

**Center for Family Representation (CFR)**  
**Submitted Testimony for the Committee on General Welfare**

**Hearing Date: October 31, 2019**

CFR is grateful for the opportunity to submit testimony on the slate of bills being proposed by members of the Progressive Caucus. We thank Chairman Levin and the General Welfare Committee for their focus on these important issues.

**Overview of CFR**

The Center for Family Representation (CFR) is the assigned indigent defense provider for parents who are Respondents in abuse and neglect proceedings in Queens and Manhattan family courts. CFR was founded in 2002 to support indigent parents in raising their children safely and minimize the City's reliance on foster care. Currently, pursuant to a contract with the New York City Mayor's Office of Criminal Justice (MOCJ), CFR represents an average of 1,000 new clients each year in these proceedings, and in supplemental proceedings like custody, guardianship, visitation and termination of parental rights cases. We also provide representation on interim appeals and at least 10 final appeals a year. Since becoming a high volume provider in 2007, CFR has served over 10,000 parents with more than 20,000 children.

We also provide intensive assistance to recently reunified families in securing day care, school placement, public benefits and other services. Our goal is to prevent foster care. In those instances where foster care is unavoidable, our goal is to shorten the time children spend in care and to prevent their re-entry into care. On average 50% or more of our client's children avoid foster care altogether, and for those that do enter care, the average time they spend in care is half as long as the citywide average prior to when CFR became a high volume provider.

In each of our practice areas CFR employs an interdisciplinary model of representation, marrying in court litigation to out of court advocacy. Every parent is assigned an attorney and a social work staff member at intake, which is generally the first day a parent is summoned to court and could be after a removal of their children.<sup>1</sup>

CFR social workers ensure clients receive individually tailored services, such as drug treatment, counseling, and educational or day care services for their children, which specifically address the needs of each particular family. Many critical decisions are made outside of the court context at family team conferences, and related foster care and child protective meetings. CFR social work staff accompany parents to these conferences and meetings, to confirm that appropriate services are in place and to advocate for parents if a service plan is inappropriate. Inappropriate service plans, which often include numerous services that are unrelated to the concerns that brought a family into contact with ACS, create strains on the family that will undermine their chance of being reunified or staying together. An inflated and inappropriate service plan may interfere with visits, employment, and can be unaffordable.

CFR also employs parent advocates, who are parents that have had their children removed by ACS and were able to successfully work within the system to achieve reunification. Parent advocates provide support to parents in crisis as well as provide advocacy in securing and maintaining public benefits. Throughout the course of the case our attorneys, social workers, and parent advocates are in constant communication with attorneys for ACS, attorneys for children, caseworkers, foster care case planners, judges, and other court personnel.

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<sup>1</sup> In addition to our Family Defense practice, CFR's Home For Good practice includes the following practice areas: adult criminal court, housing and public benefits, immigration, and Re-entry Prevention.

Below we detail the concerns we have about some of the legislation being proposed, based upon this experience.<sup>2</sup>

### **Legal Services and Access Legislation** 1715, 1718, 1728, 1729, and 1736

CFR strongly agrees that there is a need for increased accountability for ACS. The Family Court Act (FCA) entrusts the government, here ACS, with a significant amount of power to inject itself into the family unit. Nearly every family that is investigated by ACS is poor, black or brown. Essentially none of these families have any knowledge of how the child protective system works or their rights during an investigation.<sup>3</sup> When a parent opens their door to ACS there may be one caseworker standing there, but that caseworker has been trained to interrogate parents, sometimes by the NYPD Police Academy.<sup>4</sup> The caseworker also has access to legal advice about how to proceed with their investigation, training with the court process and, under certain circumstances, the ability to remove a child from his or her home. While many parents with means would immediately call an attorney if a caseworker were to contact them, the families that ACS usually investigates and prosecutes do not have that ability. Caseworkers are currently not required to inform parents of their rights. They do not inform parents that they have

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<sup>2</sup> For clarity, we have organized these bills into 3 categories: Legal Services and Access, Reporting, and Resolutions.

<sup>3</sup> In November 2018, it was announced that the city was investing \$10 million dollars in new training facilities in Queens and Harlem to aid in the training of caseworkers. According to a New York Daily News article, the curriculum included training caseworkers to know when to “get tougher”. Commissioner Hansell is quoted in the article as saying the simulation centers were inspired by training the caseworkers received at the NYPD Police Academy the prior year. Thomas Tracy. 2018. ‘Exclusive: Childrens Services case managers to get real-life home visit experience in simulated settings’. *New York Daily News*. November 28, 2018. Available at: <https://www.nydailynews.com/new-york/ny-metro-acf-fun-house-training-20181124-story.html>. Accessed on: October 27, 2019.

<sup>4</sup> <https://www1.nyc.gov/assets/acs/pdf/PressReleases/2018/SimulationCentersRelease.pdf>

the right not to speak with them and could instead seek out the advice and counsel of an attorney. Many of our clients report that they were threatened by caseworkers that “they must” engage in these conversations or risk having their children removed. Parents are not told that, absent a court order, they do not have to allow the caseworker to interview their child or conduct a physical examination of their child. Many parents of means may feel comfortable refusing to allow a caseworker to enter their home or speak to their children. However, families who rely on public housing, the shelter system, public benefits, have immigration concerns, or have been involved in the child welfare system in the past feel compelled to allow the caseworker entrance to their home or access to their children. An added benefit of requiring caseworkers to inform parents of their rights, is that the caseworkers will become more familiar with them, though ongoing training would be necessary.

Parents may also be reluctant to agree to engage in services, for fear that the worker is not sympathetic to their family’s specific needs. Even parents who feel that they need assistance may be fearful of admitting that to a caseworker because they do not want to make their situation worse.

There is a common misconception that parents attorneys are not concerned with what is in the best interests of the child. However, our clients are often in the best position to know what is in their own children’s best interests and what services would be most helpful to their families. We know that our clients want their children safe at home, which means engaging in appropriate services or allowing a family member, friend, or certified foster parent to temporarily care for them. We can assist our clients in making these decisions.

One CFR client, Ms. D, was recently investigated by ACS following an anonymous report to the State Central Registry (SCR). She allowed the caseworker to enter and inspect her home. Ms. D was unaware of her right to deny the caseworker entry or that she could seek legal advice before speaking to her. During this visit, Ms. D was not informed of the allegations being investigated despite her asking multiple times. A few weeks later, Ms. D received a letter under her door indicating that a conference had taken place three days prior. Ms. D was unable to reach the caseworker or the caseworker's supervisor to determine whether the date was correct or the result of typo, despite making multiple calls. She lacked the resources to seek legal advice and did not know what her options were. She began to question whether ACS was actually investigating her family. Ultimately, ACS did file a petition against Ms. D and asked the Court to remove her children. CFR was assigned to represent Ms. D on the day this petition was filed. We started a hearing on the same day and were successful in keeping Ms. D's children at home. We believe that if Ms. D had been informed of her rights and able to speak with an attorney or social worker during the ACS investigation, the filing could have been avoided. ACS should be required to provide parents a written notice of their rights and parents should have access to counsel when being investigated by ACS.

In 2004 and 2005, CFR and ACS piloted a program, Project Engage, to connect CFR and families during the initial stage of a case. Project Engage was a unique partnership between CFR and ACS that supported parents in Harlem. In a small number of cases, ACS agreed to refer a parent to CFR's interdisciplinary staff at the point in an investigation when an 'elevated risk' was identified by ACS workers. ACS and CFR would meet with the parent, his or her community supports and any providers already working with a family together. The goal of the

conference was to determine if a removal would be necessary or could be avoided. The program worked - 80% of the families supported by Project Engage, were able to avoid a child protective removal or a filing in family court. However, the program, which was funded by New York State's Office of Children and Family Services, was discontinued after an unrelated child fatality led ACS to redirect its resources and efforts to protective investigation.

CFR has always engaged in some investigation stage advocacy. For instance, we work with former and current clients during pregnancies in preparation for possible ACS filings. When a client has a case pending in family court, and is expecting another child, it is common for ACS to file a new petition regarding the new baby upon its birth. If the older child is in foster care, ACS often asks that the new baby also be removed. We attempt to avoid these results by planning with the expecting client and making sure necessary services are in place prior to birth, and thus prior to a petition being considered, let alone filed.

CFR is grateful that the City Council chose to award us, and the other institutional providers, funding to do more early defense work. In addition to representing parents, we also look forward to the opportunity the funding provides to engage in more community based training and education aimed at ensuring parents know their rights during ACS investigations. When we talk about the need for parents to have access to counsel during investigations, opponents often raise concerns about the process becoming "too litigious." They even question whether it would jeopardize child safety. To be clear, there are already attorneys involved in the ACS investigation process. They are called Family Court Legal Services (FCLS) attorneys and they work for ACS.<sup>5</sup> Caseworkers are able to consult with FCLS attorneys throughout their

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<sup>5</sup> There are also FCLS attorneys based at the city's Children's Advocacy Centers (CAC) that consult with caseworkers and NYPD officers. caseworkers are able to use this assistance when conducting their investigations. Parents are often sent to CAC when there are allegations of physical or sexual abuse.

investigations. The statements parents make to caseworkers are often included in petitions or used in Court. Parents are often encouraged to share information that may not directly relate to the reason that ACS was initially called to the home to begin with.<sup>6</sup> Once the matter comes to Court it is the parent's word against the caseworker.

Part of the success of our early defense work is due to our ability to develop trusting and confidential relationships with our clients. Parents are sometimes hesitant to rely on assigned counsel. Our clients sometimes question whether we work for ACS or the court system when we are first assigned. That sentiment is rooted in stereotypes of public defenders and a general mistrust of the child welfare system. It is crucial that parent defense providers maintain their independence from ACS. Not only is such independence required ethically but it is also critical for parity between parents who are poor and those with means. A parent with means would never hire an attorney that was subject to an annual review by the agency investigating them. Low income parents should not be asked to do so either.

### **Recommendations**

- 1. Int 1715 and Int 1728** should not be passed as currently written but instead should be amended in accordance with the annexed addendum..
- 2. Int 1715 and Int 1728** should both be amended to provide that an entity other than ACS be charged with conducting an "annual review" of the organizations providing the legal representation referenced within the bill. CFR recommends that MOCJ, the same office

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<sup>6</sup> One of the main examples of this is when parents are asked about prior marijuana use. It would be helpful for ACS to also track when parents are asked about marijuana use despite it not being the reason the case was called in.

that currently handles the contracts of the institutional providers, do the same for these legal service providers.

3. **Int 1715** should be amended to remove the reference to “brief” legal assistance and “single consultation” and instead the bill should provide for legal representation from the moment a parent receives notice that an ACS investigation has begun.
4. **Int 1718** should be amended to remove reference to “office of advocacy.”
5. **Int 1718** should be amended to provide that the list of rights is to be provided by ACS at the initial point of contact with a parent or caretaker who is the subject of the investigation.
6. **Int 1718** should be amended in accordance with the annexed addendum.
7. **Int 1728** should be amended to remove reference to “covered proceeding” and instead include a definition of “first point of contact.” The definition should state that “first point of contact includes the first time a caseworker, or contractor of ACS, makes or attempts to make verbal or written contact with the subject of an investigation.”
8. **Int 1728** should be amended to remove the reference to “brief” legal assistance and “single consultation.” For the reasons referenced above, parents will need more than one consultation with an attorney or social worker to meaningfully assist with their case.
9. **Int 1718** and **Int 1736** should be combined.
10. **Int 1736** should be expanded to include additional rights that a parent must be informed of when a caseworker first makes contact with them. CFR recommends convening a working group of advocates, ACS representatives, and parents to develop the appropriate language for the list of rights to be provided to parents. Special attention should be paid



to making sure the language is easily accessible and is written at the appropriate reading level.

**11. Int 1736** should be amended to require that these rights be provided to parents at the first point of contact, in writing as opposed to orally. The caseworker should be required to read the rights to the subject if asked to do so. These rights should be provided to subjects in their preferred language in accordance with **Int 1718**.

### **Reporting Legislation**

1161, 1426, 1716, 1717, 1719 and 1727

Requiring ACS to maintain additional data will help the Council determine whether ACS is performing their function according to their own guidelines and policies around contact and communication when a child is removed. We expect that this data will help illuminate how changes to ACS policy impact emergency ACS removal practices, which in turn disproportionately impact low income people of color and lessen the instances of children experiencing the trauma of removal. This week in Queens, CFR was assigned to represent a mother of color who had recently given birth to twins, after ACS filed a neglect petition against our client and requested a remand. ACS would not consent to a release to the Non-Respondent Father of the children, also a person of color, citing his admission that he regularly smoked marijuana prior to the birth of the children. This contradicts the ACS directive released in April 2019 that establishes that marijuana use alone is not sufficient for a removal or indicating a case

of maltreatment.<sup>7</sup> Data on cases like this will assist in assessing whether these ACS policies are followed in practice and highlight crucial areas for improvement.

As an example, ACS caseworkers frequently do not follow agency guidelines surrounding scheduling visits and parent-child contact following a removal. It is not uncommon for the first visit between a child and their parent after a separation to occur days after a child has been removed. These delays often occur for simple, and avoidable, bureaucratic reasons. This delay is traumatic for children and their parents, which is why ACS guidelines prohibit it- however, because ACS does not produce data on how often these delays occur, ACS leadership does not make clear to their staff that reducing these delays is a priority.

In 2018, “3,633 children (were) removed from their parents and in those cases the city used emergency powers nearly half the time. Almost all of the children involved in these removals were non-white, reflecting a system that, by and large, only interacts with black and brown families who are poor.”<sup>8</sup> Requiring ACS to keep better data about the families they investigate and file cases against will help identify what additional measures are needed to ensure that poor families of color do not continue to be disproportionately impacted by ACS practices.

We understand the importance of data and the work that is involved in tracking it. Since our inception, CFR has been committed to rigorous data collection and analysis. We track and analyze the demographic details of each individual case and client, including gender, ethnicity, age, mental health history, domestic violence history and whether the client has been homeless

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<sup>7</sup> April 19, 2019 ‘DCP All Staff Bulletin:Policy and Practice on Cases Involving Marijuana Use By Parents ’ From Deputy Commissioner William Fletcher Division of Child Protection

<sup>8</sup> Yasmeen Khan. April 2019. ‘Family Separations in Our Midst’. WNYC. April 19, 2019. Available at: <https://www.wnyc.org/story/child-removals-emergency-powers/>. Accessed: October 28, 2019

and more. This data enables us to better serve future clients by illuminating potential improvements to our practices in and out of court, and helps ensure that our clients receive the most appropriate services for their needs.

We believe that if ACS were to provide data regarding the race, income, ethnicity, and gender of the families it investigates then the disparities would be even more apparent and they would similarly be able to modify their practices, in and out of court, to address the obvious racial and income disparities in their work.

Based on CFR's internal data, as of June 2019, 82% of our clients were people of color, 32% were black and 32% were latino. It is worth noting that, according to the US Census Bureau, 42% of New York City residents are white and only 24% are black and 29% are latino.<sup>9</sup> We strongly believe that meaningful change would require input by the communities that have been most impacted by ACS current practices. A group of parents, parent defense providers, FCLS attorneys, and caseworkers should work together to fully outline the current disparities and practices that created them. This group should be tasked with developing a plan to address these racial and income disparities. The plan must also provide for ongoing training for ACS caseworkers and mandated reporters on implicit bias.

### **Recommendations**

1. Each bill, to the extent that it does not already, should require anonymized data to be made available online.

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<sup>9</sup> <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork/PST120218>

2. **Int 1716** should be amended to provide a more specific definition of “emergency removal” that specifically references FCA §1024 and that the exclusion of a parent from the home would fall within the definition.
3. **Int 1719** should include a more expansive definition of contact.
4. **Int 1717** should be amended to specify that a panel of institutional providers, parents, caseworkers, FCLS attorneys, Judges, and other relevant players should convene to develop a plan to address the clear racial and income disparities.
5. **Int 1727** should be amended to direct that ACS keep data on the number of remands they request without having first conducted an emergency removal.
6. **Int 1727** should be amended to direct that ACS keep data on the number of times their applications for a remand are denied following an emergency removal.
7. **Int 1426** should be amended to direct that ACS keep data on the number of times drug tests are requested

### **Resolution Legislation**

0736, 1057, 1064, and 1066

In addition to the funding we received for early defense work, we were grateful to receive funds to work with parents to seal and amend their indicated cases on the State Central Registry (SCR). The SCR is a database and hotline maintained by New York’s Office of Children and Family Services (OCFS). Any person can call the SCR hotline and report suspected child maltreatment. Once a report is received and accepted, the local department of social services conducts an investigation and decides if the report is “unfounded” or “indicated.” If a report is

**indicated**, that means that the investigative caseworker found there was “some credible evidence” to support the initial report of child abuse or neglect. A person with an indicated report will have their name placed on the SCR for 10 years after the youngest child named in the report turns 18 -- a total of up to 28 years. In 2018, the SCR processed 199,047 Intake hotline calls; approximately 32% of these reports were indicated<sup>10</sup>. To seal a SCR record, a person can pursue a separate administrative process which can take over a year to complete. Generally, during this process OCFS is represented by attorneys but litigants are not entitled to counsel. With the assistance of the City Counsel funding, CFR looks forward to helping more parents navigate this process.

Once a person’s name is on the SCR, they will be excluded from various types of employment, such as working in a school, as a bus matron, a home health aide, or daycare provider. Most employers who provide services to children are required to complete a SCR database check as part of their hiring process. This means anyone whose name is on the SCR is unable to work in childcare settings for up to 28 years regardless of what their case was indicated for. This barrier mainly affects low-income women of color and immigrants who are disproportionately involved in the child welfare system, deepening economic hardship for these families.<sup>11</sup>

The SCR Reform Bill (A.8060A/S.6427A) passed in both houses of the NY State Legislature. The bill seeks to improve the SCR to better support families by increasing employment opportunities and reforming the SCR amend and seal process. This bill raises the

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<sup>10</sup> *Statewide Central Register (SCR) of Child Abuse and Maltreatment, Facts for 2018*, New York State Office of Children and Family Services, 2018.

<sup>11</sup> *The Collateral Consequences of State Central Registries: Child Protection and Barriers to Employment for Low-Income Women and Women of Color*, National Association of Social Workers, 2019.

standard of evidence required for indicating a case of child maltreatment from “some credible evidence” to a “preponderance of evidence.” The bill also allows for the automatic sealing of indicated reports of neglect after 8 years for most jobs and after 12 years for all jobs provided there have been no additional indicated cases. The bill ensures that SCR reports are automatically amended and sealed when a Family Court Judge dismisses the case. The bill also addresses the amend and seal process by allowing Fair Hearing judges to consider evidence of a parent’s rehabilitation whenever considering whether to seal an indicated report and allowing people to request fair hearings to amend and seal indicated reports at any time of their choosing, as opposed to the current 90-day window.

### **Recommendations**

- 1. Int 0736** should be passed. A parents bill of rights is consistent with the goal of keeping children out of foster care and the family court system, and would provide families throughout the state with early access to information regarding their rights and their ability to seek legal advice. As discussed above, CFR recommends convening a working group of advocates, ACS representatives, and parents to develop the appropriate language for the list of rights to be provided to parents.
- 2.** The goals of **Int 1057** and **1066** would be better accomplished by the Council passing a resolution calling on the Governor to sign A.8060A/S.6427A into law.

### **Conclusion**

We are grateful for the invaluable opportunity to share our thoughts about these important issues and to hear from other stakeholders in this area. Thank you for your

commitment to ensuring that ACS is held accountable for their policies and practices and that parents have access to the legal representation and counsel they deserve. We look forward to being a part of this ongoing conversation. If you have any questions, please do not hesitate to reach out to CFR's Litigation Supervisor of Government Affairs and Policy, Tehra Coles, Esq. at [tcoles@cfny.org](mailto:tcoles@cfny.org) or 646-734-4671.

**Center for Family Representation  
October 31, 2019**

**Addendum**



Int. No. 1715

By Council Members Adams, Chin, Gibson, Ayala, Ampry-Samuel and Lander

A Local Law to amend the administrative code of the city of New York, in relation to the provision of counsel at fair hearings following an indicated report during an ACS investigation

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-919 to read as follows:

§ 21-919 Legal services for parents. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Brief legal assistance. The term “brief legal assistance” means individualized legal assistance provided in a single consultation by a designated organization to a covered individual in connection with a covered proceeding.

Covered individual. The term “covered individual” means a parent or other person legally responsible for the care of a child.

Covered proceeding. The term “covered proceeding” means a fair hearing following an indicated report in an ACS investigation.

Designated citywide languages. The term “designated citywide languages” has the meaning ascribed to such term in section 23-1101.

Designated organization. The term “designated organization” means a not-for-profit organization or association that has the capacity to provide legal services.

Legal services. The term “legal services” means brief legal assistance or full legal representation.

b. Provision of legal services. Subject to appropriation, ACS shall establish a program to ~~refer provide access to legal services for~~ covered individuals in covered proceedings to **designated organizations** and shall ensure that, no later than January 31, 2021, all covered individuals receive access to ~~brief legal assistance~~ **legal services** from a

designated organization ~~no later than immediately before a covered proceeding~~ **immediately following the commencement of a covered proceeding**

~~c. ACS shall annually review the performance of designated organizations and shall require each designated organization to identify the geographic areas for which such organization will provide legal services. For each such geographic area, ACS shall~~ maintain a list of such **designated** organizations that provide such legal services **organized by geographic area.**

d. Any legal services performed by a designated organization pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.

e. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or any agency, official, or employee thereof.

§ 2. This local law takes effect immediately.

Int. No. 1718

By Council Members Chin, Levin, Ayala, Ampry-Samuel and Lander

A Local Law to amend the administrative code of the city of New York, in relation to requiring the administration for children's services to provide a multilingual disclosure form to parents or guardians during a child protective investigation

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-919 to read as follows:

§ 21-919 Multilingual Disclosure Form. a. Definitions. For purposes of this section, the following terms have the following meanings:

Designated citywide languages. The term "designated citywide languages" has the meaning ascribed to such term in section 23-1101.

Designated organization. The term "designated organization" means a not-for-profit organization or association that has the capacity to provide free legal services to parents or caretakers.

~~Office of advocacy. The term "office of advocacy" means the office within ACS which provides information and responds to the concerns of parents, youth, foster parents, and others affected by the child welfare system, juvenile justice system, and other ACS services.~~

b. At the initial point of contact with a parent or caretaker who is the subject of a child protective investigation~~Upon the commencement of a child protective investigation,~~ ACS shall provide to the parent or caretaker a multilingual disclosure form available in plain language in the designated citywide languages, and shall document in the case record that one has been

provided. Such form shall be posted on the ACS website and shall include, but need not be limited to, the following information:

1. The parent or caretaker is not required, unless court ordered, to permit the ACS representative to enter the residence of the parent or caretaker;

2. The parent or caretaker is entitled to be informed of the allegations being investigated.

3. The parent or caretaker is not required, unless court ordered, to speak with the ACS representative, and any statement made by the parent, caretaker or other family member may be used against the parent or caretaker in an administrative or court proceeding;

4. The parent or caretaker is entitled to seek the advice of an attorney and to have an attorney present when the parent or caretaker is questioned by an ACS representative;

5. The parent or caretaker is not required, unless court ordered, to allow an ACS representative to interview or examine a child;

6. The parent or caretaker is not required, unless court ordered, to agree to any requests made by an ACS representative, including, but not limited to, requests to sign a release of information or to take a drug or alcohol test;

7. Contact information for resources which may be available to parents and caretakers during a child protective investigation, including legal services from a designated organization.

~~1. Information regarding the rights of parents and caretakers during a child protective investigation;~~

~~2. Resources which may be available to parents and caretakers including access to legal services from a designated organization;~~

~~3. The telephone number and address of ACS' office of advocacy and information on common issues handled by the office; and~~

~~4. Any other information ACS deems appropriate.~~

§ 2. This local law takes effect 90 days after it becomes law.

Int. 1728

By Council Members Levin, Ayala and Ampry-Samuel

A Local Law to amend the administrative code of the city of New York, in relation to the provision of counsel at the first point of contact during an ACS investigation

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-919 to read as follows:

§ 21-919 Legal services for parents. a. Definitions. For the purposes of this section, the following terms have the following meanings:

~~Brief~~ Legal assistance. The term “~~brief~~ legal assistance” means individualized legal assistance provided ~~in a single consultation~~ by a designated organization to a covered individual in connection ~~with a covered proceeding~~ upon the commencement of an ACS investigation or immediately thereafter.

Covered individual. The term “covered individual” means a parent or other person legally responsible for the care of a child.

~~Covered proceeding.~~ The term “~~covered proceeding~~” First point of contact is the first time a caseworker, or ACS employee or contractor, makes verbal or written contact with a covered individual for purposes of an ACS investigation ~~means ACS’s first point of contact with a parent or other personal legally responsible for the care of a child during an ACS child protective~~

~~investigation following an indicated report in such investigation pursuant to section 424 of the New York state social services law.~~

Designated citywide languages. The term “designated citywide languages” has the meaning ascribed to such term in section 23-1101.

Designated organization. The term “designated organization” means a not-for-profit organization or association that has the capacity to provide free legal services.

Legal services. The term “legal services” means brief legal assistance or full legal representation.

b. Provision of legal services. Subject to appropriation, ACS shall establish a program to refer ~~provide access to legal services for~~ all covered individuals in covered proceedings to designated organizations and shall ensure that, no later than January 31, 2021, all covered individuals receive access to such legal services from a designated organization ~~no later than immediately after a covered proceeding~~ the first time ACS contacts a covered individual.

c. ~~ACS shall annually review the performance of designated organizations and shall require each designated organization to identify the geographic areas for which such organization will provide legal services.~~ For each such geographic area, ACS shall maintain a list of such organizations that provide such legal services.

d. Any legal services performed by a designated organization pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.

e. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or any agency, official, or employee thereof.

§ 2. This local law takes effect immediately.



Int. No. 1736

By Council Members Rivera, Chin, Ayala, Ampry-Samuel and Lander

A Local Law to amend the administrative code of the city of New York, in relation to requiring child protective specialists to orally disseminate information to parents or caretakers about their rights during initial contact at the start of an ACS investigation

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-919 to read as follows:

§ 21-919 Information regarding the rights of parents and guardians. a. Definitions. For purposes of this section, the term “designated organization” means a not-for-profit organization or association that has the capacity to provide free legal services to parents or caretakers.

~~“office of advocacy” means the office within ACS which provides information and responds to the concerns of parents, youth, foster parents, and others affected by the child welfare system, juvenile justice system, and other ACS services.~~

b. At the initial point of contact with a parent or caretaker who is the subject of~~during~~ a child protective investigation, ACS shall orally disseminate in plain language to the parent or caretaker information regarding their rights during the investigation, and shall document in the case record that the information has been so provided. Such information shall include, but need not be limited to:

1. The parent or caretaker is not required, unless court ordered, to permit the ACS representative to enter the residence of the parent or caretaker.~~Information regarding the right to appeal a case, request a copy of records in a case and request that such records be expunged;~~

2. The parent or caretaker is entitled to be informed of the allegations being investigated.

3. The parent or caretaker is not required, unless court ordered, to speak with the ACS representative, and any statement made by the parent, caretaker or other family member may be used against the parent or caretaker in an administrative or court proceeding;

4. The parent or caretaker is entitled to seek the advice of an attorney and to have an attorney present when the parent or caretaker is questioned by an ACS representative;

5. The parent or caretaker is not required, unless court ordered, to allow an ACS representative to interview or examine a child;

6. The parent or caretaker is not required, unless court ordered, to agree to any requests made by an ACS representative, including, but not limited to, requests to sign a release of information or to take a drug or alcohol test;

72. Contact information for Resources which may be available to parents and caretakers during a child protective investigation, including legal services from a designated organization.

~~3. The telephone number of ACS' office of advocacy; and~~

~~4. Any other information ACS deems appropriate.~~

§ 2. This local law takes effect 90 days after it becomes law.