

Eighteen Months Later: New York Family First Implementation shows little change for foster care youth placed in group care



The Family First Prevention Services Act (FFPSA)

The federal FFPSA was enacted in February 2018 to better serve families by keeping children at home with supportive services. The Act prioritizes family-based foster care over residential care by limiting federal reimbursement for medically-unnecessary group care; and permits states to use Title IV-E funds for evidence-based prevention services to support families at risk and for kin navigator programs to support relatives who care for their kin's children.

This sweeping law was embraced by NY child welfare leaders as a way to significantly transform the foster care system by supporting interventions to keep families together, and if need be, to promote foster placement with family or close friends (kin) rather than in group homes or institutions. But OCFS and its partners have recognized that compliance with the law's regulations alone will not meet its transformative vision; each part of the system – OCFS, counties, provider agencies, the judiciary, and sister systems – must work collectively and with shared ownership of this transformative vision to make progress and share accountability. It is critical that we continuously examine our state's progress towards the outcomes we seek for children and families. And so, it is with this vision of transformation in mind that we evaluate New York's implementation of Family First to date.

“Implementation of Family First is a key step toward achieving New York State's goal of a family and child well-being system. However, Family First is the floor – it is not our ceiling.

New York State knows Family First does not go far enough.”

OCFS PREVENTION PLAN
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After opting for a two-year delay, New York began implementing FFPSA in September 2021.

For counties to draw down the federal IV-E dollars to cover residential care placements, they must comply with the following New York State Office of Children and Family Services (OCFS) requirements:

- Qualified Residential Treatment Programs (QRTP)**
All provider agencies must meet increased standards of care to become QRTPs
- Qualified Individual Assessment**
All youth entering a QRTP are now required to have an independent assessment completed by a Qualified Individual to ensure the higher-level of care is necessary
- Court Review of QI Assessments & Placement**
Courts must review and approve the necessity of the QRTP placement
- Long Stay Reviews (LSR)**
OCFS will conduct Long Stay Reviews to approve longer QRTP placements
- AfterCare Services**
Counties must provide AfterCare programs so that children can move to a family based foster care home or return home quickly to their families

Bright Spots

Kinship Gains & Group Care Reductions

Prior to implementation of Family First, New York focused its efforts on increasing kinship care and reducing the use of group care state-wide. Counties were provided funds through the State's Family First Transition fund and encouraged to launch new program models, adjust internal processes and procedures and develop innovative strategies to prioritize home based placements for children with an emphasis on kin. With this support and vision, New York doubled the percentage of children in foster care living with kin to 43% while reducing group care placements from 17% to 14% over the same two year period.

[Review Family First Data & Resources](#)

New York Receives Approval for Transformative FFPSA Prevention Plan:

New York has set a bold vision for modernizing child welfare in its prevention plan that was approved in August 2022. The approved plan articulates a pathway to becoming a family and child well-being system by engaging and listening to parents, youth, and kin: using a public health prospective to align resources; embracing diversity, equity, inclusion, and accessibility in reviewing policies and practice; deploying evidence-based practices designed to keep families together; and investing in community-based programs that reflect our communities.

[Review the FFPSA Prevention Plan](#)

Unfortunately, success has stagnated.

The new data is troublesome. There is a continued reliance on medically-unnecessary group care by counties which traumatizes children, disrupts families and wastes state and local dollars.

Non-Specified Settings

The use of this type of placement is troublesome for several reasons:

Non-Specified Placements are not subject to Family First Requirements:

Placements in Non-Specified group care settings are not required to meet any of the FFPSA requirements for Q RTPs including program requirements and assessment and oversight. Children are often placed in these settings without medical necessity because the LDSS lacks foster homes available after hours or that can take larger sibling groups. Over half of the youth admitted into group care since the implementation of FFPSA are directly admitted into non-placement settings (D.3) while they make up only 27% of the current census which proves for many youth these group care placements are short term and meeting needs of systems, not children.

Traumatic repercussions:

Every unnecessary group care placement is traumatic for the child, often leading to long term mental health implications. Moreover, since a third of children in these settings are under 12, including infants and toddlers, the system is causing permanent harm to our very youngest.

Wasted money:

State and local dollars are the only allowable funding sources for children placed in non-specified settings. Each group home placement costs \$66,000 in state and county dollars that would be better spent on supports for biological and foster families to care for their children safely at home.

Implicit bias and structural racism are real:

These system failures disproportionately impact Black and Brown children, with 66% of group care placements being children and youth of color.

Despite these concerns, **Local Districts of Social Services** continue to place children and youth in these harmful and costly group care facilities. Local districts must redirect these funds to develop alternative supports to families to keep children at home and prioritize placements with well-supported kin relatives.

Chart D.1: Pre-Post FFPSA Implementation

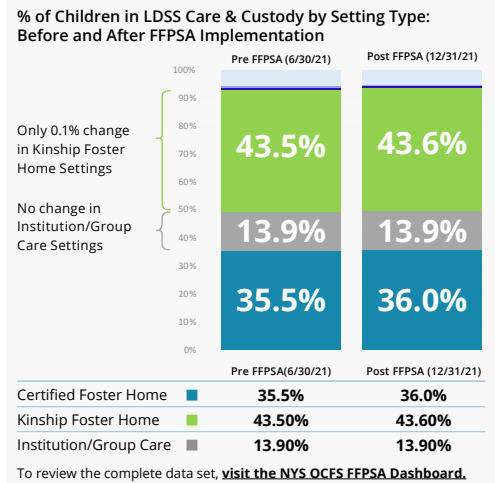


Chart D.2: Group Care Placements on 10/31/22

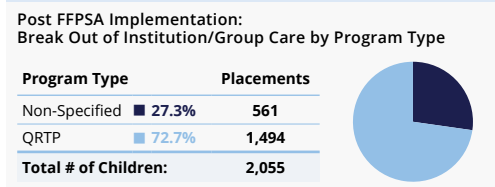
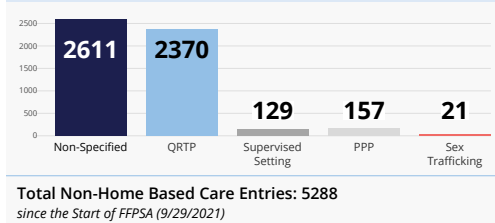


Chart D.3: Admissions into Group Care



New York Family First Group Care Report Card

Q RTP Requirements for Voluntary Placement Agencies

Grade: C+

OVERVIEW:

Creating uniformity in the quality requirements to be a Q RTP has been an improvement for NY, but we fear that there is not robust evaluation and ongoing monitoring of this quality once accredited. There are currently **154 approved Q RTPs** in New York State. Given what we know about youth experiences in these facilities to date (see [Children's Rights report](#)), we are concerned that the accreditation process was another example of rubber-stamping business as usual.

RECOMMENDATIONS:

- OCFS and approved Q RTPs should increase transparency of critical incidents that occur in these settings by releasing data on a regular basis on restraints, youth injuries, and children that are AWOL.
- Approved Q RTPs should publicly release an annual youth feedback survey regarding the experiences of youth in care including access to medical services, safety, education, family connectiveness and treatment.

Qualified Individual Assessment

Grade: C

OVERVIEW:

The federal law requires that a Qualified Individual (QI) assess a child to determine the appropriateness of a placement in this higher level of care. The assessment determines whether the child's needs can be met by family members or in a foster family home or if they require a QRTP-level of care.

Review the current OCFS QI policies and procedures [here](#).

ONLY 5%

OF QI ASSESSMENTS
DISAGREED WITH
QRTP PLACEMENT

RECOMMENDATIONS:

- Ensure the appointed QIs are truly independent of LDSSs and provider agencies so they are not rubber-stamping business decision making as usual.
- Review current algorithm for the use of the CANS-NY to ensure the review tool is unbiased and accurately reflects the child's needs.
- Review in more detail the impact of this assessment on BIPOC population.
- Increase training sessions for QI providers on alternative resources for placement and the responsibilities of the Departments of Social Services in supporting home-based placements with a focus on kin relatives.

Court Review of QI Assessments and Placement into QRTP

Grade: C-

OVERVIEW:

The Family First Act requires that the assessment by the qualified individual (QI) be reviewed in court within 60 days of QRTP placement. The courts must review the assessment, hear from all the parties involved and make a determination as to whether a QRTP placement is necessary and all alternative options are insufficient to meet the needs of the child.

The courts only rejected 2% of the QI recommendations, providing further rubber-stamping of business as usual.

RECOMMENDATIONS:

- The New York Office of Court Administration should increase training for judges to be the last firewall in preventing unnecessary, lengthy and costly QRTP placements with a focus on: traumatizing experiences and negative outcomes for children in residential care; prioritizing and supporting kin relatives as first placement choice; the QI assessment tool; and potential resources like the appointment of a CASA worker to support increasing youth voice and perspective.

Long Stay Reviews (LSR)

Grade: C-

OVERVIEW:

The law works to make these QRTP placements as short as possible. In New York, any child who is placed in a QRTP for more than 12 consecutive months or 18 nonconsecutive months (or, if the child is under the age of 13, for more than six months), must have a formal review by the LDSS. The LDSS must create a local review team to look at treatment progress, placement alternatives, and aftercare planning and then submit this report to OCFS for approval to extend the stay.

Since the implementation of FFPSA just reached 18 months, it is anticipated that the number of Long Stay Reviews will increase. To date, OCFS has approved these extensions at a high rate. More transparency is required to see the effectiveness of these reviews on length of stay.

RECOMMENDATIONS:

- Release regular data on the number of LSRs conducted and the outcomes of those reviews by county, placement agency and rationale for the continued need for this level of care.
- Local Departments of Social Service must invest in and onboard well-supported home based alternatives and aftercare services.
- OCFS needs to consider contracting with external technical experts to firewall long-stay extensions.

AfterCare Services to Support Youth to move to Foster Family or Reunify

Grade: D

OVERVIEW:

A requirement for provider agencies to receive QRTP accreditation is that there should be immediate and substantive engagement with family members for the child, intense planning for discharge, and aftercare services to support the youth stepping down into a lower level of care or returning home.

However, aftercare services are nearly non-existent across the state. Furthermore, there needs to be more transparency on the services provided by each QRTP to ensure they are high quality.

RECOMMENDATIONS:

- Post on the OCFS Family First website the aftercare models and supports that have been approved by OCFS and that are being implemented for each QRTP.
- Review reimbursement rates to ensure that there are appropriate aftercare services that will support the FFPSA requirement that placements in a QRTP are time limited.
- LDSSs should implement accountability measures to ensure QRTPs are providing high-quality supports to families so that children can succeed at home.

System Recommendations

Given that New York State took a two-year delay for implementation of these provisions to reduce non-home based care, we are disappointed to see that many of the provisions enacted thus far have maintained the status quo for youth in foster care. Of specific concern is the use of non-specified settings and the continued reliance on these group care facilities despite poor outcomes for children and high costs to NY taxpayers.

- Restrict non-QRTP settings for the very young**
Ban the use of non-QRTP settings for youth aged 12 and under.
- Align the Child Welfare Block Grant with FFPSA standards**
Disallow state funding to be used for non-specified settings group care placements.
- Expedite the expansion of prevention services, especially those that meet families' concrete needs**
Expedite the expansion of supports by updating the eligibility and candidacy for families as outlined in the State's approved FFPSA Prevention Plan.
- Revise and update QI requirements**
Revise and update QI requirements and prohibit anyone currently or formerly employed by the LDSS from conducting assessments in that jurisdiction.
- Create strategies to decrease disparate impact on BIPOC youth and families**
Require racially-disaggregated data reviews and racial bias checklists as a first step in decision making, and develop additional CPS strategies to combat the overrepresentation of BIPOC youth and families in foster care.
- Create consistent, statewide therapeutic foster home regulations**
Promulgate therapeutic foster home regulations, training models and rates to create consistency across the state and to provide opportunities for kinship and foster families to provide the care needed for underserved children.
- Equip judicial decision makers with a robust FFPSA knowledge base**
Develop with the Office of Court Administration additional training for all court personnel on FFPSA and the QI Assessment.
- Make more data publicly accessible and transparent**
Publicly release data on the outcome of Long Stayer reviews and co-develop with provider agencies and communities effective and well-supported aftercare programs that address the needs learned in these reviews.