MONITORING REPORT

OF

THE TECHNICAL ASSISTANCE COMMITTEE

IN THE CASE OF

BRIAN A. V. HASLAM

April 6, 2011
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This report was prepared by the Technical Assistance Committee (TAC) pursuant to the 2010 Modified Settlement Agreement and Exit Plan entered on November 10, 2010 in Brian A. v. Haslam, Civ. Act. No. 3:00-0445 (Fed. Dist. Ct., M.D. Tenn), a civil rights class action brought on behalf of children in the custody of the Tennessee Department of Children’s Services (DCS). The “Brian A. class” includes all children placed in state custody either:

(a) because they were abused or neglected; or

(b) because they engaged in non-criminal misbehavior (truancy, running away from home, parental disobedience, violation of a “valid court order,” or other “unruly child” offenses).

The Modified Settlement Agreement and Exit Plan (Settlement Agreement) requires improvements in the operations of the Department of Children’s Services, establishes the outcomes to be achieved by the State of Tennessee on behalf of children in custody and their families, and provides for termination of court jurisdiction after the Department meets and maintains the provisions of the Settlement Agreement for a twelve month period.

The Role of the Technical Assistance Committee

The TAC has three functions under the Settlement Agreement: first, it serves as a resource to the Department in the development and implementation of its reform effort (XIV); second, it monitors and reports on the Department’s progress in meeting the requirements of the Settlement Agreement (XV); and third, it serves a mediation/dispute resolution function (XVIII).

This is the eighth monitoring report issued by the TAC and covers calendar year 2010 to the extent that data is available for that period. The previous monitoring reports are available on-line at [http://www.state.tn.us/youth/dcs/guide/fedinitiatives.htm](http://www.state.tn.us/youth/dcs/guide/fedinitiatives.htm).

The Focus and Limits of this Monitoring Report

This monitoring report is the first report issued by the TAC following the entry of the 2010 Settlement Agreement and Exit Plan. That Settlement Agreement and Exit Plan included a designation of “maintenance” for those provisions for which the parties agreed the Department was in compliance.

This report is designed to provide information to assist the parties and the Court in determining (a) whether the Department has maintained compliance with those provisions designated in the Settlement Agreement and Exit Plan as “maintenance;” and (b) for those provisions not previously designated as “maintenance,” whether the Department’s present level of compliance warrants a “maintenance” designation.
The TAC issued its last report on November 6, 2010. The report was lengthy and detailed and, while technically focused on a monitoring period that began on July 1, 2008 and ended on December 31, 2009, included a significant amount of information on developments and activities through the summer and early fall of 2010.

In the time since the issuance of the November 2010 Monitoring Report, the Department has been in the midst of two transitions: a transition from one gubernatorial administration to another that has brought new leadership to the Department; and a transition to the new data system, TFACTS, which has required (and continues to require) a period of training, testing, and adjustment. Efforts have been made in this report to provide updates of the data presented in the November 2010 Monitoring Report. However, TFACTS reporting has been very limited during this time of transition.1

Given the relatively short period of time that has elapsed between the last monitoring report and this report and the limited availability to new data, the findings and observations set forth in the November 2010 Monitoring Report and the accomplishments and challenges discussed in the Executive Summary to that report remain pertinent.

The Focus and Structure of this Monitoring Report

Section One of this report presents data related to the specific outcome and performance measures of Section XVI of the Settlement Agreement. The remainder of the report is structured to correspond to the substantive sections of the Settlement Agreement: Settlement Agreement Sections II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, and XIII.

The references to the Settlement Agreement provisions are indicated in parentheses using the Roman numeral and, where appropriate, the letter and/or number that corresponds to the particular provision referred to. The monitoring report is divided into the following Sections:

Introduction
Key Outcome and Performance Measures at a Glance
Section One: Data and Outcome Measures Overview (XVI)
Section Two: Structure of the Agency (II)
Section Three: Reporting Abuse and Neglect (III)
Section Four: Regional Services (IV)
Section Five: Staff Qualifications, Training, Caseload and Supervision (V)
Section Six: Placement and Supervision of Children (VI)
Section Seven: Planning for Children (VII)
Section Eight: Freeing A Child for Adoption (VIII)
Section Nine: Resource Parent Recruitment, Retention and Approval (IX)
Section Ten: Statewide Information System (X)

1For ease of reference, if a figure or table updates a figure or table that appeared in the November 2010 Monitoring Report, the number of the corresponding figure or table in the November Report is included in parentheses. In most instances the update of figures or tables from the November 2010 Monitoring Report includes data from 2009 forward and omits the tracking data from earlier years that was included in the November 2010 Monitoring Report.
Section Eleven: Quality Assurance (XI)
Section Twelve: Supervision of Contract Agencies (XII)
Section Thirteen: Financial Development (XIII)
KEY OUTCOME AND PERFORMANCE MEASURES AT A GLANCE

The following tables present DCS statewide performance on key outcome and performance measures.²

Table 1 presents the Settlement Agreement Section XVI outcome and performance measure requirements and the Department’s level of achievement of those requirements for Reporting Period IV (July 1, 2008 through December 31, 2009) and for the most recent time periods during Reporting Period V (January 1, 2010 through December 31, 2010) for which reliable data is available.³ Where available, breakouts of data by race are included in brackets after the statewide performance percentage, with the percentage for White children listed first and the percentage for African-American children listed second.

Table 2 compares performance for recent entry cohorts on first placement rates, initial placements in family settings, and initial placement in kinship homes.⁴ Table 3 presents average caseloads for DCS case managers and supervisors who were responsible for Brian A. children for July 2007 through April 30, 2010, and Table 4 presents the percentages of critical Child and Family Team Meetings held during 2009 and the first two quarters of 2010. Table 5 presents first investigation rates and first substantiation rates for state fiscal years 2008-2009 and 2009-2010.

Finally, Table 6 presents the combined Quality Service Review (QSR) results for each of the past three years for the seven regions for which the 2010-2011 Quality Service Reviews (QSRs) have been completed.

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² For definitions of terms and explanations of the outcomes and measures (including the method for calculation), as well as historical data relating to earlier monitoring periods, see the November 2010 Monitoring Report.

³ Because of the transition to TFACTS (beginning with the pilot in Mid-Cumberland in June 2010 and then the statewide implementation on August 31, 2010), there will be a delay in data being available for all of Period V. For many indicators, complete data from TNKids for all regions is available through April 30, 2010. For the Section XVI outcome measures (XVI.A.1-6) produced by the Department semi-annually, data from TNKids through June 30, 2010 is presented; however, the data for May and June 2010 should be considered incomplete because much of the Mid-Cumberland data for those months would have been entered into TFACTS rather than TNKids. (Thirty days are allowed for entering documentation into the system; therefore, events occurring during May 2010 that were not entered until June would have been entered into TFACTS rather than TNKids). For the indicators produced by Chapin Hall using longitudinal data for state fiscal year 2009-2010 (including XVI.B.2), TNKids data through June 30, 2010 was used for every region except Mid-Cumberland; for Mid-Cumberland, TNKids data through May 31, 2010 was combined with TFACTS data for June 2010. For XVI.B.5, data for February 2011 is available from new TFACTS reporting.

⁴ Data for earlier cohorts presented in this table may differ slightly from that reported in previous monitoring reports because of updates and cleanings of TNKids data occurring over time.
<table>
<thead>
<tr>
<th>Table 1: Settlement Agreement Outcomes</th>
<th>Settlement Agreement Standard for Period V</th>
<th>Reporting Period IV (7/1/08-12/31/09)</th>
<th>Reporting Period V (1/1/10-12/31/10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>XVI.A.1 Time to Reunification</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Reunification within 12 months of custody</td>
<td>80%</td>
<td>80% [79%/82%]</td>
<td>82% [80%/84%]</td>
</tr>
<tr>
<td>o Reunification within 24 months of custody (remainder)</td>
<td>75%</td>
<td>77%</td>
<td>unavailable</td>
</tr>
<tr>
<td>o Reunification within 24 months of custody (cumulative - logical corollary of the Settlement Agreement provision)</td>
<td>95%</td>
<td>95%</td>
<td>unavailable</td>
</tr>
<tr>
<td>XVI.A.2 Time to Adoption</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Finalization within 12 months of guardianship</td>
<td>75%</td>
<td>74% [76%/66%]</td>
<td>75% [77%/67%]</td>
</tr>
<tr>
<td>XVI.A.3 Number of Placements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o 2 or fewer placements within past 12 months</td>
<td>90%</td>
<td>88% [88%/88%]</td>
<td>88% [87%/89%]</td>
</tr>
<tr>
<td>o 2 or fewer placements within past 24 months</td>
<td>85%</td>
<td>84%</td>
<td>unavailable</td>
</tr>
<tr>
<td>XVI.A.4 Length of Time in Placement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o 2 years or less</td>
<td>75%</td>
<td>81% [80%/79%]</td>
<td>77% [78%/74%]</td>
</tr>
<tr>
<td>o Between 2 and 3 years</td>
<td>No more than 17%</td>
<td>11%</td>
<td>unavailable</td>
</tr>
</tbody>
</table>

5 Percentages in brackets denote performance by race, with performance for White children listed first and performance for African-American children listed second.

6 Many of the Section XVI outcome and performance measures have more than one part. Because of the transition to TFACTS, the Department reported only the first part for most of these measures.

7 The “cumulative performance standard” reflects the total performance that the Department would achieve if it were to meet, but not exceed, each of the separate Settlement Agreement requirements related to the specific outcome or indicator. For example, the Settlement Agreement requires that 80% of children exit to reunification within 12 months and that an additional 15% (75% of the remaining 20%) exit to reunification within 24 months, for a total of 95% of children exiting to reunification within 24 months. The “cumulative performance percentage” for each reporting period is calculated by adding the number of cases meeting the first requirement (reunification within 12 months) and the number of cases meeting the second requirement (reunification within 24 months) and then dividing by the total number of relevant cases (all children reunified).
<table>
<thead>
<tr>
<th>Table 1 (continued): Settlement Agreement Outcomes</th>
<th>Settlement Agreement Standard for Period V</th>
<th>Reporting Period IV (7/1/08-12/31/09)</th>
<th>Reporting Period V (1/1/10-12/31/10)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>XVI.A.5 Reentry</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o More than 3 years</td>
<td>No more than 8%</td>
<td>8%</td>
<td>unavailable</td>
</tr>
<tr>
<td>o Reentry within 12 months of most recent discharge</td>
<td>No more than 5%</td>
<td>6%</td>
<td>6%</td>
</tr>
<tr>
<td>o Reentry between 12 months of most recent discharge</td>
<td>[6%][7%]</td>
<td></td>
<td>[6%][7%]</td>
</tr>
<tr>
<td><strong>XVI.A.6 Achievement measures</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Youth exiting to non-permanency who met at least one achievement measure</td>
<td>90%</td>
<td>86%</td>
<td>86%</td>
</tr>
<tr>
<td>o Youth exiting to non-permanency who met at least one achievement measure</td>
<td>[87%][86%]</td>
<td></td>
<td>[85%][88%]</td>
</tr>
<tr>
<td><strong>XVI.B.1 Parent-Child Visits</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Visits at least twice per month</td>
<td>50%</td>
<td>32%</td>
<td>29%</td>
</tr>
<tr>
<td>o Visits once per month (of those not visiting twice per month)</td>
<td>60%</td>
<td>29%</td>
<td>30%</td>
</tr>
<tr>
<td>o Visits at least once per month (cumulative - logical corollary of the Settlement Agreement provision)</td>
<td>80%</td>
<td>52%</td>
<td>51%</td>
</tr>
<tr>
<td><strong>XVI.B.2 Sibling Placement</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Sibling groups placed together (point-in-time)</td>
<td>85%</td>
<td>84%</td>
<td>(March &amp; April 2010) 84%</td>
</tr>
<tr>
<td>o Sibling groups placed together (entry cohorts)</td>
<td>85%</td>
<td>(FY08-09 entry cohort) 84%</td>
<td>(FY09-10 entry cohort) 84%</td>
</tr>
<tr>
<td>o Sibling groups placed together (entry cohorts)</td>
<td></td>
<td>[87%][79%]</td>
<td>[86%][79%]</td>
</tr>
<tr>
<td><strong>XVI.B.3 Sibling Visits</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o Visits at least once per month</td>
<td>90%</td>
<td>43%</td>
<td>47%</td>
</tr>
</tbody>
</table>

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8 In its aggregate reporting of employment, the Department does not capture separately or distinguish between full-time and part-time. The TAC anticipates conducting an appropriate review to be able to make that distinction, should that be necessary to determine compliance.
<table>
<thead>
<tr>
<th>Table 1 (continued): Settlement Agreement Outcomes</th>
<th>Settlement Agreement Standard for Period V</th>
<th>Reporting Period IV (7/1/08-12/31/09)</th>
<th>Reporting Period V (1/1/10-12/31/10)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>XVI.B.4 Timeliness of TPR Filing</strong></td>
<td></td>
<td></td>
<td>through 4/30/10</td>
</tr>
<tr>
<td>- TPR filed within 3 months of sole adoption goal</td>
<td>70%</td>
<td>87%</td>
<td>88%</td>
</tr>
<tr>
<td>- TPR filed within 6 months of sole adoption goal</td>
<td>85%</td>
<td>NA&lt;sup&gt;9&lt;/sup&gt;</td>
<td>unavailable</td>
</tr>
<tr>
<td><strong>XVI.B.5 PPLA Goals</strong></td>
<td></td>
<td>(December 31, 2009)</td>
<td>(February 10, 2011)</td>
</tr>
<tr>
<td>- Class members with sole PPLA Goals</td>
<td>No more than 5%</td>
<td>0.2%&lt;sup&gt;2&lt;/sup&gt;</td>
<td>0.2%&lt;sup&gt;2&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[0.2%/0.4%]</td>
<td>[0.4%/0.1%]</td>
</tr>
<tr>
<td><strong>XVI.B.6 Placement within 75 Miles</strong></td>
<td></td>
<td>(December 2009)</td>
<td>(April 2010)</td>
</tr>
<tr>
<td>- Class members placed within 75 miles</td>
<td>85%</td>
<td>90%</td>
<td>89%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[89%/90%]</td>
<td>[89%/89%]</td>
</tr>
</tbody>
</table>

<sup>9</sup> The percentage for Reporting Period IV was not calculated using the new cumulative measure established for Reporting Period V.
Table 2: Placements

<table>
<thead>
<tr>
<th></th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Brian A. children in custody on December 31&lt;sup&gt;a&lt;/sup&gt;</td>
<td>6,873</td>
<td>6,375</td>
<td>5,443</td>
<td>5,297</td>
<td>5,659&lt;sup&gt;10&lt;/sup&gt;</td>
</tr>
<tr>
<td>FY05-06 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY06-07 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY07-08 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY08-09 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY09-10 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First placement rate (per 1,000) (Number of first placements in parentheses)</td>
<td>3.2 (4,452)&lt;sup&gt;11&lt;/sup&gt; [2.9/3.8]</td>
<td>3.2 (4,403) [2.9/3.6]</td>
<td>3.0 (4,240) [2.8/3.3]</td>
<td>2.5 (3,633) [2.2/2.9]</td>
<td>3.0 (4,393) [2.6/3.8]</td>
</tr>
<tr>
<td>Initial placements in family settings</td>
<td>90% (4,012/4,452)&lt;sup&gt;12&lt;/sup&gt; [91%/88%]</td>
<td>92% (4,032/4,403) [92%/89%]</td>
<td>92% (3,906/4,240) [93%/90%]</td>
<td>92% (3,335/3,633) [92%/91%]</td>
<td>92%(4,061/4,393) [92%/93%]</td>
</tr>
<tr>
<td>Initial placements in kinship homes (as % of initial family setting placements)</td>
<td>21% (829/4,012) [24%/15%]</td>
<td>22% (893/4,032) [26%/15%]</td>
<td>22% (872/3,906) [25%/16%]</td>
<td>19%(628/3,335) [22%/11%]</td>
<td>17%(709/4,061) [19%/15%]</td>
</tr>
<tr>
<td>Calendar year 2006 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calendar year 2007 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calendar year 2008 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calendar year 2009 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calendar year 2010 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial placements in kinship homes (as % of all initial placements)</td>
<td>16.8%</td>
<td>19.9%</td>
<td>16.4%</td>
<td>14.3%</td>
<td>To be reported in the next monitoring report</td>
</tr>
</tbody>
</table>

Table 3: DCS Case Manager and Supervisor Caseloads

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Manager Caseload (% within Settlement Agreement limits)</td>
<td>90%</td>
<td>97%</td>
<td>97%</td>
<td>96%</td>
</tr>
<tr>
<td>Supervisory Caseload (% within Settlement Agreement limits)</td>
<td>93%</td>
<td>95%</td>
<td>96%</td>
<td>95%</td>
</tr>
</tbody>
</table>

<sup>a</sup> This is the number of Brian A. children in custody on January 6, 2011 according to the new TFACTS report that lists the children in custody. This number may not be exact because the Department was still working on correcting some problems with the report, with the conversion from TNKids to TFACTS, and with data entry into TFACTS that impacted the accuracy of the data.

<sup>11</sup> A single number in parentheses indicates the number of children in a cohort group.

<sup>12</sup> A fraction in parentheses indicates the relevant numbers used for calculating the percentage or rate.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Children entering custody who had at least one Initial CFTM</td>
<td>83%</td>
<td>82%</td>
<td>79%</td>
<td>78%</td>
<td>75%</td>
<td>78%</td>
</tr>
<tr>
<td>Children entering custody who had at least one Initial Perm Plan CFTM</td>
<td>88%</td>
<td>91%</td>
<td>84%</td>
<td>82%</td>
<td>85%</td>
<td>84%</td>
</tr>
<tr>
<td>Children w/ placement disruptions who had at least one Placement Stability CFTM</td>
<td>64%</td>
<td>62%</td>
<td>58%</td>
<td>64%</td>
<td>57%</td>
<td>50%</td>
</tr>
<tr>
<td>Children beginning &quot;trial home visit&quot; (THV) or released from custody who had at least one Discharge CFTM</td>
<td>29%</td>
<td>36%</td>
<td>38%</td>
<td>38%</td>
<td>38%</td>
<td>37%</td>
</tr>
<tr>
<td>Children with at least one CFTM during reporting period</td>
<td>59%</td>
<td>62%</td>
<td>61%</td>
<td>58%</td>
<td>62%</td>
<td>59%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 5: Child Protective Services (CPS)</th>
<th>FY08-09</th>
<th>FY09-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>First investigation rate (per 1,000)</td>
<td>14.4</td>
<td>16.7</td>
</tr>
<tr>
<td>First substantiation rate (per 1,000)</td>
<td>3.3</td>
<td>3.0</td>
</tr>
<tr>
<td>Table 6: QSR Indicator (% acceptable)(^{13})</td>
<td>2008-2009</td>
<td>2009-2010</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td><strong>Child and Family Indicators</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safety</td>
<td>97%</td>
<td>99%</td>
</tr>
<tr>
<td>Stability</td>
<td>58%</td>
<td>68%</td>
</tr>
<tr>
<td>Appropriate Placement</td>
<td>90%</td>
<td>95%</td>
</tr>
<tr>
<td>Health/Physical Well-Being</td>
<td>95%</td>
<td>100%</td>
</tr>
<tr>
<td>Emotional/Behavioral Well-Being</td>
<td>73%</td>
<td>82%</td>
</tr>
<tr>
<td>Learning and Development</td>
<td>75%</td>
<td>81%</td>
</tr>
<tr>
<td>Caregiver Functioning</td>
<td>92%</td>
<td>97%</td>
</tr>
<tr>
<td>Permanence</td>
<td>18%</td>
<td>20%</td>
</tr>
<tr>
<td>Family Functioning &amp; Resourcefulness</td>
<td>26%</td>
<td>34%</td>
</tr>
<tr>
<td>Family Connections</td>
<td>43%</td>
<td>46%</td>
</tr>
<tr>
<td>Satisfaction</td>
<td>73%</td>
<td>83%</td>
</tr>
<tr>
<td><strong>System Performance Indicators</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engagement (VII.B-F, L, N)(^{15})</td>
<td>46%</td>
<td>45%</td>
</tr>
<tr>
<td>Teamwork and Coordination (VII.B-F, L, N)</td>
<td>40%</td>
<td>45%</td>
</tr>
<tr>
<td>Ongoing Functional Assessment (VI.D)</td>
<td>36%</td>
<td>40%</td>
</tr>
<tr>
<td>Long-Term View</td>
<td>29%</td>
<td>31%</td>
</tr>
<tr>
<td>Child and Family Permanency Planning Process (VII.D)</td>
<td>34%</td>
<td>34%</td>
</tr>
<tr>
<td>Plan Implementation (VII.D, K)</td>
<td>34%</td>
<td>41%</td>
</tr>
<tr>
<td>Tracking and Adjustment (VII.D, K)</td>
<td>36%</td>
<td>42%</td>
</tr>
<tr>
<td>Resource Availability and Use</td>
<td>63%</td>
<td>64%</td>
</tr>
<tr>
<td>Informal Support and Community Involvement</td>
<td>54%</td>
<td>44%</td>
</tr>
<tr>
<td>Resource Family Supports/ Support for Congregate Care Providers</td>
<td>87%</td>
<td>88%</td>
</tr>
<tr>
<td>Transitioning for Child and Family</td>
<td>31%</td>
<td>32%</td>
</tr>
</tbody>
</table>

\(^{13}\) In order to present a reasonable comparison, each of the three annual QSR years included in Table 6 reflect only those scores from the seven regions that have completed their 2010-2011 annual QSR: Davidson, East, Knox, Northwest, Southwest, Smoky Mountain and South Central.

\(^{14}\) At the time of this report, seven regions have completed the 2010-2011 annual QSR: Davidson, East, Knox, Northwest, Southwest, Smoky Mountain, and South Central. The data for five of the regions, Davidson, East, Knox, Northwest and Southwest, is final. The data for the Smoky Mountain and South Central regions is preliminary.

\(^{15}\) The references in parentheses in Table 6 are to those sections of the Settlement Agreement for which the Department is using the QSR as a primary measure of practice/performance for its own internal monitoring and which the TAC has similarly utilized in its previous monitoring reports.
SECTION ONE: DATA AND OUTCOME MEASURES OVERVIEW

Introduction:

This section presents an update of figures and data presented in Section One of the November 2010 Monitoring Report related to three broad questions about the performance of Tennessee’s child welfare system that reflect the core concerns of the Settlement Agreement.

- How successful is the Department in providing children in foster care with stable, supportive home-like settings that preserve healthy contacts with family, friends, and community?

- How successful is the Department in meeting the safety, health, developmental, emotional, and educational needs of children in foster care?

- How successful is the Department in helping children achieve permanency, either through safe return to their parents or other family members or through adoption?

The November 2010 Monitoring Report included a detailed discussion of the rationale behind the selection of particular measures, how those measures relate to Settlement Agreement requirements, and the methodology for producing (and guidance for interpreting) the figures and tables. Rather than repeat that contextual information here, those interested in that broader discussion are referred to the corresponding subsections, figures and tables of the November 2010 Monitoring Report.

For ease of reference, this update uses the same subsection letter and number designations as were used in Section One of the November 2010 Monitoring Report. In addition, if a figure or table updates a figure or table that appeared in the November 2010 Monitoring Report, the number of the corresponding figure or table in the November Report is included in parentheses.  

This update includes key findings derived from the data presented. To the extent that the update reflects a significant change from the November 2010 Monitoring Report, a brief discussion is provided in the text of the relevant subsection.

The Department is in the process of transitioning from its old data system (TNKids) to its new data system (TFACTS) and, as the TAC had anticipated, some of the reports that the TAC has traditionally relied on in its monitoring reports are not yet available. For this reason, much of the updated data presented in this report is updated through June 30, 2010, the last date for which TNKids data was available, rather than through December 31, 2010. In addition, for those measures reported on in Section One of the November 2010 Monitoring Report, a brief discussion is provided in the text of the relevant subsection.

16 In most instances the update of figures or tables from the November 2010 Monitoring Report includes data from 2009 forward and omits the tracking data from earlier years that was included in the November 2010 Monitoring Report.
2010 Monitoring Report for which no updated data is available, information is presented regarding the date by which updated data is expected to be available.

A. Foster Care Caseload in Tennessee: Basic Dynamics of Placement

This subsection provides information related to the numbers of children in state custody, the adjudication that resulted in their placement, the placement dynamics (placement rates and discharge rates), and their age distribution. Appendix A presents data related to key outcome and performance measures by region, race, and ethnicity.

Key findings:

- *Brian A.* class members continue to account for about 80% of the DCS placement population.

- The statewide placement rate decreased steadily from 3.6 in state fiscal year 2004-2005 to 2.5 in state fiscal year 2008-2009—the same placement rate observed at the time of the entry of the Settlement Agreement. However, the statewide placement rate increased to 3.0 in state fiscal year 2009-2010. On the regional level, placement rates increased considerably between state fiscal years 2008-2009 and 2009-2010 for nine regions (Smoky Mountain, Upper Cumberland, Southeast, Knox, South Central, Northeast, Shelby, Northwest, and Hamilton), while the placement rate in East decreased considerably.

1. Placement Population

Figure 1 (3) below provides some basic information about the composition of the DCS custodial population in out-of-home placement during the 10-year period beginning January 1, 2000.
Updated data showing the number of admissions, the number of discharges, and the placement population for entry cohort years 2000 through 2010 is expected to be available for the next monitoring report.

2. Placement Rates

Figure 2 (5) shows the patterns in statewide first placement rates and in the number of first placements in Tennessee since 2000.
Figure 2: Number and Rate per 1,000 by Year of First Admissions, Brian A. Class

![Figure 2: Number and Rate per 1,000 by Year of First Admissions, Brian A. Class](image)


Figure 3 (6) below displays regional placement rates for state fiscal years 2008-2009 and 2009-2010, and Figure 7 compares the number of admissions by region for state fiscal years 2008-2009 and 2009-2010. In Figure 7, the regions are ordered according to their placement rates for state fiscal year 2009-2010, with the region with the highest placement rate listed first and the lowest listed last.
Figure 3: Placement Rate per 1,000 for First Placements, by Region, in SFY0809 and SFY0910, Brian A. Class

<table>
<thead>
<tr>
<th>Region</th>
<th>SFY0809</th>
<th>SFY0910</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smoky Mountain</td>
<td>4.1</td>
<td>4.7</td>
</tr>
<tr>
<td>East</td>
<td>5.1</td>
<td>4.4</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>3.3</td>
<td>3.3</td>
</tr>
<tr>
<td>Southeast</td>
<td>3.3</td>
<td>4.3</td>
</tr>
<tr>
<td>Knox</td>
<td>2.9</td>
<td>3.8</td>
</tr>
<tr>
<td>South Central</td>
<td>2.7</td>
<td>3.8</td>
</tr>
<tr>
<td>Northeast</td>
<td>2.6</td>
<td>3.1</td>
</tr>
<tr>
<td>Shelby</td>
<td>2.3</td>
<td>3.1</td>
</tr>
<tr>
<td>Statewide</td>
<td>2.5</td>
<td>3.0</td>
</tr>
<tr>
<td>Northw est</td>
<td>1.9</td>
<td>2.6</td>
</tr>
<tr>
<td>Southw est</td>
<td>1.8</td>
<td>2.2</td>
</tr>
<tr>
<td>Davidson</td>
<td>2.0</td>
<td>2.1</td>
</tr>
<tr>
<td>Hamilton</td>
<td>1.2</td>
<td>2.1</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>1.6</td>
<td>1.6</td>
</tr>
</tbody>
</table>

Source: Longitudinal analytic files developed by Chapin Hall. SFY0809 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland. Placement rates were calculated using the 2005 Census Estimate produced by Claritas.
3. **Placement by Age Group**

Data showing the age of children in the *Brian A.* class, including both entry cohort data (2000 through 2010) organized by the age of the child when the child first entered out-of-home placement and point-in-time data showing the age distribution of those children in out-of-home placement on December 31, 2010, is expected to be available for the next monitoring report.

**B. How successful is the Department in providing children in foster care with stable, supportive, home like settings that preserve healthy contacts with family, friends, and community?**
Key findings:

- Initial placements in kinship homes, as a percentage of all initial placements in resource homes, have been decreasing in recent years. Davidson is the only region in which there has been a steady increase in this percentage since state fiscal year 2007-2008. It is encouraging that after implementing a pilot project focused on increasing kinship resource home utilization, Davidson doubled its initial placements in resource homes that were kinship placements from 15% in state fiscal year 2007-2008 to 31% in state fiscal year 2009-2010. In contrast, the percentage of initial placements in resource homes that were kinship placements in East has decreased by half, from 41% in state fiscal year 2007-2008 to 19% in state fiscal year 2009-2010. Shelby has consistently had the lowest percentage, with 5% of initial placements in resource homes in state fiscal year 2009-2010 being kinship placements. This considerable regional variation suggests that there is significant opportunity for improving kinship resource home utilization.

- The Department continues to place the large majority (approximately 90%) of children in custody within 75 miles of their homes.

- Some children in foster care continue to experience a significant number of placement moves; however, there has been improvement in placement stability for recent entry cohorts. Seventy-nine percent (79%) of children entering care during state fiscal year 2008-2009 experienced two or fewer placements during a two-year window of observation, compared to 69% of children entering care during calendar year 2002.

- According to the Department’s aggregate reporting, the Department is not meeting the expectation for appropriately frequent parent-child visits for the large majority of children in care for whom the permanency goal is reunification. However, performance in this area has been improving since late 2008. DCS aggregate data reports for March 2010 reflect that 53% of children visited with their parent at least once per month—the highest percentage achieved since the intensive data clean-up in March 2007, when 57% of children visited with their parents at least once during the month. Based on the results of a recent targeted case file review focused on parent-child visits, it appears that the aggregate data underreports compliance because it is unable to account for cases in which there is a reasonable justification for the lack of parent-child contact. Consistent with the aggregate data, visits occurred at least monthly over the six-month review period in 50% (46) of the 92 cases reviewed. In 26 (28%) of the remaining 46 cases, while parental visits were less frequent than monthly, there were reasonable justifications for the parent and child visiting less frequently. In another 16 of these 46 cases, the record shows at least some effort on the part of the Department to facilitate visits in all 16 cases, and efforts that appear significant in at least a

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17 As discussed further in footnote 46 of the November 2010 Monitoring Report, this may reflect greater utilization of relatives as alternatives to placement in custody.

18 See the December 2008 Monitoring Report at page 38.
majority of these cases. In only four (4%) of the cases reviewed did it appear that there was no reasonable justification for the failure to visit monthly.

- For siblings placed in foster care, the Department has experienced significant success in keeping sibling groups together. However, according to the Department’s aggregate reporting, the Department is not meeting the expectation for appropriately frequent visits for those sibling groups who are separated while in care. Since January 2009, the percentage of separated sibling groups visiting at least once during a two-month period has fluctuated from a low of 56% to a high of 76%. Based on findings of a recent targeted case file review of sibling groups for whom, according to DCS aggregate reporting, no visits occurred during a two-month period, it appears that the Department’s aggregate data does not accurately capture all sibling visits. While visits in 32% of the cases reviewed fell far short of the minimum Settlement Agreement requirement over a six-month period, 68% of sibling groups reported as not having visited appeared either to have had visits at least once every two months during the six-month period or to have had a reasonable explanation or rationale for the missing visits.

1. Serving Class Members in Resource Family Settings rather than Congregate Care Settings

Data showing first placements by placement type for the 2002 through 2010 entry cohorts is expected to be available for the next monitoring report, as is data showing regional kinship placements as a percentage of all first placements through the 2010 entry cohort.

As reported in the November 2010 Monitoring Report, the percentage of initial placements in kinship homes has been decreasing in recent years. Statewide and regional performance for initial kinship placements as a percentage of initial resource home placements is presented in Figure 5 (11) for children first placed during state fiscal years 2007-2008, 2008-2009, and 2009-2010. The regions are ordered in the figure according to the percentage of initial kinship placements during state fiscal year 2009-2010.

Statewide, 22% of initial placements in resource homes in state fiscal year 2007-2008 were kinship placements, compared to 18% in state fiscal year 2008-2009 and 17% in state fiscal year 2009-2010.

There is significant regional variation in this measure. As reported in the November 2010 Monitoring Report, East had the highest percentage (41%) of children initially placed in resource homes that were kinship placements during state fiscal year 2007-2008. However, that percentage has decreased significantly in East over the past two state fiscal years to only 35% in state fiscal year 2008-2009 and to only 19% in state fiscal year 2009-2010. This decreasing trend since state fiscal year 2007-2008 was seen in all other regions except Davidson. In Northeast, Northwest, Southeast, Knox, and Shelby, the percentage of initial kinship placements decreased in state fiscal year 2008-
2009 but then increased in state fiscal year 2009-2010 to a level similar to or greater than that in state fiscal year 2007-2008.

In only three regions were more than a quarter of children initially placed in kinship placements during state fiscal year 2009-2010: Northeast (35%), Davidson (31%), and Hamilton (26%). This percentage in Davidson has doubled since state fiscal year 2007-2008, an increase that likely reflects the impact of a pilot program focused on increasing placements with relatives and kin.

Shelby has consistently had the lowest percentage of initial placements in kinship resource homes, with 5% in state fiscal year 2007-2008, 3% in state fiscal year 2008-2009, and 5% in state fiscal year 2009-2010.
Figure 5: Regional and Statewide Kinship Placements as a Percentage of First Placements in Family Settings, SFY0708 through SFY0910

Source: Longitudinal analytic files developed by Chapin Hall. SFY0708 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland

Data showing the percentage of children initially placed in the various types of congregate care placements through 2010 is expected to be available for the next monitoring report.
2. Serving Class Members In or Near Their Home Communities

The Settlement Agreement requires that “at least 85% of children in the class shall be placed within the region from which they entered placement or within a 75 mile radius of the home from which the child entered custody.” (XVI.B.6)

Eighty-nine percent (89%) of children in custody in April 2010 were placed within a 75-mile radius of the home from which they entered custody, the same percentage as were placed within a 75-mile radius in December 2009 (the end of Reporting Period IV). 19

For its own internal management purposes, the Department utilizes “percent of children placed within their home county”—a more exacting measure than that of the Settlement Agreement—to evaluate the extent to which children are placed in close proximity to their home communities. Data showing both statewide and regional in-county first placement rates through 2010 is expected to be available for the next monitoring report.

3. Improving Stability While in Placement

The Settlement Agreement establishes the following requirements related to placement stability: 20

- “At least 90% of children in care shall have had two or fewer placements within the previous 12 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement;” and

- “At least 85% of children in care shall have had two or fewer placements within the previous 24 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement.” (XVI.A.3)

As reported in the November 2010 Monitoring Report, performance for the Settlement Agreement’s placement stability outcome measure (XVI.A.3 “Number of Placements”) has declined since the Supplemental Reporting Period (July 1, 2008 through March 31, 2009) when the Department met (and surpassed) the Settlement Agreement standard for the first time, with 93% (9,841) of the 10,611 children who were in custody at some time during the period from April 1, 2008 to March 31, 2009 experiencing two or fewer

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19 In calculating the percentage of children whose placements are within the 75-mile limit, the Department uses a strict standard that effectively includes as “non-compliant” children whose placement is “undetermined,” children who are on runaway, and children who are in out-of-state (ICPC) placements.

20 According to the Settlement Agreement, “measures in this section apply to children in care at any time during the reporting period and children still in care at the end of the reporting period. Placements made prior to September 1, 2001, shall not be counted in this measure. For children requiring emergency hospitalization who return to their immediate prior placement, that return shall not count as an additional placement.”
placements within the previous 12 months and 86% (9,091) experiencing two or fewer placements within the previous 24 months.

During the second part of Period IV (January 1, 2009 through December 31, 2009), 88% (8,949) of the 10,168 children in custody at any time during that period had two or fewer placements within the previous 12 months in custody, and 84% (8,585) of those children had two or fewer placements within the previous 24 months in custody. Performance remained unchanged for the first part of Reporting Period V; of the 10,380 children in custody at any time between July 1, 2009 and June 30, 2010, 88% (9,117) had two or fewer placements within the previous 12 months in custody. Although performance has declined slightly from performance for the Supplemental Reporting Period, performance through June 30, 2010 is only two percentage points short of meeting the Settlement Agreement requirement for the 12-month measure.

In addition to reporting as required by the Settlement Agreement, the Department uses cohort measures to examine placement stability.

Statewide and regional data showing the number of placement moves experienced by children first entering custody in calendar year 2009 and observing placement stability through December 31, 2010, is expected to be available for the next monitoring report.

As reflected in the data presented in Figure 6 (18), performance on placement stability has remained steady for more recent state fiscal year entry cohorts. (Figure 6 includes corrected “two-year window” placement stability data for the state fiscal year 2008-2009).

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21 Because of the focus on TFACTS implementation, the Department did not produce the second part of this measure—placements within the previous 24 months in custody—for the period from July 1, 2009 through June 30, 2010.
Placement stability data by age at the time of placement is expected to be available for the next monitoring report.

Additional stability data presenting an analysis of the number of placement moves by region is contained in Appendix B.

4. Maintaining Family Connections for Children in Care: Contact with Parents and Siblings

a. Contact with Parents

The Settlement Agreement provides that “for children in the plaintiff class with a goal of reunification, parent-child visiting shall mean a face-to-face visit with one or both parents and the child which shall take place for no less than one hour each time (unless the visit is shortened to protect the safety or well-being of the child as documented in the child’s case record).”

The Settlement Agreement provides two exceptions:

- “This standard does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every month;” and
The Settlement Agreement states that “at least 50% of all class members with a goal of reunification shall be visited face-to-face by one or both parents at least twice per month for at least one hour in as home-like a setting as possible, unless there is a court order to the contrary or the case manager has considered and documented the wishes of a child to deviate from this requirement.

For the remaining class members with a goal of reunification who are not visited twice per month, at least 60% shall be visited once a month in keeping with the standards of the preceding paragraph.”

i. Parent-Child Visit Aggregate Reporting

As discussed in previous monitoring reports, the TNKids system was not able to identify children whose visits with their parents would be subject to either exception, and therefore the Department’s aggregate reports have applied the standard to all class members with a goal of reunification who are placed away from their parents, excluding only the small number of children who have run away from care or are placed out-of-state. For this reason, the aggregate data understates the level of DCS compliance with the Settlement Agreement parent-child visit requirement and, as discussed in the next subsection, the aggregate data must be supplemented by a case file review.

Twenty-nine percent (29%) of children with reunification goals visited with their parents at least twice during April 2010 (compared to 50% required by the Settlement Agreement), and 30% of the remaining children visited with their parents once during the month (compared to 60% required by the Settlement Agreement). Or, stated differently, a total of 51% of children visited with their parents at least once during April 2010. The Settlement Agreement effectively requires 80% visit at least once per month. The percentage of children not visiting with their parents at all during the month was 47%. (See Appendix C for month by month tracking of this data from January 2009 to April 2010).

22 Under DCS policy, until parental rights are terminated, parents and children retain their right to visits and contact with each other. As with any other situation in which the interests of the child require a deviation from the visiting standard, if there is a reason to restrict visits prior to the ruling on a termination petition, that can be accomplished by seeking a court order to that effect. However, because the Settlement Agreement only applies this measure to children with reunification goals, the Department reports on only those children.

23 This “effective” Settlement Agreement requirement is calculated by adding the number of cases in which the child visited with a parent at least twice per month to the number of cases in which the child visited with a parent at least once per month and then dividing by the total number of relevant cases (i.e., all children with a goal of reunification who were placed away from their parents during April 2010, excluding only the small number of children who had run away from care or were placed out-of-state).
The aggregate reporting reflects significant regional variation on this measure as shown in Figure 7 (22) below. More than half of children visited with their parents during December 2009 in nine regions (Mid-Cumberland, Northwest, Davidson, Knox, Southwest, Northeast, Upper Cumberland, South Central, and Southeast).

Figure 7: Parent-Child Visits During April 2010, by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>Twice per month</th>
<th>Once per month</th>
<th>No visits during the month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mid-Cumberland</td>
<td>35%</td>
<td>19%</td>
<td>46%</td>
</tr>
<tr>
<td>Northwest</td>
<td>42%</td>
<td>16%</td>
<td>40%</td>
</tr>
<tr>
<td>Davidson</td>
<td>38%</td>
<td>22%</td>
<td>42%</td>
</tr>
<tr>
<td>Knox</td>
<td>36%</td>
<td>20%</td>
<td>44%</td>
</tr>
<tr>
<td>Southwest</td>
<td>36%</td>
<td>25%</td>
<td>39%</td>
</tr>
<tr>
<td>Northeast</td>
<td>31%</td>
<td>15%</td>
<td>54%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>30%</td>
<td>30%</td>
<td>40%</td>
</tr>
<tr>
<td>South Central</td>
<td>29%</td>
<td>30%</td>
<td>40%</td>
</tr>
<tr>
<td>Southeast</td>
<td>27%</td>
<td>22%</td>
<td>51%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>25%</td>
<td>22%</td>
<td>53%</td>
</tr>
<tr>
<td>East</td>
<td>20%</td>
<td>18%</td>
<td>62%</td>
</tr>
<tr>
<td>Shelby</td>
<td>13%</td>
<td>26%</td>
<td>61%</td>
</tr>
</tbody>
</table>


**ii. Parent-Child Visit Targeted Review**

Because aggregate reporting on the frequency of parent-child visits, as discussed above, underreports compliance, the TAC monitoring staff conducted a targeted case review to determine the extent to which there is a reasonable justification for the lack of parent-child contact, including those exceptions to the parent-child visit requirement explicitly provided for in the Settlement Agreement. (A report of the findings of that review is attached as Appendix D). Among the circumstances that reviewers considered to be a reasonable basis for missed visits are the following:

- A court order prohibiting contact between parent and child;

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24 Data for East region presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.
A recommendation from a therapist that contact between parent and child be limited;

Parental incarceration prevented the visits (either because of very restrictive visiting conditions in the facility or because the parent did not wish the child to visit in the correctional facility);

Parent living out of state;

Child refused to visit the parent;

Parent’s whereabouts remain unknown despite at least some efforts by the Department to locate the parent; and

Frequent cancelations of scheduled visits by the parent.

Of the 92 cases reviewed, the child visited at least once per month during the six-month review period with at least one parent in 46 cases (50%). In 33 of these cases (36%), visits with at least one parent occurred at least twice per month.

In 26 of the remaining 46 cases (28% of the total cases reviewed), while parental visits were less frequent than monthly, there were reasonable justifications for the parent and child visiting less frequently. In another 16 of these 46 cases, the Department submitted documentation showing that parents failed to visit despite efforts on the part of the Department to arrange for and facilitate visiting. It is impossible to judge from a case record whether visiting might have occurred if the Department’s efforts had been more extensive, or if (for example) a worker’s engagement skills had been greater. The TAC has therefore not tried to judge whether or not the Department’s efforts in each case constituted “reasonable justification.” It would be fair to say, however, that the record shows at least some effort on the part of the Department in all of these 16 cases, and efforts that appear significant in at least a majority of the cases.

In only four (4%) of the cases reviewed did it appear that there was no reasonable justification for the failure to visit monthly. Table 7 below summarizes the findings of the review.

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25 The sample for the parent-child visits review was drawn from the population of all children in custody at least six months as of January 4, 2010 (according to the Mega Report) who had a goal of reunification; who were not on trial home visit, placed in home, or on runaway; and who were placed in-state.
The TAC monitoring staff expect to complete a second targeted review focused on parent-child visiting in time for the results to be included in the next monitoring report.
b. Placement with Siblings

The Settlement Agreement requires that “at least 85% of all siblings who entered placement during the reporting period shall be placed together, unless doing so is harmful to at least one of the siblings; a sibling has exceptional needs requiring placement in a specialized program or facility; or the size of a sibling group makes such placement impracticable despite diligent efforts to place the group together, in which event the case manager shall document immediate efforts to locate a suitable home in which to reunite the siblings.” (XVI.B.2)

The TNKids system was not able to identify children whose placement with their siblings would be subject to any of the exceptions, and therefore the Department applied the standard to all sibling groups who entered custody within 30 days of one another.

During state fiscal year 2009-2010, 84% of sibling groups entering out-of-home placement together for the first time were placed together. Figure 8 (23) displays performance on this measure for entry cohorts in state fiscal years 2003-2004 through 2009-2010. Performance has remained between 84% and 86% since state fiscal year 2003-2004.

Figure 8: Percentage of Sibling Groups Entering Together Who Are Placed Together, First Placements in SFY0304 through SFY0910

![Graph showing percentage of sibling groups placed together over fiscal years 2003-2004 to 2009-2010.]

Source: Longitudinal analytic files developed by Chapin Hall. SFY0304 from TNKids data through August 2009. SFY0405 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland.

Figure 9 (24) below presents both the total number of sibling groups entering together for the first time in state fiscal year 2009-2010 and the number of those sibling groups who were placed together initially. The regions are ordered in the figure by the percentage of sibling groups initially placed together, with the region with the highest percentage of sibling groups initially placed together at the top.

Figure 9: Total Number of Sibling Groups Entering Together and Number Placed Together Initially

![Graph showing total number of sibling groups entering together and number placed together initially by region for state fiscal year 2009-2010.]

Source: Longitudinal analytic files developed by Chapin Hall. SFY0304 from TNKids data through August 2009. SFY0405 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland.
Shelby had by far the largest number of sibling groups entering out-of-home placement together for the first time in state fiscal year 2009-2010; 141 sibling groups compared to less than 100 sibling groups in each of the remaining 12 regions. Shelby also had the largest number of sibling groups placed together initially than in any other region: 109 sibling groups compared to less than 92 sibling groups in each of the remaining 12 regions. However, the percentage of sibling groups in Shelby initially placed together (77%) is lower than any other region except Northwest and Hamilton.

The Department also tracks the placement of all sibling groups in custody at the beginning of each month. As of June 1, 2010, 84.1% (788) of the 937 sibling groups in custody were placed together. Since the Department began producing this report in November 2006, this percentage has remained quite stable, hitting its lowest point of

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26 For purposes of producing this particular measure on sibling placement, the Department defines a “sibling group” as siblings who entered custody within 30 days of one another and excludes any child from the sibling group who is on runaway status on the date the report is generated.
80.2% on December 1, 2007 and reaching its highest point yet of 84.1% on both May 1, 2010 and June 1, 2010.

Figure 10 (25) displays regional performance on this measure as of June 1, 2010. As shown in the figure, the placement of sibling groups in custody on June 1, 2010 differs significantly from the initial placement of sibling groups entering out-of-home care during state fiscal year 2009-2010. There are differences between the two measures for every region, though the differences are more pronounced for some regions than for others.

Figure 10: Sibling Groups Placed Together Compared to Sibling Groups in Custody on June 1, 2010, by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>Total Sibling Groups in Custody on June 1 whoEntered Care Together</th>
<th>Sibling Groups Placed Together on June 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mid-Cumberland</td>
<td>101</td>
<td>96</td>
</tr>
<tr>
<td>Northeast</td>
<td>87</td>
<td>82</td>
</tr>
<tr>
<td>Southwest</td>
<td>39</td>
<td>35</td>
</tr>
<tr>
<td>Southeast</td>
<td>56</td>
<td>50</td>
</tr>
<tr>
<td>East</td>
<td>156</td>
<td>181</td>
</tr>
<tr>
<td>Davidson</td>
<td>46</td>
<td>39</td>
</tr>
<tr>
<td>Hamilton</td>
<td>34</td>
<td>37</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>75</td>
<td>91</td>
</tr>
<tr>
<td>South Central</td>
<td>67</td>
<td>84</td>
</tr>
<tr>
<td>Knox</td>
<td>66</td>
<td>90</td>
</tr>
<tr>
<td>Shelby</td>
<td>62</td>
<td>87</td>
</tr>
<tr>
<td>Northwest</td>
<td>31</td>
<td>21</td>
</tr>
</tbody>
</table>

Source: TNKids “Active Brian A. Class Sibling Groups Not Placed Together Visitation Summary Report” (SBL-ASGNPTVS-200), generated June 1, 2010 for the months of March and April 2010.

27 Data for East presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.
c. Contact with Siblings

The Settlement Agreement requires that “at least 90% of all children in the class in placement who have siblings with whom they are not living shall visit with those siblings at least once a month during the reporting period at issue.” (XVI.B.3)

The Settlement Agreement allows reasonable exceptions to the frequency requirement for cases in which: (1) there is a court order prohibiting visitation or limiting visitation to less frequently than once every month; (2) visits are not in the best interest of one or more of the siblings and the facts supporting that determination are documented in the case file; (3) the case manager for at least one of the siblings has considered the wishes of the sibling (generally older adolescents) and deviates from this standard based on the child’s wishes; or (4) a sibling is placed out of state in compliance with the Interstate Compact on the Placement of Children and there is documentation of reasonable efforts by DCS to maintain sibling contact between in-state and out of state siblings, including consideration of placement near border states and efforts to arrange visits and for contact by telephone or other means. All exceptions, and all reasonable steps to be taken to assure that visits take place and contact is maintained, are to be documented in the case file.

i. Sibling Visit Aggregate Reporting

As is the case with reporting on parent-child visits, TNKids was not able to produce a report on sibling visits that identified and excluded children subject to these exceptions. The Department in its reporting applied this standard to all sibling groups who entered custody within 30 days of one another and were separated during the reporting period, irrespective of whether there was a court order limiting or prohibiting visits. The reporting on this performance measure therefore includes these class members as well, and thus current reporting is likely to slightly understate performance on the Settlement Agreement requirement.28

For the months of March and April 2010, the statewide percentage of separated sibling groups29 having face-to-face visits at least once per month during that two-month period was 47% (compared to 90% required by the Settlement Agreement). (See Appendix E for month by month tracking of this data from January 2009 to April 2010).

Figure 11 (27) below presents the average number of separated sibling groups visiting one another at each frequency, by region,30 for the period from January 2009 to April

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28 Notwithstanding the under-reporting, the Department recognizes that it is far from meeting the requirements of the Settlement Agreement in this area.
29 This measure includes all sibling groups in custody during the two-month period who originally entered custody within 30 days of one another, regardless of the type of entry (first placement or reentry) or placement type (with family or out-of-home), and excludes any child from the sibling group who is on runaway status on the date the report is generated.
30 Data for East presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.
East and Shelby both account for a substantial number of the separated sibling groups and an even larger proportion of those visiting less than once in two months. Knox and South Central also have large numbers of separated siblings groups and a large proportion of separated siblings visits less than once in two months.

**Figure 11: Sibling Visits by Region, Average Sibling Visit Performance by Average Number of Separated Sibling Groups, January 2009 - April 2010**

<table>
<thead>
<tr>
<th>Region</th>
<th>Once per month</th>
<th>Once in two months</th>
<th>Less than once in two months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>4</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>East</td>
<td>13</td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Hamilton</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Knox</td>
<td>8</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>4</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Northeast</td>
<td>3</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Northwest</td>
<td>3</td>
<td>3</td>
<td>12</td>
</tr>
<tr>
<td>Shelby</td>
<td>11</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>South Central</td>
<td>5</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Southeast</td>
<td>3</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Southwest</td>
<td>4</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: TNKids “Active Brian A. Class Sibling Groups Not Placed Together Visitation Summary Reports” (SBL-ASGNPTVS-200) for January and February 2009 through March and April 2010.

**ii. Sibling Visit Targeted Review**

As discussed in the November 2010 Monitoring Report, because of the inability of the aggregate reporting to account for permissible exceptions to the sibling visit requirement, the TAC monitoring staff conducted a targeted review of a sample of cases drawn from a

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31 Because of the relatively small number of sibling groups who are separated in most regions, there is considerable fluctuation from month to month. In order to provide some meaningful way of understanding and comparing regional performance, the figure gathers and presents information based on a monthly average of relevant regional sibling separation data over a 16-month period.
population of separated siblings for whom, according to DCS aggregate reporting, no visits occurred during a two-month period to determine the extent to which the Department is meeting the sibling visit requirements. (Appendix H of the November 2010 Monitoring Report contains a detailed discussion of the findings of that review.) It appeared from that review that the Department’s aggregate data did not accurately capture all sibling visits. However, the cases for that review were drawn from among those cases reported in the September 1, 2009 TNKids sibling visits report as not having visited at all during the two-month period covered by that report (June and July 2009). Monitoring staff were able to conclude that a significant percentage of those cases reported as “non-compliant” by the aggregate report should not have been so designated (either because visits had actually occurred that had not been documented correctly or because the case fell within the letter or spirit of the exception). However, because cases designated as “compliant” by the aggregate report were not included in the review, monitoring staff do not know whether some of those cases were incorrectly reported as compliant. For that reason, this initial targeted review could not be used for determining the extent to which siblings are visiting with the frequency required by the Settlement Agreement.

TAC monitoring staff are currently conducting a second targeted review of sibling visits using a sample taken from the broader population of separated siblings (not just those not visiting). The TAC anticipates the findings from the review, which will allow comparison to the aggregate data, to be available for the next monitoring report.

d. Family Connections

The Quality Service Review (QSR) also provides data related to both parent-child and sibling visits. The Family Connections indicator requires that the reviewer examine the degree to which relationships between the child and family members from whom the child is separated are maintained through appropriate visits and other means. Unless there are compelling reasons for keeping them apart, the reviewer must, among other things, look at the frequency of visits between the child and the child’s parents and siblings. To receive a minimally acceptable score on this indicator, the reviewer must find that “all appropriate family members have periodic visits a minimum of bi-weekly.” If visits occur less frequently than bi-weekly, the case generally would not receive an acceptable score for Family Connections. Because the QSR indicator considers connections with all appropriate family members simultaneously, it is a more rigorous standard than that contained in the Settlement Agreement.

Figure 12 (28) presents the percentage of Brian A. cases receiving acceptable scores for Family Connections for those seven regions for which the 2010-2011 annual QSR has been completed and compares those scores with the regional scores from the 2009-2010 QSR for those regions. The Family Connections indicator is only scored for cases in

32 At the time of this report, seven regions have completed the 2010-2011 annual QSR: Davidson, East, Knox, Northwest, Southwest, Smoky Mountain, and South Central. The data for five of the regions, Davidson, East, Knox, Northwest and Southwest, is final. The data for the Smoky Mountain and South Central regions is preliminary.
which (a) the child was placed out-of-home and (b) maintaining at least one family relationship was appropriate.

C. How successful is the Department in meeting the safety, health, developmental, educational, and emotional needs of children in care?

**Key Findings:**

- While there is some regional variation, for the large majority of children in foster care, the Department appears to be doing reasonably well in ensuring that their physical health needs are being met. Children in foster care either appear to be in reasonably good health or, if they suffer from chronic health problems, generally appear to be having documented health needs addressed responsibly.

- For the large majority of children with identified mental health needs, the Department appears to be providing some mental health services in an effort to respond to those needs. However, the children in foster care appear to fare significantly less well with respect to their emotional and behavioral well-being than they do with respect to their physical health.

- While a majority of children in foster care appear to be progressing developmentally and educationally, a significant number of children continue to face developmental and educational challenges.

- While more than three-quarters of youth who are discharged from state custody upon reaching the age of 18 remain in a secondary education program, have
graduated high school, or have completed a GED, a significant minority of children “age out” without such achievement/ongoing involvement.

1. Ensuring the Safety of Children in Foster Care

a. Child and Family Service Review (CFSR) Abuse in Care Measure

The U.S. Department of Health and Human Services (DHHS) requires that no more than 0.32% of all children in care be victims of substantiated maltreatment by a resource parent or congregate care facility staff member. Under this standard, the term “all children in care” applies to both Brian A. class members (children adjudicated dependent/neglected or unruly) and children adjudicated delinquent. Updated CFSR Abuse in Care data through March 31, 2011 is expected to be available for the next monitoring report.

Beyond the CFSR data related to incidence of abuse and neglect of children while in care, there are a number of other sources of information that are relevant to evaluating the extent to which children in state custody are in safe placements and protected from harm and that examine a broader range of safety threats than those included in the CFSR measure. These sources of information include: the Quality Service Review, the Special Investigations Unit (SIU) reports, and the Incident Reporting (IR) system.

b. Quality Service Review Results

The Quality Service Review assesses whether, at the time of the review, the child is safe from manageable risks of harm from self or others, as well as whether others are safe from manageable risks of harm from the child’s behaviors.

Figure 13 (29) presents the percentage of Brian A. cases receiving acceptable scores for Safety for those seven regions for which the 2010-2011 annual QSR has been completed and compares those scores with the regional scores from the 2009-2010 QSR for those regions.
c. Special Investigations Unit and Child Protective Services Investigations of Reports of Abuse or Neglect of Children while in State Custody

Figure 14 (30) below displays the number of open investigations (both CPS and SIU) involving Brian A. class members as of the first day of each month for January 2009 through April 2010. (As discussed further in Section Three, cases are expected to be closed within 60 days.) Since January 2009, the number of open investigations on the first day of each month has ranged between 103 and 127.33

33 For a breakdown of the length of time that these investigations have been open as of the first day of each month, see Section Three, Subsection B.1.c.
d. Incident Reports

Table 8 (7) below displays the number of incidents reported through the automated system between January 1, 2010 and March 31, 2010 by severity level (Level 1 being the lowest and Level 4 being the highest) and incident type for both Brian A. class members and children with delinquent adjudications. 34

There were a total of 4,398 incidents reported between January 1 and March 31, 2010, and six incident types made up the vast majority of the reports: physical restraint 35 (1,399); assault 36 (700); runaway 37 (633); emergency medical treatment 38 (481); medication error 39 (264); and mental health crisis 40 (263). There were no Level 4 incidents reported during this quarter.

34 A list of definitions for each incident type is included as Appendix F. As reported in previous monitoring reports, the Department is not yet routinely reporting incidents occurring in DCS operated placements through the Incident Reporting process. The Department is working with regional staff to improve understanding of what incidents in DCS placements need to be entered into the IR system. However, according to reviews conducted by PQI as part of this effort in the fall of 2010, it appeared that the regions continued to underreport incidents occurring in DCS placements at that time.

35 Physical restraint is defined as the involuntary immobilization of a child without the use of mechanical devices, including escorts where the youth is not allowed to move freely.

36 Assault is defined as a willful and malicious attack by a child or youth on another person, not including horse-play.

37 Runaway is defined as a child or youth leaving a program without permission and his or her whereabouts are unknown or not sanctioned.

38 Emergency medical treatment is defined as a child or youth suffering an injury or illness that requires emergency medical attention.

39 Medication error is defined as the administration of a medication not in accordance with the prescribing provider’s instructions and/or DCS policy and procedure.

40 Mental health crisis is defined as a child or youth engaging in or experiencing self injurious behavior; suicidal ideation or behavior, homicidal ideation or behavior, or an acute psychotic episode.
Between October 1 and December 31, 2009, there were a total of 3,996 incidents reported, and five of the same incident types made up the vast majority of those reports: physical restraint (1,324); runaway (593); assault (587); emergency medical treatment (411); and medication error (271). There was one Level 4 incident reported during this quarter.\textsuperscript{41}

<table>
<thead>
<tr>
<th>Incident Type</th>
<th>Severity Level</th>
<th>Total Number of Incidents</th>
<th>Percentage of Total Incidents</th>
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<tbody>
<tr>
<td>Abduction</td>
<td>Level 1</td>
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<tr>
<td></td>
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<tr>
<td></td>
<td>Level 3</td>
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<td></td>
<td>Level 4</td>
<td>0</td>
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<td>Abuse or neglect</td>
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<td>Level 4</td>
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<td>Arrest of child or youth</td>
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<td></td>
<td>Level 2</td>
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<td>Level 4</td>
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<tr>
<td>Runaway (off facility property and out of physical sight of staff)</td>
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<td></td>
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<tr>
<td></td>
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<td>1871</td>
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</table>


Table 9 (8) and Figure 15 (31) below present the number of incidents reported through the Automated System each quarter, by severity level, from January 2009 through March 2010.

\textsuperscript{41} This incident involved the deaths of two children and their birth mother in an automobile accident. The birth mother was the driver of the vehicle.
Table 9: Number of Incident Reports Each Quarter by Level, January 2009 through March 2010

<table>
<thead>
<tr>
<th></th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
<th>Unknown</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1Q 2009</td>
<td>341</td>
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2. Meeting the Health Needs of Children in Care

The Settlement Agreement requires that children entering foster care receive a health screening within 30 days. Appropriate services are then to be provided to meet any health needs identified. (VI.D)
a. Quality Service Review Results

Figure 16 (32) presents the percentage of Brian A. cases receiving acceptable scores for Health and Physical Well-Being for those seven regions for which the 2010-2011 annual QSR has been completed and compares those scores with the regional scores from the 2009-2010 QSR for those regions.

![Figure 16: Percent of Acceptable QSR Cases
Health/Physical Well-being](image)

Source: Annual QSR finalized databases.

b. EPSDT Assessments

As reflected in Figure 17 (33) below, the percentage of initial EPSDT assessments completed within 30 days of entering custody has remained at or above 90% since October 2009.\(^{42}\) Because of the transition to TFACTS, more recent EPSDT Assessment data is not presently available; however, such data should be available for inclusion in the next monitoring report.

\(^{42}\) In the summer of 2010, the Department identified an error in the way the EPSDT reports had been run that affected reports going back to November 2009. The Department produced corrected reports going back to October 2009. However, the corrected reports were run in August 2010, several months after the period covered by the reports. This allowed several additional months for data entry than for earlier uncorrected reports that were run approximately 45 days after the report period. The higher percentages reflected in the figure for the corrected reports for October 2009 through April 2010 are likely at least partly the result of this additional time for data entry.
Between January 2009 and April 2010, annual medical assessments ranged from a high of 97.8% in November 2009 to a low of 92.3% in March 2009, and annual dental assessments ranged from a high of 93.4% in November 2009 to a low of 84.3% in March 2009.

Figure 18 (34) below presents regional performance for the April 2010 report, arranged by percentage of initial EPSDT assessments completed within 30 days of entering custody.
3. Meeting the Mental Health and Emotional Needs of Children in Care

In addition to the medical evaluation required by the Settlement Agreement, the health screening is to include a psychological evaluation “if indicated.” Appropriate services are then to be provided to meet any identified mental health needs. (VI.D)

a. Quality Service Review Results

Figure 19 (35) presents the percentage of Brian A. cases receiving acceptable scores for Emotional and Behavioral Well-Being for those seven regions for which the 2010-2011 annual QSR has been completed and compares those scores with the regional scores from the 2009-2010 QSR for those regions.
b. Psychotropic Medications

An additional data source relevant to assessing both the level of mental health treatment need of the Brian A. class members and at least one component of the system’s response to that need is the BlueCross BlueShield pharmacy data that the Department uses as part of its tracking and monitoring of the administration of psychotropic medications. BlueCross BlueShield pharmacy data through December 31, 2010 is expected to be available for the next monitoring report.

4. Meeting the Developmental and Educational Needs of Children in Care

a. Quality Service Review Results

Figure 20 (36) presents the percentage of Brian A. cases receiving acceptable scores for Learning and Development for those seven regions for which the 2010-2011 annual QSR has been completed and compares those scores with the regional scores from the 2009-2010 QSR for those regions.
5. Preparing Older Youth for Adulthood

The Settlement Agreement states that “at least 90% of the children who are discharged from foster care because they reached the age of 18 shall have at least one of the following apply at the time of discharge: earned a GED, graduated from high school, enrolled in high school, college, alternative approved educational program for special needs children, vocational training; or be employed full time.” (XVI.A.6)

Of the 447 youth discharged from foster care at age 18 during the first part of Reporting Period V (between July 1, 2009 and June 30, 2010), 86% (384) met one or more of those educational or vocational achievement categories. This is the same percentage as reported for Reporting Period IV.

D. How successful is the Department in achieving legal permanency for children through safe return to parents or other family members or through adoption?

Key findings:

- The large majority of children in foster care are ultimately reunited with parents or placed with relatives.

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43 This measure excludes children on runaway status at the time they reach the age of 18. (XVI.A.6)
44 Because of the focus on TFACTS implementation, the Department did not produce the breakouts by achievement category for the period from July 1, 2009 through June 30, 2010.
The rate of exit to a permanent exit (including reunification with family, discharge to a relative, and adoption) has generally increased for entry cohorts since state fiscal year 2003-2004, with variation in the trend for state fiscal years 2007-2008 and 2008-2009. However, the percentage of children discharged to a permanent exit after six months in state fiscal year 2009-2010, at 35%, is lower than performance for state fiscal year 2003-2004.

1. Time to Permanency through Reunification and Adoption

a. Time to Reunification

The Settlement Agreement requires that “at least 80% of children entering care who are reunified with their parents or caregivers at the time of discharge from custody shall be reunified within 12 months of the latest removal date.” The Settlement Agreement further requires that “of the remaining children, 75% shall be reunified within 24 months of the latest removal date.” (XVI.A.1)

Of the 3,290 children reunified with their parents or caretakers between July 1, 2009 and June 30, 2010, 82% (2,686) were reunified within 12 months. This is a slight improvement over performance for Reporting Period IV. Of the children reunified with their parents during that period (January 1, 2009 through December 31, 2009), 80% were reunified within 12 months.

b. Adoption Finalization

The Settlement Agreement requires that of those children whose parental rights have been terminated or surrendered during the period from January 1, 2008 through and including December 31, 2008 (i.e., those in full guardianship), “at least 75% shall have their adoption finalized or permanent guardianship transferred within 12 months of full guardianship.” (XVI.A.2)

Of the 1,745 children for whom parental rights were terminated or surrendered between January 1, 2009 and June 30, 2009, 75% (1,309) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship. This is the first time the Department met the Settlement Agreement standard for this measure. Of the 1,783 children for whom parental rights were terminated or surrendered during Reporting Period IV (July 1, 2007 and December 31, 2008), 74% (1,319) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship.

45 Because of the focus on TFACTS implementation, the Department did not produce the second part of this measure—reunification within 24 months—for the period from July 1, 2009 through June 30, 2010.

46 The reunification data regularly reported on by DCS and used by the TAC in this report includes both exits to “Reunification with Parents/Caretakers” and exits to “Live with Other Relatives.” The Settlement Agreement limits this measure to exits to “Reunification with Parent/Caretakers.”
2. **Length of Time in Placement**

The Settlement Agreement states that “at least 75% of the children in placement shall have been in placement for two years or less.” (XVI.A.4) Of the 10,380 children in custody between July 1, 2009 and June 30, 2010, 77% (8,007) had been in custody for two years or less. This is a slight decline from performance for Reporting Period IV. Of the 10,168 children in custody during that period, 81% (8,204) had been in custody for two years or less.47

In addition to reporting on length of stay as required by the Settlement Agreement, the Department tracks length of time in placement in a number of other ways, focusing on entry cohorts (all children entering during a specific year).

Data showing both length of stay by duration in months for entry cohorts through 2010 and median durations for entry cohorts through 2010 is expected to be available for the next monitoring report.

3. **Improving Exits to Permanency**

   a. **Rate of Exit to Permanency**

   i. **All Permanent Exits**

   Figure 21 (38) shows the percentage of permanent exits for entry cohorts in state fiscal years 2003-2004 through 2009-2010. The percentage of children entering placement during state fiscal year 2009-2010 who exited to permanency within six months is lower than for previous entry cohorts.

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47 Because of the focus on TFACTS implementation, the Department did not produce the second and third parts of this measure—children in custody between two and three years and children in custody for more than three years, respectively—for the period from July 1, 2009 through June 30, 2010.
ii. Permanent Exits to Relatives

Similar to Figure 21 above, the lines in Figure 22 (39) show the percentage of children entering care during each cohort year (state fiscal years 2003-2004 through 2009-2010) who were discharged from placement to relatives after each interval of time.
iii. Non-Permanent Exits

As shown in Figure 23 (40) below, 20% of youth age 14 or older who entered care during state fiscal year 2003-2004 were discharged to a non-permanent exit within one year of entering care, while only 15% of youth age 14 or older who entered care during state fiscal year 2008-2009 were discharged to a non-permanent exit within one year of entering care. Only seven percent of youth age 14 or older who entered care during state fiscal year 2009-2010 were discharged to a non-permanent exit within six months of
entering care. (Non-permanent exits include running away, aging out, death, and transfer to the adult correctional system.)

![Figure 23: Cumulative Percentage of Children Discharged to Non-Permanent Exit, Youth Age 14 or Older, First Placements by Cohort Year](image)

**Source:** Longitudinal analytic files developed by Chapin Hall. SFY0304 TNKids data through August 2009. SFY0405 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland.

### iv. Children Remaining in Care

Figure 24 (41) presents data on the percentage of children in each entry cohort who remain in care at each time interval. A greater percentage of children entering placement during state fiscal year 2009-2010 remained in care after six months than in previous entry cohorts.
Figure 24: Cumulative Percentage of Children Still in Care, First Placements by Cohort Year

Source: Longitudinal analytic files developed by Chapin Hall. SFY0304 TNKids data through August 2009. SFY0405 through May 31, 2010 from TNKids data through February 2011. June 2010 from TNKids data through February 2011 for all regions except Mid-Cumberland and from TFACTS data through February 2011 for Mid-Cumberland.

b. Annual Adoption Finalization

Data showing the annual number of finalized adoptions during federal fiscal years through September 30, 2010 is expected to be available for the next monitoring report.
4. Reducing Reentry into Care

The Settlement Agreement establishes a maximum reentry rate which the Department is to achieve: “No more than 5% of children who enter care shall reenter custody within 1 year after a previous discharge.” (XVI.A.5)

The statewide reentry rate for children discharged from foster care between July 1, 2008 and June 30, 2009 was 6.4%—that is, of the 5,180 children who exited care between July 1, 2008 and June 30, 2009, 330 reentered care within 12 months of their discharge date. As reported in the November 2010 Monitoring Report, the statewide reentry rate for children discharged from foster care during calendar year 2009 (Reporting Period IV) was also 6.4%.

5. The Termination of Parental Rights Process: Timeliness of Filing of Petitions to Terminate Parental Rights (TPR)

The Settlement Agreement provides that for Period IV “at least 70% of children in the class with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within three months of the goal change to adoption.

Regardless of whether the Department meets or exceeds the standard in the preceding paragraph, 85% of all children with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within 6 months of when the goal was changed to adoption.” (XVI.B.4)

Of the 540 children with a sole goal of adoption for at least three months during the twelve month reporting period from May 1, 2009 to April 30, 2010, 48 88% (473) had TPR petitions filed within three months of the date that adoption became the sole goal. For the remaining children who did not have TPR petitions filed within three months, the Department looked at those children who had a sole adoption goal for at least six months during the reporting period (excluding the children who had a TPR petition filed within three months). Fifty-seven percent (25) of these 44 children had TPR petitions filed within six months.

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48 This includes six children with delinquent adjudications.
49 For purposes of this report, if two separate TPR petitions are filed in a particular case, the calculation of time to TPR filing is based on the filing of the first petition.
50 Because of the focus on TFACCTS implementation, the Department did not adjust the methodology for the second part of this measure—TPR petitions filed within six months—to conform to the new Settlement Agreement language that requires 85% of all children with sole adoption goals for at least six months during the report period to have TPR petitions filed within six months of the date when the goal was changed to adoption.
6. Limiting Planned Permanent Living Arrangement as a Permanency Goal

The Settlement Agreement states that “no more than 5% of children in the plaintiff class shall have a goal of Planned Permanent Living Arrangement.” (XVI.B.5)

As of February 10, 2011, 0.2% of the children in the plaintiff class had a sole goal of PPLA, with no region exceeding 0.07%. The percentage of class members who had a concurrent PPLA goal was 0.3%, with no region exceeding 0.05%.

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51 In December 2010, the newly-developed Mega Report from TFACTS, from which PPLA data is pulled, was still undergoing significant revisions to address data quality and data entry issues. For this reason, a more recent report from February 2011 was used for purposes of this monitoring report because the inaccuracies in the data had largely been corrected by that date.
The Settlement Agreement (II.A) requires the Department to establish child welfare policy and determine statewide standards and to take all reasonable steps to ensure that statewide policies, standards and practices are implemented and maintained in each region of the state. The Settlement Agreement requires that the Department ensure that each region uses uniform forms, data collection, and reporting, although regions retain the right to develop and use forms and data instruments to address issues of local concern.

As discussed in the November 2010 Monitoring Report, the “reasonable steps” that the Department has taken and continues to take consistent with the requirements of this provision include: adopting the Tennessee Department of Children’s Services Standards of Professional Practice for Serving Children and Families: A Model of Practice (DCS Practice Model); reviewing and revising DCS statewide policies to conform to the Standards; developing and implementing a new pre-service curriculum based on the Standards; implementing a statewide Quality Service Review process that evaluates child status and system performance using 22 indicators that focus on the core provisions of the Standards; creating a system for data collection and reporting that includes standardized reports for statewide and regional reporting; and adopting a family conferencing model, the Child and Family Team Process, as the statewide approach for individual case planning and placement decision making.

The Department’s policy, practice standards, training, and evaluation process send the consistent and clear message that the expectations for quality practice with families and children are the same irrespective of which of the 95 counties a child and family happen to live in.\footnote{The parties agreed that the Department’s actions were sufficient to warrant a “maintenance” designation, notwithstanding the fact that there continues to be variation among regions in the extent to which the Department’s Practice Model has been effectively implemented.}

52
SECTION THREE: REPORTING OF CHILD ABUSE AND NEGLECT

The Settlement Agreement requires that the Department’s “system for receiving, screening and investigating reports of child abuse or neglect for foster children in state custody” be adequately staffed to ensure that all reports are investigated within the time frames and in the manner required by law. (III.A) It further requires that the Department have in place an effective quality assurance process to determine patterns of abuse or neglect by resource parents and congregate care facility staff and to take necessary individual and systemic follow-up actions to assure the safety of children in its custody. (III.B)

Reports of abuse and neglect of children in state custody must be made to Child Protective Services (CPS) Central Intake. As discussed in more detail in Subsection B below, some categories of cases are assigned to the “Special Investigations Unit” (SIU)\textsuperscript{53} for investigation and other categories of cases are investigated by regional CPS/MRS staff as part of the general CPS/MRS caseload.\textsuperscript{54}

This Section updates the information on both the CPS/MRS process and the SIU process presented in the November 2010 Monitoring Report.\textsuperscript{55}

A. CPS/MRS Process Performance

I. Timeliness of CPS/MRS Process

The Department focuses on three key indicators of the timeliness of its CPS/MRS process.

a. Central Intake Response

The first key indicator is the responsiveness of its Central Intake staff to phone calls alleging child abuse or neglect. The Department looks at “wait times” (the time a person calling in to the system waits before being connected to a Central Intake staff who takes

\textsuperscript{53} The Special Investigations Unit (SIU) is now a Division of the Office of Child Safety. The Office has overall responsibility for Child Protective Services (CPS). SIU investigations are subject to all of the protocols and processes applicable to CPS cases in general.

\textsuperscript{54} CPS also conducts the vast majority of the investigations of reports of abuse or neglect involving children not in DCS custody.

\textsuperscript{55} Rather than repeat the historical data and background information from that report, this Section begins with the data from Monitoring Period IV (where available) and carries that data forward. This Section assumes a certain basic familiarity with DCS terminology, data, and policy and practice related to child abuse reporting, investigation, and response. Readers are referred to the November 2010 Monitoring Report for definition of terms, explanations of the data sources, and a more detailed discussion of relevant policy and practice considerations. For ease of reference, when a figure or chart updates a figure or chart from the November 2010 Monitoring Report, the number designation from the November report figure or chart is included in parentheses.
down the information regarding the allegations); “abandoned” or “dropped” calls (the number of calls that are terminated as the result of someone hanging up before they connect to an intake person); and “talk time” (the amount of time an intake worker spends on the phone with the person making the report). The Department utilizes the automated tracking and reporting capacity of the Central Intake telephone system to which the vast majority of reports of abuse and neglect are directed.\textsuperscript{56} The system is used to generate aggregate reports for the entire Central Intake Unit, for teams within that unit, or for individual intake workers.

Figure 25 (43) below shows the percentage of answered and abandoned calls to Central Intake monthly for the period between January 2009 and December 2010.

![Figure 25: Central Intake Answered and Abandoned Calls](Image)

Source: Interactive Intelligence “Distribution Queue Performance (Date by Queue)” reports for January 2009 through December 2010.

The percentage of answered calls remained above 95% for most of 2009, but it fell to 89% at the end of 2009 and then began a steep decline, reaching a low point of 62% in September 2010. By December 2010, the percentage had increased to 86%. In addition, the total number of calls received (both answered calls and abandoned calls) increased in a pattern corresponding to the decrease in the percentage of answered calls during that period. During 2009, the total call volume remained under 13,500 each month. The call volume began to increase in March 2010, at 14,670 total calls received during the month, until it reached a high point of 18,327 total calls received during September 2010. By December 2010, the number of total calls, at 11,385, had returned to its previous level.

\textsuperscript{56} The automated tracking and reporting system has been in operation since 2005. The automated system receives and tracks all reports of abuse or neglect received through phone calls or through the Department’s abuse and neglect reporting webpage. The Department receives a small number of reports of abuse or neglect through fax, email, or letter. Such reports are typically non-urgent, and Central Intake staff ensure that these reports are entered into TFACTS. Central Intake generally received around 475 such reports each month during 2010.
During most of 2009, the average time to answer a call remained under one minute each month. Between November 2009 and December 2010, however, the average time to answer a call was longer, ranging from a low of one minute and 18 seconds in February 2010 to a high of six minutes and six seconds in September 2010. In contrast, the average time Central Intake workers spent gathering information from each call has remained stable over the past two years, ranging from a low of nine minutes and 48 seconds in both July 2009 and September 2009 to a high of 11 minutes and four seconds in February 2009.

The Department believes that the significant decrease in the percentage of answered calls and the increase in the average time to answer a call was largely the result of the TFACTS pilot beginning in June 2010 and the statewide implementation during September 2010. There was a significant learning curve for Central Intake workers to efficiently navigate the new system, and the data entry process in TFACTS is also more extensive than that in TNKids. The process of identifying and addressing problems and glitches in TFACTS after implementation resulted in a significant increase in the amount of time Central Intake workers needed to document a report after the phone call, thus increasing the amount of time that they were unavailable to take new calls. In addition, staff from the regions attempting to contact two Central Intake workers who had extensive training on the TFACTS system began calling into the hotline number instead of the Central Intake business line, thereby greatly increasing the number of calls received during the month. Once the message had been clearly communicated that these staff should instead be contacting their regional TFACTS experts, this problem subsided.

Another factor contributing to these trends, as discussed in the November 2010 Monitoring Report, is the historic struggle with high staff turnover and vacancies. Central Intake has been using its automated call data both to ensure that overall staffing is sufficient and to deploy those staff in response to what the data reflects are peak call times. As of February 15, 2011, there were three vacancies at Central Intake (two team leaders and one case manager). Over the past six months, the Central Intake Director has attempted to fill all the vacancies with DCS staff from the regions. This provides a higher level of experience and reduces the time in training.

b. Investigation and Assessment Priority Response

The second key DCS indicator of the timeliness of the CPS/MRS process is the time from the assignment of a report of abuse or neglect to the investigator or assessor and the investigator’s/assessor’s first contact with the alleged victim. As discussed in greater detail in the November 2010 Monitoring Report, the Central Intake worker uses the
Structured Decision Making Response Priority Decision Tree to determine the response priority assignment (P-1, P-2, or P-3) based on critical safety and risk factors involved.  

Figure 26 (44) below shows for the period from January 2009 to April 2010 the statewide percentage of investigations and assessments meeting the required time frames for each response priority based on the Department’s monthly Response Priority Reports. Since January 2009, performance has ranged between 84% and 87% for P-1 and between 78% and 85% for P-2. Performance for P-3 has shown a slight decline between January 2009 and April 2010.

Figure 26: Statewide Percentage of Investigations and Assessments Meeting Response Priority Timeframes


P-1 cases require an immediate response with face-to-face contact to be made no later than 24 hours; P-2 cases require face-to-face contact within 48 hours, but sooner if a 48 hour delay would compromise the investigative effort or reduce the chance for identifying the level of risk to the child; P-3 cases require face-to-face contact within 3 business days. P-1 cases must be initially assigned for investigation; P-2 and P-3 cases can be assigned to assessment rather than investigation based on the severity of the circumstance/need.

The data in Figure 26 also include performance on priority response for Special Investigations (SIU Investigations).

There are certain “conventions” used in the production of this report that resulted in the erroneous designation of some investigations as “overdue” when, in fact, they were completed within the appropriate timelines. The monthly reports included a considerable number of non-compliant responses categorized as “Negative Response Time” and “Linked to Overdue Investigation.” Negative response times generally indicated one of two circumstances: (1) the investigator or assessor responded to a call from law enforcement requesting immediate assistance and made face-to-face contact with the alleged victim prior to the referral being called into Central Intake, and (2) the investigator or assessor failed to enter both the response time and response date into the appropriate TNKids fields. New referrals received by Central Intake regarding allegations that were already being investigated in an overdue investigation were categorized as “Linked to Overdue Investigation” because TNKids automatically linked the response time to the earliest referral date. In April 2010, 59 (35%) of the 167 non-compliant response times for P-1 and 58 (10%) of the 554 non-compliant response times for P-2 fell into these two categories.
c. Time to Investigation/Assessment Completion

The third key DCS indicator of the timeliness of the CPS/MRS process is the time to completion of the investigation or assessment.

Under Tennessee law investigations are expected to be completed within 60 days; however, the Department recognizes that in some cases, a full, professionally responsible investigation will require additional time to complete. In the judgment of DCS leadership, based on their experience, including extensive administrative reviews of CPS/MRS cases over the past two years, it is reasonable to expect that at any given time as many as 20% of investigations might require more time to complete and therefore remain “open” for more than 60 days.

The Department produces regular reports to track the time from the receipt by DCS of the report of abuse and neglect to the completion of the investigation or assessment and determine the extent to which the CPS investigations are completed within the 60-day statutory time frame. Figure 27 (45) below shows the percentage of “overdue” CPS investigations (investigations that take longer than 60 days to complete) on the 15th of each month for the period from January 2009 through April 2010.

Between January 2009 and April 2010, the percentage of investigations open more than 60 days has ranged from a high of 18% in October 2009 to a low of 7% in March 2010. Of the 4,199 CPS investigations that were open on April 15, 2010, 337 (8%) had been

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60 TCA 37-1-406(i).

61 In the past, the Department produced two different reports on the timeliness of CPS investigations and assessments. The first, the “Statewide Summary Report of Overdue vs. Open CPS and SIU Investigations” (CPS-INVPODUE-200), was an automated report in TNKids. The second report, made up of both the “CPS Open Investigations by Age” and “CPS Open Assessments by Age” reports, was produced by Reporting and Analysis staff using TNKids extracts. The automated report was used to create Figures 45, 46, 48, and 55 in the November 2010 Monitoring Report and corresponding figures in previous monitoring reports. However, as a result of the transition to TFACTS, the TNKids automated report is no longer available. For this reason, the report produced by the Department using TNKids extracts was used to create the figures for this monitoring report (Figures 27, 28, 29 and 38). Because of the significant difference in how these two reports are developed (the automated TNKids report was run from the live system on the report date, but the report produced by the Department used in this monitoring report is run from an extract pulled on the 15th of the following month, thus allowing additional time for data entry), the data in the figures in this monitoring report cannot be compared with the data in previous monitoring reports. There were also some issues with duplicates in TNKids that may account for some of the difference between the two data sets.

62 The Settlement Agreement language that reports of abuse and neglect of children in DCS custody be investigated “within the time frame provided by law” refers to this 60-day statutory time frame and DCS tracking and reporting of “overdue” cases is structured around this statutory limit. However, the Department believes that a majority of investigations can be responsibly completed within 30 days, the timeline set forth in Council on Accreditation (COA) standards. In February 2008, the Department, in order to comply with these standards, issued a policy shortening the timeframe for completion of CPS investigations to 30 days for most types of cases, retaining the 60-day time frame for CPS investigations involving allegations of severe abuse (which, under Tennessee statute, require convening and review by a multi-agency Child Protective Investigative Team (CPIT)). TCA 37-1-607.

63 In Figures 27, 28, and 29, open SIU investigations are included in the number of investigations and assessments for each month.
open more than 60 days (255 (6.1%) had been open between 61 and 90 days and 82 (1.9%) had been open more than 90 days).

![Figure 27: Open CPS Investigations by Case Age as of the 15th of the Month, January 2009 through June 2010](image)

Source: “CPS Open Investigations by Age” reports as of the 15th of each month during the period January 2009 through April 2010.

Cases assigned to the assessment track are expected to be completed within 120 days. Figure 28 (46) shows the percentage of overdue assessment cases (cases that are open more than 120 days) during the period from January 2009 to April 2010. This percentage has remained close to 10% since the Department began reporting assessment cases separately. Between January 2009 and April 2010, the percentage of overdue assessment cases ranged from a high point of 11.0% in August 2009 to a low point of 4.0% in June 2009. Of the 7,241 open assessments on April 15, 2010, 6,885 (95.1%) had been open 120 days or less, 280 (3.9%) had been open between 121 and 180 days, and 76 (1.1%) had been open more than 180 days.
It is also important to consider the trends in the number of open CPS investigations and MRS assessment track cases that are masked by looking at percentages alone.

As reported in the November 2010 Monitoring Report, the implementation of MRS has had a significant impact on the number of new investigations opened each month. In December 2009, 59% (2,744) of the 4,673 new cases opened during the month were assigned to the assessment track. Because of the transition to TFACTS, there will be some delay in these data being available for 2010.

Figure 29 (48) below shows the number of open investigations and assessment track cases as of the 15th of each month for the period from January 2009 through April 2010. The total number of open investigations and assessments showed a generally increasing trend throughout 2009, from 7,608 open cases in January 2009 to 12,480 cases in November 2009. The number decreased to around 10,000 during the first quarter of 2010 and then increased to more than 11,000 during April 2010.

Figure 29 (48) also reflects the proportion of open cases on any given day assigned to the assessment track instead of the investigative track during the period from January 2009 to April 2010. During that period, assessment cases made up between 61% and 74% of open cases.
2. Classification of Investigations and Assessments

In addition to tracking timeliness of investigations/assessments, the Department tracks and reports classifications of investigations and assessments closed during each month.

Figure 30 (49) below presents the number of investigations closed during each month from January 2009 to April 2010 according to classification, and Figure 31 (50) presents the percentage of investigations classified in each category. The percentage of indicated investigations each month during this period showed little variation, ranging from a low of 25% in January 2009 to a high of 32% in August 2009.
Figure 30: Statewide Number of CPS Investigations Closed During the Month by Classification

0 500 1000 1500 2000 2500 3000
Jan-09 Feb-09 Mar-09 Apr-09 May-09 Jun-09 Jul-09 Aug-09 Sep-09 Oct-09 Nov-09 Dec-09 Jan-10 Feb-10 Mar-10 Apr-10
Unfounded Indicated No Finding

Source: “CPS Closed Investigations by Classification” reports for the period from January 2009 through April 2010.

Figure 31: Statewide Percentage of CPS Investigations Closed During the Month by Classification

0% 20% 40% 60% 80% 100%
Jan-09 Feb-09 Mar-09 Apr-09 May-09 Jun-09 Jul-09 Aug-09 Sep-09 Oct-09 Nov-09 Dec-09 Jan-10 Feb-10 Mar-10 Apr-10
Unfounded Indicated No Finding

Source: “CPS Closed Investigations by Classification” reports for the period from January 2009 through April 2010.

Figure 32 (51) below presents the number of assessments closed during each month from January 2009 to April 2010 according to classification, and Figure 33 (52) presents the percentage of assessments classified in each category. The percentage of assessments classified in each category over that period remained relatively stable, with assessments classified as “Services Required” ranging between 8% and 12% and assessments classified as “No Services Needed” ranging between 55% and 66%.
3. Adequacy of CPS/MRS Staffing

While the Central Intake response times and the investigation completion times provide some indication of the adequacy of CPS/MRS staffing, the Department also tracks staffing at Central Intake and the number of open investigations on the caseload of each
CPS/MRS worker as part of its effort to ensure sufficient staffing of basic CPS/MRS functions.

As of February 15, 2011, there were 65 positions allocated to Central Intake and of those, 62 were filled. There were 885 positions allocated to CPS/MRS, 825 of which were filled. Of the 880 total CPS/MRS positions, 423 were generally assigned assessments (400 of these positions were filled as of Feb 15, 2011) and 238 were generally assigned investigations (228 of those positions were filled as of Feb 15, 2011). Forty-four positions were assigned to the Family Crisis Intervention Program (FCIP), 14 were assigned to resource linkage, and 31 were clerical or support positions. There were 130 supervisor positions, 111 of which were filled.

The Department has adopted as its caseload guideline the Child Welfare League of America (CWLA) standard that a CPS worker receive no more than 12 new cases for investigation or assessment each month. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that a CPS case manager should have no more than 24 open cases at any time.\textsuperscript{64}

Because a significant number of case managers handle both assessment and investigation cases (and some of those also handle a variety of other types of cases), presenting information on CPS caseloads is not a simple task. Figures 34 (53) and 35 (53) below present caseload information for case managers (including non-caseload carrying case managers, such as facilitators, who might on occasion carry an overflow case) who had at least one investigation or at least one assessment on their caseloads as of the last day of each month during the period from January 2009 through April 2010.\textsuperscript{65} Of the 160 case managers who had 25 or more cases on their caseloads on April 30, 2010, 144 had between 25 and 30 cases, 14 had between 31 and 36 cases, one had 41 cases, and one had 47 cases.

\textsuperscript{64} While DCS has adopted the CWLA new cases per month limit, it has not explicitly adopted other CWLA caseload standards related to CPS: that a worker should serve no more than 17 families for ongoing services and support after the assessment (the CWLA term for what Tennessee calls “investigation”), assuming the rate of new families assigned is no more than one for every six open family cases; that combined initial assessments and ongoing services to families should be no more than 10 active ongoing family cases and no more than four active initial assessments.

\textsuperscript{65} These data may slightly underreport actual caseloads because some case managers appear multiple times on the monthly reports if they are assigned cases under different supervisors. The TAC eliminated these duplicates for the January 2009 report and found that the statewide percentage of case managers falling into each caseload category changed by less than three percentage points, although the percentages changed more significantly for some regions. Because the impact of these duplicates appears to be small on a statewide level, the TAC decided not to spend the significant amount of time it would require to eliminate the duplicates from the reports for each month.
Figure 34: Number of Case Managers Assigned at Least One CPS or MRS Case as of the Last Day of Each Month, by Caseload Size


Figure 35: Percent of Case Managers Assigned at Least One CPS or MRS Case as of the Last Day of Each Month, by Caseload Size

4. Evaluation of the Multiple Response System for Child Protective Services

The enabling legislation that established MRS includes a requirement for ongoing external evaluation and reporting of the impact of MRS.66

The November 2010 Monitoring Report presented the findings of the April 2010 evaluation conducted by the Tennessee Center for Child Welfare (TCCW). The Department anticipates that in the coming months TCCW will begin the next MRS evaluation.

B. Reporting and Investigation of Allegations of Children Being Subject to Abuse and Neglect While in Foster Care Placement

The Settlement Agreement (III.A) requires that the Department’s system for receiving, screening and investigating reports of child abuse and neglect for foster children in state custody be adequately staffed and all reports of abuse or neglect of class members shall be investigated in the manner and within the time frame provided by law.

Under current DCS policy and procedure, reports of abuse and neglect of children in state custody must be referred to Child Protective Services (CPS) Central Intake. The Central Intake Unit receives the report (as described in Subsection A above) and is responsible for screening the report and assigning it to the appropriate unit for investigation. The

66 Outcomes to be evaluated and reported include:
“(1) The safety of children under the program compared with children served under title 37, chapter 1, part 4 and title 37, chapter 1, part 6, in light of the following and other factors that may provide useful information about the effectiveness of the program for its purposes: (A) The number of cases processed under the program by types of risks and needs addressed; (B) The number of cases referred for proceedings under title 37, chapter 1, by type; (C) The number of final dispositions of cases in the current reporting year by disposition as follows: (i) Closed on initial review; (ii) Closed after assessment; (iii) Closed after assessment and referral for available community-based public or private services; (iv) Numbers and types of cases in which the department proceeded under title 37, chapter 1, part 4 or title 37, chapter 1, part 6, with respect to children in a family considered or served under this part. (D) The extent to which the program has reduced the incidence of children who are subjected to harm or sexual abuse that would require a report under title 37, chapter 1, part 4 or title 37, chapter 1, part 6, or who otherwise would become eligible for services under title 37, chapter 1. (E) Estimates as to the risk of future harm or sexual abuse to children with respect to whom reports of harm or sexual abuse were determined not to show there had been harm or sexual abuse or to have been invalid. (F) The type and amount of community-based public or private services received by families.
(2) The timeliness of response by the department under the program;
(3) The timeliness of services provided to children and families under the program;
(4) The level of coordination with public and private community-based service providers to ensure community-based services are available to the public through the program;
(5) The cost effectiveness of the program with respect to the department, available community-based public and private service resources, and law enforcement and judiciary resources that might otherwise have become involved in the cases; and
(6) The effectiveness of the program in enhancing the welfare of children and keeping families together.
Upon implementation of the multi-level response system in any area, the department shall ensure that all data necessary for compliance with this section is collected and maintained.” (TCA 37-5-2 through 37-5-9)
“Special Investigations Unit” (SIU) is responsible for investigating all of those reports in which the alleged perpetrator is another foster child, a resource parent or a member of a resource parent’s household, a facility staff member, a DCS or private provider employee, a teacher, a therapist, or another professional responsible for caring for children. Investigations of reports of abuse or neglect for children in DCS custody alleged to have occurred during the course of a home visit or during a runaway episode are conducted by regional CPS/MRS staff as part of the general CPS caseload.

For those reports of abuse and neglect that are investigated by CPS/MRS staff as part of the general caseload, the discussion in Subsection A regarding the CPS/MRS process provides relevant data on timeliness of investigations and adequacy of staffing.

The following discussion is therefore focused on the adequacy of SIU staffing and timeliness of SIU investigations.

1. Adequacy of SIU Staffing

The TAC interprets the “adequate staffing” provision to require both that there are sufficient numbers of staff to cover the SIU caseloads and that those filling those positions have adequate skills to conduct high quality investigations.

a. Caseloads

In recent reporting periods, SIU caseloads were within CWLA caseload standards: no more than 12 new cases each month for an SIU investigator. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that SIU case managers should have no more than 24 open cases at any time. Figure 36 (59) below presents SIU caseloads for the period from January 2009 through April 2010. No SIU case manager had a caseload over 24 cases during this period until April 2010, when seven case managers had more than 24 cases on their caseloads. All seven of these case managers had between 25 and 30 cases on their caseloads as of April 30, 2010.

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67 The responsibilities of SIU extend not only to investigating allegations of abuse and neglect of children while in foster care, but also to investigating allegations of abuse and neglect involving “third-party” perpetrators such as staff members at childcare centers, schools, or churches.
68 CPS also conducts the vast majority of the investigations of reports of abuse or neglect involving children not in DCS custody.
69 See footnote 64 above.
70 The increase in caseloads in April resulted from staffing shortages created by a combination of vacancies and staff taking extended medical leave.
There are presently 30 positions dedicated to SIU, of which 26 were filled as of February 1, 2011. The positions are allocated to four teams located across the state.

As discussed in the November 2010 Monitoring Report, the Director and team coordinators have been reassessing the physical location of case managers to determine the appropriate number of staff needed for each team and to cover each region. This reassessment includes not only an analysis of average number of referrals, caseload numbers, and vacancies, but considerations related to the travel challenges associated with responding to investigations in rural areas. This reassessment may result in vacant positions being strategically reassigned to different geographic hubs.

b. Quality of Case Investigations

As discussed in greater detail in the November 2010 Monitoring Report, the Department has devoted considerable focus over the past year on improving the quality of SIU case investigations.

It appears that as a result of appropriate actions taken by the present SIU Director over the past year SIU investigators are now receiving the quality of supervisory support, consultation, and supervision that they need to ensure that cases are thoroughly

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71 Because of the hiring freeze imposed during the transition between gubernatorial administrations, the Department had not moved forward with filling the four vacancies in SIU. As of February 15, 2011, two of those four positions in SIU have been unfrozen and the Director is in the process of hiring to fill those vacancies.
investigated, that the information collected is appropriately assessed, and that appropriate actions are taken in a timely manner.

2. Timeliness of SIU Investigations

Because more recent TFACTS data is not available, the discussion below is based on SIU data from TNKids which was available through June 2010. The data discussed in this section therefore would not be expected to reflect the impact of the improvements instituted by the current SIU director.

The Department tracks the percentage of SIU cases meeting response priority times. Figure 37 (54) below shows the statewide percentage of investigations meeting the required time frames for each response priority for the period from January 2009 through April 2010. The percentage of SIU cases meeting response priority times showed a general decreasing trend during the first four months of 2010.

![Figure 37: Percentage of SIU Investigations and Assessments Meeting Response Priority Timeframes](image)


The Department also has been producing monthly reports on the volume of open SIU investigations (including, but not limited to, Brian A. class members) during the month, as well as the number of investigations not completed within the 60 days required by law (or “overdue” investigations). Figure 38 (55) below shows the number of SIU open investigations (including, but not limited to, Brian A. class members) by case age as of the 15th of each month for the period January 2009 through April 2010. The number of

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72 See footnote 67 for a discussion of the scope of abuse and neglect allegations investigated by the Special Investigations Unit.
open SIU investigations showed an increasing trend during the first half of 2010, reaching a high point of 387 in April 2010.

The number of overdue investigations also increased significantly during April 2010. The number of overdue investigations remained below 10 between January 2009 and March 2010 but increased to 26 cases in April 2010. None of the overdue cases in April 2010 were more than 120 days old.

![Figure 38: SIU Open Investigations by Case Age as of the 15th of Each Month](image)

Source: “CPS Open Investigations by Age” reports as of the 15th of each month during the period January 2009 through April 2010.

The Department also has been producing a monthly report (the “Brian A. Class Open Investigations Over 60 Days Old Report”) of the number and percentage of overdue investigations for Brian A. class members only. The report includes both SIU and CPS investigations involving Brian A. class members. Figure 39 (56) below shows the number of open Brian A. investigations on the first day of each month (or a day near the beginning of each month) during the period January 2009 through April 2010. During that period, there were 10 or fewer overdue Brian A. investigations at the beginning of every month except November and December 2009, when there were 11 and 14 open investigations, respectively.

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73 See pages 67-68 for a description of the allocation of responsibility between CPS and SIU for allegations of abuse or neglect of children while in custody.
3. Classification of Special Investigations

Figure 40 (57) below presents the number of special investigations closed during each month from January 2009 to April 2010 according to classification, and Figure 41 (58) presents the percentage of special investigations classified in each category. The percentage of indicated special investigations each month during that period ranged between four percent and 13%.

Source: “CPS Closed Investigations by Classification” reports for the period from January 2009 through April 2010.
C. Review of SIU Cases by Quality Assurance and Provider Oversight Units

The Settlement Agreement (III.B) requires that all reports of abuse or neglect of foster children occurring in DCS and private provider placements (whether congregate care or resource home) must also be referred to and reviewed by the relevant DCS unit or units responsible for quality assurance and placement and provider oversight, with such referral and review completed within ninety days. These units are responsible for: (a) ensuring that appropriate corrective action is taken with respect to the placement and/or private provider (including, if appropriate, closing of the placement and/or contract termination) and (b) determining whether a pattern of abuse or neglect exists within the placement or the private provider’s array of placements that contributed to the abuse and neglect. The results of these required reviews are to be incorporated into the performance based contracting provided by DCS.

The Settlement Agreement (III.C) also requires that the quality assurance division ensure that a tracking and reporting process is in place to identify any case in which there have been three or more reports of abuse or neglect concerning a particular caregiver for a particular class member and that all such cases are subject to special administrative reviews.

The Office of Performance and Quality Improvement (PQI) is the DCS quality assurance division responsible for: (1) reviewing the SIU reports and the results of the SIU investigations; and (2) ensuring that information related to any findings of abuse and neglect by the SIU and/or any concerns that are raised by SIU about a particular placement as a result of their investigation is shared with other offices within the Department that are responsible for oversight of resource homes and placement facilities (both those operated by DCS and those operated by private providers). The PQI Office is
responsible for ensuring that patterns of abuse and neglect are identified, corrective actions are implemented, and sanctions (including termination of contracts and closure of homes) are imposed as appropriate.

PQI is currently implementing a set of processes designed to fulfill these responsibilities. As discussed in the November 2010 Monitoring Report, PQI created the Placement Quality Team System (PQTS) as a primary component of the structure for monitoring and oversight of private providers.\(^{74}\)

One of the green-level teams in the PQTS, the Resource Home Green Placement Quality Team (or Resource Home Green PQT) reviews SIU investigations involving DCS and private provider resource homes that are classified either as indicated or as “unfounded with concerns” (a designation developed to allow the investigator to indicate a need for some further follow up, even though there was no finding of abuse or neglect). Another green-level Placement Quality Team, the Data Trending and Analysis Team (DTAT), analyzes aggregate SIU data related to private providers to identify trends.

Finally, PQI staff, according to a newly developed protocol, review all SIU investigations involving congregate care facilities that are classified as indicated or unfounded with concerns. This protocol also provides for a quarterly analysis of SIU aggregate data (SIU monthly reports) to identify trends and the production of a written report summarizing this analysis.

These processes, discussed in more detail in the following subsections, once fully implemented should meet the requirements of Sections III.B and III.C of the Settlement Agreement.\(^{75}\)

### 1. Incorporating SIU Information into Placement Oversight

#### a. Resource Home Green PQT

The Resource Home Green PQT is responsible for reviewing the notification of the results of the SIU investigation (closing notification) for any SIU investigation involving a resource home placement in which the allegations were either indicated or were unfounded but the investigator noted concerns. The team includes PQI and other Central Office staff, SIU staff, foster parent advocates, and regional staff.

All closing notifications involving private provider resource homes are reviewed by staff in the Child Placement and Private Providers (CPPP) Division. All closing notifications involving DCS resource homes are reviewed by staff in the Foster Care and Adoption Division.

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\(^{74}\) This section focuses on the activities of the PQTS related to SIU investigations. For broader discussion of the entire Placement Quality Team System, including the significance of the color designations, see Section Twelve, Subsection B.2 of this report.

\(^{75}\) As these processes are implemented, it will be important to make sure that sufficient staff time is allocated to the expanded review and tracking responsibilities.
(FC&A) Division. CPPP staff ensure that all closing notifications for investigations that are “indicated” and “unfounded with concerns” (for both private provider and DCS resource homes) are added to the agenda for the Resource Home Green PQT.

The Resource Home Green PQT makes recommendations (including recommendations to develop safety and/or corrective action plans) for ensuring the safety of the children involved and for addressing concerns regarding the resource homes involved. The Resource Home Green PQT also monitors the implementation of those recommendations. If, during the process of reviewing a case, the Resource Home Green PQT identifies a broader, more systemic issue involving a provider agency, the team may address the issue directly with the provider, make a referral to DCS Internal Affairs, and/or make a referral to the yellow-level Placement Quality Team (referred to as the “Yellow Zone Team”).

CPPP staff maintain a log for tracking both DCS and private provider resource homes discussed by the Resource Home Green PQT. In addition to a listing of resource homes discussed by the team, the log provides information on the persons responsible for completing action steps; the status of the action steps; whether a corrective action plan or a safety plan was requested; whether the resource home was closed at the recommendation of the Resource Home Green PQT, and if so, whether the resource home was closed in TFACTS with a narrative describing the team members’ concerns; and whether the Resource Home Green PQT review resulted in removal of the children placed in the resource home.

Using this tracking log, CPPP staff produce a monthly report on the activities of the Resource Home Green PQT. According to the report for December 2010, the Resource Home Green PQT conducted 24 reviews of investigations involving 23 resource homes during that month; 16 of these investigations involved private provider resource homes and eight involved DCS resource homes. Of the 23 unique resource homes reviewed, 16 had a final resolution during December. The Resource Home Green PQT recommended closure for 12 of these 16 resource homes and recommended lifting the freeze for the other four resource homes. Of the seven homes without a final resolution during December, five were awaiting an internal discussion with the region, two were awaiting a corrective action plan, and one was awaiting regional participation in the Resource Home Green PQT. Table 10 below (excerpted from the Department’s December 2010 monthly report) presents the percentage of unique resource homes reviewed each month that were ultimately closed.

76 The Yellow Zone Team, which includes the Director of PQI as well as representatives from the Performance Management Unit and Evaluation and Monitoring within PQI, is responsible for addressing concerns regarding private provider agencies, with a focus on congregate care facilities. See Section Twelve, Subsection B.2 of this report for a more detailed description of the Yellow Zone Team. The Resource Home Green PQT protocol is included as Appendix G.

77 CPPP began including DCS resource homes in their tracking log in October 2010. CPPP is currently working to add all DCS homes reviewed prior to October 2010 to their tracking log.

78 The total number of resource homes is unique for each month, but not for the entire year (some resource homes were discussed in multiple months and counted for each month they were discussed). Therefore, the percentage of resource homes closed over the entire year cannot be calculated using this analysis.
### Table 10: Resource Homes Closed Subsequent to Resource Home Green PQT Review

<table>
<thead>
<tr>
<th>Month</th>
<th>Unique Homes Reviewed During the Month</th>
<th>Number of Homes Ultimately Closed</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>13</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>February</td>
<td>21</td>
<td>6</td>
<td>29%</td>
</tr>
<tr>
<td>March</td>
<td>16</td>
<td>5</td>
<td>31%</td>
</tr>
<tr>
<td>April</td>
<td>21</td>
<td>6</td>
<td>29%</td>
</tr>
<tr>
<td>May</td>
<td>23</td>
<td>6</td>
<td>26%</td>
</tr>
<tr>
<td>June</td>
<td>17</td>
<td>13</td>
<td>76%</td>
</tr>
<tr>
<td>July</td>
<td>14</td>
<td>3</td>
<td>21%</td>
</tr>
<tr>
<td>August</td>
<td>5</td>
<td>1</td>
<td>20%</td>
</tr>
<tr>
<td>September</td>
<td>15</td>
<td>9</td>
<td>60%</td>
</tr>
<tr>
<td>October</td>
<td>31</td>
<td>13</td>
<td>42%</td>
</tr>
<tr>
<td>November</td>
<td>18</td>
<td>10</td>
<td>56%</td>
</tr>
<tr>
<td>December</td>
<td>23</td>
<td>12</td>
<td>52%</td>
</tr>
</tbody>
</table>


#### b. Data Trending and Analysis Team (DTAT)

PQI began implementing a new green-level Placement Quality Team, the “Data Trending and Analysis Team” (DTAT), in the second half of 2010. The purpose of the team is to integrate and analyze the various sources of available data related to private providers in order to better understand private provider performance and to identify concerns in the early stages in order to take preemptive action. The DTAT process is envisioned as a quarterly process involving three steps (one per month). Although the DTAT process is still being refined, the steps as currently articulated are:

1) First Month: analyzing Incident Reporting data, SIU monthly reports, and Chapin Hall data to identify trends and/or concerns for exploration;

2) Second month: exploring the identified trend and/or concern by delving more deeply into these three data sources as well as other available data sources;

3) Third month: finalizing the research and preparing a report on findings to present to the Yellow Zone Team.79

It is anticipated that, should the DTAT identify a concern about a congregate care placement or private provider agency based on the data reviewed, the DTAT would

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79 See Appendix H for the DTAT process map as of November 1, 2010.
decide on appropriate action to address the concern, including a decision to forward the concern to the Yellow Zone Team.

The DTAT has completed the first two steps in the first quarterly cycle and is working to finalize the report of findings to present to the YZT. This initial cycle has taken longer than envisioned in the DTAT process map as the team members work to refine the process. PQI expects to make revisions to the process as implementation proceeds.

c. PQI Protocol for SIU Reviews and Trending of SIU Data

In previous monitoring reports, the TAC has noted the absence of a review process for SIU investigations concerning congregate care placements similar to that for SIU investigations concerning resource homes in the Resource Home Green PQT. PQI has designed and is currently implementing a review protocol to address this concern. According to this protocol, PQI and CPPP staff review each SIU closing notification for investigations involving congregate care placements that were either indicated or unfounded but the investigator noted concerns. If the notification indicates particularly concerning conditions which require immediate intervention, a discussion between PQTS and CPPP is held to determine if DCS will respond through the YZT or through CPPP.

The protocol also provides for a quarterly analysis of data from SIU monthly reports and a written report of findings from this analysis, including trends associated with individual youth, individual perpetrators, individual resource homes, congregate care facilities and provider agencies, as well as additional trends that may be identified as an ongoing monitoring need. This report is used as one of the primary data sources for the DTAT discussed above, and PQI also expects to begin sharing the trending information from this report quarterly during YZT meetings.

2. Multiple Investigations Involving a Particular Caregiver for a Particular Class Member

The Department has developed a multi-tiered review process, involving pieces of the processes discussed above, to fulfill the requirements of the Settlement Agreement for identifying investigations “in which there have been three or more reports of abuse or neglect concerning a particular caregiver for a particular class member.” The Department is working to ensure an appropriate level of review and response for all investigations while eliminating unnecessary duplication in the process. This work includes improving the accuracy of the SIU monthly report so that it can be better utilized for tracking and trending purposes. The steps in the process are as follows:

1) Central Intake checks prior CPS history on perpetrators and victims when receiving and screening referrals of abuse or neglect.

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80 The protocol as of October 26, 2010 is included as Appendix I.
81 PQI’s report for May and June 2010 is included as Appendix J.
2) SIU investigators look at both the perpetrators' and the victims' prior investigation history as part of the investigative process and notes the number of previous investigations on the initial and closing notifications as well as in their monthly reports. In addition, SIU leadership watches for trends in multiple investigations involving the same perpetrator or the same victim during their review of each investigation prior to closure. If SIU has concerns about the history of multiple investigations for a particular resource parent, SIU will classify the investigation as "unfounded with concerns" in order to ensure the home is discussed at the Resource Home Green PQT.

3) CPPP staff review all SIU initial notifications regarding private provider resource homes in order to place the resource homes on freeze while under investigation. CPPP staff also review all closing notifications as part of the process of lifting freezes for unfounded investigations and as part of preparation for the Resource Home Green PQT meetings. While reviewing the notifications, they watch for trends in multiple investigations involving the same perpetrator. Any such trend they identify that they feel warrants further review is added to the Resource Home Green PQT agenda. FC&A staff follow this same process for DCS resource homes.

4) CPPP staff review their tracking log for homes (both DCS and private provider) discussed at the Resource Home Green PQT for trends. If they identify a resource home with multiple investigations that they feel needs further review, they add the resource home to the Resource Home Green PQT agenda.

5) PQI staff members review every initial and closing notification (for both resource homes and congregate care placements), focusing on the number of previous investigations and any immediate safety concerns.

6) PQI staff review the tracking log maintained by CPPP for homes discussed at the Resource Home Green PQT. Any trend identified regarding multiple investigations (three or more) involving the same perpetrator or the same victim that require further review is brought to the appropriate green team for review (either the Resource Home Green PQT or DTAT).

7) As part of the quarterly analysis of SIU monthly reports according to PQI’s review protocol (described above), PQI staff analyze the data for multiple investigations (three or more) involving the same perpetrator for the same child. The findings are included in the PQI’s written report and any such trend warranting further review is brought to the appropriate green team (either the Resource Home Green PQT or DTAT).
SECTION FOUR: REGIONAL SERVICES

The Settlement Agreement (IV.A) requires that each region have available a full range of community-based services to support and preserve families of foster children in state custody, and to enable children to be reunified with their families safely and as quickly as possible. The Settlement Agreement (IV.B) identifies three intended target groups for the full range of community-based family services:

- foster families for whom children have established a significant, beneficial emotional bond and which provide the possibility of long-term stability and permanence, but which are in danger of disrupting without intensive home-based crisis intervention services;

- families to whom children in foster care could be returned safely with the availability of intensive family services for a transition period; and

- adoptive families in danger of disrupting without intensive home-based crisis intervention services.

As discussed in the November 2010 Monitoring Report, in the early years of the reform effort, there appeared to be considerable variation from region to region in the availability and utilization of community-based services and supports. There were differences in the range and quality of services available and in the types of services “preferred” from region to region. Funding for regional services often seemed to be arbitrarily allocated and those funds available were inconsistently utilized by regions.

In addition, it seemed that families were often linked to services of limited relevance to their actual needs. This was in part attributable to the traditional menu of services that existed – case managers had to offer services and they were limited by what they had available – but it was also reflective of the quality of practice and the limited ability of staff to assess need and envision the services that would respond to the needs identified.

As discussed in the November 2010 Monitoring Report, the Department has taken a number of steps to ensure the rational allocation of funds to support community-based services and to ensure that each region has a range of quality services available. There has been greater attentiveness to equitable distribution of resources, identification of gaps in services (and efforts to fill those gaps) and a clear intention to move toward performance based contracting with providers of non-custodial services.
A. Funding for Section IV Related Services

The Department funds the range of services described in Section IV through a variety of contracts and budget allocations.82

1. Regional Contracts for Community-Based Services

As discussed in the November 2010 Monitoring Report, each region now has a single contract with a provider to provide a range of community-based services to support birth families.

A list of the regional contracts indicating the contract provider and the maximum contract liability for 2010-2011 can be found at the end of Appendix K and relevant language related to the scope of services covered by these contracts is included in Appendix L. A report on actual expenditures for the 2010-2011 fiscal year will be included in the next monitoring report.

2. Statewide Contracts for Special Birth Family, Resource Family and Adoptive Family Supports

In addition to the individual regional contracts, the Department has statewide contracts with a number of providers providing additional community-based support services for families.

A list of the contract providers and the maximum contract liability for these services is attached as Appendix K. A report on actual expenditures for 2010-2011 under these contracts will be included in the next monitoring report.

3. Flex Funds Available for Supplemental Supports for Families

In addition to the regional and statewide contracts available to meet the requirements of Section IV of the Settlement Agreement, regions are allocated “flex funds” which can be used for targeted services and supports not otherwise accessible. Flex funds can be used for a range of expenditures necessary to reunification and/or placement stability, from household purchases or repairs to specialized professional services or supports.

A list of the flex fund budgets allocated to each of the regions for 2010-2011 is attached as Appendix M. A report on actual flex fund expenditures for fiscal year 2010-2011 will be included in the next monitoring report.

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82 The services can appear on budget documents within a number of categories, depending on the funding source and type of service. Among the relevant categories are: behavioral services, IL support services, in-home support services, relative caregiver services, support services.
4. Services and Supports Covered by the Continuum Contracts

While the continuum contracts do not have a separate budget line or scope of services focused specifically on the types of services identified in Section IV of the Settlement Agreement, for those children served in continuum provider resource homes, the broad language and clear expectations of the continuum contracts are that the providers ensure that their resource families receive the range of supports required by Section IV. In addition, during the trial home visit period, continuum providers are expected to provide in-home services and supports to ensure a smooth and successful transition.

B. Creating a Regional Needs Assessment Process to Ensure Appropriate Range and Quality of Community Based Services

As discussed in the November 2010 Monitoring Report, in order to ensure that each region has the range, quantity and quality of community-based services needed to serve its families, the Department is planning to have each region conduct its own regional needs assessment. The Department has engaged the Atlantic Coast Child Welfare Implementation Center (ACCWIC) in a two year project to help create a regional structure for (1) assessing quantity and quality of non-custodial services and supports, and (2) developing regional service arrays in response to the regional assessments.  

C. DCS Data Related to Quality/Effectiveness of Support Services

1. Intensive Home-Based Crisis Intervention Services for Resource Families

The Quality Service Review results related to caregiver supports and caregiver satisfaction suggest that a significant majority of resource families are receiving adequate supports. In addition, previously reported data indicating that well over 80% of adoptions are by the resource parents that the child had already been placed with suggest that the Department is working to support the development of long-term relationships with resource parents that can lead to permanency.

As discussed in the November 2010 Monitoring Report, the Department is exploring special training and other strategies for supporting resource families serving children with particularly challenging behaviors and significant mental health needs.

The TAC anticipates that information gathered through the FOCUS reviews that are currently occurring, through the analysis of placement stability data (from both Chapin Hall and from the CFTM reporting), and through PQI case reviews of children

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83 The ACCWIC is also helping the regions improve the capacity of regional staff to accurately assess the needs of families and effectively match families to the right services and supports. Consistent with the Department’s Program Improvement Plan, this work focuses on developing the assessment and resource linkage skills of CPS/MRS case managers.
experiencing multiple moves (scheduled for later this year) will shed light on the extent to which intensive home-based crisis intervention services are being made available to resource families.

2. **Intensive Family Services to Support Reunification**

The Department uses length of stay and re-entry data as indicators of the relative success of its efforts to remove obstacles to reunification and ensure the supports for successful reunification.

The Department has identified Discharge Planning CFTMs as a present area of emphasis and anticipates that this focus will provide insights on the extent to which services, including intensive family services, are being used to support reunification.

The TAC monitoring staff will be reviewing QSR results (particularly with a focus on indicators related to family functioning and transitions) for additional insights.

3. **Intensive Home-based Services for Adoptive Families In Danger of Disruption**

To the extent that these are pre-adoptive families with whom a child has been placed, the FOCUS data is likely to be the richest source of information on the extent to which the Department is providing these services.

To the extent that the danger of disruption arises after the adoption is finalized, case reviews related to entry of previously adoptive children into foster care should provide some data on which to evaluate the extent to which these services are available to families post adoption.
SECTION FIVE: STAFF QUALIFICATIONS, TRAINING, CASELOADS, AND SUPERVISION

Effective intervention with children and families in the child welfare system is challenging work. It requires a committed, well-trained, supportively supervised workforce with manageable caseloads.

Section V of the Settlement Agreement is focused on the recruitment, training, and retention of a well-qualified workforce. It includes a range of provisions related to qualifications for hiring and promotion, pre-service and in-service training, salary ranges, caseload limits, and supervision of case managers and others working directly with children and families.

Most of the Section V requirements apply not only to DCS case managers, supervisors and direct care staff, but also to private provider staff with comparable responsibilities.

The Department has promulgated DCS personnel policies and procedures incorporating the Section V requirements. By contract language and specific provisions in the Private Provider Manual (PPM), the Department’s policy manual for private providers, the Department has required private providers to meet the relevant Section V requirements and the Department’s private provider oversight and contract monitoring processes are designed to ensure compliance with these provisions.

A. Requirement of Background Checks for DCS and Private Provider Staff

Section V.A of the Settlement Agreement requires all persons applying for positions with DCS or a private agency which involve any contact with children to submit to a criminal records check and a DCS abuse and neglect records screening (hereafter referred to as “background checks”) before beginning training or employment and makes applicable to both DCS and private provider staff the provisions of DCS administrative policy 4.1 Employee Background Checks which sets out the specific checks required and offenses that disqualify a person from employment.85

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84 The current contracts specify that private placement providers must meet the State’s organization, experience, staffing, and resource criteria for providing residential care and treatment services as prescribed by the DCS Private Provider Manual, including any changes or additions that may subsequently be made, and guidelines established under and applicable mandates set forth in the Brian A. Settlement Agreement. The term “contract provisions” as used throughout this report includes the provisions of the “Private Provider Manual” (PPM).

85 The Settlement Agreement also provides that DCS staff are subject to DCS Administrative Policy on employee disciplinary actions related to allegations or convictions of criminal acts.
Department policy and private provider contract provisions are consistent with this requirement and the Department has implemented procedures designed to ensure that the terms for hiring and retention related to this requirement are being met.\textsuperscript{86}

1. **Background Checks on DCS Employees**

The Department has established clear protocols designed to ensure that required background checks are completed on DCS employees and appropriate documentation placed in the employee personnel file. (A detailed description of the process is included as Appendix N.)

As discussed in the November 2010 Monitoring Report, both the Department’s internal reviews of its personnel files and the personnel file reviews conducted by TAC monitoring staff have identified cases in which background checks were not conducted with the thoroughness required by policy or were not sufficiently documented in the personnel file. In response, the Department has revised its policies to provide additional clarification to the field and these efforts appear to be succeeding. Although the most recent personnel file review conducted by TAC monitoring staff identified instances of insufficient documentation of background checks, reviewers noted the significant improvements compared to previous reviews.\textsuperscript{87}

The Department’s recently revised personnel file audit process appears well designed to identify and respond to any remaining lack of clarity or inattentiveness and ensure that background checks are being completed according to policy and documented in the personnel file as required.\textsuperscript{88} (A copy of the Personnel File Audit Checklist is attached as Appendix O). The Department has begun implementation of the revised audit process and has completed audits in a number of regions. The TAC expects to be able to report on the results of those audits in its next monitoring report.

2. **Background Checks on Contract Agency Employees**

By contract provision, private providers are required to ensure that their employees who have contact with *Brian A.* class members meet the background requirements of the Settlement Agreement. In order to ensure clear and consistent application of the background check requirements to private provider employees, the Department has

\textsuperscript{86} TCA 37-5-511 (2) also requires that all persons working with children supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.

\textsuperscript{87} The report of the results of the most recent Personnel File Review is included as Appendix P.

\textsuperscript{88} The audit (which looks at a wide range of personnel file documentation and not simply background check information) includes all files of “new hires” (those hired within the year preceding the review) as well as a sample of all other personnel files. There is a checklist that will be filled out for each file reviewed that will include all of the required background checks. The DCS Office of Human Resource Development will issue quarterly reports of its review findings.
drafted Policy 4.1 to apply to both DCS and private provider employees.

The Department has established a number of oversight processes designed to ensure that private providers are complying with the background check requirements.

As discussed in previous monitoring reports, the DCS Licensing and Program Accountability Review (PAR) Units include in their annual reviews of each private provider, examination of a sample of private provider personnel files for documentation of required background checks.

In addition, the Child Placement and Private Providers (CPPP) unit has initiated a “Resource Home Eligibility Team (RHET) process” for private provider residential facility staff. The Department now requires each private provider to submit annually a spreadsheet listing all residential facility staff having contact with children and indicating the dates of completion of each of the required background checks. The provider is required to supplement that filing during the year for each new facility hire. CPPP reviews a random sample of private provider facility employees and requires the provider to submit the documentation of the background checks for those employees and that documentation is then compared against the information that had been provided in the spreadsheet. PAR and Licensing also check the results of their personnel file reviews of facility staff against the spreadsheet submitted by the provider. Failure to comply with the background check requirement subjects a provider to financial penalties, corrective action plans, and heightened oversight.

Compliance with background check requirements has been incorporated as an element of the Provider Scorecard discussed in Section Twelve. The Department has developed an approach for compiling and aggregating the PAR and Licensing findings related to background checks into a score sheet that reflects each provider’s performance related to this requirement.

The Department’s oversight process has been effective in identifying instances of incomplete compliance with background check requirements and ensuring appropriate corrective action. While the Department continues to identify some instances of delays in completing some aspect of a background check, overall performance among private providers in this area is very high and the Department’s oversight process is sufficient to ensure compliance with the background check requirements.

**B. Education and Experience Requirements for Case Managers and Case Manager Supervisors (V.B) and for Child Care Workers (V.O)**

The Settlement Agreement establishes the following education requirements for persons employed as DCS case managers and case manager supervisors with responsibilities for class members and for private provider staff with comparable responsibilities:
• for a case manager 1 and 2, a bachelor’s degree, with preference for a Bachelor’s degree in Social Work or related behavioral science;

• for a case manager 3, a bachelor’s degree, with preference for a Bachelor’s degree in Social Work or related behavioral science and two years experience in providing child welfare services (with a master’s degree in social work or a related behavioral science permitted to substitute for one year of experience); and

• for all case manager supervisors (including team leaders and team coordinators) a minimum of a master’s degree in social work or a related behavioral field with a child and family focus (excluding criminal justice) and at least three years experience as a child welfare case worker (with an additional two years of providing child welfare services permitted to substitute for a master’s degree.)

As discussed in previous monitoring reports, the Tennessee Department of Human Resources job specifications for each of the case manager positions reflect all of the education and experience requirements set forth in the Settlement Agreement and private providers are required by contract provision to ensure that private provider staff with comparable responsibilities meet these same education and experience requirements.

The Settlement Agreement also requires that child care workers employed in any child care facility or program providing placements and services to children in foster care and their families have at least a high school diploma or a GED. (V.O) As discussed in the November 2010 Monitoring Report, the vast majority of child care workers are employed by private providers and these minimum educational requirements are required by contract provision; and job specifications for those DCS positions that involve “child care” responsibilities are consistent with the requirements of this provision.

The paperwork required for the Department’s Office of Human Resource Development to process the hiring of a new employee or the promotion of an existing employee is well-designed to ensure that Department staff meet these educational and experience requirements. In addition, the Department’s redesigned personnel file audit process includes a review of documentation of educational and experience requirements.

With respect to private provider staff, the PAR and Licensing Units review private provider personnel files for compliance with these requirements and compliance results

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89 The requirement that a hiring preference be given for those with degrees in social work or a related behavioral science has been met in two ways. First, applicants for case manager positions who have a degree in social work receive four additional points for this degree when their applications are scored for purposes of establishing their positions on the register from which case managers are hired. Second, the Department has established a new Graduate Associate Register for graduates of the Bachelor of Social Work Child Welfare Certification Program (BSW Certification Program) and this new register is the preferred list from which entry level case manager positions are filled.

90 The PPM appropriately refers to two positions, case manager and case manager supervisors, rather than the four DCS civil service positions referred to in the Settlement Agreement and establishes appropriately comparable requirements for private provider case manager and supervisor positions.
are compiled and included as an element of the Provider Scorecard. Overall private provider compliance with the education and experience requirements is very high and the DCS oversight process is sufficient to ensure ongoing compliance.

**C. Requirements for Retention, Promotion, and Assumption of Case Responsibilities**

The Settlement Agreement (V.C) provides that:

- no case manager assume any responsibility for a case, except as part of a training caseload, until after completing pre-service training and passing a skills-based competency test;

- no case manager be promoted until completing a job performance evaluation that includes evaluation of performance of the case management requirements of the Settlement Agreement;\(^91\) and

- every case manager supervisor complete basic supervisor training and pass a skills-based competency assessment geared specifically to child welfare supervision.\(^92\)

These provisions apply both to DCS case managers and private provider staff with comparable responsibilities.

**1. Competency Evaluation of New DCS Case Managers Prior to Assuming Caseload**

The Department requires that new case managers, other than those who graduated from the Bachelor of Social Work Child Welfare Certification Program (BSW Certification Program), complete pre-service training and receive a competency evaluation that includes both knowledge and skills assessments prior to assuming regular caseload responsibilities. The BSW Certification Program requires successful completion of course work and performance requirements that includes, but far exceeds, what is required for successful completion of the pre-service training.

The new case managers must demonstrate basic competencies in “critical skill” areas including: developing a professional helping relationship with the child(ren) and families; conducting family-centered assessments; developing and implementing family-centered planning; and completing accurate documentation that reflects the values of strengths-based, family-centered, culturally-competent casework.

\(^91\) Failure to receive a satisfactory job performance evaluation is to result in “progressive disciplinary action, up to termination if necessary.” (V.C.2) This “progressive disciplinary action” requirement is specific to DCS positions which are governed by civil service rules.

\(^92\) Such training is to begin within two weeks of the supervisor assuming supervisory responsibility and be completed within six months.
According to information provided by the Department’s Professional Training and Development division, 172 new case manager trainees enrolled in the new Case Manager Certification Program between January 1, 2010 and December 31, 2010. Of the 172 who started the pre-service training, 90 were ultimately certified. Sixty-six are pending certification. Of the 66 pending certification, 52 are still in training, and certification documents have not been received for 14. Sixteen were terminated before completing certification, and of those terminated, eight failed certification and eight resigned. Based on follow-up phone surveys of recently hired DCS case managers conducted by TAC monitoring staff, case managers are not assuming caseloads until they have completed pre-service training and certification.

The structure of the pre-service training certification process helps ensure that no case manager is assigned more than a “training caseload” prior to certification.  

2. Requirement of Job Performance Evaluation Prior to DCS Case Manager Promotion

Under DCS policy, in order to be promoted, a case manager must have received an acceptable score on a recent performance evaluation. Documentation of a recent performance evaluation must be submitted to the DCS Office of Human Resource Development in order for a promotion of a case manager to be processed. The Department requires that copies of the front page and signature page of the recent performance evaluation (to verify that the performance evaluation was properly reviewed by the reviewer, supervisor, and employee).

3. Requirement of Supervisory Training and Competency Assessment for DCS Case Manager

As discussed in previous monitoring reports, the Training Consortium has long offered a five-day (40-hour) supervisor training known as Supervision Basics which all case manager 3s, team coordinators, and team leaders were required to complete.

The Department is in the process of implementing a redesigned supervisory training and competency assessment process. The training design not only provides the required training for new supervisors, but provides opportunities for additional training for those present supervisors who completed the previous supervisory training curriculum, but who would benefit from one or more modules of the new training.

The TAC anticipates reporting in more detail on the implementation of the revised training.

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93 Phone surveys of case managers conducted as part of the TAC monitoring staff’s personnel file reviews, as well as a variety of informal contacts with DCS staff, have not identified any instances of non-compliance with this provision.

94 It is anticipated that the upcoming annual performance evaluations will identify at least some present supervisors who will be assigned to take one or more components of the new training.
supervisor training and competency assessment process in the next monitoring report.

4. Ensuring Private Providers are Meeting Requirements for Staff with Comparable Responsibilities

While contract provisions require that the private providers meet these requirements, the Department is in the process of clarifying its expectations of private providers with respect to the pre-service training competency evaluation, the job performance evaluation requirement for promotion, and the supervisory training and competency evaluation process.

PAR and Licensing Units are required in their reviews to determine that the private provider has a performance evaluation process and the reviews of personnel files look for completion of annual performance evaluations. (Other activities related to DCS oversight of private providers related to the Settlement Agreement provisions discussed in this subsection are discussed in Subsections D, F and I below.)

D. Training Requirements for DCS and Private Provider Case Managers (V.D, F)

The Settlement Agreement includes specific requirements for pre-service and in-service training of case managers and supervisors. For DCS case managers and private provider case managers with comparable responsibilities, the Settlement Agreement (V.D.1, 2) requires:

- 160 hours pre-service, including instructional training and supervised field training; and
- 40 hours in-service annually.

For DCS case managers with supervisory responsibility and private provider case managers with comparable responsibilities, the Settlement Agreement (V.D.3, 4) requires:

- 40 hours of training specific to supervision of child welfare caseworkers; and
- 24 hours of in-service each year.

These case manager training requirements are reflected in both the Department’s personnel policies and the private provider contract provisions and the Department has implemented processes to ensure that DCS and private provider case managers and supervisors are in fact receiving this required training.
1. **Pre-service Training for New DCS Case Managers**

The development and implementation of the pre-service training curriculum for new case managers has been reported on in greater detail in previous monitoring reports. The training content and number of hours devoted to pre-service training, meet the requirements of the Settlement Agreement.

To complete the pre-service training successfully, all new workers, other than graduates of the BSW Certification Program, must complete four weeks of classroom sessions (a combination of computer-based learning and classroom discussion), pass a panel evaluation focused on the classroom content at the conclusion of the first four weeks of training and be approved by the panel to proceed to on the job (OJT) training, participate in four weeks of OJT activities (and be observed in settings in the course of the OJT weeks in which they demonstrate basic competencies), and be certified by the panel upon completion of the OJT weeks.

Graduation from the BSW Certification Program requires successful completion of course work and performance requirements that includes, but far exceeds, what is required for successful completion of the pre-service training.

2. **In-service Training for DCS Case Managers**

Through a combination of required in-service trainings that have accompanied many of the process improvements, practice changes, and Departmental initiatives and optional trainings offered during the year, the Department provides a wide range of in-service training opportunities for case managers.\(^5\)

While the Department has been limited in its ability to provide automated aggregate reporting related to compliance with this provision, the TAC has consistently found sufficient basis from other sources (including results of its personnel file reviews and follow-up phone interviews) to conclude that case managers are receiving at least 40 hours of annual in-service training.

As discussed in the November 2010 Monitoring Report, the Department's Professional Development and Training division, (PD/T) uses the Enterprise Learning Management System (ELM) component of Edison (the state’s personnel data management system) to track training classes and training hours of DCS case managers to ensure that they are meeting the in-service training hour requirements of the Settlement Agreement. It now appears that the Department has refined their course registration, attendance and credit recording processes so that it will be able to produce automated tracking and reporting of annual in-service training requirements. (See Appendix Q)

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\(^5\) The Tennessee Center for Child Welfare (TCCW) Curriculum Catalog contains an extensive list of in-service course offerings for case managers.
Annual in-service training hour requirements are based on the fiscal year. The Department plans to run a report toward the end of the fiscal year to be able to identify any case managers who appear to be short of their required in-service hours, and to ensure that appropriate steps are being taken to address any shortfall in training hours.

The TAC anticipates reporting on the ELM in-service tracking data in the next monitoring report.

3. In-Service Training for DCS Supervisors

The November 2010 Monitoring Report discussed the concerted effort the Department has been making to provide additional opportunities for supervisory staff to enhance their supervisory and leadership skills, beyond the basic supervisory training and the kind of substantive training that characterizes the bulk of the in-service offerings.

Only training with relevant supervisory content can count toward the 24 hour annual in-service requirement for supervisors and the Department has therefore focused considerable attention on making sure that the ELM course listings are reviewed and those qualifying for supervisory in-service credit are identified.

The Department anticipates that this process will be sufficiently complete to allow some level of aggregate reporting of supervisor in-service training for the next monitoring report.

4. Ensuring that Private Agency Case Managers and Supervisors Meet Pre-Service and In-Service Training Requirements

In addition to requiring comparable hours of pre-service and in-service training for private provider staff with comparable responsibilities to DCS case managers and case manager supervisors (V.D), the Settlement Agreement requires the Department, prior to contracting with any agency, to review, approve and monitor curriculum for private provider pre-service and in-service training for case managers to ensure that general content areas are appropriate to the work being performed by the agency. (V.F)

PAR and Licensing Units review of private provider personnel files include monitoring of the pre-service and in-service training hours and review of the topic areas covered by pre-service, and compliance with training requirements is an element of the Provider Scorecard.

Based on the reports from both PAR and Licensing, private provider staff appear to be routinely meeting the pre-service and in-service training hour requirements. However, as discussed in the November 2010 Monitoring Report, the Department is still in the process of completing its review and approval of private provider training (including both the curricula and the competency evaluation required as part of pre-service training).
The Department has worked closely with the Tennessee Social Work Education Consortium (Training Consortium) and the private providers to clarify expectations related to the curricular content and to the competency assessment process of private provider pre-service training. The Department has developed a schedule for submission and review of provider pre-service training and competency assessment processes to ensure that all 30 private providers covered by this provision have DCS approved pre-service training and competency assessment processes in advance of the 2011-2012 contract year.  

To ensure that providers have appropriate in-service training, the Department’s Professional Training and Development Division will review in-service training calendars submitted by the providers and, in collaboration with providers, will develop a list of suggested/common in-service topics which will be reflected in the Provider Policy Manual. This list will be developed and disseminated prior to the 2011-2012 contract year.

PAR and Licensing personnel file reviews will focus on ensuring that there is documentation of completion of training hours, including documentation of the results of the pre-service competency evaluation that conforms with the description submitted by the provider to the training division and that no private provider case manager is assigned a caseload, other than a training caseload, until completing the pre-service training and passing the competency evaluation. PAR and Licensing also will utilize information submitted to the training division to monitor for pre-service topics.

E. Requirements for Training Infrastructure (V. E)

The Settlement Agreement requires the Department to have a full-time qualified director of training and maintain sufficient staffing, budget funds, and other resources to provide comprehensive child welfare training.

As discussed at length in previous monitoring reports, one of the most significant improvements implemented by the Department has been the expansion and enhancement of the Department’s training capacity through a partnership with the Tennessee Social Work Education Consortium (“Training Consortium”) and its administrative hub, the Tennessee Center for Child Welfare (TCCW). The Training Consortium consists of 14

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96 The Department recognizes that different private providers may have different approaches to conducting competency assessments and job performance evaluations of their staff. The Department is not dictating a particular approach or process but, rather, expects to see evidence that the provider has established a thoughtful and appropriate process for competency assessments and performance evaluations. Each private provider is expected to provide a description of its process, including how the process is documented. PAR and Licensing will review the provider’s description of its process and will review personnel files for documentation of competency assessments and performance evaluations consistent with that description.

97 The child welfare training is “to ensure that all persons responsible for children in the plaintiff class will have sufficient training to permit them to comply with the relevant mandates of this agreement, DCS policy, and reasonable professional standards.” (V.E)
public and private universities that offer accredited undergraduate degrees in Social Work.

DCS maintains a full-time training unit with a full-time director within the Department, and works closely with the Training Consortium. The bulk of the Department’s training is provided by Training Consortium staff, not by the Department’s Professional Development and Training Division.

The combined budget for both the Professional Development and Training Division and the Training Consortium is substantial. The Consortium budget for 2010-2011 is $14 million and the Department’s internal training budget is an additional $625,000 for a total of $14.6 million. The total budget for fiscal year 2009-2010 was $16.5 million. In the TAC’s view, resources allocated to the training function are currently sufficient to support curriculum development, delivery of pre-service training, and in-service training.

F. Additional Requirements for Improving Workforce Quality (V.G)

The Settlement Agreement requires that the Department provide stipends and other incentives to support graduate work to enable the state to hire and retain case managers with undergraduate and graduate degrees in social work and related fields. The Settlement Agreement also requires the Department to “periodically assess whether salary increases are necessary to ensure that Tennessee is competitive with neighboring states in its compensation for case managers and case manager supervisors.” (V.G)

As discussed in greater detail in previous monitoring reports, the Department has established a variety of stipend and incentive programs for both undergraduate and graduate work and conducted a salary comparability study and raised case manager salaries substantially in response to the results of that study.98

1. BSW Stipend Program

The Department’s BSW Stipend Program allows qualified students seeking a Child Welfare Certification to receive tuition assistance and a stipend for up to four semesters in exchange for a commitment to work for DCS as a case manager upon graduation. For each semester that the student receives assistance, the student commits to working for six months for the Department.

The BSW Stipend Program began in 2004 and the first stipend students graduated in May 2005. As of February 2010, there have been 406 participants in the BSW Stipend

98 The Department dramatically increased salary scales over a three year period ending in 2006. There have been no salary scale increases since that time. Although the Department has not conducted any formal salary studies, the Department believes that its salaries remain competitive, especially given the current economic climate.
Program, of which 279 have graduated, 93 are presently enrolled, and 31 have left the program before graduating.

Of the 279 graduates, 192 are currently employed by the Department. There is one December 2010 graduate who has not been hired because she does not have proper documentation to work in the United States. There are three former stipend students who graduated in May 2010 who are presently pursuing MSW degrees and are expected to come to work for DCS upon graduating in May 2011. One other such student will graduate in December 2011.\(^{99}\) Upon graduation each of these former students will have a three-year employment commitment.

Sixty-five BSW Stipend Program graduates who were hired by the Department subsequently left DCS. Of those, 57 resigned for a variety of reasons, most after accepting other positions and eight were terminated for unsatisfactory performance. Twenty-five of those who left completed their employment obligation before leaving.

Twenty-four other graduates never came to work for DCS. All have been or are being contacted by DCS to determine whether they intend to honor the agreement.\(^{100}\) The Department also hired 41 graduates of the BSW Certification Program (who did not receive financial assistance through the BSW Stipend Program). Thirty-five are currently employed by the Department. Two were terminated for unsatisfactory performance and four resigned.

As of January 2011, there were 93 BSW students enrolled in the stipend program.

\section*{2. MSW/MSSW Stipend Program}

The Department’s MSW/MSSW stipend program allows qualified MSW/MSSW students employed by the Department to receive tuition assistance and a financial stipend in exchange for a commitment to work for the Department as a DCS case manager upon graduation. As is the case for the BSW stipend program, for each year that the student receives tuition assistance and a stipend, the student agrees to work a year for the Department upon graduation.

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\(^{99}\) MSW Tuition Program students make the same year-for-year commitment to work for the Department as BSW stipend students make. If they received tuition assistance and an expense payment to complete two years of the MSW program, then they are committed to working for DCS for two years. If they received a stipend to complete two years of a BSW program and then, as these three students have done, immediately went into the one year MSW advanced standing program and received a stipend, they are committed to working for DCS for three years after graduation.

\(^{100}\) As discussed in greater detail in the November 2010 Monitoring Report, those who withdraw from school without fulfilling their commitment, or choose not to come to work after graduating, or are hired by the Department but fail to complete two years of service, are required to repay the Department.
Two hundred thirty-nine (239) DCS employees have participated in the MSW/MSSW Tuition Program. Of those, 99 received an MSW/MSSW degree since the program began (none graduated this past December) and 68 of these graduates are presently employed by the Department.

There will be approximately 100 participants in the program at the start of the 2011-2012 academic year.

G. Performance Evaluations to Ensure Case Manager and Supervisor Competency (V.H,I)

The Settlement Agreement requires the Department to develop and implement a performance evaluation process which includes an annual assessment of the extent to which case managers and case manager supervisors are handling their case responsibilities consistent with DCS policy, reasonable professional standards, and the provisions of the Settlement Agreement. (V.H) The process is to ensure that case managers in need of additional training are identified and that appropriate action (including reassignment or termination) is taken with respect to case managers who are not performing at acceptable levels.

The Settlement Agreement also requires that, prior to contracting or renewal with any private provider, the Department ensure that each private provider agency has implemented an appropriate performance evaluation process to ensure the competency of those staff with responsibilities comparable to DCS case managers.

The Department is in the process of implementing its Performance Management System, which is well-designed to meet the requirements of this provision. The Department is in the process of clarifying its expectations of private providers with respect to their performance evaluation process.

1. The DCS Performance Management System

The DCS Office of Human Resource Development Division presently tracks and produces quantitative reports on annual performance evaluation (PE) including timeliness of the annual evaluation and timeliness of Job Performance Plan (JPP). A revised PE and JPP will be used in the new performance evaluation process which is being rolled out for supervisors (TCs and TLs) this year. (The PE and JPP for non-supervisory case managers is being revised, but until the revision is completed and ready to be rolled out, the old evaluations and JPP will continue to be used for non-supervisory staff).

The new Professional Development Management Process that is being rolled out is the core of the Leadership and Management component of the Program Improvement Plan (PIP) that DCS has submitted in response to the CFSR. It is described as “continuing appraisal, coaching and feedback that involves helping employees understand the nature
and quality of their performance, identify what they need to do to improve, and inspire them to do it.” The key elements of the process are:

- a standardized Job Performance Plan which identifies core competency areas for the particular job classification with additional “specialty” competencies within a particular classification (for TCs and TLs, there are six generally applicable core competencies and a seventh specific to the specialty of the employee);

- a Professional Development Assessment (to assess employee competency levels/areas of strength and weakness) which is filled out collaboratively by employee and his or her supervisor online once every two years;

- a Performance and Professional Development Plan (PPDP) designed to address priority professional development areas identified by the PDA;

- monthly performance briefings, intended to provide regular feedback on employee performance in the areas identified in the PPDP;

- an interim performance review at six months; and

- an annual performance evaluation.

All regions are required to have had each of their Team Coordinators (TCs) and Team Leaders (TLs) complete the online Professional Development Assessment (PDA) and, based on that assessment, to have developed a Performance and Professional Development Plan (PPDP) by the end of June 2011, for each supervisor.

TCCW will be collecting data from the PDAs and this data should allow them to provide regional and statewide aggregate data on the relative strengths and weaknesses of its supervisory staff and design training and professional development support activities in response to the professional development needs identified. Regional learning teams will get the results from the PDA data analysis.

The TAC anticipates reporting in more detail on the initial results of implementation of this new performance evaluation process in the next monitoring report.

2. Performance Evaluation for Private Provider Case Managers and Supervisors

As discussed in Subsection C.4 above, by contract provision private providers are required to conduct the annual performance evaluations required by the Settlement Agreement. PAR and Licensing Unit reviewers expect providers to have a process for conducting annual performance evaluations and reviewers expect to see documentation of those evaluations in the personnel files that they review. At present, the Department generally accepts the judgment of the provider that the provider’s annual performance review process is sufficient to ensure that private provider staff are competently meeting
their responsibilities. However, when the Department, either through PAR and Licensing reviews or other means, identifies a private provider staff person who had failed to perform competently, the provider’s annual performance review process might be subject to further scrutiny.\textsuperscript{101}

Based on the PAR and Licensing Unit reviews, private providers appear to conduct the annual performance evaluations required by this provision.

\section*{H. Provisions Related To Caseloads and Case Coverage (V.J, V.K, V.L, V.M, V.N)}

The Settlement Agreement requires that a DCS case manager be assigned to each case and that the case manager have full responsibility for that case, including working with the child and family, visiting with both for the purposes of assessing and meeting their needs; determining and implementing the permanency plan; supervising, supporting and assuring the stability of the child’s placement and assuring the stability of the child’s placement; and assuring a safe, adequate and well planned exit from foster care. If a private provider is engaged in the case, the DCS and private provider case managers are to “collaborate” to ensure compliance with this agreement.\textsuperscript{102}

The Settlement Agreement establishes caseload limits and case coverage requirements and includes specific provisions related to turnover rates, transfers of cases, and maintenance of up-to-date and complete case files.

\section*{1. Caseload and Supervisory Workload Limits (V.J, V.K)}

The Settlement Agreement (V.J) provides that any DCS case manager responsible for the case of at least one class member, and private provider staff with comparable responsibilities, not have case responsibility for more than\textsuperscript{103}

\footnote{101}{It has been the experience of Performance and Quality Improvement (PQI) staff (informed by monitoring information, Placement Quality Teams (PQT) referrals, Special Investigations Unit (SIU) cases and Internal Affairs investigations) that, because private providers are not constrained by Civil Service requirements related to employee discipline and termination, private providers tend to respond more quickly to instances of poor performance.}

\footnote{102}{While as part of this collaboration (and consistent with the other requirements of the Settlement Agreement) the private provider case manager in private provider case managed cases assumes many of the day-to-day responsibilities for case management, (including visiting the child’s placement, ensuring parent-child and sibling visits, and making the face-to-face contacts with children) that DCS case managers assume in DCS case managed cases, the DCS case manager in private provider case manager, while relieved of some of the day-to-day responsibilities, remains actively involved in the case and retains the overall responsibility described in this Settlement Agreement provision.}

\footnote{103}{There are four case manager positions, two of which (case manager 1 and case manager 2) are non-supervisory positions and two of which (case manager 3 and case manager 4) are supervisory. Case manager 1 is a trainee/entry level class for a person with no previous case management experience; after successful completion of a mandatory one-year training period, a case manager 1 will be reclassified as a case manager 2. A case manager 2 is responsible for providing case management services to children and their families, and requires at least one year of case management experience. A case manager 3 can have supervisory responsibility for leading and training case manager 1s and case manager 2s in the performance
- 15 individual children in DCS custody if the case manager is a case manager 1;
- 20 individual children in DCS custody if the case manager is a case manager 2 or 3 with no supervisory responsibility; and
- 10 individual children in DCS custody if the case manager 3 supervises one or two lower level case managers.

The Settlement Agreement provides that, should the Department propose the use of workers carrying a mix of custodial and non-custodial cases, “a weighted equivalent caseload standard will be developed in consultation with the TAC.” The Department has not made such a proposal and, in the absence of a weighted equivalent caseload, the TAC has considered those relatively few case managers who have a mix of custodial and non-custodial cases to be subject to the “individual child” limits that are applicable to custodial caseloads.

The Department has committed to continue to track and report the number of individual children that any case manager with a Brian A. case is working with at any given time and to ensure that pending the creation of a weighted equivalent caseload measure for a mix of non-custodial and custodial cases, the number of individual children on a case manager’s mixed caseload should not exceed the applicable Brian A. caseload limit.  

The Settlement Agreement also sets supervisory workload limits for those who supervise case managers handling caseloads that include class members. A case manager 4 or team coordinator may supervise no more than five lower level case managers and may not carry their own caseloads. Under certain circumstances, a case manager 3 may supervise up to four lower level case managers but may not carry a caseload if the case manager 3 is supervising more than two lower level case managers.

a. DCS Case Manager Caseloads

As has been noted in previous monitoring reports, one of the most significant accomplishments of the Department’s reform effort has been the reduction of caseloads to manageable limits.

Caseload reporting is not yet available from TFACTS. Table 11 (12) below presents data from TNKids for the most recent 13-month period (May 1, 2009 through May 1, 2010).  

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of case management work. A case manager 4 is typically responsible for the supervision of staff (including case manager 3s) in a regional or field office or a single/small residential program, who are providing case management services for children and their families. The terms case manager 4 and team leader are used interchangeably. A team coordinator supervises the case manager 4s/team leaders.

104 This would also include reporting on the number of non-custodial cases making up any caseload that includes a Brian A. class member.

105 Because the report relied on is run the first of each month, the TAC uses a 13-month and one day reporting period, ending on May 1, 2010, rather than a 13-month reporting period ending on April 30, 2010.
for which aggregate caseload data is readily available on the extent to which caseloads were within the caseload limits established by the Settlement Agreement.

As is reflected in the table, measured statewide and averaged over the 13-month period, over 96% of case manager caseloads fell within established caseload limits and in no month were less than 94% of caseloads within those limits. There was relatively little regional variation: eight regions had caseload compliance rates at or above the statewide 13-month average and another three regions had rates just under the statewide average (two at 95% and one at 93.8%). The remaining region had a compliance rate of 86.8%, substantially below the statewide 13-month average.

<table>
<thead>
<tr>
<th>Region</th>
<th>May-09</th>
<th>Jun-09</th>
<th>Jul-09</th>
<th>Aug-09</th>
<th>Sep-09</th>
<th>Oct-09</th>
<th>Nov-09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mid-Cumberland</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Southwest</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Northwest</td>
<td>97.1%</td>
<td>97.1%</td>
<td>100%</td>
<td>96.9%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Knox</td>
<td>93.0%</td>
<td>97.6%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>97.9%</td>
</tr>
<tr>
<td>Davidson</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>98.2%</td>
<td>94.9%</td>
<td>96.6%</td>
<td>100%</td>
</tr>
<tr>
<td>Southeast</td>
<td>97.3%</td>
<td>97.3%</td>
<td>94.6%</td>
<td>100%</td>
<td>97.2%</td>
<td>100.0%</td>
<td>97.2%</td>
</tr>
<tr>
<td>Shelby</td>
<td>98.1%</td>
<td>95.3%</td>
<td>100%</td>
<td>99.0%</td>
<td>100%</td>
<td>96.8%</td>
<td>98.0%</td>
</tr>
<tr>
<td>Statewide</td>
<td>96.5%</td>
<td>96.2%</td>
<td>97.0%</td>
<td>97.6%</td>
<td>96.2%</td>
<td>96.9%</td>
<td>97.1%</td>
</tr>
<tr>
<td>South Central</td>
<td>95.9%</td>
<td>91.3%</td>
<td>95.9%</td>
<td>95.8%</td>
<td>95.7%</td>
<td>94.2%</td>
<td>96.3%</td>
</tr>
<tr>
<td>East</td>
<td>93.8%</td>
<td>95.0%</td>
<td>95.6%</td>
<td>97.4%</td>
<td>97.4%</td>
<td>99.1%</td>
<td>99.1%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>91.9%</td>
<td>94.6%</td>
<td>91.9%</td>
<td>91.7%</td>
<td>85.7%</td>
<td>94.1%</td>
<td>94.4%</td>
</tr>
<tr>
<td>Northeast</td>
<td>93.6%</td>
<td>95.0%</td>
<td>96.6%</td>
<td>94.9%</td>
<td>93.0%</td>
<td>96.5%</td>
<td>96.6%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>96.2%</td>
<td>92.5%</td>
<td>86.0%</td>
<td>94.2%</td>
<td>82.4%</td>
<td>82.4%</td>
<td>81.5%</td>
</tr>
</tbody>
</table>
As reflected in Table 12 (13) below, of the 34 case managers whose caseloads as of May 1, 2010 exceeded the applicable caseload limit, 19 of those case managers exceeded those limits by just one to two cases. There were 10 case managers with caseloads that were three to five cases over the limit.

There were five case managers whose caseloads were more than five cases over the limit. Two case managers (from East and Southeast regions) were six to 10 cases over the limit and two case managers (from Northeast and Shelby regions) were 11-20 cases over the limit. 106 The fifth case manager (from Upper Cumberland region) was a case manager 4 (by policy a non-caseload carrying supervisory position). This case manager supervisor was supervising one case manager and also carrying a caseload of 24 (and therefore was technically 24 cases over the caseload limit).

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106 The two case managers, one from East who was 10 cases over the limit and the other case manager from Shelby who was 19 cases over the limit, had caseloads that were composed almost entirely of non-Brian A. cases.
Table 12: Caseloads Exceeding *Brian A.* Standards by Position as of May 1, 2010

<table>
<thead>
<tr>
<th>Job Class/Position</th>
<th>1-2 Cases Over Limit</th>
<th>3-5 Cases Over Limit</th>
<th>6-10 Cases Over Limit</th>
<th>11-20 Cases Over Limit</th>
<th>21+ Case Over Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Manager 1</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 2</td>
<td>11</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 3 (Non-Supervisor)</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 3 (Supervisor 1-2)</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 3 (Supervisor 3-4)</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 3 (Supervisor 5+)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Case Manager 4</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Totals:</td>
<td>19</td>
<td>10</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: *Brian A.* Caseload Threshold Employee Compliance Exception Report as of May 1, 2010.

For the 29 case managers who as of May 1, 2010 were carrying caseloads of one to five over their respective limits, TAC monitoring staff examined these case managers' caseloads as of August 1, 2010 to determine if the caseloads returned to the level of compliance. By August 1, 2010 the caseloads of 20 of the 29 case managers were back within the caseload limit, two were one case over the limit, one was two over the limit, five were three over the limit, and one was eight over the limit. Of the nine case managers over the limit, one was from East, two were from Northeast, and six were from Upper Cumberland.

For the four case managers who as of May 1, 2010 were carrying caseloads of six to 20 cases over their respective limits, TAC monitoring staff examined these case managers' caseloads as of June 1, July 1, and August 1, 2010 to determine if the caseloads returned to the level of compliance. By August 1, 2010 the caseloads of two of the four case managers were back within the caseload limit, one was one case over the limit and one was three over the limit.

The non-caseload carrying case manager supervisor who had been handling a caseload of 24 as of May 1, had a caseload of 21 on June 1, of 23 on July 1, and of 23 on August 1.

*b. DCS Supervisor Workloads*

Table 13 (14) presents the numbers of supervisors, statewide and by region, whose supervisory workloads over the 13-month period from May 2009 through May 2010 were within the five to one supervisee to supervisor workload limit, which under the Settlement Agreement standards, are considered small enough to allow effective supervision. (V.K) As is reflected in the table, expressed as a statewide 13-month
average, 96.3% of supervisors had manageable workloads over that period, with regional averages for that time period ranging from 99% to 90.2%.

Table 13: Supervisor Caseload Limit Compliance Rates, May 2009 through November 2010

<table>
<thead>
<tr>
<th></th>
<th>May-09</th>
<th>Jun-09</th>
<th>Jul-09</th>
<th>Aug-09</th>
<th>Sep-09</th>
<th>Oct-09</th>
<th>Nov-09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mid-Cumberland</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>South Central</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Southwest</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>91.7%</td>
<td>91.7%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>93.8%</td>
<td>93.8%</td>
</tr>
<tr>
<td>Northeast</td>
<td>93.3%</td>
<td>85.7%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Davidson</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>86.7%</td>
<td>86.7%</td>
<td>86.7%</td>
<td>100%</td>
</tr>
<tr>
<td>Northwest</td>
<td>100%</td>
<td>90.0%</td>
<td>88.9%</td>
<td>100%</td>
<td>100%</td>
<td>88.9%</td>
<td>87.5%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>90.9%</td>
<td>90.9%</td>
<td>90.9%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Statewide</td>
<td>96.8%</td>
<td>94.7%</td>
<td>98.4%</td>
<td>98.4%</td>
<td>97.3%</td>
<td>95.6%</td>
<td>96.1%</td>
</tr>
<tr>
<td>Southeast</td>
<td>90.9%</td>
<td>90.9%</td>
<td>90.9%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Shelby</td>
<td>87.5%</td>
<td>83.3%</td>
<td>100%</td>
<td>100%</td>
<td>95.2%</td>
<td>100%</td>
<td>86%</td>
</tr>
<tr>
<td>East</td>
<td>100%</td>
<td>96.7%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>92.0%</td>
<td>100%</td>
</tr>
<tr>
<td>Knox</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>93.8%</td>
<td>86.7%</td>
<td>84.6%</td>
</tr>
</tbody>
</table>

Table 13 (continued) : Supervisor Caseload Limit Compliance Rates, December 2009 through May 2010

<table>
<thead>
<tr>
<th></th>
<th>Dec-09</th>
<th>Jan-10</th>
<th>Feb-10</th>
<th>Mar-10</th>
<th>Apr-10</th>
<th>May-10</th>
<th>Averages for May-09 to May-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mid-Cumberland</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>87.5%</td>
<td>97.9%</td>
</tr>
<tr>
<td>South Central</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>92.3%</td>
<td>92.3%</td>
<td>97.4%</td>
</tr>
<tr>
<td>Southwest</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>93.3%</td>
<td>100.0%</td>
<td>86.7%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>96.7%</td>
</tr>
<tr>
<td>Northeast</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>93.8%</td>
<td>94.1%</td>
<td>93.8%</td>
<td>96.9%</td>
</tr>
<tr>
<td>Davidson</td>
<td>100%</td>
<td>93.8%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>97.9%</td>
</tr>
<tr>
<td>Northwest</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>100%</td>
<td>100.0%</td>
<td>90.0%</td>
<td>88.9%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>96.5%</td>
</tr>
<tr>
<td>Statewide</td>
<td>98.9%</td>
<td>97.8%</td>
<td>96.1%</td>
<td>93.8%</td>
<td>93.6%</td>
<td>94.0%</td>
<td>95.7%</td>
</tr>
<tr>
<td>Southeast</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>90.9%</td>
<td>90.0%</td>
<td>88.9%</td>
<td>95.0%</td>
</tr>
<tr>
<td>Shelby</td>
<td>100%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>95.5%</td>
<td>95.0%</td>
<td>94.7%</td>
<td>97.5%</td>
</tr>
<tr>
<td>East</td>
<td>100%</td>
<td>91.7%</td>
<td>87.5%</td>
<td>82.6%</td>
<td>86.4%</td>
<td>95.5%</td>
<td>90.6%</td>
</tr>
<tr>
<td>Knox</td>
<td>92.9%</td>
<td>93.3%</td>
<td>92.3%</td>
<td>76.9%</td>
<td>76.9%</td>
<td>75.0%</td>
<td>84.6%</td>
</tr>
</tbody>
</table>


There were 10 supervisors whose workloads, as of May 1, 2010 exceeded the supervisor/supervisee standard. Eight supervisors exceeded those limits by supervising 1-2 case managers over the limit and two supervisors exceeded that limit by supervising 3-5 case managers over the limit.
For the 10 case managers who as of May 1, 2010 were carrying workloads that exceeded the supervisor/supervisee standard, TAC monitoring staff examined these case managers' workloads as of August 1, 2010 to determine if the workloads returned to the level of compliance. By August 1, 2010 the workloads of seven of the 10 case managers were back within the workload limit and three supervisors were one supervisee over the limit.

<table>
<thead>
<tr>
<th>Job Class/Position</th>
<th>Supervising 1-2 Over Limit</th>
<th>Supervising 3-5 Over Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Manager 4</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Case Manager 4 (Filling Vacancy)</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals:</strong></td>
<td><strong>8</strong></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

Source: Brian A. Caseload Threshold Employee Compliance Exception Report as of May 1, 2010.

c. Private Provider Caseloads

By contract provision, private provider case managers and supervisors with comparable responsibilities to the DCS case manager are, at a minimum, required to comply with the caseload limits applicable to DCS case managers and supervisors. In addition, the *Private Provider Manual* (PPM) sets more restrictive caseload limits for private provider case managers whose caseloads include medically fragile children or children served through a contract with a continuum of services. A caseload composed entirely of such children can be no greater than 10 and for a mixed caseload, the caseload limit is 20, with each medically fragile child or continuum child counting as two cases. Because these children make up about 65% of the children served by private providers, private provider case manager caseloads are generally subject to much lower limits than those established by the Settlement Agreement.

PAR reviewers have generally inquired about agency caseloads during site visits, but in the past, unless something out of the ordinary came to their attention during the course of the review, PAR reviewers accepted the self-reporting of the agency. PAR reviewers have been generally satisfied that private provider caseloads are meeting the more restrictive case load limits set forth in the PPM and therefore are well within the Settlement Agreement limits.

Beginning in 2011, PAR reviewers are requiring that agencies provide caseload information in advance of the site visit, including information on the agencies internal tracking processes for ensuring that case manager and supervisor caseloads/workloads do not exceed the contract limits. Having this information in advance, will allow a more focused inquiry regarding caseloads and allow some spot checking during the review.
2. Special Requirements for Regions with High Staff Turnover (V.M)

The Settlement Agreement requires that for any region with an annual case worker turnover that exceeds 10%, in which cases are either uncovered or being assigned to workers at the caseload cap, the Department is to maintain a regional “pool of trained workers to assume the caseloads of departing workers.” (V.M)

The Department has developed a process for tracking, reporting, and responding to regional turnover. Since turnover rates in excess of 10% still exist across the state, the Department has developed a Central Office managed bank of vacant positions which can be reallocated to regions experiencing high turnover. This serves as the functional equivalent of the worker pool. High level Central Office human resources staff manage the bank in coordination with the appropriate executive directors and regional administrators. Regular attention is paid to both regional turnover and regional case loads to ensure that “banked” positions are assigned to the regions when necessary.  

Tables 15a (15) and 15b below present two views of the annualized turnover rates for January 2010 through December 2010 (the most recent 12-month period for which turnover data was readily available): Table 15a presents turnover for all regional case manager positions; Table 15b presents turnover for non-CPS regional case manager positions. As the comparison of these two tables reflects, regional turnover in CPS positions appears to contribute disproportionately to the overall regional turnover rates.

107 There is presently a “bank” of 63 positions that can be deployed as necessary. The Department has not yet found it necessary to utilize any of these positions. The Department concluded an extensive “rightsizing exercise” in the summer of 2010 and determined that as of that time the allocation of regional case manager positions in each of the regions was sufficient to keep caseloads within the caseload limits established by the Settlement Agreement.

108 Only separations from the Department are calculated in this turnover rate. However, the “turnover” in case managers that children and families experience results not just from case managers leaving the Department, but from case managers transferring or being promoted into new positions. While the current Human Resources data system does not have the ability to report on promotions or lateral moves, it is critical that the Department examine and respond to the impact of this kind of “turnover.” The Edison system is able to capture transfers of DCS staff to and from other Departments, but does not have the capacity to produce aggregate reports on promotions or lateral moves. DCS calculates and presents turnover as an annualized turnover figure for each month. For example, the turnover rate report for June 2008 would be an annualized rate for the 12-month period beginning July 1, 2007 and ending June 30, 2008; the turnover rate report for July 2007 would be for the 12-month period beginning August 1, 2006 and ending July 31, 2007. To figure the annualized regional turnover for the applicable 12-month period for a certain job classification (for example, case manager 1), the Department takes the total number of people who have worked as a case manager 1 in the region at any time during the previous 12-month period, divide by 12 months to get an average number of employees per month for that region. The separations in that region for the month are then divided by the average number of employees per month to calculate the turnover percentage rate for that region.
Table 15a: Annualized Percentage of Turnover by Region for All Case Manager Positions, January 2010 through December 2010

<table>
<thead>
<tr>
<th>Region</th>
<th>Graduate Trainee/Associate</th>
<th>Case Manager 1</th>
<th>Case Manager 2</th>
<th>Case Manager 3</th>
<th>Team Leader</th>
<th>Team Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>25.4%</td>
<td>75.0%</td>
<td>7.9%</td>
<td>4.1%</td>
<td>2.9%</td>
<td>0.0%</td>
</tr>
<tr>
<td>East</td>
<td>0.0%</td>
<td>41.9%</td>
<td>16.1%</td>
<td>41.9%</td>
<td>4.1%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>37.5%</td>
<td>7.6%</td>
<td>9.9%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Knox</td>
<td>20.3%</td>
<td>25.3%</td>
<td>6.7%</td>
<td>15.8%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>6.7%</td>
<td>20.7%</td>
<td>5.9%</td>
<td>16.6%</td>
<td>14.3%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Northeast</td>
<td>10.8%</td>
<td>94.1%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Northwest</td>
<td>0.0%</td>
<td>1.3%</td>
<td>8.9%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Shelby</td>
<td>12.0%</td>
<td>15.1%</td>
<td>3.7%</td>
<td>6.0%</td>
<td>0.0%</td>
<td>8.2%</td>
</tr>
<tr>
<td>Smokey</td>
<td>35.3%</td>
<td>16.2%</td>
<td>10.0%</td>
<td>10.8%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>South Central</td>
<td>0.0%</td>
<td>9.8%</td>
<td>22.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Southeast</td>
<td>0.0%</td>
<td>14.4%</td>
<td>0.0%</td>
<td>6.6%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Southwest</td>
<td>43.6%</td>
<td>13.4%</td>
<td>6.7%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>0.0%</td>
<td>21.1%</td>
<td>6.5%</td>
<td>7.2%</td>
<td>20.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Statewide</td>
<td>14.7%</td>
<td>14.2%</td>
<td>9.7%</td>
<td>6.5%</td>
<td>4.4%</td>
<td>0.0%</td>
</tr>
</tbody>
</table>


Table 15b: Annualized Turnover by Region for Non-CPS Regional Case Manager Positions, January 2010 through December 2010

<table>
<thead>
<tr>
<th>Region</th>
<th>Graduate Trainee</th>
<th>Case Manager 1</th>
<th>Case Manager 2</th>
<th>Case Manager 3</th>
<th>Team Leader</th>
<th>Team Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>10.2%</td>
<td>75.0%</td>
<td>10.3%</td>
<td>8.8%</td>
<td>12.5%</td>
<td>0.0%</td>
</tr>
<tr>
<td>East</td>
<td>0.0%</td>
<td>27.9%</td>
<td>8.6%</td>
<td>0.0%</td>
<td>4.3%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>37.5%</td>
<td>9.8%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Knox</td>
<td>20.3%</td>
<td>2.6%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>6.7%</td>
<td>7.7%</td>
<td>11.7%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Northeast</td>
<td>10.8%</td>
<td>2.2%</td>
<td>9.2%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Northwest</td>
<td>0.0%</td>
<td>4.1%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Shelby</td>
<td>8.0%</td>
<td>5.7%</td>
<td>7.9%</td>
<td>2.2%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Smokey</td>
<td>35.3%</td>
<td>1.6%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>South Central</td>
<td>0.0%</td>
<td>11.2%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Southeast</td>
<td>0.0%</td>
<td>2.5%</td>
<td>0.0%</td>
<td>5.2%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Southwest</td>
<td>21.8%</td>
<td>2.4%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>0.0%</td>
<td>5.1%</td>
<td>0.0%</td>
<td>15.4%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Statewide</td>
<td>10.1%</td>
<td>6.0%</td>
<td>3.9%</td>
<td>3.2%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
</tbody>
</table>

b. Statewide turnover rates for regional case manager positions

To provide information in fluctuations of turnover rates in regional case manager positions over time, the TAC has been tracking statewide annualized turnover rates over time for case manager positions assigned to the regions (including both the CPS and non-CPS positions reflected in Table 15a).
Figure 42 (60) below shows the statewide annualized turnover rates from July 2009 through December 2010 for case manager 1, case manager 2, case manager 3, team leader, and team coordinator positions assigned to the regions; it also shows annualized turnover rates for the graduate trainee/associate position beginning in April 2010 (the first month for which such rates were calculated for that position).\footnote{For reasons discussed in the November 2010 Monitoring Report, not surprisingly, the highest turnover rates are those associated with the case manager 1 entry level position. If the pre-service training and competency evaluation process is working well, it should help those who are not well-suited to be case managers to recognize that fact. In addition, the turnover rates for the entry level positions (case manager 1 and graduate trainee/graduate associate positions) are subject to the “tyranny of small numbers.” As reflected in the data discussed earlier in this section, most of those hired into these entry level positions are quickly promoted from these positions, so at any given time, there are relatively few case managers in entry level positions.}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure42.png}
\caption{Statewide Turnover for Graduate Trainee/Associate*, Case Manager 1, Case Manager 2, Case Manager 3, Team Leader, Team Coordinator, July 2009 through December 2010}
\end{figure}

\footnotetext[100]{*Turnover data for this position was not available until April 2010.}

\textbf{c. Reasons for Turnover}

The Department’s Turnover Data Report includes information on the reasons for the turnover. The report divides those reasons into a dozen discrete categories, some reflecting voluntary termination by the employee and others reflecting involuntary dismissal by the Department. Figure 43 (61) below collapses some of the categories and presents the breakdown between the broad categories of voluntary termination (resignation, retirement) and involuntary dismissal that accounts for turnover for the period from January 2010 through December 2010.\footnote{A small number of cases are omitted from the figure. They were designated in the report as follows: end of temporary/part-time assignment (1); death (3); and “other” (2).}
As the figure reflects, about 90% of all case manager turnover was a result of either resignation or retirement (although this includes 9% designated as “resignation-no rehire” indicating that there were concerns about the performance at the time the employee resigned). The remaining 10% of case manager turnover resulted from dismissals (3% during the probation period and the remainder subsequently for cause).

![Figure 43: Statewide Reasons For Separating For All Case Manager Positions, January 2010 to December 2010, n=328](image)


**d. BSW Certification Program as Turnover Reduction Strategy**

The Department believes that a key to reducing turnover is to ensure that the applicants for entry level case manager positions understand the nature of the work, have had special social work training and field experience to prepare them for the work, and are committed to serving as DCS case managers. For this reason, the Department’s primary strategy for reducing turnover is increased reliance on graduates of the BSW Certification Program, discussed in Subsection D above, to provide a pipeline of trained and committed entry level applicants who understand the demands of this kind of work.\(^{111}\)

In 2010 and January 2011, 79 stipend students were hired into entry level case manager positions (15 more than had been hired in 2009 and 31 more than had been hired in 2008), and approximately 25% of all entry level case managers hired in 2010 were graduates with BSW degrees from one of the schools in the Training Consortium.\(^{112}\) As discussed in the November 2010 Monitoring Report, the Department’s Office of Human Resource Development has been hoping to increase the percentage of stipend students

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\(^{111}\) The Department is also working aggressively to enroll more employees in graduate level social work or related degree programs. This should translate into employees who are better prepared to assume higher levels of responsibility.

\(^{112}\) According to Edison personnel data, there were a total of 223 entry level case managers and 57 graduate trainees/associates hired in 2010.
hired as part of the entry level case manager workforce in the coming years, with the expectation that these employees will stay longer because they want to work in public child welfare and have had two years of preparation, including relevant field placement experience, before joining the Department.

Given the Department’s significant strategic investment in the BSW Certification Program, the Department may want to make some special effort to conduct exit interviews with those who entered DCS employment as graduates of the BSW certification program to better understand and respond to the factors contributing to turnover among these theoretically better prepared, more committed and more thoroughly screened group of case managers.\textsuperscript{113}

3. Requirements for Case Reassignment (V.L)

The Settlement Agreement establishes requirements related to the process for reassigning cases from one worker to another. (V.L) These requirements include the following:

- no cases are to be uncovered at any time;
- cases of any worker leaving the agency are to be reassigned within one business day of the worker’s departure;
- there is to be a face-to-face meeting between the departing worker and the receiving worker for each case, unless there is a “documented emergency” or the case manager leaves without notice; and
- every effort is to be made to have the departing worker introduce the receiving case manager to the child and family.

a. DCS Case Transfer Process

The Department has promulgated policies and standards in accordance with these provisions of the Settlement Agreement. However, as discussed in previous monitoring reports, the Department has determined, based on its own assessment of its performance in this area, that it has not been meeting these standards for case reassignment.

As noted in the November 2010 Monitoring Report, TNKids did not routinely capture information needed to assess whether the failure to have a face-to-face meeting between the departing worker and receiving worker in a particular case was the result of a "documented emergency" or "leave without notice."

\textsuperscript{113} As discussed in the November 2010 Monitoring Report, the Department has developed and implemented an exit interview process in an effort to gather information on the factors contributing to turnover generally. However, fewer than 50% of those voluntarily terminating employment have been willing to participate in those exit interviews.
Once TFACTS is fully implemented, the Department anticipates being able to run a report that will identify those case managers or teams that are having difficulty meeting these requirements. Using information from follow up with these case managers and teams, the Department intends to identify the obstacles to achieving reassignment within the appropriate time frame and implement strategies to overcome these obstacles.

The Department anticipates that this reporting and follow-up process will be in place by the summer of 2011.

b. Private Provider Case Transfer Process

It is the Department’s expectation that all private providers have policies regarding case reassignment and the Private Provider Manual includes specific language regarding the case reassignment requirements of the Settlement Agreement.

While this specific provision has not been an explicit area of inquiry for PAR reviews, private providers are now required to provide information on their case reassignment process in advance of the site review, so that this information can be utilized during the review.

Reviewers expect to see that each case that they review is being actively and consistently worked and, if a case went “uncovered” because an agency case manager left and the case was not promptly reassigned, the lack of case activity would flag that. Such inactivity would also be reflected in the quality/detail of the monthly summary for the case.

In addition, because each private provider case managed case has a DCS case manager who has full responsibility for ensuring that the case is being actively and appropriately “worked,” the DCS case managers and/or their supervisors would likely bring attention to agencies that were having problems with case reassignment.

4. Requirements for File Maintenance and Documentation (V.N)

The Settlement Agreement requires that all documentation of contacts or developments in a child’s case be added to the file within 30 days and that the case files of class members contain adequate documentation of the services provided, progress, placement changes, and authorizations of approval for placements, treatment, and services. The Department’s policies require that all child case files be kept in an organized manner, and contain all pertinent information required to effectively manage the case.

a. DCS Responsibility for Case File Maintenance and Documentation

The Department anticipates that the implementation of TFACTS will facilitate timely documentation of case activity. Because TFACTS is a web-based system, case managers can more readily access the system to enter case recordings and other documentation.
Alerts and prompts built into the system remind case managers and supervisors of required activities and relevant timelines, encouraging both timely case practice and timely documentation. The integration into TFACTS of so many of the forms and tools that workers use and the ability to scan other documents into TFACTS should make it much easier for a case manager to ensure that documentation is in the file.

Tracking reports of timeliness of documentation of case activity are not presently available from TFACTS.

b. Private Provider Responsibility for Case File Maintenance and Documentation

In addition to the general contract language requiring the private providers to meet the applicable requirements of the Settlement Agreement, the Provider Policy Manual requires private providers to submit monthly summaries of case activity for each child. The Department has clarified expectations for monthly summary content and the summary, together with face-to-face contact data that private providers are required to enter directly into TFACTS, serve as the Department’s measures of adequate case file maintenance and documentation for private providers. Once TFACTS reporting on monthly summaries and face-to-face contact data is available, CPPP will be using that reporting to ensure that providers are entering face-to-face data and submitting monthly summaries. CPPP will also be receiving and reviewing TFACTS reporting of the timeliness of entry of placement information by private providers.

PAR and Licensing Unit reviews also serve as a measure of adequacy of file maintenance and documentation. Case file reviews are at the center of PAR monitoring of a wide range of service planning and delivery contract requirements and other aspects of policy compliance. Rather than create an additional measure of adequacy of file maintenance or documentation, PAR reviewers address any problems with adequacy of file maintenance or documentation by making findings in the particular policy or practice area for which documentation was lacking.
SECTION SIX: PLACEMENT AND SUPERVISION OF CHILDREN

A. Placement Standards and Exceptions

The Settlement Agreement establishes standards governing a set of specific placement situations that includes general limitations, permissible exceptions to those limitations, and, for some situations, a process for review and approval of the placement. In addition, the Settlement Agreement establishes a specific responsibility for the Department’s quality assurance division to provide some level of oversight to ensure that the Placement Exception Review process is operating as intended and that regions and the central office are responding appropriately to placements that are inconsistent with the placement standards.

The Department is in the process of transitioning from a free standing “hard copy” Placement Exception Request (PER), approval and documentation process to a process that is integrated into TFACTS, utilizing the prompts, alerts and approval documentation capacity of the new data system. The Performance and Quality Improvement (PQI) Office is developing a set of quality assurance activities focused on placement exceptions.

The TAC anticipates being able to report in greater detail on the progress in development and implementation of the revised PER and PER review process in its next monitoring report.

1. Placement Limitations and Exceptions to Those Limitations

a. Limits on placement of children out of their home region unless the out-of-region placement is within 75 miles of their home (VI.A.1.a.)

The Settlement Agreement requires that all children be placed within their own region or within a 75-mile radius of the home from which the child entered custody, unless (a) the child’s needs are so exceptional that they cannot be met by a family or facility within the region, (b) the child needs re-placement and the child’s permanency goal is to be returned to his parents who at that time reside out of the region, or (c) the child is to be placed with a relative out of the region.114

As discussed in the November 2010 Monitoring Report and reflected in the updated data in Section One, the Department has generally done a good job of placing children within their home region or within 75 miles of their homes. About 90% of children in placement at any given time are in placements that are within 75 miles of their home.

114 Any out of region placement of a child more than 75 miles from home must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
b. Limits on placement of children in emergency and temporary facilities in excess of 30 days or more than once within a 12-month period (VI.A.1.b)

The Settlement Agreement limits the placement of children in emergency or temporary facilities to one placement within a 12-month period not to exceed 30 days. Two exceptions to this limit are allowed. For children who are either returning from runaway or who require immediate removal from their current placement because they face a direct threat to their safety or pose a threat to the safety of others, an additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of five days. An additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of 15 days for children whose behavior has changed so significantly that placement for the purposes of assessment is critical for the determination of an appropriate placement; in such a case, the Regional Administrator must certify in writing that the assessment is essential for determining an appropriate placement.115

The November 2010 Monitoring Report discussed the dramatic reduction in the use of emergency and temporary placements over the years and the relatively few placements that exceed the limits set forth in the Settlement Agreement. That report also discussed the regional variation in the use of these placements, the tracking, analysis and follow up that the PQI Office has done in this area, and the fact that the weekly Utilization Reviews of congregate care placements include those children in emergency/temporary placements.

Based on the most recent period for which accurate data is available, it appears that the utilization of temporary/emergency placements remains low. According to the “Brian A. Class 12-Month Report of Children in Emergency/Temporary Facilities” for the period from August 1, 2009 through July 31, 2010 (produced by the Division of Reporting and Analysis), there were 195 placements in emergency or temporary facilities during that 12-month period, involving 184 different children. Of the 195 placements, 79% (153) lasted fewer than 30 days,116 21% (41) lasted between 30 and 60 days, and only one placement lasted more than 60 days.117

The Division of Reporting and Analysis produced a report each month showing the number of placements in emergency or temporary facilities over the previous 12-month period. It also produced a monthly report showing the cumulative number of days those placements lasted. Figures 44 (66) and 45 (67) below show the data from these monthly reports for the period from January 2009 through July 2010.

115 Any placement of a child in more than one shelter or emergency or temporary facility within any 12-month period must be reviewed by the Regional Administrator as discussed in Subsection A.2. below.
116 This report slightly overstates cases in excess of the limit because it includes 30 day placements in the category “placements exceeding 30 days”.
117 The one class member for whom placement lasted more than 60 days had pending delinquency charges. The child was assessed and moved to an appropriate placement to meet his treatment needs after 63 days.
Figure 44: Number of Placements in Emergency or Temporary Facilities Occurring During Each Month, January 2009 through July 2010

Source: DCS Reporting and Analysis Division Report “Brian A. Number of Placements in Emergency or Temporary Facilities”, 12 1-Month Periods from January 1, 2009 through December 31, 2009, created January 5, 2010; and 12 1-Month Periods from August 1, 2009 through July 31, 2010, created August 9, 2010.

Figure 45: Number of Placement Days in Emergency or Temporary Facilities Occurring During Each Month, January 2009 through July 2010

Source: DCS Reporting and Analysis Division Report “Brian A. Number of Placements in Emergency or Temporary Facilities”, 12 1-Month Periods from January 1, 2009 through December 31, 2009, created January 5, 2010; and 12 1-Month Periods from August 1, 2009 through July 31, 2010, created August 9, 2010.

This figure presents the sum of the number of days of each placement in an emergency or temporary placement during the month.

c. Limits on sibling separation (VI.C.6)

The Settlement Agreement generally requires that siblings who enter placement at or near the same time be placed together. The Settlement Agreement allows siblings to be separated: (1) if placing the siblings together would be harmful to one or more of the siblings; (2) if one of the siblings has such exceptional needs that those needs can only be met in a specialized program or facility; or (3) if the size of the sibling group makes such placement impractical notwithstanding diligent efforts to place the group together.118

118 The Settlement Agreement requires that these efforts “be documented and maintained in the case file.” Any separation of siblings who enter placement at or near the same time must be reviewed by the Regional Administrator as discussed in Subsection A.2. below
As discussed in the November 2010 Monitoring Report, keeping siblings together has been a relative strength of DCS practice. As reported in Section One, 84% of Brian A. sibling groups entering custody during the period July 1, 2009 through June 30, 2010 were initially placed together, and at any given time approximately 84% of siblings are placed together.

The aggregate report does not presently distinguish between separations that fall within one of the permissible exceptions and those that constitute Brian A. violations.

TAC monitoring staff are in the process of conducting a targeted review of separated siblings that is designed to identify reasons for separation and placement exception documentation. The results of that review will be included in the next monitoring report.

d. Resource home capacity limits (VI.A.1.d)

The Settlement Agreement limits the placement of a child in a resource home if that placement will result in: (1) more than three foster children in that resource home; (2) more than a total of six children, including the resource family’s natural and/or adopted children in that resource home; or (3) more than three children under the age of three residing in that resource home. The Settlement Agreement permits an exception if either (a) such placement is in the best interest of all the foster children in the home, or (b) the child is part of a sibling group and there are no other children in the home.119

As discussed in the November 2010 Monitoring Report, both data generated by the Department and targeted reviews conducted by TAC monitoring staff have found that a significant percentage of placements of children in resource homes with more than three children in them are not consistent with the capacity limitations established by the Settlement Agreement.

The Department has been working with the regional leadership to clarify expectations related to the review and approval of placements in excess of the general resource capacity limits, permissible exceptions and non-compliant exceptions.

The TAC anticipates reporting further on the results of this work in its next monitoring report.120

e. Limits on placement of children under age 6 in group care (VI.A.1.e)

The Settlement Agreement prohibits the placement of any child under six years of age in a placement other than a resource home unless the child has exceptional needs which

119 Any placement resulting in more than three foster children, more than six total children, or more than three children under the age of three must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
120 The Department expects that TFACTS will have a better capacity for aggregate data reporting on resource homes that exceed general capacity limits. Once that reporting is available, TAC monitoring staff will conduct an appropriate targeted review to determine the extent to which “over capacity” resource homes fall within a permissible exception to the general capacity limits.
cannot be met in a resource home, but can be met by the congregate care facility in which the child is placed.\textsuperscript{121}

As discussed in the November 2010 Monitoring Report, TAC reviews have consistently found that placements of children under age 6 in a congregate care setting are both rare and made in accordance with the provisions of the Settlement Agreement. The Department’s Utilization Review Process effectively monitors such placements.

TAC monitoring staff periodically review monthly point-in-time placement reports as of the last day of each month to confirm that Department practice remains consistent with the Settlement Agreement. The most recent review covered the period from January 2010 through August 2010 and found no instance of a child under the age of six placed in congregate care settings.\textsuperscript{122}

\textbf{f. Limits on placements of children in group care with excess of eight beds (VIA.1.f)}

The Settlement Agreement prohibits placement of children in a residential treatment center or any other group care setting with a capacity in excess of eight children unless (a) the child’s needs can be met in that specific facility and (b) that facility is the least restrictive placement that could meet the child’s needs.\textsuperscript{123}

As discussed in the November 2010 Monitoring Report, the congregate care placements with capacities greater than eight reflected in the quarterly point-in-time reports for the period from September 2008 through December 2009 ranged between 250 and 300 class members. As of February 10, 2011, there were 409 class members placed in such congregate care facilities.\textsuperscript{124} The TAC will be working with the Department to better understand the apparent increase in these congregate care placements.

As discussed in the November 2010 Monitoring Report, while congregate care placements are appropriate for some children at some point in their placement, the Department is committed to serving children in family placements whenever possible and

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{121} Any placement of a child under six years of age in a congregate care facility must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
\item \textsuperscript{122} Some children under the age of six are “placed” in medical centers. For example, if an infant born to a drug addicted mother comes into care at the time of the birth and remains in the hospital for necessary medical care associated with the birth that child would appear as “placed” in the medical center caring for him. These are not regarded as “congregate care placements”.
\item \textsuperscript{123} Any placement of a child in a residential treatment center or other group care setting with a capacity in excess of eight children must be reviewed by the Regional Administrator as discussed in Subsection A.2 below. It is not clear whether the Settlement Agreement contemplates that an exception request would have to be filed for a child in a resource home who required short-term hospitalization for an appendectomy or a short-term psychiatric hospitalization to stabilize the child in crisis and return her to the resource home.
\item \textsuperscript{124} This is the number of children placed in a facility deemed by Child Placement and Private Providers (CPPP) and the Licensing Division to have a capacity greater than eight. For purposes of this reporting, the TAC adds the capacities of cottages located on the same campus and includes those placements in this count when the sum capacity is over eight. The report that the TAC used to identify the 409 children in congregate care settings greater than eight does not include children placed in out-of-state institutions that are not operated by contracted providers. As of February 10, 2011 there was one child placed in a congregate care facility in Ohio.
\end{itemize}
\end{footnotesize}
moving children from congregate care to family settings as soon as a child can safely and appropriately be moved. The Central Office has set up a process for conducting Utilization Reviews (UR) to ensure that children are placed appropriately, in the least-restrictive setting to meet their needs, and that they are receiving the services they need and are benefiting from those services. As of December 2010 the Utilization Review Team included the Medical Director and either the Commissioner or the Deputy Commissioner, in addition to other Central Office staff; and the Team reviewed children served in Level IV congregate care settings (focusing on children in those settings for over 90 days)\(^\text{125}\) and children served in Level III congregate care settings for over 120 days.\(^\text{126}\)

**g. Prohibition against placement of children in jail, correction facility, or detention center (VI.A.1.g)**

The Settlement Agreement prohibits the placement of a Brian A. class member, by DCS or with knowledge of DCS, in a jail, correctional, or detention facility unless the child is charged with a delinquent act or is otherwise placed in such a facility by court order. The Settlement Agreement also requires that DCS notify law enforcement and judicial officials across Tennessee of this policy and work to ensure that DCS is immediately notified of any child in its legal custody who has been placed in a jail, correctional or detention facility.

As discussed in the November 2010 Monitoring Report, based on a combination of aggregate reporting, weekly monitoring of children in detention by CPPP, the bi-weekly UR process (which includes specific focus on any Brian A. class member in detention), and targeted reviews and spot checks conducted by TAC monitoring staff, Department practice is consistent with this provision of the Settlement Agreement.

**h. Prohibition of placing child assessed at high risk for perpetrating violence or sexual assault with foster children not so determined (VI.A.1.h)**

The Settlement Agreement requires that DCS “not place any child determined by a DCS assessment to be at high risk for perpetrating violence or sexual assault in any foster care placement with foster children not so determined.”

As discussed in detail in the November 2010 Monitoring Report, the Department relies on the Child and Adolescent Needs and Strengths (CANS) assessment to identify children who might be at “high risk” for perpetrating violence or sexual assault and has developed and implemented a process referred to as the “CANS High Risk Review” in an effort to ensure that aggressive children are not comingled with non-aggressive children.

\(^{125}\)A process is now in place that the regional psychologists review the cases of children designated for Level IV placements, before the placement is made and at intervals throughout the placement.

\(^{126}\)Central Office is re-designing the UR process, including making some changes in the composition of the Utilization Review Team...
The Department has developed a two-fold approach to ensuring that placements of “high risk” children are consistent with this provision of the Settlement Agreement. First, the Department has placed an emphasis on the front-end responsibilities of the Child and Family Team as a whole and of specific team members in particular to use the CANS to ensure that aggressive children are not commingled with non-aggressive children; and second, the Department has initiated a “High Risk Review process” that identifies and requires the regions to review and respond to potentially problematic placements.

The Department is still working with the regions to fully implement this two-fold approach and the TAC anticipates reporting further on this work in the next monitoring report.

i. Children For Whom Permanency Goal is Adoption (VI.A.1.i)

The Settlement Agreement provides that children for whom the permanency goal is adoption should, whenever possible, be placed with a family in which adoption is a possibility. As discussed in previous monitoring reports, the Department has implemented “dual licensing” so that all resource parents are potential adoptive parents from the standpoint of training and approval requirements. The fact that the vast majority of adoptions are by families who had already been fostering the child they adopted reflects that Departmental practice is generally consistent with this admonition.

j. Requirement that Placement Contracts Be With Licensed Providers (VI.A.1.j)

The Settlement Agreement requires that DCS only contract for placements or services with licensed contractors or subcontractors. This provision is included in DCS policy and contract provisions. As discussed in Section Twelve of this report, DCS oversight mechanisms are in place to ensure that private provider contractors and subcontractors meet licensing requirements.

2. Requirement for Regional Administrator Review (VI.A.2)

The Settlement Agreement provides that for those placement standards that include a requirement for Regional Administrator Review (VI.A.1.a-f), if the Regional Administrator permits the placement, the Regional Administrator must either:

- indicate that the placement meets one of the permissible exceptions under the standards and, if so, ensure that the facts supporting that exception are documented in the case file; or

- indicate that the placement does not meet one of the permissible exceptions, document the reasons that the placement was nevertheless approved, and indicate any further action to be taken with respect to that placement.
The Department intends to incorporate the Regional Administrator Review process into TFACTS so that when TFACTS is fully implemented the required documentation of the review and the relevant findings will be captured in TFACTS. In the interim, the RA review will be documented on a hard copy form and those forms maintained in the region.

3. Requirement of Quality Assurance Review of Non-Compliant Placements (VI.A.3)

The Settlement Agreement provides that the quality assurance division, using aggregate data and case reviews, is responsible for tracking, reporting, and ensuring that appropriate action is taken with respect to placements that do not comply with the placement standards in Section VI.A.1.

The PQI Office is in the process of reviewing, refining and augmenting the variety of quality assurance activities that it already performs with respect to ensuring compliance with placement standards. The PQI Office is also developing an approach to reviewing the regional “Placement Exception Request” process to ensure that the regional administrators are conducting and documenting the required reviews.

B. Assessment Process to Support Case Planning/Service Provision

The Settlement Agreement requires that all children receive an assessment, including a medical evaluation and, if indicated, a psychological evaluation, using a standardized assessment protocol. The assessment may take place prior to custody, but no later than 30 days after the child comes into custody. As soon as the assessment is completed, the child’s placement is to be reevaluated to ensure that it meets the child’s needs.

As has been discussed in previous monitoring reports, the Department has developed and is implementing a functional assessment process to support planning, service provision and placement decisions. The process draws upon a variety of assessment tools and activities including: Structured Decision Making (SDM); Child and Adolescent Needs and Strengths (CANS); Early Periodic Screening, Diagnosis, and Treatment (EPSD&T; and the Ansell-Casey Life Skills Assessment (ACLSA).

Each of these assessment tools is intended to support the development and updating of a written Family Functional Assessment (FFA), described by the Department as “an inclusive, living document that captures the results of all other assessment tools and provides historical information from the family, child, and other team members. The

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127 The Department has also developed and implemented a non-custodial CANS related assessment tool, the Family Advocacy and Support Tool (FAST), to help assess family strengths and needs for purposes of providing non-custodial services.
FFA continually evaluates a child and family’s strengths and needs as well as offering an explanation as to why those strengths and needs exist."

Consistent with the Settlement Agreement, the Department’s placement process and placement policies contemplate that placement decisions, both initial placements and any change in placement, will be driven by the assessment. As discussed in Subsection H below and in Section Seven of this report, the Child and Family Team (CFT) has the ultimate responsibility for integrating assessment information into the case planning and decision-making process. The initial placement is intended to be made at the direction of the Child and Family Team based on the assessment made by the team, drawing from information generated by the range of assessment activities and from strengths and needs identified by the team in its planning and placement decision-making process.

When an emergency placement is made in advance of a Child and Family Team Meeting (CFTM), the CFT is to examine the appropriateness of that placement based on assessment information available at its initial meeting. The functional assessment is intended to be an ongoing process and the team is responsible for tracking progress, adjusting the plan and revisiting the placement decision if further assessment information suggests that the placement is not meeting the child’s needs.

The Department presently uses the Quality Service Review (QSR) as the primary measure of the Department’s progress in implementing the functional assessment.

Figure 46 (75) presents the regional QSR scores for Ongoing Functional Assessment for those regions for which the 2010-2011 Annual QSR has been completed and comparing those scores with the 2009-2010 regional QSR scores.129

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129 The functional assessment draws from “formal assessments” such as psychological and medical evaluations, and from formal assessment tools such as the forms filled out as part of the CANS and SDM processes. The functional assessment also draws heavily from the insights and perspectives of the team members, including family, based on the team members own observations, interactions and experiences with the child and family.
As discussed in the December 2008 Monitoring Report, the Department, as part of the CFSR process, conducted a self-evaluation of its assessment process, including the use of assessment information in case planning and placement decision making.\textsuperscript{130} The Department expressed confidence that it had made significant progress toward the formation of a streamlined assessment process that, when fully realized, will produce comprehensive plans for children and families that address underlying needs identified during the assessment. However, the Department acknowledged that it continues to struggle to make comprehensive and appropriate assessments of children, families, and resource families.

The Department views timely completion and utilization of the CANS as the key strategy for improving the assessment process. As the data discussed in the November 2010 Monitoring Report reflected, timely completion of the CANS, both initially and at required intervals, remained a challenge.

The CANS has been integrated into TFACTS and the Department hopes that this integration will facilitate the timely completion of the CANS. TFACTS reporting on the timeliness of the CANS is not yet available. Once that data is available, TAC monitoring staff will update the figures presented in the November 2010 Monitoring Report.

There has been an effort to structurally link the CANS to the Family Functional Assessment Template, and the Permanency Plan has been restructured to parallel the FFA template. The assessment tools are now completed in TFACTS and strengths and needs identified by those assessments should automatically appear in prompts in the Family Functional Assessment and Permanency Planning templates (which are also filled out in

\textsuperscript{130} Id. at pages 134-138.
TFACTS) to help ensure that this assessment information is incorporated into the FFA and addressed in the Permanency Plan.

This integration and linking of assessment tools and planning documents into TFACTS is a significant improvement that, once fully implemented, should better guide case managers and certainly make completing the various tools and templates a more efficient and user-friendly process. However, as discussed in the November 2010 Monitoring Report, the Department recognizes that the primary challenge is to develop the assessment skills of the case managers and case manager supervisors.

Improvement of assessment skills is one of the core commitments that the Department has made in its Program Improvement Plan (PIP). The Department expects to address this challenge through improved training and increased coaching and mentoring focused on assessment as part of its broader focus on the core practice elements of the Child and Family Team process.

C. Ensuring Access to Reasonable and Appropriate Education

The Settlement Agreement (VI.C) requires the Department to ensure that children in foster care receive timely access to reasonable and appropriate education (including special education) and are placed in community schools whenever possible. The Department is required to assign full-time educational specialists in each region and 12 regional lawyers with special expertise in educational issues, responsible for ensuring that individual children in DCS custody receive timely access to appropriate educational placements and services.

1. Hiring of Educational Specialists and Educational Attorneys

The Department presently has 15 Education Specialist positions (all of which are presently filled) with every region having at least one specialist and two regions, Shelby and Mid-Cumberland, having two specialists each.131 As discussed in greater detail in the November 2010 Monitoring Report, case managers and school staff have found educational specialists to be valuable resources for ensuring that children’s educational issues and needs are addressed.

Of the 75 DCS attorney positions, twelve attorneys are designated as the “education attorneys” and are expected to have special expertise and training related to education issues. Those attorneys presently handle regular caseloads and devote the bulk of their time to general staff attorney duties; however, they remain available as a resource and support to the educational specialists, should the education specialist determine that attorney advocacy is needed.

131 There are also three Education Consultants who function much like team coordinators, serving as advisors to the education specialists and working with the Department of Education, the Department’s own school system and the in-house schools operated by private providers.
2. **Indicators of Timely and Appropriate Education Services**

As discussed in the November 2010 Monitoring Report, both QSR results and previous case file reviews suggest that a large majority of the children in foster care are receiving appropriate educational services: the vast majority of school-age children are attending public schools and the Department appears to be acting responsibly to ensure that special education needs are being addressed.

Nevertheless, there is some concern that the Department may not be meeting the educational needs of older children as well as they should. As discussed in the November 2010 Monitoring Report, a targeted case file review of 16 and 17 year-olds, which focused on case planning and service delivery for older youth in care, identified concerns with the adequacy of educational services in 46% (41) of the cases. The TAC anticipates conducting a similar review in the summer of 2011.

TAC monitoring staff will also be conducting their annual review of the case files of every school age child whose cases scored “unacceptable” for the Learning and Development indicator in the annual QSR to determine the extent to which failure to provide education services contributed to the case being scored unacceptable.  

D. **Requirements Related to the Administration of Psychotropic Medications**

1. **Prohibition against use of psychotropic medication as discipline.**

Department policy, consistent with the Settlement Agreement (VI.D), prohibits the use of psychotropic medication as a method of discipline or control of a child. Policies and procedures related to the administration of psychotropic medications are well designed to ensure compliance with this prohibition.

2. **Requirement of Informed Consent**

The Settlement Agreement requires informed consent for the administration of psychotropic medications. When possible, parental consent is to be obtained; if a parent is unavailable to provide consent, the regional health unit nurse is to review and consent to any medically necessary psychotropic medication, and ensure appropriate documentation of that consent regarding psychotropic medications.

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132 While an acceptable score on the QSR for Learning and Development indicates that a child is receiving appropriate education services, an unacceptable score does not necessarily mean that the child is not receiving appropriate education services. Attendance in an appropriate school program is just one factor that reviewers consider. The indicator is broader than just educational services and the focus of scoring is the extent to which the child is achieving developmental and educational milestones consistent with the child’s age and ability.
The Department’s informed consent policies (applicable to children in DCS custody irrespective of their placement) are well-designed to meet this requirement. The Department is implementing a case file review process focused on ensuring compliance with these policies.

3. Medical Director Oversight

The Settlement Agreement requires that the Medical Director oversee and ensure compliance with the Department’s policies related to the administration of psychotropic medications.

The November 2010 Monitoring Report described in detail the variety of actions that the Medical Director has taken to ensure compliance with the medication policies, including:

- development and delivery of training relevant to psychotropic medication, informed consent, and behavior management to DCS and private provider staff and resource parents;
- development and distribution of clear and detailed medication guidelines for those who prescribe psychotropic medications for children in state custody;
- development and implementation of additional “site visit” protocols to be used by those conducting announced and unannounced licensing and program accountability reviews;
- creation of an automated system for tracking, reporting, and analyzing use of medications; and
- implementation of a review process to ensure that policies and procedures are being complied with and that problematic practices and incidents of non-compliance are identified and addressed appropriately.

The Medical Director has recently conducted a targeted review of younger children who have been prescribed psychotropic medication to examine the informed consent process, including the quality of information on which the consent decision was made. The Medical Director intends to conduct similar reviews of children in other age groups in the coming months. The TAC anticipates reporting on the results of these reviews in the next monitoring report.

E. Requirements Related to Use of Restraint and Seclusion

The Settlement Agreement (VI.E) requires that an appropriately qualified Medical Director be responsible for revising, updating, and monitoring the implementation of policies and procedures surrounding all forms and uses of physical restraint and
isolation/seclusion of class members, and that the Medical Director be authorized to impose corrective actions.

All uses of restraint in any placement, and all uses of seclusion in group, residential, or institutional placements, are to be reported to and reviewed by the Quality Assurance Division and made available to the Licensing Unit and the Medical Director for appropriate action.

The present policies and procedures related to restraint and seclusion are the result of an extensive review and revision process conducted under the auspices of the Department’s Medical Director. Physical restraint and seclusion are only permitted in congregate care settings and are subject to clear limitations and mandatory reporting requirements. The Department has clearly communicated these policies both within the Department and to private providers.

As discussed in the November 2010 Monitoring Report, an “Incident Report” (IR) must be filed and entered into the automated IR system for any incident involving the use of restraint and/or seclusion. The Well-Being Unit psychologists (who are supervised by the Medical Director) are responsible for the initial review and investigation of incidents involving the use of restraints and/or seclusion that meet a defined severity level.

The PQI Office (the Department’s quality assurance division) also reviews these IR reports and tracks and analyzes aggregate data related to IRs in an effort to identify concerns related to particular providers or facilities. In addition, Program Accountability Review (PAR) site visit protocols include inquiries into the use of restraint and seclusion (focused on compliance with both the substantive limits and the reporting requirements).133

The Department has also begun incorporating restraint and seclusion data into the Provider Scorecard process (discussed in Section Twelve). The Department developed a measure for comparing restraint and seclusion rates and piloted that measure with eight private providers serving primarily Level III children. Providers with higher rates have taken actions to examine their use of restraint and seclusion. The PQI Office has made these private providers aware of consultants with expertise in reducing the use of physical restraint and isolation/seclusion, and a number of providers have taken advantage of available technical assistance.

The Department’s recently formed Data Trending and Analysis Team (DTAT) has chosen to focus on restraint and seclusion as its first project for deeper review.

133 It is unclear precisely what is intended by the language in the Settlement Agreement that the Medical Director “be authorized to impose corrective actions.” As a technical matter, the Medical Director does not have the authority on her own to impose a corrective action plan on a facility. However, as a practical matter, the Medical Director, through the various oversight committees and processes that she participates in, is able to ensure that a corrective action plan is imposed and corrective action taken if she feels that it is necessary to address improper use of restraint or seclusion. The Medical Director is responsible for approving corrective actions for any PAR findings related to restraint or seclusion.
F. Independent Living Services for Older Youth

The general provisions of the Brian A. Settlement Agreement related to assessment, case planning and service provision (primarily those in sections VI.D,E, VII, and VIII.C) apply with equal force to older youth. In addition, the Settlement Agreement includes a variety of provisions (and policies generated pursuant to those provisions) which require a higher level of active participation in and responsibility for planning and decision making based on age (e.g., required presence of older children at Child and Family Team Meetings and increased rights and responsibilities of older children to make health care decisions).

The Settlement Agreement also includes a provision specific to older youth, requiring that DCS “shall have a full range of independent living services and shall provide sufficient resources to provide independent living services to all children in the plaintiff class who qualify for them.” (VI.F)

In order to ensure that assessment, case planning and service provision for older youth address their “independent living needs”—the services and supports necessary to allow older foster youth to successfully transition to adulthood—DCS has adopted a number of policies specific to older youth. Policy 16.51 describes the “InTERdependent Living Plan” (ILP) as a “section of the Permanency Plan for all youth in state custody age fourteen (14) and older” and places the responsibility on the case manager “to develop this plan along with the Permanency Plan.” The policy further specifies that:

“specific emphasis must be paid to the youth or young adult’s input and preferences in its development. The integration of goals that project the youth or young adult’s increasing ability to manage all aspects of their own lives self-sufficiently, with all available options for the establishment of legal, physical and relational permanency and support, is essential.”

The November 2010 Monitoring Report included a lengthy discussion of the Department’s efforts to improve case assessment and planning for older youth and ensure that older youth received the independent living services they were entitled to. That report included discussion of the findings and recommendations of the Department’s 2007 Needs Assessment focused on the needs of older youth in care, the strategic plan developed by the Department in response to that Needs Assessment, and the findings of a targeted case file review conducted by the TAC which, while finding examples of high quality case practice, identified significant work to be done to align actual practice with that envisioned by DCS policy.

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134 The Department renamed what had formerly been referred to as Independent Living, because the term “inTERdependent living” was considered more consistent with the Department’s vision for older youth transitioning to adulthood. The “TER” is an acronym for Teaming to Engage Resources.
The Department has been working to address deficiencies in case planning and service provision identified by the targeted case file review. The TAC anticipates conducting a follow-up targeted review in the summer of 2011 to determine to what extent the practice in this area has improved.

G. Maintaining a Central Office Child Placement and Private Provider Division

The Settlement Agreement (VI.G) requires DCS to maintain a child placement and private provider division within its Central Office. This division is to provide consultation and technical assistance to regional staff on placement issues so that regional placement support units are able to carefully and appropriately match the child’s individual needs to a placement facility or resource family. The Department is also required to maintain regional placement units with sufficient staff, automated information and tracking capabilities, and other resources to ensure that all children requiring placement are placed promptly, appropriately, and in accordance with their needs.

As discussed in the November 2010 Monitoring Report, the Child Placement and Private Providers unit (CPPP) is the Central Office resource management unit and there are regional placement specialists in each of the regions. Under the present placement process, each region has a single placement unit with designated placement specialists for each county or group of rural counties. These specialists are expected to be knowledgeable of the DCS and private provider placements and available to share this information with the Child and Family Team in order to help the team find the best placement match for the child. The Central Office unit, CPPP, provides support and technical assistance to the regional placement specialists and assists a region when the region is having a difficult time finding an appropriate placement for a child or when the region is experiencing problems with a particular private provider.

In order to ensure that the right mix of services and placements are available in the region to meet the needs of the children and families in that region, placement specialists are expected to keep track of resources not only so that the best matches can be made from the available placements, but also so that resource needs and resource gaps can be identified and filled. The regions are expected to develop local resources to meet the needs of local children and families.

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135 The Department now includes a measure related to Independent Living services in the Provider Scorecard (discussed in Section 12).
136 There are eight positions in the CPPP unit.
137 As of February 28, 2011, there were a total of 74 regional placement specialist positions distributed among the 12 regions, including 65 regional placement specialists (62 of which were filled, three were vacant) and nine regional placement specialist supervisors (eight were filled, one was vacant).
138 The four Central Office CPPP Placement Coordinators provide technical assistance and support to regional Placement Services Divisions (PSD) and all agencies within the provider network of out-of-home residential care and treatment. CPPP Placement Coordinators are assigned to particular regions and to particular individual providers.
The TFACTS “resource link”, once fully functional, will provide the automated information and tracking capabilities contemplated by the Settlement Agreement.

H. Case Manager Contacts with Children

1. Required Case Manager Visits for Children in DCS Resource Homes

For a child in a DCS resource home, the Settlement Agreement requires the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child’s needs are being met and service goals are being implemented. The Settlement Agreement also requires that the case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement). During every required visit the case manager is required to spend some private time speaking with each child (with the exception of infants).

2. Required Case Manager Visits for Children in Private Provider Resource Homes or Facilities

For a child in a private provider resource home or facility, the Settlement Agreement requires both the private provider case manager assigned to the case and the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child’s needs are being met and service goals are being implemented.

The Settlement Agreement also requires that:

- the private provider case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement); and

- the DCS case manager visit the child at least once a month.

During every required visit the case manager (DCS or private provider) is required to spend some private time speaking with each child (with the exception of infants).

In addition, the Settlement Agreement requires that the private provider case manager and the DCS case manager in these cases meet face-to-face with each other at least once
every three months in order to have substantial discussions with each other, the resource
parents, or other caretaker, and the child (if age appropriate.)

3. Percentage of Children Receiving Two or More Face-to-Face Contacts

The figures below provide an update through May of 2010 of the face-to-face contact
data presented in the November 2010 Monitoring Report (the last date for which the
relevant statewide TNKids data was available). Aggregate reporting from TFACTS
related to face-to-face contacts is not yet available.

Figure 47 (79) below reflects the percentage of children in the plaintiff class reported to
be receiving two or more face-to-face contacts each month from any case manager for the

Figure 48 (80) below shows the percentage of children in DCS placements receiving two
or more contacts by a DCS case manager for the 13-month period from May 2009
through May 2010.

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139 The Child and Family Team Meeting would ordinarily provide the opportunity for those face-to-face
discussions.
In October 2009, the Department started producing aggregate reporting on the performance of private provider case managers visiting children in private provider placements. Figure 49 below shows the percentage of children in private provider homes receiving two or more contacts by a private provider case manager for the 13-month period from May 2009 through May 2010.  

The aggregate data with additional filtering identifies a number of agencies with poor performance in meeting the face-to-face requirement for children placed in the provider’s care. Based on follow-up, the Department believes this to be mostly a documentation and reporting problem, and not a reflection of private provider performance. The Department has taken corrective actions with individual providers to ensure that face-to-face contacts are entered. Once TFACTS reporting on private provider face-to-face contacts is available, the Department would expect the aggregate report results to reflect improved documentation.

As a part of private provider monitoring, the CPPP Division tracks private provider performance and reports its findings to various Placement and Well-Being staff persons, and to the Commissioner and Assistant Commissioner. In addition, face-to-face contact performance is included in the Provider Scorecard.
One of the limits of the aggregate reports discussed above is that they do not provide information on the extent to which some individual children may be going for months without any face-to-face visits. Even if every month 99% of the children were receiving at least one face-to-face visit according to the monthly reports, if it is the same children making up that 1% each month who are going without a visit, the aggregate reporting would be masking a significant problem. For this reason, TAC monitoring staff have used aggregate reports to identify children who had gone for more than a month without a face-to-face contact with the child’s case manager and conducted a targeted review of those cases. (See Appendix O of the November 2010 Monitoring Report). TAC monitoring staff will resume these “zero contact” reviews once aggregate reporting is available from TFACTS.

4. Percentages of Children Receiving at Least One Monthly Face-to-Face Visit at the Child’s Placement

The DCS and Private Provider Aggregate Report also captures data on the location of the child when a face-to-face contact by any case manager (DCS or private provider) occurred, providing data that addresses the requirement that children have a monthly face-to-face visit in the child’s placement. As reflected in Figure 50 (81) below, from May 2009 through May 2010, the percentage of case managers reported to be meeting the requirement of monthly face-to-face contacts in the child’s placement has remained relatively stable at around 80%.  

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141 Figure 50 omits a data point for June 2009 because of errors in the way the report was generated that month. The Department is aware of how the errors occurred and was willing to produce a corrected report for the month with erroneous data. The TAC determined that it was unnecessary because they have addressed the error and producing the report would take away scarce time and resources from current priorities such as implementation of TFACTS. The TAC has not validated the way in which the numbers were pulled from TNKids or the accuracy of the information in TNKids designating the location of the face-to-face contact.
5. **Percentage of Children Receiving Six Face-to-Face Contacts During the First Two Months in DCS Custody**

The data necessary for updated reporting on this requirement is not yet available from TFACTS and there is no additional data from TNKids, beyond what was presented in the November 2010 Monitoring Report. The TAC anticipates being able to report on this requirement in the next monitoring report.

6. **Other Requirements**

The Department is presently not able to provide aggregate reports related to the Settlement Agreement requirement that the case manager spend private time with the child during each required face-to-face contact.

The Department is also not presently able to provide aggregate reports related to the Settlement Agreement requirement that there be joint DCS/private provider case manager face-to-face contact once every three months in private agency managed cases.

7. **TFACTS Reporting Capacity Related to Face-to-Face Contacts**

The Department is expecting to continue aggregate reporting from TFACTS with respect to the following face-to-face visit requirements which were the subject of TNKids reporting:

- number of face-to-face contacts with the DCS case manager (zero, one, two, and three or more) each month for children in both DCS and private provider placements;
- number of face-to-face contacts with the private provider case manager (zero, one, two, and three or more) each month for children in private provider placements;

- total number of face-to-face contacts with both DCS and private provider case managers each month for children in both DCS and private provider placements; and

- for each group listed above, the number of face-to-face contacts occurring in the child’s placement each month.

It is not yet clear whether TFACTS will have an expanded reporting capacity beyond what was available in TNKids.
SECTION SEVEN: PLANNING FOR CHILDREN

A. General Requirement Related to Policies and Practices Related to Case Planning

The Settlement Agreement requires that DCS maintain and update policies and procedures that establish a best practices planning process, as set forth in the Principles of this agreement, for all foster children in DCS custody.

The Department’s practice standards, policies, and procedures articulate a planning process that is in accordance with this requirement. At the core of the planning process is the Child and Family Team (CFT) and the Child and Family Team Meeting (CFTM).

B. Required Participants in Child and Family Team Meetings

The Settlement Agreement requires that any child 12 years old or older participate in the meeting, unless extraordinary circumstances exist, and are documented in the case record, as to why the child’s participation would be contrary to his or her best interests.

The Settlement further specifies that the following persons be Child and Family Team members as appropriate:
(1) private provider agency worker;
(2) guardian ad litem (GAL);
(3) court appointed special advocate (CASA);
(4) resource parents; and
(5) the child’s parents or other relatives or fictive kin.

In addition, the Settlement Agreement requires that a trained, full-time or back-up facilitator participate in every Initial CFTM and Placement Stability CFTM.

DCS is also required to provide reasonable advance notice of CFTMs to the GAL and CASA worker.

As discussed in the November 2010 Monitoring Report, both the Quality Service Review (QSR) results and the CFTM data reports reflect that the Department has not been routinely forming fully functional Child and Family Teams and actively involving team members at Child and Family Team Meetings.

Over the past year, the Department leadership has placed special emphasis on improving both presence and effective participation in CFTMs of children (when age appropriate), parents (particularly fathers), relatives (both maternal and paternal) and other informal
supports, and resource parents.\textsuperscript{142} The Department expects the impact of this effort to be reflected in this year’s QSR results and in CFTM reports.

Reliable CFTM reporting data is not yet available from TFACTS and the annual QSR is still in progress with many region’s cases yet to be reviewed. The following subsections provide CFTM data from TNKids for the most recent 12-month period for which CFTM data is available; and QSR data for those regions for which the 2010-2011 annual QSR has been completed.\textsuperscript{143}

\textbf{1. Children}

Figure 51 (83) below reflects the frequency with which older youth attended the Child and Family Team Meetings convened in their cases.

![Figure 51: Statewide Attendance at CFTMs by Youth (12 and Older)](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

\textsuperscript{142} The Department has recognized that for progress to be made in this area, not only must the Department do a better job of identifying and engaging family members and fictive kin, but team leaders and case managers must pay considerably more attention to preparing family members in advance of the Initial Child and Family Team Meetings, helping family members identify and invite members of their informal support network to the meetings, and scheduling meetings at times and places (and providing such supports as transportation and child care) to make it possible for family members and others to attend meetings.

\textsuperscript{143} At the time of this report, seven regions have completed the 2010-2011 annual QSR: Davidson, East, Knox, Northwest, Southwest, Smoky Mountain, and South Central. The data for five of the regions, Davidson, East, Knox, Northwest and Southwest, is final. The data for the Smoky Mountain and South Central regions is preliminary.
2. Parents

Figures 52 (84), 53 (85), and 54 (86) below reflect the Department’s quarterly performance with respect to parental attendance at Child and Family Team Meetings.

**Figure 52: Statewide Attendance at CFTMs by Mothers**

![Graph showing statewide attendance at CFTMs by mothers](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

**Figure 53: Statewide Attendance at CFTMs by Fathers**

![Graph showing statewide attendance at CFTMs by fathers](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.
3. Resource Parents

Figure 55 (88) below reflects the Department’s quarterly performance with respect to the attendance of resource parents at Child and Family Team Meetings.
4. Formal and Informal Support Persons

Figures 56 (89), 57 (90), and 58 (91) below reflect the Department’s quarterly performance with respect to the attendance of informal and formal support persons at Child and Family Team Meetings.

**Figure 56: Statewide Attendance at CFTMs by Other Family Members**

![Graph showing statewide attendance at CFTMs by other family members.]

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

**Figure 57: Statewide Attendance at CFTMs by Family Friends**

![Graph showing statewide attendance at CFTMs by family friends.]

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.
Figure 58: Statewide Attendance at CFTMs by Other Agency Partners

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

5. Full-time or Back-Up Facilitators

The Department has a core of 70 full-time facilitators and 242 employees who are identified as back-up or part-time facilitators (including those at Youth Development Centers). Of the total pool of facilitators, 236 have been certified. Of the 236 certified facilitators, 129 have been designated by the Department as having sufficiently exceeded the expectations in all 10 skill assessment areas to qualify as coaches and mentors to their peers.

Figure 59 (92) below reflects the frequency with which children had CFTMs conducted by trained, skilled facilitators. Facilitators are not required at Initial Permanency Planning and Discharge Planning meetings.

144 The skill areas are as follows: demonstrates preparation for meeting with the child and family; uses interpersonal helping skills to effectively engage the child and family; establishes a professional helping relationship by demonstrating empathy, genuineness, respect and cultural sensitivity; uses a strengths-based approach to gather needed information; utilizes information gathered during the assessment process; draws conclusions about family strengths/needs and makes decisions around desired outcomes; facilitates the planning process by working collaboratively with family and team members; uses family strengths and needs to develop a plan that addresses safety, permanency, and well-being; prepares thorough and clear case recordings/written meeting summaries that follow proper format protocol; and creates case recordings/written meeting summaries that reflect the practice of family-centered casework.
6. Quality Service Review (QSR) Results Related to Team Composition and Participation in Team Meetings

The Department utilizes two QSR indicators, Engagement and Teamwork and Coordination, as the primary measures of both the extent to which teams are being formed with the right membership and the extent to which those members are actively involved in the Child and Family Team process, including participation in CFTMs.

Figures 60 (93) and 61 (93) present the percentage of acceptable scores by region for the seven regions for which the 2010-2011 annual QSR has been completed and compares those results with the 2009-2010 QSR results for those same regions.
C. The Initial CFTM

The Settlement Agreement requires that the Department begin the process of building a team, assessing, and convening a formal meeting prior to children entering state custody, except when an emergency removal is warranted. In the case of an emergency removal, an Initial CFTM is to be convened no later than seven (7) days after a child enters state custody.

The Settlement Agreement requires that DCS make efforts to ensure the parents’
participation at the Initial CFTM (including providing transportation and/or child care and/or a brief rescheduling) and that such efforts be documented in the child’s case file. Figure 62 (95) below reflects the Department’s quarterly performance, according to the CFTM reports, with respect to the requirement that an Initial Child and Family Team Meeting be held for every child entering custody.

![Figure 62: Total Children Who Entered Custody During the Period Who Had at Least One Initial CFTM](chart)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

As discussed in the November 2010 Monitoring Report, based on a spot check of those cases in which, according to the CFTM reports, no Initial CFTM was held, it appears that in the vast majority of those cases a CFTM had been held (but not documented), and in a significant number of those few cases in which there was no Initial CFTM, there was a reasonable explanation for the failure to convene a CFTM.

The aggregate data reporting provides information on whether an Initial CFTM was held within the applicable time period.

For those children who had at least one Initial CFTM, 82% of their meetings occurred within seven days before or after the child entered custody in the first quarter of 2010, and 80% in the second quarter of 2010.

**D. The Initial Permanency Planning CFTM**

The Settlement Agreement requires that the Initial Permanency Planning CFTM occur within thirty (30) calendar days of a child entering custody. If the parents cannot be located or refuse to meet with the worker, the DCS case manager is to document all efforts made to locate the parents and to ensure that the meeting takes place.

The Settlement Agreement further provides that all services documented in the record as
necessary for the achievement of the permanency goal be provided within the time period in which they are needed. (See Subsection VII.J below for discussion of this provision)

Within sixty (60) calendar days of a child entering custody, an individualized, completed and signed permanency plan for that child must be presented to the court. Birth parents are to have a meaningful opportunity to review and sign a completed handwritten or typewritten plan at the conclusion of the Initial Permanency Planning CFTM or before the plan is submitted to the court.

Figure 63 (96) below reflects the Department’s quarterly performance, based on its CFTM reports, with respect to the requirement that an Initial Permanency Planning Child and Family Team Meeting be held for every child with a length of stay of 30 days or more.

As discussed in the November 2010 Monitoring Report, based on a spot check of those cases in which, according to the CFTM reports, no Initial Permanency Planning CFTM was held, it appears that in most of these cases either Permanency Planning CFTMs were in fact held, but were not documented correctly in TNKids, or that there was a reasonable explanation for the failure to convene a CFTM.

The aggregate data reporting provides information on whether an Initial Permanency Planning CFTM was held within the applicable time period.

For those children who had at least one Initial Permanency Planning CFTM, 87% of their meetings occurred within 30 days of the child’s custody begin date in the first quarter of 2010, and 84% in the second quarter of 2010.
E. The Placement Stability CFTM

The Settlement Agreement requires the Department to convene a Placement Stability CFTM prior to any child or youth potentially disrupting from a placement while in state custody, or, in the event of an emergency change in placement, as soon as team members can be convened, but in no event later than fifteen (15) days before or after the placement change.

Figure 64 below reflects the Department’s quarterly performance, according to its CFTM reports, with respect to the requirement that a Placement Stability Child and Family Team Meeting be held for every child who experiences a placement disruption.

![Figure 64: Total Children Who Disrupted During the Period Who Had at Least One Placement Stability CFTM](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

For those children who had a Placement Stability CFTM, 90% of their meetings occurred within 15 days before or after the placement disruption in the first quarter of 2010, and 89% in the second quarter of 2010.

F. Participation by DCS Supervisor

The Settlement Agreement requires that the DCS supervisor assigned to a case participate in the Initial CFTM, the Initial Permanency Planning CFTM, and the Discharge Planning CFTM. For all other CFTMs, the supervisor is to make a decision about his or her participation based on the complexity of the case; the availability of other supports, such as a full-time or skilled facilitator; and the case manager’s experience. However, at minimum, the supervisor is to participate in one CFTM every six months for each child on his or her supervisory caseload.

The Department is also required to develop a process for supervisors to review, monitor
and validate the results of CFTMs to ensure supervisors remain engaged and responsible for quality casework.

Figure 65 (87) below reflects the Department’s quarterly performance with respect to supervisor attendance at four types of Child and Family Team Meetings including the three types at which supervisor attendance is routinely expected.

![Figure 65: Statewide Attendance at CFTMs by Supervisors](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.

G. Special Requirements for Establishing a Goal of Planned Permanent Living Arrangements

The Settlement Agreement provides that no child be assigned a permanency goal of Planned Permanent Living Arrangement (PPLA) unless it is consistent with the January 2008 PPLA Protocol.

PPLA as a sole or concurrent goal is approved in only a small percentage of cases. As of February 10, 2011, 31 (0.51%) of the 6,135 Brian A. class members had a goal of PPLA. (For 14, PPLA was the sole goal and for 17 it was a concurrent goal).

TAC monitoring staff track and review PPLA data, conduct spot checks of cases with a PPLA goal, and meet periodically with the Central Office staff person responsible for review and approval of PPLA goals. These monitoring activities continue to confirm that DCS practice with respect to establishing PPLA as a permanency goal is consistent with the January 2008 PPLA Protocol.
H. Clarification of Term “Independent Living”

The Settlement Agreement states that “independent living is no longer used, and shall not be used, as a permanency goal, but rather is used as a service array to enable older youth to transition into independent adult life.” DCS policy and practice remains consistent with this provision.

I. Clarification with Respect to Concurrent Permanency Goals

The Settlement Agreement recognizes that children with an initial goal of return home may also have another concurrently planned permanency goal and specifies that record keeping and tracking for any child in the class with more than one concurrently planned permanency goal is to be consistent with a goal of return home until return home is no longer an option. DCS record keeping and tracking remains consistent with this provision.

J. Permanency Plan Implementation

The Settlement Agreement provides that each child have an individualized permanency plan and that all services documented as necessary for the achievement of the permanency goal be provided within the time period in which they are needed. (VII.D)

The child’s DCS case manager and his or her supervisor have an ongoing responsibility to assure that the child’s permanency goal is appropriate or to change it if it is not, to assure that the child’s services and placement are appropriate and are meeting the child’s specific needs, to assure that the parents and other appropriate family members are receiving the specific services mandated by the permanency plan and that they are progressing toward the specific objectives identified in the plan, and to assure that any private service providers identified in the plan or with whom the child is in placement are delivering appropriate services. (VII.J)

The Department determines its own level of performance on this requirement based on the QSR results for the Child and Family Planning Process. Because the quality of the case plan is a major focus of the QSR scoring, the Department expects “acceptable” ratings to correlate with plans that generally meet the requirements of the Settlement Agreement and “unacceptable” ratings to correlate with plans that generally do not meet the requirements of the Settlement Agreement.145

145 As discussed in the November 2010 Monitoring Report, TAC monitoring staff reviews of permanency plans in QSR cases have confirmed this correlation. In the cases that were scored “unacceptable” for the permanency plan related indicators, the reviewers found that the case plans failed to meet most, if not all, of the content requirements set forth in the Settlement Agreement. In most of the cases that were scored “acceptable,” the reviewers found that the case plans (written or ‘working’) met many of the content requirements set forth in the Settlement Agreement.
Figure 66 (97) presents the percentage of Brian A. cases receiving acceptable scores for Child and Family Planning Process for those regions for which the 2010-2011 annual QSR has been completed and compares those scores with the 2009-2010 scores from those regions.

The Settlement Agreement (VII.D) provides that all services documented in the record as necessary for the achievement of the permanency goal will be provided within the time period in which they are needed.

The Settlement Agreement (VII.J) further provides that the child’s DCS case manager and his/her supervisor have ongoing responsibility to assure:

- that the child’s permanency goal is appropriate, or to change it if it is not;
- that the child’s services and placement are appropriate and meeting the child’s specific needs;
- that the parents and other appropriate family members are receiving the specific services mandated by the permanency plan;
- that they are progressing toward the specific objectives identified in the plan; and
- that any private service providers identified in the plan or with whom the child is in placement are delivering appropriate services.

As discussed in the November 2010 Monitoring Report, the Department measures the extent to which its performance in this area meets the requirements of the Settlement Agreement primarily based on the QSR results for Plan Implementation and Tracking and Adjustment.
Figure 67 (98) presents the percentage of *Brian A.* cases receiving acceptable scores for Plan Implementation for those regions for which the 2010-2011 annual QSR has been completed and compares those scores with the 2009-2010 scores from those regions.

Figure 68 (99) presents the percentage of *Brian A.* cases receiving acceptable scores for Tracking and Adjustment for those regions for which the 2010-2011 annual QSR has been completed and compares those scores with the 2009-2010 scores from those regions.
There are two other indicators that are relevant to monitoring this area of performance, Appropriate Placement and Resource Availability and Use.

The QSR indicator for Appropriate Placement requires the reviewer to consider whether the child, at the time of the review, is in the “most appropriate placement” consistent with the child’s needs, age, ability, and peer group; the child’s language and culture; and the child’s goals for development or independence (as appropriate to life stage). The indicator for Resource Availability and Use asks the reviewer to determine if there is an adequate array of supports, services, special expertise, and other resources (both formal and informal) available and used to support implementation of the child and family’s service plan.

Figure 69 (100) and Figure 70 (101) present the percentage of Brian A. cases receiving acceptable scores for Appropriate Placement and Resource Availability and Use for those regions for which the 2010-2011 annual QSR has been completed and compares those scores with the 2009-2010 scores from those regions.

Source: Annual QSR finalized databases.
K. CFTM to Review/Revise Permanency Goal (VII.K)

The Settlement Agreement requires that a CFTM be convened whenever the permanency plan goal needs to be revised, and that, in any event, the child’s permanency plan be reviewed and updated at CFTMs at least every three months.\textsuperscript{146}

Department policy and training regarding the CFT process establish expectations for CFTMs to review and/or revise the permanency plan that meet the requirements of the Settlement Agreement.

Figure 71 (103) below reflects the Department’s performance, according to its CFTM reports, with respect to the requirement that a Progress Review Child and Family Team Meeting be held no less often than every three months for every child in custody.

\textsuperscript{146} These meetings must be separate and distinct from any court hearings, foster care review board meetings, or other judicial or administrative reviews of the child’s permanency plan. The permanency plan shall be reviewed and updated if necessary at each of these CFTMs.
L. Requirement that DCS Recommend Trial Home Visits Prior to Discharge

The Settlement Agreement (VII.L) requires that DCS recommend to the Juvenile Court a 90-day trial home visit for all children for whom a decision is made to return home or to be placed in the custody of a relative, before the child or youth is projected to exit state custody. An exception to this general rule is allowed, if there are specific findings (and a signed certification of the case manager, supervisor and regional administrator for the child) that a trial home visit shorter than 90 days (but of no less than 30 days) is appropriate to ensure the specific safety and well-being issues involved in the child’s case.

The November 2010 Monitoring Report discussed in some detail the THV reports from TNKids reflecting THVs of less than ninety days as routine practice, not as relatively infrequent exceptions, and the reviews that the regional administrators had undertaken to better understand regional practice related to the trial home visit requirement and to ensure compliance with this provision. After a brief interruption during the transition to TFACTS, that work has recently resumed, with what had been a quarterly review process now occurring monthly, with the TAC monitoring staff generating the monthly lists of children with THVs lasting less than 90 days for each region using the TFACTS Mega Report.

The TAC anticipates reporting the findings and impact of these monthly reviews in the next monitoring report.
M. Discharge Planning CFTM and Case Manager Responsibility During Trial Home Visit (VII.M)

1. Discharge Planning CFTMs

The Settlement Agreement requires that:

- a Discharge Planning CFTM be convened within 30 days of a child returning home on trial home visit, exiting custody to a newly created permanent family, or aging out of the system;

- participants identify all services necessary to ensure that the conditions leading to the child’s placement have been addressed and that safety will be assured, and that participants identify necessary services to support the child and family and the trial home visit; and

- if exiting custody is determined inappropriate, DCS make the appropriate application to extend the child’s placement in DCS custody before expiration of the trial home visit.

Department policy and revised training regarding the CFT process establish expectations for a Discharge Planning CFTM.

Figure 72 (104) below reflects the Department’s quarterly performance, according to its CFTM reports, with respect to the requirement that a Discharge Planning Child and Family Team Meeting be held for every child who begins a trial home visit or is released from custody.

![Figure 72: Total Children Who Began a Trial Home Visit or Were Released From Custody During the Period Who Had at Least One Discharge Planning CFTM](image)

Source: TNKids “Child and Family Team Meeting (CFTM) Report for Brian A. Clients” (CFT-BACFTMSR-200); reports for the third quarter of 2007, all four quarters of 2008 and 2009, and the first two quarters of 2010.
For those children who had at least one Discharge Planning CFTM, 86% of their meetings occurred within 30 days prior to the THV or custody end date in the first quarter of 2010, and 86% in the second quarter of 2010.

As discussed in the November 2010 Monitoring Report, it appears that because of errors in the way Discharge CFTMs were being coded, more Discharge CFTMs were being held than the CFTM reporting reflected. The new CFTM reporting from TFACTS, once available, will be able to identify all CFTMs held within 45 days of the beginning of a trial home visit, which will allow better identification of CFTMs that are serving as a Discharge Planning CFTM, even if they are coded as a different CFTM type.

2. Case manager responsibility during Trial Home Visit

During the THV, the case manager is required to:

- visit the child in person at least three times in the first month and two times a month thereafter, with each of these visits occurring outside the parent or other caretaker’s presence;\(^{147}\)

- contact service providers;

- visit the school of all school age children at least one time per month during the THV, interview the child’s teacher; and

- ascertain the child’s progress in school and whether the school placement is appropriate. (VII.M)\(^{148}\)

The November 2010 Monitoring Report included data on the frequency of case manager face-to-face contacts with children on THV. Because of the transition to TFACTS, updated data on the frequency of case manager visits during THVs is not presently available.

The TAC anticipates that TFACTS data will be available in time to be included in the next monitoring report. Once TFACTS THV reporting is available, TAC monitoring staff will resume the case file reviews to determine the extent to which there is documentation of the other requirements of this provision related to private time with the

\(^{147}\) This does not preclude the case manager from spending some additional time, either immediately before or immediately after the private visit with the child, observing the child with the caretaker and/or having conversations with the caretaker and others in the household.

\(^{148}\) If, prior to or during the trial home visit, exiting custody is determined to be inappropriate, DCS is to make the appropriate application to extend the child's placement in the custody of DCS before the expiration of the trial home visit.
child and case manager involvement with service providers and schools during the time the child is on THV.\textsuperscript{149}

\textsuperscript{149} There is no aggregate reporting available to document the extent to which case manager visits include private time with the child. There is also currently no aggregate reporting available to document the extent to which case managers are contacting service providers, visiting children’s schools, talking with their teachers and/or ascertaining their progress in school and the appropriateness of their school placement.
A. General Requirement Related to Adoption Process

As is the case in most child welfare systems, the large majority of children who come into foster care in Tennessee achieve permanency through reunification with their parents or relatives. However, for children who cannot be safely returned to the custody of their families or extended families within a reasonable period of time, both federal law and the Settlement Agreement require that the Department act promptly to terminate parental rights and place the child with an adoptive family, unless there are exceptional circumstances that would make adoption contrary to the best interests of the child.

The Settlement Agreement (VIII.A) requires that the process for freeing a child for adoption begin:

- as soon as a child’s permanency goal becomes adoption;\(^{150}\)
- in no event later than required by federal law; and
- immediately for a child for whom a diligent search has failed to locate the whereabouts of a parent and for whom no appropriate family member is available to assume custody.

The Department’s policies are consistent with these general requirements and the processes and administrative reviews discussed in the subsections below are designed to implement these general requirements.

B. Replacement of “Legal Risk Placement Process” by “Dual Licensing”

As the Settlement Agreement reflects (VIII.B), the Department has replaced its process for making legal risk placements with policies and procedures for the “dual licensing” of resource families as foster parents and adoptive parents.

C. Diligent Searches and Case Review Timelines

1. Diligent Search Requirements

The Settlement Agreement (VIII.C.1) requires that diligent searches for parents and relatives be conducted and documented:

- by the case manager;

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\(^{150}\) Under provisions of the Settlement Agreement regarding children with concurrent goals, this first bulleted provision is interpreted as applying only when adoption is the sole goal. The change of a child’s permanency goal to the sole goal of adoption by definition constitutes the beginning of the adoption process.
• prior to the child entering custody or no later than 30 days after the child enters custody; and
• thereafter as needed, but at least within three months of child entering custody and again within six months from when the child entered custody.

As discussed in the November 2010 Monitoring Report, the primary purpose of the diligent search is to identify potential placements and sources of support from within a child’s natural “circles of support:” relatives, friends, mentors, and others with whom the child has enjoyed a family-like connection, including those with whom the child has not had recent contact.  

The Settlement Agreement requirements are set forth in Department policy, and the Department has created a protocol for conducting diligent searches and developed a diligent search letter, a checklist, and a genogram template to assist case managers in conducting diligent searches. These forms are to be completed by the case manager and updated throughout the life of the case until the child reaches permanency.

The Department’s policy states that information regarding diligent search efforts and outcomes should be documented in TFACTS by the case manager within 30 days of the date of the occurrence and also added to the Family Functional Assessment. The team leader is responsible for ensuring that the case manager documents all diligent search efforts in TFACTS, including ensuring that the forms (letter, checklist, and genogram) are in the case file.

As discussed in the November 2010 Monitoring Report, in order to evaluate the extent to which regions are conducting diligent searches in accordance with Department policy, the Department designed its 2010 TNKids Audit to focus on documentation of diligent searches. Based on that audit, the Department concluded that, while the regions are generally doing a better job of searching for and locating birth parents, additional work needed to be done to ensure diligent searches for fathers and broader outreach to grandparents and other extended family.

The audit results have been the focus of considerable discussion with the regional leadership. The Department is planning another round of regional diligent search audits in the near future.

TFACTS has been designed to capture diligent search activity on cases, and to provide an electronic method of monitoring this information and capturing the detail needed for aggregate reporting. A diligent search report is being developed to assist the Department

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151 An aggressive approach to diligent search for parents and relatives from the outset of the case also ensures that the legal process can proceed quickly and efficiently. The Department expects that as the diligent search policy is effectively implemented, it will be reflected in increased utilization of kinship placements, reduction in delays in the Termination of Parental Rights (TPR) process, and improvements in CFTM data and QSR data related to relative and informal supports participation in the CFT process.

152 Both Policy 16.48 Diligent Search and the various diligent search forms and tools have been revised to match the new diligent search and family notification requirements of H.R. 6893 Fostering Connections to Success and Increasing Adoption Act.
in ensuring that diligent search activity is taking place within 30 days of entering custody, three months of entering custody, and six months of entering custody.

The TAC anticipates reporting further on the implementation of the diligent search requirements once TFACTS reporting in this area becomes available.

### 2. Requirement of Attorney Review of Cases of Severe Abuse within 45 Days

The Settlement Agreement (VIII.C.2) requires in cases in which parents have been indicated for severe abuse that, within 45 days of that determination, a discussion take place with a DCS attorney to decide whether to file for Termination of Parental Rights (TPR) and that the decision is to be documented in the child’s case record.

With the exception of a short period during the transition to TFACTS, the Department has been producing a semi-monthly report, sorted by region, which identifies all children who fall within this category. The regional administrator or his/her designee is expected to meet with the regional general counsel (RGC) to discuss each of the recently filed cases that include a severe abuse allegation and decide whether to file for TPR. That attorney review should be documented in the case recordings, and those recordings should provide sufficient information to understand the basis for whatever decision is reached and any action steps to be taken based on that decision.

It appears that the regions are conducting these reviews and that the attorneys are making written notations on the semi-monthly reports as an internal tracking mechanism. However, as discussed in the November 2010 Monitoring Report, spot checks of the files of children who were supposed to be subject to the 45 day review found that relatively few case files included documentation of those reviews. The Department is in the process of clarifying expectations related to documentation of these reviews in TFACTS. Once the Department is at the point that they believe these reviews are being routinely documented in the case files, the TAC monitoring staff will conduct an appropriate file review.

### 3. Requirement of Attorney Review of Children in Custody at Nine Months

The Settlement Agreement (VIII.C.3) requires that within nine months of a child entering state custody, the permanency plans be reviewed with the DCS attorney for the following purposes:

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153 As discussed in the November 2010 Monitoring Report, there has been considerable regional variation in the process for conducting these reviews and in the process for ensuring appropriate documentation of the reviews in the child’s case file.

154 Most of these cases contained documentation of the legislatively required review by the Child Protective Investigative Team (CPIT). However, that is a separate review from the one required by the Settlement Agreement and there was no indication that DCS counsel participated in any of the CPIT reviews.
if the child is to return home or be placed in the custody of a relative, a timetable for supervised visits, trial home visits, and hearings to be returned to the parent/relative shall be established;

if the child is not returning home, a timetable for providing documentation and information to the DCS attorney shall be established in order to file a TPR; and

if the decision to file a TPR has been made and the child is not in a pre-adoptive home, the case manager along with the members of the CFT shall continue to search for relatives as placement options.

As discussed in the November 2010 Monitoring Report, there has been some regional variation in the implementation of these required reviews. It appears to the TAC that nine-month case reviews in which the legal staff participate are generally occurring. However, as is the case with the reviews discussed in Subsection B above, there has been some lack of clarity about the expectations for documenting in the case file the specific considerations and related action steps that are envisioned for this nine-month review.

Once the Department has clarified the expectations regarding documentation of nine-month reviews in TFACTS, the TAC will conduct an appropriate case review focused on implementation of this provision.\(^{155}\)

4. Requirements Regarding Children in Custody for more than 12 Months

If return home or other permanent placement out of custody (relative or guardianship) without termination of parental rights is inappropriate at both 12 and 15 months, the Settlement Agreement (VIII.C.4) requires that a TPR petition be filed no later than 15 months after the date the child was placed in DCS custody, unless there are compelling reasons for not doing so and those reasons are documented in the case file. This requirement is consistent with the ASFA requirement that TPR be filed for any child who has been in care for at least 15 of the past 22 months unless there are compelling reasons for not filing.

As discussed in the November 2010 Monitoring Report, the Department has made considerable progress in reducing the number of children in custody for more than 15 months for whom TPR has not been filed. In November 2006, when the Department began to implement special administrative reviews of these cases, more than 1,900 children had been in care for 15 months without TPR having been filed. That number dropped dramatically and has remained well under 800 in any given month for the past three years. As reflected in Figure 73 (109), since January 2009, the number of children

\(^{155}\) The Department has been discussing with the regions the development of a standard form to be easily filled out for each case reviewed that captures the essential considerations and action steps and could then be scanned into the case file.
in custody for more than 15 months with no TPR filed has generally remained below 700, reaching a low of 609 in April 2010, the last month in 2010 for which complete data is available.

![Figure 73: Children In Custody for More than 15 Months for Whom TPR Has Not Been Filed, January 2009 through April 2010](image)


As discussed in the November 2010 Monitoring Report, targeted reviews and spot checks conducted by TAC monitoring staff found that the Department was making appropriate compelling reasons findings for those children for whom TPR was not filed within 15 months and moving appropriately to file TPR if at some point those findings were no longer valid.

While as a result of the transition to TFACTS, tracking and reporting related to this provision has been interrupted, the TAC monitoring staff have been able to resume some tracking as of January 15, 2011 (using the Mega Report) and the PQI Office and TAC monitoring staff are currently conducting a targeted review designed to determine the extent to which DCS practice continues to meet the requirements of this provision.

5. Time Frames Related to the Adoption Process (VIII.C.5)

The Settlement Agreement establishes time frames related to critical activities in the adoption process.

a. Requirement That TPR Be Filed Within 90 Days of Establishment of Sole Permanency Goal of Adoption

The Settlement Agreement provides that within 90 days of the permanency goal changing to Adoption, the DCS attorney is expected to file a TPR petition, unless there is a legal impediment, in which case the petition is to be filed as soon as possible once that legal impediment is resolved. (VIII.C.5.a)
As data presented in Section One of this report reflects, the Department continues to perform well with respect to this requirement. Of the 540 children with a sole goal of Adoption for at least three months (approximately 90 days) during the 12-month period from May 1, 2009 through April 30, 2010, 88% (473) had TPR petitions filed within three months of the date that Adoption became the sole goal.

Figure 74 (110) below shows the percentage of children in DCS custody with a sole goal of Adoption for three months or more as of the particular date indicated, for whom TPR petitions were filed within three months of the date that Adoption became the sole goal.

Figure 75 (111) below shows, by region and statewide, the percentage of children in DCS custody with a sole adoption goal for at least three months during the 12-month period ending April 30, 2010, whose TPR petitions were filed within three months of the date that adoption became the sole goal. Statewide, TPR petitions were filed within three months in 88% of the cases. As the figure reflects, seven regions outperformed the statewide percentage. Two regions substantially underperformed relative to the statewide percentage: Sixty-six percent of TPR petitions in Upper Cumberland were filed within the three month time frame and 47% were filed within that time frame in Southwest.156

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156 Southwest had been the top performing region, having all of its TPR petitions filed within three months of the date that adoption became the sole goal for the 21 monthly reports proceeding May of 2009.
**b. Ensuring Order of Guardianship Within Eight Months of Filing of TPR**

The Settlement Agreement requires the Department to take all reasonable steps to ensure that the date of the trial court order granting full guardianship is entered within eight months of the filing of the TPR petition. (VIII.C.5.b)

Figure 76 (112) below shows that between January 2009 and April 2010 the Department obtained full-guardianship orders within eight months of TPR at the relatively stable rate of about 60%.

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157 The Department began producing this report in October 2007 after the Settlement Agreement was revised.
Table 15 (22) below presents a regional breakdown of this data for the 12-month period from May 2009 to April 2010. Upon averaging the regional percentages for this time period, there are seven regions (Knox, Northwest, Southeast, Mid-Cumberland, Davidson, South Central, and Upper Cumberland) performing above the state average (61%). Regions experiencing a gradual increase over time in the percentage of children who had an order of guardianship entered within eight months of filing TPR petition include Upper Cumberland (60.8% to 73.2%), Hamilton (45.8% to 65.7%), Shelby (46.2% to 58%), and Northeast (46.4% to 52.8%). Those regions showing a gradual decline over time in the percentage of children who had an order of guardianship entered within eight months of filing the TPR petition include Northwest (92.3% to 53.3%), Southeast (70.8% to 56.4%), Davidson (69.9% to 54.4%), Southwest (84.2% to 38.5%).
<table>
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<tr>
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<th>May-09</th>
<th>Jun-09</th>
<th>Jul-09</th>
<th>Aug-09</th>
<th>Sep-09</th>
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<th>Mar-10</th>
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<tr>
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</table>

At this point in the transition to TFACTS, limited aggregate data related to this provision is available. However, PQI and TAC monitoring staff anticipate developing a targeted review focused on better understanding the extent to which any delays in achieving guardianship within the target established by the Settlement Agreement are attributable to failure of the Department to take the “reasonable steps” required by this provision. The TAC anticipates reporting on the results of this review in the next monitoring report.

c. Ensuring Adoption Finalization or Transfer to Permanent Guardianship Within 12 Months of Guardianship Order

Once an order of guardianship is obtained, the Settlement Agreement requires the Department to move expeditiously to ensure that the child achieves permanency either through adoption or permanent guardianship. (VIII.C.5.c) The Department is expected to take “all reasonable steps to ensure that the date of the finalization of the adoption or the date the child achieves permanent guardianship will be within 12 months of full guardianship.”

The FOCUS process, discussed in Subsection D below, is designed to ensure compliance with this requirement. While the process does not guarantee that a child achieves permanency within 12 months of full guardianship, the required actions steps, frequent reviews, and on-going tracking and reporting, if done diligently, should ensure that “all reasonable steps” are being taken in each case.

As discussed in the November 2010 Monitoring Report, a DCS Leadership Team, guided by the pro bono services of the Six Sigma Black Belt Team from Vought Aircraft Industries Inc., identified both factors contributing to delays in the adoption process in some regions and promising strategies for addressing those factors and expediting the process. Based on that work, which focused on delays in the adoption process for children for whom an adopted family had already been identified, the Department is setting more ambitious expectations and more closely tracking through the FOCUS process, timelines for completion of pre-placement summaries, negotiation of adoption subsidies, provision of full disclosure, and signing of the intent to adopt.

d. Special Administrative Review of Children In Custody for 15 Months or More For Whom TPR Has Not Been Filed

The Settlement Agreement requires that all children who have been in custody for 15 months or more with no TPR petition filed, be reviewed by the Commissioner or the Commissioner’s designee. (VIII.C.5.d)

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158 As discussed in the November 2010 Monitoring Report, for the most recent three year period for which data is available (December 2006-December 2009), at any given time during the period, about three out of every four adoptions were finalized within 12 months of full guardianship. The FOCUS process should generate aggregate data and qualitative information on those cases for which adoptions are not finalized after 12 months.
As discussed in the November 2010 Monitoring Report, the Commissioner’s review process initially included a monthly conference call, convened and chaired by the Commissioner and a deputy general counsel, to discuss the results of the region’s review of the cases.159 Having established expectations related to these reviews, the Department presently requires regional administrators and regional supervising attorneys to review and monitor all cases of children in care for 15 months or more to ensure that either TPR has been filed (or is in the process of being filed) unless compelling reasons exist for not filing. To assist with this review process, the Department produces a monthly report, by region, identifying all children who have been in care for 15 months or more for whom no TPR petition has been filed.160

6. Special Preference for Resource Parents in Adoption Process

The Settlement Agreement provides that a resource parent who has been providing foster care for a child for 12 months is entitled to a preference as an adoptive parent for that child, should the child become legally free for adoption. (VIII.C.6)

The Department has implemented a single resource parent approval process which qualifies resource parents as both foster and adoptive parents and the adoption preference for a resource parent who has been caring for a child for 12 months or more is reflected in both DCS policy and state statute.

D. “FOCUS” Team Process for Children In Full Guardianship

In an effort to ensure that children in full guardianship move more quickly towards permanency, the Department has implemented an innovative case tracking and permanency support process referred to as “FOCUS Teams” (Finding Children Unconditional Supports). The revised Settlement Agreement embraces the FOCUS process.

159 The Deputy Commissioner monitors aggregate regional data related to children in care for more than 12 months and periodically participates in regional reviews in response to that data.
160 Each of the regions has developed a process for reviewing these cases. In some regions, the review occurs as part of the regularly scheduled monthly or quarterly administrative reviews involving the regional administrator and regional general counsel. In other regions the regional general counsel conducts an initial review and then follows up to ensure either that there are compelling reasons for not filing or that steps are taken to file for TPR. In some regions, it is the regional administrator or deputy regional administrator, rather than the regional general counsel, who conducts this initial review and the regional general counsel only becomes involved if there is a need to file TPR. While some regions have taken specific steps to ensure that these reviews are documented in TFACTS, in a number of regions it is still unclear who is responsible for documentation of the reviews.
1. Requirement of Prompt FOCUS Team Review of Each Child Entering Full Guardianship

The Settlement Agreement provides that the FOCUS Team “will ensure that all children or youth entering full guardianship each month will be reviewed to determine whether or not these children or youth have a permanent family identified and that the needed supports and services are in place to ensure timely permanency.”

As discussed in the November 2010 Monitoring Report, when a child enters full guardianship, DCS Central Office FOCUS staff review that child’s situation with the region to determine whether a prospective permanent family has been identified. If a family has been identified, the Central Office and regional staff discuss the action steps and timeline for moving the case to permanency. If a family has not been identified, the Central Office and regional staff determine whether the case should be referred to Harmony Adoptions for assignment to one of their regional case coordinators (RCC) with special expertise in adoptive family recruitment.

With respect to those cases referred to Harmony, the regional case coordinator is responsible for ensuring in every case assigned to them that updated archaeological digs are conducted, strong, functioning Child and Family Teams are formed, and appropriate and up-to-date Individual Recruitment Plans are developed and implemented.

The Department is beginning discussions with the continuum providers about the feasibility of each of those providers taking on the “Harmony” role for the children in their respective programs who are in full guardianship and without an identified family. The Department anticipates that as the FOCUS program evolves, continuum providers would be increasingly expected to take on that RCC role.

The Department is in the process of refining its tracking and reporting process for all FOCUS cases to ensure appropriate actions are being taken to identify potential permanent families for those for whom permanent families have not been identified, to work with potential permanent families to move the child to permanency, and to ensure that supports and services are in place.

The Department has been using this data and the qualitative information gathered in the course of periodic case review discussions to both determine the effectiveness of the FOCUS process in moving children from full guardianship to adoption and to gain some insight into (and develop some strategies to address) those cases which prove particularly difficult to move to adoption.

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161 The Department has refined its process to distinguish between a prospective adoptive family for whom all issues have been fully explored and resolved and an intent to adopt form has been signed (now designated as “permanent family identified”) and a specific family that the region is actively working toward adoption but for whom some steps remain to be taken—“full disclosure” needs to be made, adoption subsidy issues need to be addressed—before an intent to adopt can be signed (designated as “anticipated permanent family.”)
2. **Children With Permanent Family Identified: Assessment of and Response to Barriers to Permanency and Monthly Tracking**

If there is a specific potential permanent family identified for a child, the Settlement Agreement requires that there be an assessment regarding any barriers to permanency. If there are identified barriers to permanency, appropriate referrals are to be made to the regions or private provider agency or agencies as may be needed and appropriate. Children and youth with an identified permanent family are to be reviewed monthly to assess whether the identified permanent family is still a viable permanency option.

The FOCUS reviews and tracking process is designed to meet this requirement. The Department has created a tracking spreadsheet that includes specific fields to record the core activities that must be undertaken, issues addressed, and services and supports provided in order for the “intent to adopt” to be signed and the adoption to be finalized (or other “permanent family status” achieved). The tracking process should ensure that for each case with a potential family identified, barriers to permanency are identified, action steps, persons responsible, and timelines for addressing those obstacles are established, and either permanency achieved or, if the obstacles cannot be addressed, appropriate action taken to find an alternative family.\(^{162}\)

3. **Children Without Permanent Families Identified: Required Action Steps**

For children and youth without a potential permanent family identified, the Settlement Agreement requires that the following steps be taken to ensure timely permanency:

- the Child and Family Team is to ensure the development and implementation of the child or youth’s Individualized Recruitment Plan, which is to include time frames, roles, and responsibilities;

- the Child and Family Team is to ensure that the child or youth is registered on ADOPT US Kids to help match the child or youth with potential families; and

- the Child and Family Team is to ensure the use of archeological digs, family searches, interviews and other options to build a team of informal and formal supports to assist in finding permanency.

The FOCUS case review and tracking process is designed to ensure that these core activities are promptly carried out.

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\(^{162}\) This tracking system should also provide data that helps the Department identify and respond in a more systematic way to certain kinds of obstacles that appear to affect large numbers of cases.
4. Requirement of Individual Tracking and Monitoring and Outcome Data Analysis and Reporting

The Settlement Agreement requires that the FOCUS Team:

- monitor case progress;

- provide tracking and outcome data to measure the effectiveness of the FOCUS process in moving children and youth toward permanency; and

- use aggregate and qualitative data to report on trends that promote and prevent timely permanency for children.

The Settlement Agreement calls for specific reporting and analysis on those children and youth disrupting from placements while in full guardianship.

The Department has been monitoring case progress through periodic regional FOCUS case reviews as well as case tracking and follow-up activities by the two Central Office Staff assigned to coordinate the FOCUS process.

Based on its experience with the FOCUS process over the past year, the Department is satisfied that the FOCUS process is now appropriately tracking and monitoring cases in which the regions have identified and are working with specific families towards permanency for a child.

The Department is also persuaded that when the core activities discussed in Subsection 3 above for a child with no family identified are conscientiously carried out, potential families are in fact identified, prospects for permanency are improved, and, in many cases, the additional attention provided by the FOCUS process results in some improvement in the child’s present situation. The Department recognizes that the Harmony RCC resources are limited and cannot presently ensure that these core activities are carried out promptly for every child in full guardianship without an identified family. For this reason, as discussed above, the Department anticipates that the continuum providers will begin serving the Harmony role for children in their continuums who require that level of additional permanency support work.

E. Post Adoption Services

The Settlement Agreement (VIII.E) requires that DCS maintain a system of post-adoptive placement services and provide notice of and facilitate access to those services at the earliest possible time to all potential adoptive families and resource families.

The Department requires all resource parents who are interested in adopting a particular child to complete an Intent to Adopt/Application for Adoption Assistance Form as one vehicle for ensuring that adoptive parents have knowledge of the availability of adoption
assistance. The form includes the application for assistance and also serves as the file documentation required by this provision of the Settlement Agreement.

As discussed in the November 2010 Monitoring Report, the Department presently contracts for post-adoptive placement services with a program referred to as ASAP (Adoption Support and Preservation). This program offers intensive in-home services, support groups, educational forums and training opportunities, and help lines for adoptive parents, and provides post-permanency support to the subsidized permanent guardianship families to prevent disruption and reentry into care. In addition, ASAP provides pre-adoption counseling to adopting parents and children that includes help with parenting skills, self-awareness of triggers, and other aspects of being an adoptive parent.

The contract liability limit for the ASAP contract for fiscal year 2010-2011 is $2,091,850. The next TAC report will include actual spending for this fiscal year, and information on both numbers of clients served and the disruption and dissolution rate among those clients served.

In order to ensure that resource parents are both aware of and understand how to access post-adoption services, the Department has modified its contract with its post-adoption services provider to require that ASAP make personal contact with every adoptive family prior to the finalization of the adoption.

At any given time there are approximately 4,400 Tennessee families, serving approximately 7,800 children, receiving an adoption assistance subsidy from the Tennessee Department of Children’s Services.
SECTION NINE: RESOURCE PARENT RECRUITMENT, RETENTION, AND APPROVAL

A. General Requirement to Maintain Resource Parent Recruitment Program

The Settlement Agreement requires DCS to establish and maintain a statewide, regional and local program of resource parent recruitment and to ensure the availability of a toll-free phone number in all regions of the state to provide information concerning the availability of adoption information, training, the approval process, and children available for adoption.

1. Toll Free Number and Availability of Information for Prospective Resource Parents

As discussed in the November 2010 Monitoring Report, prospective resource parents can inquire about resource parenting by calling the Department’s 1-877 number for prospective resource parents or through contacting the regional offices directly. In addition, several websites contain information about fostering and adopting children. Information about the Department’s programs and processes related to fostering and adoption is available online at www.tn.gov/youth/adoption.htm. The website www.parentachild.org also contains information regarding recruitment and retention, and contains a link to the AdoptUsKids www.adoptuskids.org website, which has profiles for the children in state custody who are in need of adoptive homes.

2. Present Approach to Maintaining Recruitment Program

The Department’s approach to resource parent recruitment has included a range of statewide, regional, and local activities, including the development of annual statewide and regional recruitment and retention plans for some time. However, the Department recognized that the planning process had not produced plans capable of driving effective recruitment and retention efforts. For this reason, a little over a year ago, the Department began holding semi-annual permanency convenings—two-day meetings focused on development and recruitment and retention involving teams from each region and from the Central Office—designed to improve the quality of the plans and to ensure regular tracking of plan implementation and reporting of results.

As discussed in the November 2010 Monitoring Report, the regions have developed and are continuing to refine plans that focus on increasing the effective utilization of relative caregivers and kinship resource homes, implementing high-quality, child-specific recruitment, and utilizing data to both set goals and measure progress. Considerable effort has been put into generating the data that the regions need to develop their plans and to monitor implementation of those plans. Each region has been provided with

\[^{163}\text{Under Tennessee’s dual approval process, both foster and adoptive parents are considered to be resource parents.}\]
\[^{164}\text{Regional representatives included resource parents, kinship parents, providers, DCS staff and youth.}\]
region specific data related to demographics, placements, permanency, and resource homes prior to the convenings. The Recruitment Plans each include an analysis of the characteristics of the foster care population in the region and the characteristics of the present resource homes (DCS and private provider) in the region. Most of the 2010 regional plans include goals related to improving responses to resource parent inquiries; increasing numbers of resource homes, especially homes that are willing to serve the teenage population; identifying homes for children in full guardianship with no identified permanent family; and increasing the number of children placed with someone with whom they have a previous relationship (kin placements).

Data related to resource homes is only beginning to be available from TFACTS, and the process of data preparation and recruitment plan goal setting will continue in the summer of 2011.

As discussed in the November 2010 Monitoring Report, this more structured approach to resource home recruitment planning and implementation appears likely to develop into the “program of resource parent recruitment” required by the Settlement Agreement.

3. Results of Recruitment and Retention Efforts

As of May 31, 2010, there were 3,216 fully approved DCS and private provider resource homes in the resource home database, including fully approved expedited kinship resource homes.165 As discussed in the November 2010 Monitoring Report, the Department’s resource home capacity has been declining over time, driven primarily by the decline in DCS resource homes, but also resulting from a net loss in private provider resource homes. During this time there has also been a decline in the number of class members in DCS custody.166

4. Staffing and Support for Resource Home Recruitment and Retention

The Department recognizes that to ensure that regional recruitment and retention plans are implemented, someone with time and appropriate authority in the region needs to have responsibility for overseeing the work. The Director of Foster Care and Adoptions

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165 Resource homes that were initially approved with an expedited approval and have since completed the full approval process are included in the number of fully approved DCS homes; resource parents with an expedited approval who have not yet completed the full approval process are not included. This also includes “shared homes”, homes that are approved to be used by both the Department and a private provider agency. These data are derived from the TNKids Approved Resource Home Timeframe Report. This number may exclude some resource homes that are technically unapproved on the day of the TNKids pull, because their reassessment has not been entered. Therefore, the actual number of available resource homes may be slightly higher than indicated in this report.

166 The number of DCS resource homes declined from 2,595 in December 2006 to 1,258 in May 2010. The number of provider resource homes declined from 2,267 in December 2006 to 1,883 in May 2010. The number of class members declined from 6,873 in December 2006 to 5,565 in May 2010.
has therefore been working to identify a high level administrator in each region to assume that responsibility.

There are 95 full-time resource parent support workers across the state. Responsiblities vary by region, but resource parent support staff are generally responsible for monthly home visits with resource parents, approvals and re-approvals of resource homes, home studies, recruitment events and offering additional support to resource parents. The Department plans to assign “caseloads” of resource families to the resource parent support staff in TFACTS. The Department has determined the maximum number of resource families that a single resource parent support worker can reasonably be expected to support should be between 30 and 35.

As discussed in the November 2010 Monitoring Report, the recruitment and retention staff resources within the Department have been supplemented by contracts with private agencies. The goal of the contracts was to expedite the approval process by assisting with home studies. The Department also contracted with private agencies to supplement resource home recruitment, retention, and approval resources within the Department. This contract for fiscal year 2010 – 2011 was for $425,000. The Department has also expanded its contract with two private agencies to include more activities, including providing support groups and grief and loss counseling to resource parents.

As the TAC has observed in the November 2010 Monitoring Report, it is difficult to determine the extent to which the staffing devoted to resource home recruitment and retention is sufficient to support the work outlined in the regional recruitment and retention plans. In the past, obstacles to resource parent recruitment and retention have included slow response times to initial inquiries from those interested in becoming resource parents, delays in connecting potential resource parents with training that was convenient and accessible, and the inability of the Department to complete home studies in a timely manner for those who successfully completed the training.

B. Resource Parent Recruitment and Approval Process

The Settlement Agreement requires DCS to develop and maintain standards to approve only appropriate resource families. All such approvals are to be handled within the regions or by private provider agencies, which must be adequately staffed and trained.

The Department’s present policy regarding the regular approval process conforms to the requirements of the Settlement Agreement. The Department, in consultation with the TAC, has established standards and a process for approval of resource families that is

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167 Many of these staff persons may have other responsibilities as well. These numbers do not include the 15 team leaders who have supervisory responsibilities for those performing the tasks described.

168 The Department’s experience with these private agency contracts has been mixed. One agency has consistently provided high-quality services and the Department has therefore appropriately looked for other opportunities to expand the work with them. The other agency’s work has been satisfactory in some regions, but of poor quality in others.
consistent with nationally accepted standards and that apply equally to DCS and private provider resource parents. The Department’s resource parent approval process is handled by regional and local offices. The Department’s resource parent approval process qualifies any resource parent who successfully completes that process for both fostering and adoption. The Department requires private provider resource parents to meet the same standards, receive comparable training, and be subjected to the same approval criteria as DCS resource families.

As discussed in the November 2010 Monitoring Report, the Department has implemented the Structured Analysis Family Evaluation (SAFE) Home Study Tool as a universal home study tool to be used by both DCS and private providers and has established the Department Resource Home Eligibility Team (DRHET for DCS homes and RHET for provider homes), through which the Department internally maintains all documents relating to the Title IV-E eligibility of resource homes. The documents required for IV-E eligibility include fingerprint results, criminal records checks, DCS background checks, several abuse and offender registry checks, and completion of PATH (Parents as Tender Healers) training.  

The Department conducts field IV-E peer reviews as well, modeled after the federal IV-E audit. The Department reviewed 100% of homes in 2010 through this process, and intends to repeat the process in 2011.

1. Time to Respond to Inquiries

The Settlement Agreement requires all inquiries from prospective resource parents to be responded to within seven days after receipt.

When calls come to the 1-877 number referenced in Section A.1 above, they are answered by Foster Care staff in Central Office and the information about the prospective resource parent is emailed to the appropriate region. Regions are expected to contact the prospective resource parent and enter the home into TFACTS as an inquiry.

Aggregate reporting on this measure is not yet available from TFACTS. The TAC expects to be able to report on inquiry response time in the next monitoring report.

169 While RHET maintains electronic copies of these eligibility documents, private providers remain contractually responsible for ensuring that their resource homes and their residential facilities are meeting the requirements for IV-E eligibility and that copies of the required documentation are furnished to the Department.

170 In the past, the Department had the Central Office mail packets to prospective resource parents and that technically met the requirement of the Settlement Agreement. The Department recognized that while it was a good way to comply with the Settlement Agreement, it was not an effective way to ensure thoughtful engagement of potential resource parents. The process has been redesigned so that the first response is a phone call from the region.
2. **Time to Complete Home Studies**

The Settlement Agreement requires that home studies be completed within 90 days of the applicant’s completion of the approved training curriculum, unless the applicant defaults or refuses to cooperate.

Aggregate reporting on this measure is not yet available from TFACTS. The TAC expects to be able to report on time to approval in the next monitoring report.

3. **Exit Interview Requirement**

The Settlement Agreement requires that identified staff persons conduct exit interviews with all resource families who voluntarily resign as resource parents and that DCS issue annual reports on why resource families leave DCS and what steps are necessary to ensure their retention.

As a result of the transition to TFACTS a report identifying closed resource homes has not been available for some time. For this reason, the Department had temporarily suspended its efforts to conduct exit interviews.

A report from TFACTS listing all closed homes is being tested and is almost ready for use. When the list of homes is available, the Exit Interviews can resume. The TAC will report on the Exit Interview process in the next monitoring report.

4. **Maintaining a Statewide and Regional Support System for Resource Parents; Utilizing Experienced Resource Parents in Recruitment and Retention Efforts**

The Settlement Agreement provides that, to the extent possible, DCS is to use existing resource families to recruit and retain new resource families. In addition, DCS is required to maintain a statewide and regional support system for resource families.

a. **Support System for Resource Parents**

The Department engages in a variety of formal resource parent support activities including: support of and coordination with the Tennessee Foster Adoptive Care Association (TFACA) and the Foster Parent Advocate Program; provision of formal services, such as those offered through the Adoption Support and Preservation (ASAP) program; and inclusion of resource parents in regional and Central Office planning meetings and initiatives.

However, perhaps the most important supports, from the perspective of resource parents, are those that come from the kinds of interactions they have on a daily basis with the case managers responsible for the children in their care, and the other regional staff with whom they interact. As discussed in the November 2010 Monitoring Report, the TAC
has identified examples of high-quality case work with resource parents in every region, where training, mentoring, day-to-day supports, and case manager responsiveness won praise from resource parents. Nevertheless, the Department recognizes that one of the basic elements of an effective regional support system for resource parents—good communication and support from the case managers serving the children the resource parent is fostering—is not being uniformly delivered.¹⁷¹

b. Utilization of Resource Parents in Recruitment and Retention Efforts

As reported in the November 2010 Monitoring Report, the TAC has not yet seen a concerted effort to mobilize resource parents and center recruitment efforts around them.¹⁷² However, the Department recognizes the advantages of involving resource parents and other community stakeholders in recruitment efforts and planning. The Department is taking the step of working to broaden the teams that work on the Recruitment and Retention plans, and there are already great examples of active resource parent participation in many regions.

5. Requirement of Respite Services for Resource Parents with Special Needs Children

The Settlement Agreement requires that DCS provide adequate and appropriate respite services on a regional basis to resource parents with special needs children. As discussed in the November 2010 Monitoring Report, the Department continues to allocate an additional $600 per year (the annual cost of two days of respite care each month) for every resource family to allow those families to purchase respite services. Each resource family receives this additional payment whether they actually use it or not.

C. Requirement that Resource Parent Room and Board Rates Meet USDA Standards

The Settlement Agreement requires that all resource parent room and board rates (including rates for DCS resource parents, private provider resource parents and certified relatives and kin) at a minimum meet the USDA standard and are adjusted annually to be no lower than USDA standards for the cost of raising children within this region. As reported in the November 2010 Monitoring Report, board rates have consistently met or exceeded USDA standards. The TAC will provide the next update using the most recent

¹⁷¹ As discussed in Section Seven, participation of resource parents in CFTMs is still not at level one would hope for. There also continues to be some anecdotal evidence that resource parents at times are not getting all available information that they should be getting at the time of placement. There is some basis for believing that this is actually more likely to be the case with private provider resource parents, since private agency is a buffer between DCS and the resource parent, and it may be that private agencies are not as diligent in passing on information to their resource parents.

¹⁷² Some Central Office staff are involved in a leadership/research project with the Center For Applied Research. During the course of this project, research was conducted and showed that resource parents are the most successful recruiters. Resource parents are being invited to recruitment workgroups and activities and are asked to take a greater role in leadership around these efforts.
published USDA guidelines in the next monitoring report.

D. Special Provisions Related to Rates, Training and Private Provider Contracts for Special Needs Children

The Settlement Agreement requires DCS to provide specialized rates for DCS and private provider resource parents providing services to special needs children. The Department is also required to supply (for DCS resource families) and ensure that private providers supply (for their resource families) any specialized training necessary for the care of special needs children placed in their homes. The Settlement Agreement requires that DCS continue to contract with private providers for medically fragile and therapeutic foster care services.

The Department continues to contract with private provider agencies for therapeutic foster care and medically fragile foster care. The scope of services for contracts with providers serving special needs children also includes a requirement that specialized training be provided to resource parents who are caring for medically fragile and therapeutic children. In addition to the standard trainings required of all resource parents, there is an additional requirement of 15 hours of specialized training prior to the placement of a special needs child (either medically fragile or therapeutic) with suggested topics of training identified. Moreover, the resource parents shall receive specialized training on the individual needs of each child/youth to be placed in their home which may also count toward the 15 hours of additional specialized training. The Department is still developing the process for monitoring the training provided to these resource parents, but continues to make progress toward that goal.

Department staff recently traveled to review the Medically Fragile Training of another state and the Department is considering bringing this curriculum to Tennessee. The Department would like to have a proposal for this in time to be reported in the next monitoring report. Some of the Department’s largest providers for therapeutic foster care have their own curriculum related to therapeutic parenting. The Department wants to work with these providers to allow them to use their training and perhaps share that training with other providers.

E. Provision of Resource Parent Training; General Requirement to Complete Training Prior to Child Placement; Exception for Expedited Placement with Relatives/Kin

The Settlement Agreement requires that DCS schedule resource parent training classes, including individual training as needed, every 30 days in every region at times convenient to prospective resource parents.

In general, the Settlement Agreement requires resource parents to complete such training before receiving a child into their home. However, the Department may waive
this requirement for relatives and kin and make an expedited placement of a child into a
kinship resource home pending the completion of the training and approval process, as
long as the Department completes a home visit and local criminal records check (and
after doing so conclude that expedited placement is appropriate). Relatives and kin
must complete all remaining approval requirements within 150 days of placement.

1. Availability of Resource Parent Training Classes

The Department uses the Parents as Tender Healers (PATH) curriculum, a nationally
recognized curriculum, for pre-service training for resource parents. The Training
Consortium is responsible for almost all pre-service training (PATH classes) and all first
year resource parent in-service training (core classes), held regularly within each region.
The Department and the Training Consortium have partnered to update the PATH
curriculum in response to feedback from resource parents. The new curriculum was
implemented in January 2011. The re-design involves a set of required classes prior to
placement, followed by post-placement classes that resource parents felt would be more
helpful to them during the first months of having children in their home. The TAC
intends to report on evaluations of the new PATH curriculum as it is implemented.

The Department maintains a list of regionally offered resource parent training classes
and the training schedules are available online through the website of the Training
Consortium. A link to that schedule can also be found on the website
www.parentachild.org.

TAC monitoring staff reviewed the online PATH class schedule and found that at least
one PATH class was being conducted in each region during each calendar month of
2010. Convenience of PATH class offerings varies by region. It is much easier for
prospective resource parents to find easily accessible PATH training when they live in
geographically smaller urban regions than when they live in some of the geographically
larger rural regions. The review of the online PATH class schedule did show that in the
rural regions, classes were held in different counties and towns throughout the region.173

173 The Department has confidence in the quality of the regular PATH classes based on the structure of the
classes, the quality of the Training Consortium trainers, and the feedback it receives on the classes from
resource parents. In large part in response to feedback from resource parents, the Tennessee Center for
Child Welfare has significantly revised the PATH training. The new PATH curriculum includes new
techniques to address trauma, attachment, discipline, crisis, birth parent partnership, and helping children
make appropriate transitions. In addition, effective strategies to appropriately parent teenagers are included
in each session.

The Department recognizes those serving as kinship resource parents are in a different position than
those resource parents who follow the more deliberate process of first going through training and then
having children placed with them. Especially when children are placed with relatives on an expedited
basis, the fact that the children are placed in advance of the training creates special needs and special
challenges.

The Department has therefore modified the PATH curriculum for kinship applicants to include a
separate orientation session to address kinship specific needs (such as, the need for immediate resources).
Also, kinship scenarios are included in the majority of the activities and videos.
2. Tracking of Compliance with the Approval Process Requirements

In order to ensure that each DCS resource family is receiving the required training, regional resource parent support units are required to review documentation that training has been completed, as a part of the initial approval and annual reassessment process. According to the Department, corrective action plans are issued and resource homes will not be re-approved without documentation of annual training. As discussed in Section B above, Initial PATH training is verified as part of the RHET process for all DCS and private provider homes. To ensure that no child is placed with a family prior to completion of training and approval (with the exception of expedited placements), the TFACTS system does not allow any home to be approved or any placement into a home, unless that home has been approved by RHET.

Also discussed in Section B above, as a part of an ongoing IV-E review of resource homes by Central Office staff, DCS resource home files are also reviewed for in-service training completion. Central Office staff bring to the attention of regional staff when a file indicates insufficient in-service training. Regional staff take necessary action, including requiring a corrective action plan when appropriate.

In order to ensure that each private provider resource family is receiving the required training, the DCS Licensing Unit and Program Accountability Review (PAR) Team review resource parent files during site visits, as discussed in the November 2010 Monitoring Report.

3. Expedited Approval Process for Kinship Resource Homes

The Department’s present policy regarding the expedited approval process for relatives conforms to the requirements of the Settlement Agreement.

There has not been a DCS report that provides accurate data on the extent to which the Department is meeting the 150-day time limit for achieving full approval of an expedited resource home placement. The TAC has conducted and reported on targeted reviews related to this provision in past monitoring reports, and the Department has met this time line in the majority of cases. The capacity to track time to approval is expected from TFACTS this spring, and the TAC will report on performance in the next monitoring report.

To provide some data on the extent to which the Department was completing the initial home visit and records check required at the time that an expedited placement is initially made, TAC monitoring staff conducted a targeted review. Using the August 17, 2010 TNKids Mega Report listing the placement settings of class members, TAC monitoring staff pulled a sample of expedited homes with children placed in them, and collected documentation from the regions on the home visit and background checks done prior to placement. Of the 146 homes in the sample, in 83 (57%) cases, the date of the home visit occurred prior to the placement date of the child in the home. In 51 (35%) homes, the
date of the home visit occurred on the same day as the placement date of the child in the home. In 2 (1%) homes, the date of the home visit occurred after the placement date of the child in the home, and in 10 (7%) homes, the home visit date was not listed on the Expedited Summary form collected for the review. The TAC is still analyzing the documentation related to background checks, and will report on the findings in the next monitoring report.

The Department has appropriately placed increased emphasis on identifying and engaging relatives and fictive kin as soon as possible, providing those members of the child’s extended family with information about the option of becoming a kinship resource family including the supports provided to kinship families and the availability of the expedited approval process for such families. As discussed in the November 2010 Monitoring Report, the Department is seeking to better understand the obstacles that are preventing better utilization of the natural circles of support of children coming into care as resource family placements and to design strategies to overcome those obstacles.

F. Maintaining a Diverse Pool of Resource Parents

The Settlement Agreement requires the Department to ensure that the pool of resource families is proportionate to the race and ethnicity of the children and families for whom DCS provides placement and services. However individual children are to be placed in resource families without regard to race or ethnicity.

As a part of its recruitment and retention efforts, the Department is required to ensure that the race and ethnicity of resource families be proportionate to the race and ethnicity of the custodial population. Table 16 compares the race of resource parents (both DCS and private provider) with the race of the custodial population as of May 31, 2010. As the table reflects, the Department is generally achieving this goal.

<table>
<thead>
<tr>
<th>Race</th>
<th>Child</th>
<th>%</th>
<th>Primary Resource Parent</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>3787</td>
<td>68%</td>
<td>2389</td>
<td>65%</td>
</tr>
<tr>
<td>African American</td>
<td>1352</td>
<td>24%</td>
<td>1138</td>
<td>31%</td>
</tr>
<tr>
<td>Asian</td>
<td>10</td>
<td>0.2%</td>
<td>7</td>
<td>0.2%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>6</td>
<td>0.1%</td>
<td>2</td>
<td>0.1%</td>
</tr>
<tr>
<td>Multiple Race</td>
<td>167</td>
<td>3%</td>
<td>6</td>
<td>0.2%</td>
</tr>
<tr>
<td>American Indian/Alaska Native</td>
<td>15</td>
<td>0.3%</td>
<td>8</td>
<td>0.2%</td>
</tr>
<tr>
<td>Unable to Determine</td>
<td>228</td>
<td>4%</td>
<td>139</td>
<td>4%</td>
</tr>
<tr>
<td></td>
<td>5565</td>
<td></td>
<td>3689</td>
<td></td>
</tr>
</tbody>
</table>

Table 16: Comparison of Racial Composition of In-Custody Population and Resource Parent Population (DCS and Private Provider Homes) as of 5-31-10


The Department may be facing some challenges with smaller, but growing, ethnic populations. For example, on May 31, 2010, there were 42 resource homes and 304 class members showing in TNKids as being of Hispanic origin.
SECTION TEN: STATEWIDE INFORMATION SYSTEM

A. Requirement to Establish and Maintain a Statewide Computerized Information System

The Settlement Agreement (X.A) requires the Department to establish and maintain a statewide computerized information system for all children in DCS custody that is accessible in all regional offices and into which workers shall be able to directly enter data. The statewide computerized information system is to ensure data integrity and user accountability and have the necessary controls to prevent the duplication of data and to reduce the risk of incorrect or invalid data.

The Department is in its first year of implementation of its new SACWIS system, the Tennessee Family and Child Tracking System (TFACTS). As previously reported, TFACTS not only takes advantage of the significant advances in information systems technology, but, unlike TNKids, has been designed from the beginning to support the Department’s present practice model and performance needs. TFACTS is engineered both to limit opportunities for inaccurate or incomplete data entry and to provide for improved auditing and data clean-up. It is anticipated that TFACTS will be a much more functional, user-friendly information system than TNKids and will provide a vastly improved and more robust reporting capacity.

In this first year of the implementation of TFACTS, the Department has been focused on ensuring that the system is accurately capturing and reporting data and identifying and addressing the kinds of programming flaws and reporting glitches that are not unexpected in a data system overhaul of this magnitude.

The TAC continues to track the progress in TFACTS implementation through review of the Department’s weekly updates on TFACTS implementation and through monthly meetings with key TFACTS staff.

B. Data System Capacity Requirements

The Settlement Agreement (X.B) requires that the statewide information system include uniform data presentation (including but not limited to AFCARS elements from DCS for all children in the plaintiff class), be capable of providing system-wide reports, and have necessary security to protect data integrity. This system is to be audited periodically to ensure the accuracy and validity of the data and is to provide an immediately visible “audit trail” to the database administrators of all information entered, added, deleted or modified.

TFACTS is designed to meet these requirements. The Department has begun producing system-wide reports on a prioritized basis. The Department generally spends the first several months after the first version of a statewide report is issued, reviewing and
“tweaking” the report to ensure that the report is accurate and meeting the Department’s needs. A list of key statewide reports presently available, as well as those not yet available (with anticipated dates by which such reporting will be available), is found in Appendix R.

TFACTS itself has built into the system an appropriate “audit trail” and includes a variety of ongoing data quality assurance processes and technological checks designed to ensure data accuracy and data integrity.

C. Requirement of Data Clean-Up Process

The Settlement Agreement (X.C) requires an intensive data clean-up process to ensure the accuracy of all data, including but not limited to data on all individual children in the plaintiff class, in the statewide computerized information system.

The Department’s transition from TNKids to TFACTS has included an intensive data transfer and data clean-up process that continues during this first year of TFACTS implementation.
SECTION ELEVEN: QUALITY ASSURANCE

A. Required Establishment of a Quality Assurance Program

The Settlement Agreement (XI.A) requires the Department to create a Quality Assurance Program directed by a Quality Assurance (QA) Division. The QA Division is to:

- assure external case file reviews and monitoring;
- assure an internal method for special administrative reviews;
- track, coordinate, and integrate all DCS quality assurance activities; and
- provide attention to the follow-up needed to improve services and outcomes.

As discussed in the November 2010 Monitoring Report, the Office of Performance and Quality Improvement (PQI) performs the QA functions enumerated in the Settlement Agreement.175

B. Requirement of Regular Reporting and Specialized Reviews

Pursuant to the Settlement Agreement (XI.B), the QA Division is expected to provide regular reports and also to conduct specialized case record reviews on issues relevant to the Settlement Agreement and other issues affecting the care of children.

As discussed in greater detail in the November 2010 Monitoring Report, the PQI Office provides regular reporting and conducts specialized reviews in accordance with this provision.

C. Staffing of the Quality Assurance Division

The Settlement Agreement (XI.C) requires that the QA Division be adequately staffed and that staff receive special training to fulfill its responsibilities.

The November 2010 Monitoring Report discussed in detail the structure and staffing of the PQI Office (including the allocation of responsibilities between its two divisions, Evaluation and Monitoring (E&M) and Planning, Policy and Performance Management (PPPM)) and the training opportunities and technical assistance support for the PQI Office staff related to their specific areas of responsibility.

175 The term “QA Division” as used in this section therefore refers to the Office of Performance and Quality Improvement.
The PQI Office has 41 positions, 36 of which are filled (as of February 1, 2011).\textsuperscript{176}

D. Requirement of Annual Case File Review

The Settlement Agreement (XI.D) requires that, at a minimum, the QA Division, once every 12 months, review a statistically significant number of cases from each region. These case file reviews are required to include interviews and an independent assessment of the status of children in the plaintiff class. As part of this annual review, the quality assurance division, central office, and other designated staff is required to develop a measure of appropriate and professional decision making concerning the care, protection, supervision, planning and provision of services and permanency for children in the class. This measure is to be utilized in conjunction with the case file reviews to measure the Department’s performance.

As discussed in the November 2010 Monitoring Report, the Quality Service Review, conducted by the Department in collaboration with the Tennessee Commission on Children and Youth (TCCY) and the Tennessee Consortium for Child Welfare (TCCW), serves as the annual review required by this provision.

E. Special Requirements Related to Designated Categories of Cases

The Settlement Agreement (XI.E) provides that the QA Division, utilizing aggregate data and case reviews as appropriate, is responsible for tracking, reporting and ensuring that appropriate action is taken with respect to nine specific categories of cases. The PQI Office anticipates reviewing and reporting on each of these nine categories during the course of each year. The PQI Office, in consultation with the TAC, has developed a prioritized schedule for review and reporting activities over the 12 months, taking into account, among other things, the current availability of TFACTS data relevant to the nine categories of cases.

1. Children who have experienced three different placements, excluding a return home, within the preceding 12 months.

As discussed in previous monitoring reports, the Department has utilized a very sophisticated analysis of aggregate data compiled by Chapin Hall to both understand issues related to placement stability and to develop, implement and track the impact of strategies to improve placement stability. Because of the transition to TFACTS, there will be some delay in this data being available. PQI will review the data once it is

\textsuperscript{176} The E&M Division has 25 positions (three of which are vacant), and is supervised by a Program Director 3; the PPPM Division has 14 positions (two of which are vacant), and is supervised by an Executive Administrative Assistant 3. The November 2010 Monitoring Report included a detailed description of the organizational structure of the PQI office and the positions and functions of the respective units within PQI.
available and determine what further reviews would be appropriate.

2. All cases in which a child has been in more than two shelters or other emergency or temporary placements within the past 12 months, and in all cases in which a child has been in a shelter or other emergency or temporary placement for more than 30 days.

The PQI Division tracks and analyzes aggregate data related to emergency or temporary placements and follows up with regions that appear to be having problems with compliance. A designated PQI staff person participates in the weekly Utilization Reviews of children placed in congregate care facilities, which includes review of children in emergency and temporary placements. PQI anticipates it will also be reviewing the Placement Exception Requests related to emergency and temporary placements.

PQI believes that the information gathered from these activities will be sufficient to ensure that appropriate action is being taken with respect to this category of cases.

3. Children with a permanency goal of return home that has remained in effect for more than 24 months.

Aggregate reporting from TFACTS on this category of children is not yet available. However, there is an overlap between these children and children in care for more than 15 months for whom TPR has not been filed and therefore the review described in Subsection 9 below will provide some insights related to cases in which a goal of return home has remained in effect for more than 24 months.

4. Children who have returned home and reentered care more than twice and have a permanency goal to return to that home.

As discussed in previous TAC reports, there are very few cases that fall into this category within any given year. PQI anticipates periodically conducting the kind of targeted review that the TAC has done in the past. However, until the Department is further along with the TFACTS transition, it is not practical to run the special report that is needed to identify for the review the children who fall into this category.

5. Children with a sole permanency goal of adoption for more than 12 months for whom a petition to terminate parental rights has not been filed.

TFACTS aggregate reporting related to this category of cases is not yet available. PQI anticipates conducting a targeted review of these children once that aggregate data is available. In the meantime, because most, if not all, of these children are included among the children who have been in care for 15 months or more for whom TPR has not been filed, the review described in Subsection 9 below will provide some insights.
6. **Children with a sole permanency goal of adoption for more than one year who have not been placed in an adoptive home.**

Aggregate reporting is not yet available from TFACTS regarding this category of children. The Department expects that the bulk of these children will be in full guardianship and therefore the subject of the FOCUS process. Once TFACTS reporting is available, PQI will determine what beyond monitoring the FOCUS process would be necessary to ensure that appropriate action is being taken with respect to this category of children.

7. **Children more than 60 days in custody who do not have a permanency plan.**

PQI will be reviewing monthly aggregate tracking data produced from the Mega Report and determining what, if any, follow up is necessary to ensure that appropriate action is taken with respect to these cases.

8. **Children for whom the permanency goal has not been updated for more than 12 months.**

PQI will be reviewing monthly aggregate tracking data produced from the Mega Report and determining what, if any, follow up is necessary to ensure that appropriate action is taken with respect to these cases.

9. **Children who have been in custody for 15 months or more with no TPR petition filed.**

PQI is presently conducting targeted reviews of cases from this category to ensure both that compelling reasons findings are being appropriately made and that cases in which compelling reasons have been made are being appropriately reassessed to ensure that either those compelling reasons continue to exist or that appropriate action is being taken to file TPR. While there is some aggregate reporting presently available from TFACTS to support this review, aggregate reporting related to compelling reasons findings, which had been available from TNKids, is not yet available from TFACTS.

**F. Implementation of Racial Disparity Report Recommendations**

The Settlement Agreement (XI.F) requires that DCS continue its implementation of the recommendations in the Racial Disparity Report set forth in the plan approved by the Court on August 19, 2004.

The recommendations of the report focused primarily on three areas—data analysis and reporting, resource family and relative caregiver recruitment and support, and workforce development. The November 2010 Monitoring Report discussed the variety of activities undertaken by the Department in response to the recommendations. The Department has substantially implemented those recommendations and, for those recommendations that
contemplate ongoing activities, the Department continues to demonstrate an appropriate “maintenance of effort.”

The Department has established a statewide Cultural Competency Advisory Committee (CCAC) and a working Cultural Competency Committee. While the focus of both the Advisory Committee and the working Committee has been on workforce issues (primarily reviewing and responding to concerns related to staff training), both committees are charged with ensuring that the Department is continuing to respond appropriately to the recommendations of the Racial Disparity Study.

G. Status of Present Class Members Who Entered DCS Custody Prior to October 1, 1998

The Settlement Agreement (XI.G) requires that the TAC continue to report on the status of all foster children in DCS custody who entered DCS custody prior to October 1, 1998. As of December 31, 2010, the status of the three children in this group is as follows:

- A 16-year-old with intellectual disabilities has been in the same resource home since entering care in 1995. The resource family remains committed to being the permanent family for this child but does not want to adopt because they do not want the child to lose her priority status for services through the Department of Intellectual and Developmental Disabilities upon reaching adulthood.

- A 13-year-old has been in the same resource home since 2009 but has experienced a stay in a residential placement during that time to address some significant behavioral challenges. The resource family with whom he is presently placed is the intended permanent placement. As of December 2010, the Department was in the process of gathering the assessment documentation related to the special needs adoption contract, and adoption finalization is anticipated as soon as the special needs rate is worked out.

- A 14-year-old who has been in full guardianship since 2000 returned to Tennessee after a failed attempt at an ICPC placement with a relative and has continued to experience instability. She was placed with a resource family in April of 2009 and that family, who has adopted her sister, appears to be committed to her despite disruptions that have resulted in periodic placement in residential programs. She is presently in a congregate care setting, but this prospective adoptive family participates actively in the child’s therapy, takes the child home for home visits, and is hopeful that once the child’s aggressive behaviors are better under control, the child can again be discharged to them.
SECTION TWELVE: SUPERVISION OF PRIVATE PROVIDER AGENCIES

A. Requirement of Performance Based Contracting

The Settlement Agreement requires that all DCS contracts for placements and services with provider agencies be “pursuant to annual performance-based contracts issued by DCS.” (XII.A)

The Department, with ongoing assistance from the Chapin Hall Center for Children, has implemented Performance Based Contracting (PBC). Since July of 2009, every private provider that contracts with DCS for placements does so through a performance based contract.\(^{177}\) For fiscal year 2010-2011, there are 30 private providers that have residential contracts, as well as eight providers that serve as subcontractors to one or more primary contractors.

Private providers are measured on performance related to three main standards: reduction in the number of care days, increase in the number of permanent exits, and reduction in reentries. Those whose performance exceeds contract expectations receive “reinvestment dollars” and those whose performance falls short of expectations are assessed penalties.

For the 2009-2010 contract year, the PBC goal for providers was to reduce care days and increase permanent exits by 10% relative to their agency baseline. Twenty providers earned reinvestment dollars and five providers were assessed penalties totaling $528,329. An additional five providers would have been assessed penalties, had they not been in their “no-risk” period, totaling $277,051.\(^{178}\)

B. Licensing Requirements and Professional Standards

The Settlement Agreement (XII.B) requires that the Department:

- contract only with those agencies that meet the provisions of the Settlement Agreement that specifically apply to those agencies and that meet state standards governing the operation of child care facilities;\(^{179}\) and

- not contract with any agency that has not been licensed by the State to provide placements for children in the plaintiff class.

\(^{177}\) As discussed in the November 2010 Monitoring Report, PBC was implemented in four phases, with the last set of providers coming fully on board in fiscal year 2009-2010.

\(^{178}\) For the 2008-2009 fiscal year, all five of the Phase I providers earned reinvestment dollars. Of the Phase II providers, two of six providers were assessed penalties totaling $229,195. Four of the Phase III providers did not meet their targets; however, they were not assessed penalties during this “no risk” period. Had the penalties been assessed, the dollar amounts would have totaled $280,942.

\(^{179}\) These state standards are to reflect reasonable professional standards.
The Department’s *Private Provider Manual* requires that private provider agencies adhere to the applicable mandates set forth in the *Brian A.* Settlement Agreement. All private providers that the Department contracts with for the placement of children in the plaintiff class are licensed either by DCS or by the Tennessee Department of Mental Health and Developmental Disabilities (DMHDD).

For fiscal year 2010-2011, the Department has residential contracts with 30 private providers. Many of these private providers have multiple licenses for separate programs. For example, a large private provider that provides therapeutic foster care services but also operates residential treatment facilities would obtain separate licenses for each program. The Department licenses all 17 private providers that provide foster care services for the Department. There are currently 15 providers and 27 sites or placement locations that contract with DCS (including subcontractors) that have a license from DMHDD. Some of these placement locations are operated by private providers that have a license from both DMHDD and DCS.

The DCS Licensing Unit is responsible for ensuring that every private provider that is licensed by the Department of Children’s Services has a current license. If the Licensing Unit suspends, revokes, or fails to renew the license of a provider, the Licensing Unit immediately brings this to the attention of the Placement Quality Team System.

The Department of Children’s Services is currently coordinating with the Licensing Division of DMHDD pursuant to a Memorandum of Understanding outlining basic protocols for interdepartmental notification and information sharing. Protocols within the Memorandum of Understanding address such matters as the sharing of reports generated from licensing or contract monitoring functions, notifications of changes in licensing status, suspension of admissions, and termination of contracts.

The DCS Licensing Unit coordinates internally with the DCS Contracts Development Division to ensure that any private providers that contract or apply to contract with the Department are appropriately licensed and that their licensure is in good standing. Additionally, licensure verification will be accessible for all contract and subcontracted private providers, including those licensed by DMHDD, under the new TFACTS information system. This information will be updated and maintained by the DCS Licensing Unit.

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180 *Private Provider Manual* 1.III.
181 The term “residential contracts” refers to the contracts for placement and accompanying services. For purposes of *Brian A.* reporting, residential contracts for detention are excluded from this analysis; however, it is possible that some private providers that serve only juvenile justice children are included among the 30 agencies with residential contracts. The Department also contracts for a variety of non-residential services, including contracts for in-home and family preservation services, legal services, and child abuse prevention services.
182 See Subsection E.2 below for a description of the Placement Quality Team System.
C. Non-Discrimination Requirement

The Settlement Agreement (XII.C) requires that DCS not contract with (and shall immediately cease contracting with) any program or private provider that gives placement preference by race, ethnicity, or religion. The Department has incorporated this non-discrimination requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers from giving placement preferences based on race, ethnicity, or religion.

D. Requirement to Accept Children for Placement

The Settlement Agreement (XII.D) requires that any agency or program contracting with DCS be prohibited from refusing to accept a child referred by DCS as appropriate for the particular placement or program. The Department has incorporated this requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers contracting with DCS from refusing to accept a child referred by DCS as appropriate for the particular placement or program.183

E. Inspections and Monitoring of Contract Agency Placements

The Settlement Agreement (XII.E) requires that:

- all contract agencies providing placements for children in the plaintiff class be inspected annually by DCS oversight staff in an unannounced visit;

- DCS determine in a written report whether the agency complies with state licensing standards; and

- the DCS Licensing Unit collaborate with the DCS Quality Assurance Unit and the Central Office Resource Management Unit to determine agency compliance with the terms of this Settlement Agreement.

The Settlement Agreement also requires that DCS maintain sufficient staff to allow for appropriate monitoring and oversight of private providers.

183 The Department does not have a formal structure for identifying situations in which a private provider refuses to accept a child whom DCS deems is appropriate or for determining whether the refusal is contrary to the policy and contract requirement. In general, the Department enjoys a good working relationship with the private providers with whom it contracts for placements. Private providers that appear to be reluctant to accept children that DCS has deemed as appropriate for placement with that provider or are frequently unavailable when the Department is looking for an appropriate placement for a child are likely to be identified and those issues addressed in annual agency reviews.
1. PAR and Licensing Unit Reviews

The Department annually conducts at least one unannounced visit to all programs licensed by DCS. These unannounced visits are in addition to annual scheduled, or announced, visits conducted by the Licensing Unit. The Program Accountability Review (PAR) Unit also conducts inspections of private providers. The Licensing Unit reviews a sample of files for compliance with licensing standards, and the PAR Unit reviews a sample of files for compliance with contract requirements and requirements outlined in the Private Provider Manual. Each Licensing and PAR visit is documented in a written report that is posted on the Department’s Integrated Monitoring shared computer drive and provided to the private provider, the Director of Child Placement and Private Providers, the Division of Evaluation and Monitoring, the TAC Monitoring Office, the appropriate regional administrators, identified DCS program stakeholders, and subject matter experts.

In the case of programs used by DCS but licensed by the Department of Mental Health and Developmental Disabilities (DMHDD), annual licensing visits are conducted by DMHDD. DMHDD is required by TCA 33-2-413 “to make at least one unannounced…inspection of each licensed service or facility yearly.” DMHDD coordinates with the Department regarding the providers that it licenses, through reports and correspondence. During state fiscal year 2009-2010 (July through June), the Division of Evaluation and Monitoring conducted unannounced visits to certain contract providers, prioritizing providers who do not receive a visit from the DCS Licensing Unit (those that do not have licenses from both DCS and DMHDD). The Department has developed a plan to use PAR reviewers, with back up from other PQI staff as needed, to make an unannounced visit to placement locations licensed by DMHDD, including subcontractors, that provide placements for children in the plaintiff class during the federal fiscal year 2011–2012 (October through September).

While the DCS Licensing Unit has specific responsibilities related to monitoring and oversight of the private providers, there are a variety of other staff from other units and divisions of DCS whose responsibilities include aspects of private provider monitoring. In previous monitoring reports, the TAC expressed concerns that the allocation of different, but often overlapping, responsibilities was confusing and inefficient, and that the lack of coordination and communication between the various units created a risk of delayed recognition of and/or response to problematic private provider practices.

As discussed in the November 2010 Monitoring Report, considerable progress has been made in coordination and integration of the various oversight efforts. Additionally, the Placement Quality Team reviews, discussed below, continue to bring together

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184 The Department of Children’s Services is required by Tennessee Code Annotated TCA 37-5-513 to conduct inspections “at regular intervals, without previous notice.”
185 While the policy dictating PAR review requirements mandates reviews once every three years, PAR conducts a review on many of its private providers annually and all within the three year cycle. PAR has developed a plan to allow providers a year off from PAR reviews during their accreditation year.
representatives of the various units with responsibility for some aspect of private provider oversight to discuss specific issues of concern related to private provider placements.

2. Placement Quality Team Reviews

The Department has implemented and continues to refine and improve the Placement Quality Team System (PQTS), a system for reviewing and responding to complaints or concerns raised about particular private providers or particular placements. Responsibility for reviewing and responding to these complaints and concerns falls to teams that are designated Green Zone, Yellow Zone, and Red Zone, based on the severity of the complaints or concerns. See the November 2010 Monitoring Report for a more thorough description of the different teams and processes that make up the PQT System.

The Yellow PQT, which meets on an as-needed basis, consists of representatives from each of the divisions and units that have special responsibilities for private provider oversight within the Department. The purpose of these meetings is to share concerns that have come to the attention of any of the team members, either in the course of the oversight activities of their unit or division, or through referrals from complaints about a particular private provider by others (e.g., family members, resource parents, members of the general public) made to regional or Central Office staff and routed to the PQT for review and response.\(^{186}\) This process applies to both private providers as a whole and specific group or congregate care facilities.

The Yellow PQT reviews the information and concerns presented and decides what, if any, further action is appropriate. When there are concerns, actions typically taken include: sending out a team to do an unannounced site visit and gather further information; requiring the private provider to develop and implement a corrective action plan to address concerns; holding a face-to-face meeting with the provider management staff; and/or setting up technical assistance for the provider. If the Yellow PQT determines that a freeze on admission, removal of children from a facility, and/or termination of the contract with the provider is appropriate, the team refers the case to the Red PQT, consisting of senior leadership with ultimate decision making responsibility.

There has been a significant decrease over time in the number of private providers receiving Yellow PQT oversight. During calendar year 2010, the Yellow PQT monitored five private providers about which concerns had been raised (compared to 23 during 2009), and conducted two on-site visits or inspections (compared to 16 in 2009). Three providers came into Central Office to meet with the Department as a result of PQT involvement (compared to 12 in 2009) and three corrective action plans were requested (compared to 13 in 2009). Four private providers had their admissions suspended (compared to 11 in 2009); and one provider (compared to two in 2009) was permanently closed to DCS youth.

\(^{186}\) A referral form is available on the DCS website, which can be used by any DCS staff to refer private providers to the PQT.
The Department attributes this reduction to an overall improvement in private provider oversight, including the effectiveness of the PQT process. The Department has been able to address significant concerns either through successful implementation of corrective action plans or eliminating the most problematic agencies from the provider network. In addition, the Department is better able to identify and effectively address lower level concerns through its other oversight mechanisms.

There are currently three green level PQTs. The Green Teams have the ability to feed information or referrals to the Yellow PQT when the teams recognize that the concern needs the level of oversight and intervention that is available from the Yellow Team. One team, the Resource Home Green PQT, meets weekly and reviews private provider or DCS resource homes which were the subject of Special Investigations Unit (SIU) investigations that were either “indicated” for abuse or neglect or closed without a finding of abuse or neglect but “with concerns” noted by the investigator.\(^\text{187}\)

The second Green PQT is a team that reviews corrective action plans that private providers submit in response to findings from PAR reviews and/or PQT intervention. The third team is the Data Trending and Analysis Team (DTAT), made up of representatives from the Office of PQI. This team serves to integrate and review various sources of data related to providers (such as Incident Reports, Special Investigations, etc.) and report out on the findings.\(^\text{188}\) This team differs from the Yellow Zone PQT in that this team does not analyze information when concerns are raised about providers, but rather looks deeper into various sources of data related to all providers to look for trends and report out on any issues identified.

The Department is continuing to develop and refine the PQT process. The Department is generally satisfied with the way in which the process identifies, receives and responds to specific incidents or concrete conditions that clearly raise serious concerns about a resource home or a private provider facility.\(^\text{189}\) The Department has developed an approach to situations in which, for example, regional staff have more generalized concerns about the quality of a resource home or facility or the way children are being treated in the facility, but there is no specific Incident Report, SIU Investigation, or PAR or Licensing Review finding that is the source of the concern. The Department recognizes that continued training and technical assistance is required to educate all regional staff about their responsibility for monitoring private provider performance.

3. Revision of Monitoring Instruments

As discussed in the November 2010 Monitoring Report, the Division of Evaluation and Monitoring (E&M) has revised the various monitoring forms and protocols to heighten

\(^{187}\) See Section Three of this report for further discussion of the Resource Home Green PQT.

\(^{188}\) A more detailed description of the DTAT process is provided in Section Three of this report.

\(^{189}\) The TAC has noted considerable improvement in this area over the past two years.
the focus on monitoring of quality, in addition to the more quantitative and procedural requirements of the *Private Provider Manual*.

4. **Provider Scorecard**

As discussed in greater detail in the November 2010 Monitoring Report, the Department, in consultation with private providers and the TAC, has developed and is continuing to refine what it refers to as the Provider Scorecard (PSC). The purpose of the Scorecard is to communicate an overall assessment of the quality of each private provider’s work, consolidating various measurements related to provider performance, and emphasizing the areas of measurement that represent DCS priorities for system improvement.

The present version of the scorecard version includes 20 indicators within the domains of safety, permanency, and well-being, and incorporates measures for those indicators into a “scorecard” that allows private providers to see how their performance compares to that of other providers serving similar populations, and provides a basis for discussion with providers to help them identify opportunities for improvement.

In the fall of 2010, the Department issued a Provider Scorecard to a pilot group of eight providers or programs serving primarily Level III clients, covering performance measures for fiscal year 2009-2010. Feedback from providers was generally positive, and the scorecard provided an opportunity for the Department to have a more meaningful and productive discussion of performance with this pilot group.

The Department intends to issue a Provider Scorecard for fiscal year 2010-2011 for all providers being monitored by PAR; however, because of the transition to TFACTS, data for some of the elements of the scorecard may be incomplete.

F. **Avoiding Conflict of Interest in Placement Process**

The Settlement Agreement (XII.F) prohibits the Department from contracting with any agency for which an owner or board member holds any other position that may influence placements provided to children in plaintiff class (including judges, referees and other court officers) and requires that all contracts and contract renewals contain this policy as a binding term of the contract.

Department policy is consistent with these provisions and each contract signed by a private provider includes language confirming the private provider’s compliance with

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190 PAR and Licensing reports have been restructured to be more conducive to aggregation of data and to frame findings in terms of potential effects on the safety, permanency, and well-being of children. PAR also hopes to develop mechanisms that distinguish findings reflecting systemic problems from those reflecting an isolated departure from generally acceptable practice.

191 The Department sees the Provider Scorecard as an evolving process, being used for the first few years primarily to help private providers improve performance and later being used to inform future contracting decisions.
these provisions. Beginning with the 2009-2010 contract year, the Department has required each private provider to file annually with the Department a current list of board members and an individual conflict of interest statement from each such person in order to ensure that each provider provides affirmative documentation of their compliance with this conflict of interest provision. The Department expects that by the next contracting cycle it will have fully integrated the recording and review of this documentation into its broader private provider oversight process.
SECTION THIRTEEN: FINANCIAL DEVELOPMENT

A. Maximizing of Federal Funding

The Settlement Agreement (XIII.A) requires the Department to develop and implement policies and procedures to maximize Title IV-B and Title IV-E funding.

As discussed in more detail in the November 2010 Monitoring Report, the Department has approached and continues to approach revenue maximization in a conscientious and responsible manner. The Financial Planning and Reporting Unit of the Department’s Office of Finance and Program Support leads quarterly, regional fiscal review meetings focused on maximizing child eligibility for IV-E funding and Targeted Case Management.

DCS fiscal data, including that related to penetration rates, claiming success, and audit results, reflects that the Department’s policies and procedures meet the requirements of this provision.

B. Appropriate Utilization of Federal Funding

The Settlement Agreement (XIII.B) requires that all funds remitted for children in the plaintiff class to the State of Tennessee by the United States Department of Health and Human Services be committed exclusively to the provision of services and staff serving class members. The Settlement Agreement further provides that it is the intent of the state that dollars committed to DCS for the provision of services and resources to benefit children in the class and children at risk of entering the class not be decreased if efforts to maximize federal dollars result in additional federal funding.\(^{192}\)

As discussed in the November 2010 Monitoring Report, the Department has faced, and continues to face, significant challenges created by shortfalls in state revenues, which has required all state agencies to undergo budget cutbacks. The Department has engaged in a sound process to identify those budget cuts that would have the least negative impact on the reform effort, and has managed over the past two budget cycles to avoid the kinds of budget cuts that would significantly undermine the progress that the Department has made.\(^{193}\)

As discussed in the November 2010 Monitoring Report, notwithstanding funding challenges, consistent with the expressed intent of the Settlement Agreement, the Department has succeeded over the past eight years in increasing both federal funding

\(^{192}\) The Settlement Agreement further provides that “Nothing in this provision shall reduce the defendants’ financial obligations to comply with the terms of this agreement.”

\(^{193}\) There is some concern that significant cuts in the budgets of other state departments and local agencies that have been the Department’s partners in serving families and children may create additional challenges for the Department in carrying out its mission.
and state funding of its child welfare system. The state has supported reasonable budget improvements requested by the Department over and above the allocation of Needs Assessment dollars specified in the Settlement Agreement, and has been thoughtful and responsible in achieving the budget adjustments necessitated by the significant state revenue shortfall.

C. Financial Management System

The Settlement Agreement (XIII.C) requires DCS to maintain an appropriate financial management system capable of ensuring timely and accurate payments to family foster homes, adoptive homes, and private providers.

The transition to the TFACTS financial functions has not been as smooth as the Department had hoped. There were problems with ensuring timely payments of resource parents and providers. Some of the problems were attributable to the conversion of TNKids data to TFACTS, some to defects in the TFACTS application itself, and some to insufficient staff training. While the Department is confident that these problems will be fully addressed by correcting the defects in TFACTS and doing some focused staff training related to the financial functions, in the interim, the Department has developed processes to identify and respond promptly to individual instances of lack of timely payment.