

August 11, 2021

Paul Jacobsen, Acting Regional Director and Executive Officer
U.S. Department of Health and Human Services, Region One
John F. Kennedy Federal Building
Government Center - Room 2100
Boston, MA 02203

Susan Rhodes, Regional Manager
Office for Civil Rights
U.S. Department of Health and Human Services, Region One
John F. Kennedy Federal Building
Government Center - Room 1875
Boston, MA 02203

Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
OCRComplaint@hhs.gov

Dear Acting Regional Director Jacobsen and Regional Manager Rhodes:

Please accept this letter in support of the civil rights complaint (the Complaint) filed on July 14, 2021 by Lawyers for Civil Rights and the Massachusetts Appleseed Center for Law and Justice (MA Appleseed) on behalf of Haitian-Americans United, the Greater Boston Latino Network, and Jane Doe, a mother and immigrant with limited English proficiency. We are attorneys at the Massachusetts Law Reform Institute (MLRI). MLRI and the signatories below are deeply concerned by the failure of the Massachusetts Department of Children and Families (DCF) to provide language access to limited English proficient (LEP) parents and families. As pointed out in the report written by MA Appleseed about language access at DCF, LEP families are being torn apart at a much higher rate than their English-speaking counterparts. This is unacceptable and in violation of Title VI of the Civil Rights Act.

Massachusetts is home to one of the most diverse immigrant populations in the country. One in ten Massachusetts residents are limited English proficient. Of the nearly 600,000 limited English proficient people in the state, only forty percent of those individuals speak Spanish. The remaining sixty percent speak other languages. Finally, as of 2016, Massachusetts has the eighth largest LEP population in the country.

The rise of the immigrant population in Massachusetts is reflected in the large number of LEP families involved with DCF. The stakes for families in the Department having adequate language capacity to competently handle its cases as required by law are far too high to permit further violations of DCF's legal obligations to its limited English proficient families. As the Complaint makes clear, the failure to provide adequate language access is not a mere inconvenience for LEP individuals. Instead, it directly threatens their ability to keep their families intact, a fundamental right -- one of the most precious that parents have.

Limited English proficient parents are consistently assigned English-only speaking DCF workers to handle their cases. Documents listing actions parents must take to regain custody of their children are rarely, if ever, translated into the parents' preferred language. When parents do not know what they must do to regain custody of their children, they risk not doing it, even if they want to do whatever is possible to bring their children home. Pursuant to the U.S. Department of Health and Human Services Guidance to Federal Financial Assistance Recipients regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, documents pertaining to parents' rights regarding child custody are considered vital documents and required by law to be translated.

Further, DCF requires an interpreter to be present during DCF-ordered supervised visits of limited English proficient parents with their children. DCF is inconsistent, at best, in providing interpreters for these visitations. As a result, the Department cancels visits of LEP parents with their children, in some instances for weeks at a time, due to its failure to provide an interpreter. This is one of the many ways DCF's failure to meet its legal obligation to provide language access weakens parents' connections with their children and reduces their chances of reuniting with their children in foster care.

The Complaint describes numerous ways in which DCF's failure to conduct its work in a way that is accessible to LEP individuals can result in inaccurate information that can ultimately have devastating consequences for parents losing custody of their children. Several additional examples from our experience, include:

- conducting psychological tests of parents that are not written or administered in the parent's primary language, resulting in inaccurate scores,
- DCF investigators not speaking the language of collateral sources they are interviewing in investigations to determine whether to substantiate a report of abuse or neglect, resulting in inaccurate information that can be held against parents,
- DCF social workers who do not speak the language of a limited English proficient individual whose application to be, or continue to be, a kinship caregiver the social worker is reviewing, resulting in children not being placed with kin caregivers.

In our experience, these failures on DCF's part to communicate accurately with parents or relatives are resolved against the families, resulting in the child's losing some degree of connection with their family and sometimes being wrongfully separated from their families.

DCF's failure to comply with its legal obligation to provide language access has resulted in the separation and destruction of countless LEP families. This does not have to happen. DCF

voluntarily agreed to a language access plan. It needs now to implement the plan in practice. It also needs to comprehensively and robustly protect the rights and meet the needs of LEP families and children in its caseload.

We urge the Department of Health and Human Services to take action and compel DCF to comply with its federal legal obligations under Title VI. This is needed to guarantee the rights of Massachusetts' most vulnerable families which the Massachusetts Department of Children and Families has failed to protect.

Sincerely,

Susan Elsen

Susan Elsen
Coordinator, Child Welfare Reform Project

Iris Eileen Coloma-Gaines

Iris Eileen Coloma-Gaines
Statewide Language Access Attorney

Central West Justice Center

Children's Law Center of Massachusetts

Citizens for Juvenile Justice

Friends of Children

Harvard Legal Aid Bureau

Massachusetts Advocates for Children

Massachusetts Immigrant and Refugee Advocacy Coalition

Mental Health Legal Advisors Committee

**Rebecca Greening, Family Law/Domestic Violence Clinic, Legal Services Center of
Harvard Law School**