

concerns the visits the Children have with their siblings while in DCFS care. Under the Decree's terms, siblings must visit each other two times per month for four hours total.

Each year, DCFS Quality Assurance (QA) staff members review DCFS-contracted private agencies' and DCFS teams' compliance with the Decree. QA visits agencies and DCFS teams to review case files that the agencies or teams have selected for review. DCFS defines compliance as the private agency or DCFS team completing nine sibling visits out of a mandated twelve visits in a six-month period, or 75% of the visits.

In addition to the Decree's exceptions to sibling visitation (e.g., a court order or a child refuses visits), DCFS has created its own criteria to disqualify cases from being reviewed. For example, DCFS will not review cases that have been in the system less than six months or cases that have not been with the same agency or agency team for the last six months. These DCFS self-created exceptions eliminate review of many cases that are not exempted by the Decree.

MANY REVIEWS HAVE NOT BEEN TENDERED TO THE CHILDREN

During the nearly two-year period beginning in March 2012, the Children received reviews for 58 private agencies and 7 DCFS teams for a total of 65 reviews and 467 sibling groups. This is less than half of the 136 reviews tendered during the prior two-year period, from March 2010 through March 2012, and only about a third of the 1331 sibling groups that were reviewed in that period. And DCFS never produced 45 of the reports it had created in the March 2010 through 2012 period, claiming they were lost. If DCFS did the same number of reviews in the last two-year period as it did during the March 2010 through March 2012 period, approximately 181 should exist, but only 65 reviews have been tendered. Therefore, the Children have only about a third of the total estimated number of reports.

The Plaintiffs have attempted to meet with DCFS regarding this issue and other issues since November 2013. However, DCFS has either cancelled meetings or failed to respond to the Children's requests to schedule a subsequent meeting. The information made available to the Plaintiffs does not show such a drastic fall-off in the number of private agencies or the total number of eligible sibling groups that would account for the fall-off in the number of tendered reviews for the most recent period.

FLAWED METHODOLOGY TO MEASURE SIBLING VISITATION COMPLIANCE

It is impossible to give an accurate figure or even an estimate of how well private agencies or DCFS teams are complying with the Decree in the last two years, due to missing reports, a flawed methodology, and DCFS's unknown reasoning for disqualifying sibling groups.

Most of the reviews that were tendered used flawed methodology to collect the data. It appears from the reviews that the cases audited were not randomly selected by QA. For example, in the February 2013 Lutheran Social Services of Illinois (LSSI) review, 47 sibling groups were eligible and 14 sibling groups were chosen for the review. If randomly selected, 14 sibling groups might be enough for an appropriate sample. However, because the 14 sibling groups were selected by the private agency and certain sibling groups were disqualified without justification, it is a flawed sample. DCFS's claim that LSSI is 100% compliant with the Decree is based upon a faulty and biased sample.

Another example of DCFS's flawed non-random methodology is the November 2012 review of the DCFS-Cook Central region. Eight sibling groups out of a total of 33 sibling groups were selected. The review does not indicate how the eight cases were selected. DCFS's claim that the DCFS-Cook Central region is 89% compliant with the Decree is based upon flawed or biased reasoning.

Often no reason is given why cases are determined to be ineligible before being reviewed or disqualified after being reviewed, so it is impossible to determine if this process is being done in compliance with the Decree. For example, DCFS's August 2012 Alliance Human Services review noted that eight out of the 26 sibling groups were ineligible for review, but no reason was given. In the February 2013 LSSI review discussed above, 18 out of the 47 sibling groups were disqualified without explanation.

In order to provide reliable compliance data regarding sibling visitation, DCFS must provide all of the missing reports to Plaintiffs, only disqualify sibling groups excluded by the decree, provide proof that the reviews were completed using a randomized methodology, and explain why certain sibling groups were excluded and disqualified.

**NO RESPONSE TO PROPOSED RANDOM SURVEY OF
SIBLING VISITATION IN COOK COUNTY**

On December 18, 2013, the Children sent a discovery request to DCFS for six months of sibling visitation records for all Cook County eligible sibling groups (approximately 150) that had Permanency Planning Hearings scheduled in the Child Protection Division of the Circuit Court of Cook County between January 21, 2013 and February 21, 2014. DCFS acknowledged receipt of the request but did not reply to the discovery request. A meeting was scheduled to take place on December 30, 2013 to discuss the discovery request and other matters but it was cancelled by DCFS. All other attempts to schedule another meeting with DCFS have not been fruitful. Plaintiff's discovery request would have provided a truly randomized sample in that the cases were selected using a random month time frame when a Permanency Planning Hearing was scheduled.

DCFS FAILED THE LAST TRULY RANDOM SIBLING VISITATION REVIEW

As reported in the May 3, 2012 Children's Memorandum in Support of their Motion to Extend the Decree for Two Years, DCFS failed the last U.S. Department of Health and Human Services ("DHHS") random sampling of its sibling visitation performance. The DHHS random samplings are part of the periodic Child and Family Services review that DHHS conducts in each state to measure compliance with the Social Security Act. In 2009, DHHS found that DCFS complied with sibling visitation two or more times per month in only **55%** of the cases reviewed. The next DHHS review in Illinois is scheduled for federal fiscal year 2015. A two-year extension of the Decree will ensure that DCFS, the Children and this Court will have the benefit of the results from the next scheduled DHHS random sibling visitation review.

FINANCIAL SANCTIONS AND MONITORING OF POORLY PERFORMING AGENCIES

DCFS has a process through its Administrative Case Review (ACR) system to issue financial sanctions to private agencies that fall below the DCFS threshold of nine sibling visits in six months for eligible cases. However, this system appears flawed and does not identify non-compliant agencies identified by the QA reviews. Since 2009, there have been no DCFS financial sanctions despite some very poor performances as demonstrated by the private agency QA reviews tendered to the Children. For example, when DCFS reviewed Alliance Human Services (Southern Region) in February 2013, DCFS found Alliance to be at 0% compliance with the Decree, but did not impose sanctions for such an abysmal record. According to an April 2013 review, the Center for Youth and Family Solutions was found to be at 25% compliance but no sanctions were imposed. Lakeside Community Committee of Cook County was found to be at 14% compliance with the Decree according to a June 2013 review but no sanctions were

imposed. DCFS should amend its policy so that sanctions can be given out based on QA reviews in addition to ACRs.

DCFS HAS NO SANCTIONS FOR UNDERPERFORMING DCFS TEAMS

The Children requested that DCFS consider making sibling visitation compliance part of DCFS caseworkers' job requirements, so that performance reviews could be used as a way to improve the historically lagging DCFS performance in sibling visitation compared to private agencies. DCFS denied this request, stating that the current job performance evaluations do not specifically address sibling visitation and the process to change the criteria would be time-consuming, and would require approval of various other state agencies. DCFS further responded that the performance review process is a confidential process that cannot be disclosed to third parties due to collective bargaining requirements. Instead, DCFS stated that targeted training is the most appropriate way to address underperforming DCFS teams. Because DCFS has not set up a meeting with the Children despite requests since November 2013, the Children have no knowledge of any targeted training DCFS may be conducting for DCFS caseworkers and supervisors.

REPORTS OF NON-COMPLIANCE IN LAKE COUNTY

The Lake County Public Defender has a conflict unit that represents DCFS wards in its child abuse and neglect proceedings. Lake County has the second highest number of wards of the state in its child abuse and neglect system after Cook County. The Lake County Public Defender reported to the Children that it has recurring issues with sibling visitation including: 1) agencies leave sibling visitation up to foster parents who do not feel obligated to keep up with the regular sibling visits; 2) high turnover in caseworkers often creates gaps in sibling visitation during turnover while the new worker is getting trained; 3) the distance between sibling foster

homes is often so great that caseworkers with limited time struggle to find time to facilitate, or the distance is so great that it is not realistic to do visits Monday through Friday after school, and weekends do not work for the foster family or agency; 4) if a case is split between two or more agencies, they argue over who has to drive the farthest, or which way; and 5) once a child is returned to his or her father or mother and the case closes, there is no way to enforce visits with the siblings that remain in foster care.

The Lake County Public Defender also reported five egregious cases that required court intervention to make progress on the frequency of sibling visitation. In one case, there are five children ranging from ages 7 through 17, who are all placed apart. The reasons why sibling visitation is not occurring include two caseworkers from different offices assigned to the family and the distance between the foster homes. This is an ongoing issue that continues to be addressed in Court. In another case, two teenage siblings were split up and now live 90 minutes apart. Sibling visits were not occurring, possibly because the agency was leaving it up to the foster parents to arrange the visits. With court intervention, the agency began scheduling and supervising sibling visits.

CONCLUSION

DCFS has not provided sufficient proof to establish that it is in substantial compliance with the Decree and there are five major problems in DCFS's performance: 1) DCFS has tendered only about a third (65 of an estimated 181) of its total reviews for the two-year period from March 2012 through March 2014; 2) the reviews that DCFS tendered are flawed because they were based upon biased cases that were not randomly selected; 3) DCFS uses its own 75% threshold (nine out of twelve visits in a six-month period) as substantial compliance in reviewing a case; 4) DCFS excludes cases that are not exceptions as outlined by the Decree; and 5) DCFS

did not respond to the Children's request for a randomized sibling visitation study of Cook County cases. The Children have been attempting without success to schedule a meeting with DCFS to discuss these and other issues since November 2013.

The Children respectfully move this Honorable Court to extend the Decree for two years. Additionally, the Children request this Honorable Court to: 1) order DCFS to tender all the QA reviews completed since March 2012; 2) order DCFS to adopt a verifiable methodology for random sampling in its QA review process; 3) order DCFS to use only the reasons that are specified in the Decree to disqualify cases; 4) order that DCFS amend its policy so that sanctions can be given out based on QA reviews; and 5) order DCFS to comply with the Children's December 18, 2013 discovery request.

Respectfully submitted,
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Certificate of Service

I, Michele McGee, certify that on March 8, 2014, I served this document via the Electronic Case Filing System as to Filing Users and I complied with Local Rule 5.5 as to any party who is not a Filing User or represented by a Filing User.

/s/ Michele McGee _____
One of the Attorneys for the Plaintiffs