



Children in DCF Care Should Live in the “Least Restrictive Environment” Tamara Kramer and Alexandra Dufresne, J.D.

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Currently about one in four children who are in the care of Connecticut’s Department of Children and Families (DCF) due to abuse or neglect live in non-family settings.¹ Roughly 300 of these children are 12 years and younger.² Some are infants, and many are toddlers.³

Children deserve to grow up in families, not institutions. Research shows that family-based care is more helpful to children’s emotional, social and educational development than is institutional or group-based (“congregate”) care, and that children who grow up in families have far better outcomes than those who do not.⁴

Many children are placed in temporary congregate care settings based solely on availability, rather than the need for a particular level of care. Indeed, the *Juan F.* Court Monitor found that in 27.1 percent of cases in Connecticut, placement in the temporary congregate care facility was decided *based on availability alone*. In other cases, many of the documented rationales for selection of a congregate setting over a family setting were secondary, “*as the main rationale was the need for immediate placement and the lack of available and appropriate foster and therapeutic foster homes.*”⁵

The concept of the “least restrictive environment” is well established in many areas of children’s law. Federal child welfare law,⁶ the Individuals with Disabilities Education Act,⁷ and Connecticut juvenile justice law⁸ all protect the right of children to live in the “least restrictive environment” consistent with their needs. These laws recognize the importance of allowing children to maintain a lifestyle that is as close to “normal” as possible.

By adding the “the least restrictive environment” language to Connecticut’s child welfare laws, we would provide much needed protection to the state’s most vulnerable population. Section 17a-3 of the General Statutes should be amended to require Connecticut’s Department of Children and Families to place children in “the least restrictive environment” consistent with their needs.

¹ *Juan F.* Court Monitor Report, December 2008, p.17 (citing data from 8/3/08)

² May 5, 2008 Letter from Ira P. Lustbader et. al. to Ray Mancuso, DCF Court Monitor, et. al., regarding *Juan F. v. Rell*, Civil Action No. H-89-859 (AHN), Appendix A, Table 1.1 (citing data from March 2007-February 2008).

³ *Id.* at 62 (showing children’s initial placement settings – family, congregate, or other – by age and entry cohort).

⁴ See generally The Bazelon Center for Mental Health Law, *Fact Sheet: Children in Residential Treatment Centers* (citing research), <http://www.bazelon.org>; U.S. Department of Health and Human Services (2000). *Report of the Surgeon General’s Conference on Children’s Mental Health: A National Action Agenda*. Washington, D.C.: USGPO; and Barth, R.P. (2002). *Institutions vs. Foster Homes: The Empirical Base for the Second Century of Debate*. Chapel Hill, NC: UNC, School of Social Work, Jordan Institute for Families at page i-ii and 21-22.

⁵ May 5, 2008 Letter from Ira P. Lustbader et. al. to Ray Mancuso, DCF Court Monitor, et. al., regarding *Juan F. v. Rell*, Civil Action No. H-89-859 (AHN), at 4 (quoting Court Monitor’s March 17, 2008 report on Children in Overstay Status within Temporary Congregate Care Placement Settings at 20-21).

⁶ See 42 U.S.C. 675 “Social Security Act” (requiring states to place a child in the least restrictive setting and, if the child will benefit, one that is close to the parent’s home)

⁷ See 20 U.S.C. 1412 “Individuals with Disabilities Education Improvement Act of 2004” (providing that to the maximum extent appropriate that children with disabilities be educated with children who are not disabled, and the removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily).

⁸ See *Conn. Gen. Stat. Sec. 46b-121k (2)*, (requiring that programs be administered in the least restrictive environment possible in a manner consistent with public safety).