency in 12 months for children in care 12-23 months			x
	Permanency in 12 months for children in care 24+ months	x		
	Re-entry into foster care in 12 months			x
	Placement stability	x		
	Continuity of family relationships and connections is preserved for children	x		
	Placement with siblings			x
	Visiting with parents and siblings in foster care		x	
	Preserving connections		x	
	Relative placement		x	
	Relationship of child in care with parents		x	
Well Being	Families have enhanced capacity to provide for their children's needs	x		
	Needs and services of child, parents and foster parents		x	
	Child and family involvement in case planning		x	
	Caseworker visits with child		x	
	Caseworker visits with parents		x	
	Children receive appropriate services to meet their educational needs	x		
	Educational needs of the child		x	
	Children receive adequate services to meet their physical and mental health needs	x		
	Physical health of child		x	
	Mental/Behavioral health of child		x	
Systemic Factors				
	Statewide information system			x
	Case Review system	x		
	Written case plan		x	
	Periodic reviews			x
	Permanency Hearings			x
	Termination of Parental Rights		x	
	Notice of hearings and case reviews to caregivers		x	
	Quality Assurance system			x
	Staff and provider training			x
	Initial staff training			x
	Ongoing staff training			x
	Foster and adoptive parent training			x
	Service array and resource development	x		
	array of services		x	
	individualizing services		x	
	Agency responsiveness to community			x
	State engagement and consultation with stakeholders pursuant to CFSP and APSR			x
	Coordination of CFSP services with other federal programs			x
	Foster and adoptive parent licensing, recruitment and retention	x		
	Standards applied equally			x
	Requirements for criminal background checks			x
	Diligent recruitment of foster and adoptive homes		x	
	Use of cross-jurisdictional resources for permanent placements		x	

Source: LPA analysis of CFSP

APPENDIX C

Agency Response

On August 18, 2016 we provided copies of the draft audit report to the Department for Children and Families. Because the report did not include any recommendations, the agencies response was optional. Its response is included as this Appendix. The agency generally concurred with the report's findings.

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Phyllis Gilmore, Secretary

Sam Brownback, Governor

September 2, 2016

Mr. Scott Frank, Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson St., Suite 1200
Topeka, KS 66612-2212

Dear Mr. Frank:

Thank you for the opportunity to respond to the draft audit report, *Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Part 2*. We appreciate the work of your audit staff members and their efforts to understand a complex system in the short amount of time allotted to perform this audit.

SUMMARY RESPONSE

The Kansas Department for Children and Families (DCF) welcomes oversight and review of the child welfare system, which includes DCF and many others. It is our goal and that of our contractors and others to maintain children in safe homes as families achieve stability. We learn from audits and reviews that are clear and objective and provide us with feedback regarding our performance. As was pointed out in the audit findings, we have areas where we can improve, however, Kansas has one of the safest child welfare systems in the country. State and federal mandates pertaining to child welfare are designed to ensure the well-being of children, and DCF is committed to following these mandates. Less than 1 percent of Kansas children are in out-of-home placement. For these children and potential victims of abuse and neglect, it is especially important that DCF adhere to laws designed to protect them. We take this responsibility seriously, and are pleased to again confirm that children in our care are safe.

AUDIT SUMMARY

I would now like to offer direct response to the concerns addressed within the audit. This part of the Legislative Post Audit review asked one question related to foster care and adoption in Kansas to determine whether: *DCF ensures that all applicable state and federal laws governing the foster care system in Kansas are followed*. This question will be specifically addressed below.

Strong Families Make a Strong Kansas

DCF RESPONSE

REFERENCE TO FINDINGS IN THE PART 1 AUDIT

This audit referenced results already reported in Part 1 of this audit series. This audit summarizes results from Part 1 in determining whether DCF ensured all State and federal laws were followed. The audit specifically discussed findings in Part 1 related to:

- Background checks not always being completed for everyone in a foster home.
- Monthly case-management visits not always being completed for the foster child.
- Verification that licensed foster homes had sufficient financial resources.

We are pleased to report that since that audit was finalized on July 27, 2016, we have taken the following corrective actions:

- **BACKGROUND CHECKS:** Requirements were implemented in August 2016 for annual background checks conducted on every person 10 years of age and older, affiliated with a foster home at the time of the home's annual renewal (and at the time of application, for new homes).
- **MONTHLY VISITS:** DCF has met with both child welfare contractors, and each has submitted a corrective action plan to address the issues noted in the prior audit report. These issues included the insufficient documentation related to monthly visits. All corrective actions are to be implemented by Dec. 31, 2016. The contractors' progress is being monitored at numerous levels within DCF to ensure compliance to the plan.
- **DOCUMENTATION TRAINING:** In addressing the issues and concerns with our contractors regarding documentation, DCF will implement Documentation Training, beginning in October 2016. All DCF and contractor staff will be mandated to participate in this training.
- **SUFFICIENT FINANCIAL RESOURCES FOR FOSTER PARENTS:** Effective Sept. 1, 2016, DCF implemented Policy Advisory 2016-2, requiring foster parent applicants to submit financial documentation and undergo a financial assessment by a Licensing Division Surveyor at the initial licensing survey. Annually thereafter, foster parents' financial status is reassessed. The purpose of this assessment is to ensure that all foster parents are financially independent prior to receiving any foster care reimbursement payments.
- **CHILD WELFARE COMPLIANCE UNIT:** DCF has begun the process of creating a new Child Welfare Compliance Unit within the agency's Audits division. These positions have been posted, and interviews are scheduled to take place in the near future. The unit will be charged with ongoing audit-level monitoring and oversight of contractor compliance to contract provisions, policies and procedures, and child welfare practices. The unit will also assess DCF child welfare staff and its performance. The unit will be fully operational by January 2017.

REFERENCE TO FINDINGS IN THE 2014 AND 2015 STATEWIDE SINGLE AUDIT

The audit references findings in the statewide single audit in forming conclusions about whether DCF ensured all State and federal laws governing the foster care system in Kansas were followed. These audit results were already reported to the Legislative Post Audit Committee in 2015 and 2016, with no questions or concerns noted by the Committee at that time. The issues noted in the audits related to monitoring were with regard to technical items missing from award documents—federal award numbers, e.g.—and not oversight of foster care programs administered by the contractors.

DCF SELF-REPORTED DATA

DCF is required by the federal government to report data on children in the Secretary's custody. The LPA looked at our data from 2013 through 2016. As summarized in Figure 4-3, there are several requirements that are new for 2016. There are many items in the summary that are in compliance with federal guidelines. The items that are not in compliance are addressed in our State Plan, Child & Family Services Review (CFSR) and Program Improvement Plan (PIP). The LPA audit states that the "data show that DCF has consistently met federal requirements related to family preference. This includes placing children in relative placements (as opposed to licensed foster care homes) and keeping siblings together. In addition, DCF has also consistently met requirements for minimizing the maltreatment of children while they are in care." DCF appreciates the LPA's recognition of our safety record, as we work diligently to meet our federal outcomes and continue on our path to best serve the children and families in Kansas.

CHILD AND FAMILY SERVICE REVIEW AND PROGRAM IMPROVEMENT PLAN

As was stated in our response to Part 1 of this audit series, DCF undergoes a wide range of reviews on a regular basis to assess compliance with federal and State laws. This oversight is not only warranted but essential to protect the integrity of the child welfare system and the vulnerable children we serve. One of the most extensive and rigorous reviews conducted by the federal government is the CFSR. This periodic review of state child welfare systems is designed to ensure conformity with federal child welfare requirements, determine what is actually happening to children and families as they are engaged in child welfare services, and assist states in helping children and families achieve positive outcomes (www.acf.hhs.gov).

The CFSR is a valuable tool to not only gauge Kansas' progress in ensuring safety of those served by the child welfare system, it also offers insight into how Kansas compares to other states. States are specifically assessed on achieving outcomes in the areas of safety, permanency and well-being. **And in the most recent completed review, when comparing all states, Kansas ranked second in the nation in Safety Outcome 1 (Children are, first and foremost, protected from abuse and neglect) and ninth in Safety Outcome 2 (Children are safely maintained in their homes when possible and appropriate).**

After a CFSR is completed, which includes three rounds, spanning several years, states develop a PIP to address areas in their child welfare systems that need improvement. Every state is required to be reviewed under the CFSR process and **all 50 states are currently under a PIP**, as reported by the U.S. Department of Health and Human Services website.

The CFSR has been conducted three times since 2000. The first CFSR (Round 1), was conducted from 2002 to 2004. DCF (formerly SRS), was one of the first states to be reviewed and ranked 21st and fifth for its safety record in meeting Safety Outcome 1 and Safety Outcome 2. DCF made many improvements through the PIP process, and by the second round, conducted in 2008, DCF was ranked second and ninth, as stated earlier. Our most recent CFSR, conducted in 2015, shows continued improvement in meeting safety outcomes. Although most states have not completed the third round, **Kansas currently ranks first and second in the country in Safety Outcome 1 (Children are, first and foremost, protected from abuse and neglect) and Safety Outcome 2 (Children are safely maintained in their homes when possible and appropriate), respectively.**

We believe Kansas' performance in the CFSR, a comprehensive, exhaustive, verifiable and valid report, demonstrates children in our child welfare system are safe. As stated above, we are pleased that this most recent LPA audit notes our progress and performance specifically in the areas of protecting children from abuse and

Mr. Scott Frank

9/2/16

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neglect (including minimizing maltreatment), our quality assurance system and responsiveness to the community. We are also pleased that the audit confirms what was stated in our response to Part 1 of the audit, what we have repeated in our response to Part 2 and what we have consistently reported to the Committee and the public—that we are in compliance with the federal standard of protecting children, first and foremost, from abuse and neglect. There is no greater priority or responsibility for any state foster care system.

Although the CFSR does show areas of noncompliance, Kansas still ranks high in comparison to other states and consistently received positive feedback about its performance from federal oversight officials. Regardless, we will not be satisfied until every child is protected from abuse and neglect, so we welcome any additional information we can utilize to serve that goal.

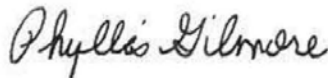
CONCLUSION

We appreciate the review by the LPA, to evaluate DCF's compliance with *all applicable state and federal laws governing the foster care system in Kansas*. As was the case with the first round evaluation, Part 2 offered additional insight and information that will help us make further improvements to better serve the children and families of Kansas.

As was noted in the findings, the child welfare system is complex and includes a multitude of entities that all share the common goal of protecting children. It is through our collaborative work we can ensure the well-being of vulnerable children is always a top priority. We believe it is vital that children achieve permanency in a timely manner; however, it is important to note, permanency is court-ordered, and DCF does not have the final say as to when and how permanency for children in our care is achieved. We will continue to work with the court system and others to promote positive and timely permanent outcomes for those we serve.

The CFSR is an extensive and exhaustive review of child welfare systems throughout the country. It serves our state by identifying our areas of strength and weakness. Kansans should take pride in the fact that they have one of the safest child welfare systems in the country. Until we have a perfect score in every CFSR category, and every child is safe, we will not be satisfied simply by being ranked one of the best. Our federal partners, Kansas lawmakers and Kansas families expect nothing less, and we will continue to work hard in delivering on our promise to protect children, promote healthy families and encourage personal responsibility.

Sincerely,



Phyllis Gilmore
Secretary of Kansas Department for Children and Families

