

**BRAAM SETTLEMENT:
PANEL DECISIONS ON CHILDREN'S ADMINISTRATION
COMPLIANCE PLAN #7**

JANUARY 20, 2010

Compliance Plans related to
Monitoring Report #7 (October 8, 2009)





Braam Oversight Panel

The Braam Oversight Panel was created in 2004 to oversee a Settlement regarding Washington State's foster care system. The Settlement was reached after a six-year period of litigation. The named Plaintiff, Jessica Braam, is an adult who lived in 34 foster homes by the time the suit was filed in 1998. The Settlement is intended to improve the conditions and treatment of children in the custody of the state's Division of Children and Family Services.

The Panel was created to monitor improvements in selected services and ensure quality standards are met during the seven year duration of the settlement. This independent Panel was mutually selected by the parties (the Plaintiffs who filed the lawsuit and the state of Washington). The Panel, working in collaboration with the Department of Social and Health Services (DSHS) and with substantial input from the Plaintiffs and other stakeholders, issued an Implementation Plan for the six areas specified in the Settlement in February 2006. In July 2008, a Revised Braam Implementation Plan was published to reflect clarifications and modifications based on developments in the Braam process and discussions with DSHS, the plaintiffs and stakeholders.

This document provides Panel decisions on compliance plans in response to the Panel's Monitoring Report #7 (October 2009), which provided outcomes data for calendar year 2008, as well as a report on action steps through June 30, 2009. Monitoring Report #7 required compliance plans for 3 action steps found to be incomplete and 10 outcomes for which CY08 benchmarks were not reached.

Members

John Landsverk, Chair

Jeanine Long

Jan McCarthy

Jess McDonald

Dorothy Roberts

Carrie Whitaker, Executive Coordinator

Box 354900
4101 15th Ave NE
Seattle, WA 98105-6299

Phone: (206) 616-0390
FAX: (206) 543-1228
E-mail: carwhit@u.washington.edu
Website: www.braampanel.org

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| • Proposed Compliance Plans in response to Monitoring Report #7 (submitted by Children’s Administration on January 8, 2010) | |
| • Plaintiffs’ Comments on Draft Compliance Plans (letters dated November 24, 2009 and December 18, 2009) | |

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OVERVIEW

On October 8, 2009, the Braam Panel issued its seventh Monitoring Report, which provided outcomes data for calendar year 2008, as well as a report on action steps through June 30, 2009. This monitoring report was based on the requirements of the Revised Braam Implementation Plan (July 3, 2008).

In Monitoring Report #7, the Panel made several findings that led to the need for new compliance plans:

- *Action steps:* The Panel found that three action steps had not been completed and compliance plans were required.
- *Outcomes and benchmarks:* The Panel concluded that new or updated compliance plans¹ were required for 10 outcomes, either because data showed that performance in 2008 had fallen short of the benchmarks, or because acceptable data had not been submitted.

The Settlement requires the Department to submit proposed compliance plans within 30 days for action steps determined by the Panel to have been incomplete and outcomes for which the Department has failed to reach annual benchmarks. In response to the Panel's findings in Monitoring Report #7, the Department submitted draft compliance plans in November and December 2009. The plaintiffs then provided comments on these plans. After reviewing plaintiffs' comments, the Department submitted revised compliance plans to the Panel on January 8, 2010.

Format of this Document

This document provides summary information and detailed comments related to the Panel's decisions on the Department's proposed compliance plans submitted in response to Braam Monitoring Report #7 (October 8, 2009).

This document includes two parts:

- *Part I- Decisions on Compliance Plans for Action Steps:* Information related to compliance plans for the three action steps for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report is provided beginning on page 7. Detailed decisions and comments are found in the matrix beginning on page 8.
- *Part II- Decisions on Compliance Plans for Outcomes-* Summary information related to compliance plans on the 10 outcomes for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report is provided beginning on page 10. Detailed decisions and comments are found in the matrix beginning on page 11.

Communications from the Department (including copies of proposed compliance plans) and the plaintiffs related to the compliance plans are available as an appendix to this document.

¹ For many outcomes for which the Panel found in Monitoring Report #7 that the CY08 benchmark had not been met, a compliance plan had been previously approved by the Panel. In these areas, the Panel required an updated compliance plan, providing an update on progress with respect to the strategies included in the original compliance plan and adding or modifying strategies where applicable.

Next Steps

Pursuant to the Settlement Agreement, the Department may submit revised plans for those compliance plans that the Panel has not approved within 21 days of the issuance of the Panel's decision on the proposed plans.

The process of developing and implementing compliance plans will serve as a vehicle for the Department to achieve the goals of the Braam Settlement by ensuring that action steps and outcomes identified in the Revised Implementation Plan are accomplished.

PART I: DECISIONS ON COMPLIANCE PLANS FOR ACTION STEPS

The Panel's decisions on the compliance plans required for action steps based on the findings of the October 2009 Monitoring Report #7 can be summarized as follows:

- No Compliance plan was submitted for one action step found incomplete in Monitoring Report #7:
 - Mental Health, Action Step 1 – Initial health screens
- The compliance plan for one action step found incomplete in Monitoring Report #7 was approved:
 - Services to Adolescents, Action Step 7 – Information on children in juvenile detention facilities
- The compliance plan for one action step found incomplete in Monitoring Report #7 was not approved:
 - Services to Adolescents, Action Step 4 – Attendance, trancies, suspensions and expulsions

In the following matrix, the first column shows the requirements of the action step, the second column shows the Panel's findings in Monitoring Report #7 (October 8, 2009) and the last column shows the Panel's decision and comments.

The following matrix includes only the three action steps for which compliance plans were required as a result of the Panel's October 2009 Monitoring Report #7. Further detail on the status of other Braam action steps can be found in that Monitoring Report, and in the Panel's forthcoming Monitoring Report #8 (to be issued in March 2010).²

² All Panel reports, can be found online at <http://www.braampanel.org/reports.asp>

| Area/Action Step | Panel Decision in Monitoring Report #7 (October 8, 2009) | Panel decision on January 2010 Compliance Plan |
|--|--|---|
| Mental Health | | |
| <p>Initial (72 hour) health screening <i>[Revised Implementation Plan Mental Health Action Step 1]</i> <i>[Goal 1, Outcome 1, Action step 2-4 of February 2006 Braam Implementation Plan]</i></p> <ul style="list-style-type: none"> • The plan for achieving Goal 1, Outcome 1³ will be submitted to the Panel for review and approval-- 3/30/07 • The Department will begin to implement initial health screens-- 10/30/07 • The Department will track implementation to ensure that each child who enters out-of-home care receives an initial health screen-- Begin 10/07—continuous tracking | <p>Incomplete Compliance plan required</p> <p>Action step was found incomplete in Monitoring Report #5 (October 2008). Compliance plan was required, but not submitted.</p> <p>Action step was found incomplete in Monitoring Report #6 (March 2009). Compliance plan was required, but not submitted.</p> | <p>Incomplete- no compliance plan submitted</p> <p>Panel was encouraged by presentation from DSHS on this topic at the December Braam public meeting, and looks forward to continued discussion at March public meeting.</p> |

³ Mental Health Goal 1, Outcome 1 states: *Children will be screened by an appropriate health professional for immediate and urgent physical and mental health needs, including assessment for infectious and communicable diseases, within 72 hours of entering out of home care.*

| Area/Action Step | Panel Decision in Monitoring Report #7 (October 8, 2009) | Panel decision on January 2010 Compliance Plan |
|--|---|--|
| Services to Adolescents | | |
| <p>Attendance, truancies, suspensions and expulsions <i>[Revised Implementation Plan Adolescent Services Action Step 4]</i> <i>[Goal 2, Outcome 3, Action step 5 of February 2006 Braam Implementation Plan]</i></p> <p>The Department will collect information on school attendance, truancies, suspensions, and expulsions about youth in foster care in Washington, and will use this information to design and implement practice and system improvements in DCFS and to advocate for system improvements related to this goal.</p> <p>June 1, 2008</p> | <p>Incomplete Compliance plan required</p> <p>According to timeframes in the action step, data were required by June 2008. Data are still not available, and status update indicates that the ability to begin to collect these data will not be in place until February 2010.</p> | <p>Compliance plan not approved</p> <p>Plan should reflect that action step requires not only collection of data, but also analysis of these data and planning for system improvements where necessary. Plan should be amended to include provision of initial data and analysis and discussion of next steps at the June Braam public meeting.</p> |
| <p>Information on children in juvenile detention facilities <i>[Revised Implementation Plan Adolescent Services Action Step 7]</i> <i>[Goal 3, Outcome 3, Action step 3 of February 2006 Braam Implementation Plan]</i></p> <p>The Department will maintain information on children in foster care who spend time in juvenile detention facilities and will annually compile information on the number of these children, their lengths of stay in detention facilities, and the reason for the hold. The CA will use this information to design and implement practice and system improvements in DCFS and to advocate for system improvements.</p> <p>Report to Panel (June 1, 2008)</p> <p>Implement improvements (July 1, 2009)</p> | <p>Incomplete (Monitoring Report #7, October 8, 2009)</p> <p>Compliance plan required According to timeframes in the action step, a report to the Panel was required by June 2008 and system improvements were to be implemented in July 2009. Required report has not yet been provided, and there is no evidence of any effort to identify internal practice or system improvements to address the rate at which children are placed in detention.</p> <p>Compliance plan should indicate that an analysis of the data match with the Administrative Office of the Courts will be provided to the Panel by November 30, 2009 for discussion at the Panel's December meeting. The analysis should address the requirements of the action step (information on the number of children with stays in detention, their lengths of stay in detention facilities, and the reason for the hold). Compliance plan should also address strategies for practice and system improvements.</p> | <p>Compliance plan approved Panel expects data report in February 2010, and full discussion and analysis of data at March 2010 Braam public meeting.</p> |

PART II: DECISIONS ON COMPLIANCE PLANS FOR OUTCOMES

The Panel's decisions on the compliance plans submitted for Braam outcomes in response to the October 2009 Monitoring Report #7 can be summarized as follows:

- Compliance plans for 2 outcomes have been approved
 - Unsafe and Inappropriate Placements, Goal 1, Outcome 5- Medically Fragile Children
 - Services to Adolescents, Goal 2, Outcome 2- High School Graduation

- Compliance plans for 6 outcomes are not approved
 - Foster Parent Training and Information, Outcome 1- Foster Parent Training
 - Foster Parent Training and Information, Outcome 2- Foster Parent Support
 - Foster Parent Training and Information, Outcome 3- Foster Parent Information
 - Unsafe and Inappropriate Placements, Goal 1, Outcome 3- Sexually Aggressive Youth
 - Unsafe and Inappropriate Placements, Goal 1, Outcome 4- Physically Assaultive/ Aggressive Youth
 - Sibling Separation, Goal 2, Outcome 1- Sibling Visits and Contacts

- Compliance plans for 1 outcome is considered "pending"
 - Services to Adolescents, Goal 2, Outcome 3- Multidisciplinary Staffings

- An extension was granted for the submission of 1 compliance plan
 - Mental Health, Goal 3, Outcome 2- Annual Mental Health Screening

Detailed decisions and comments are found on the following pages. For each goal area of the Settlement Agreement, tables show each outcome for which a new compliance plan was due based on the findings of Monitoring Report #7. The first column of these tables show the outcome as stated in the Revised Implementation Plan, the second column shows findings from Monitoring Report #7 (including 2008 benchmarks and performance), and the third column shows the Panel's decision and comments on the compliance plan submitted in January 2010.

The following section includes only the 10 outcomes for which new compliance plans were required as a result of the Panel's Monitoring Report #7. Further detail on the status of other outcomes can be found in that Monitoring Report, as well as in the Panel's forthcoming Monitoring Report #8 (to be published in March 2010).⁴

⁴ The October 2009 Monitoring Report #7, and other Panel reports, can be found online at <http://www.braampanel.org/reports.asp>.

MENTAL HEALTH- DECISIONS ON OUTCOME COMPLIANCE PLANS

| Outcome | Panel Findings in Monitoring Report #7 (October 8, 2009) | Panel Decision on January 2010 Compliance Plan |
|--|--|--|
| <p><u>Goal 3, Outcome 2</u> Children in out-of-home care will be screened for mental health and substance abuse needs every 12 months.</p> | <p><u>Benchmark:</u> FY08=80% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> <i>Acceptable data not available</i></p> <p><u>Monitoring Report #7 Status:</u> Failed to reach FY08 benchmark: compliance plan required</p> <p>Panel has determined that benchmark has not been reached based on failure to provide data.</p> | <p>Compliance plan deadline extended</p> <p>Data for this outcome were submitted by the Department subsequent to Monitoring Report #7. Data show FY08 performance at 57%, with a range in regional performance from 52%-63%.</p> <p>Because data have been provided, a compliance plan addressing the provision of data is no longer necessary. However, based on the data, the FY08 benchmark was not reached and a compliance plan addressing performance concerns is required.</p> <p>The Panel has requested that this compliance plan be provided by January 21, 2010.</p> |

FOSTER PARENT TRAINING AND INFORMATION- DECISIONS ON OUTCOME COMPLIANCE PLANS

| Outcome | Panel Findings in Monitoring Report #7 (October 8, 2009) | Panel Decision on January 2010 Compliance Plan |
|--|--|---|
| <p><u>Goal 1, Outcome 1</u> Licensed caregivers will report adequate training for their roles and responsibilities (including, but not limited to, management of emotional, behavioral, developmental and medical problems, educational advocacy, strategies for engagement with birth parents, and cultural competency skills).</p> | <p><u>Benchmark:</u> CY08=90% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08=85.9% Regional performance ranged from 83.9-89.9% CY07=86.4%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan not approved</p> <p>Panel is concerned by the declining trend in performance on this outcome. Performance declined from 2006 to 2007 and again from 2007 to 2008.</p> <p>Panel encourages Department to make additional efforts to understand why foster parents may not feel adequately trained and prepared, and to incorporate strategies addressing these issues.</p> |
| <p><u>Goal 1, Outcome 2</u> Licensed caregivers will report adequate support for their roles and responsibilities (including, but not limited to, crisis support, timely notification about case planning meetings, and cultural competency resources).</p> | <p><u>Benchmark:</u> CY08=85% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 71.5% Regional performance ranged from 66.2-74.2% CY07=75.6%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan not approved</p> <p>Panel is concerned by the declining trend in performance on this outcome. Performance declined from 2006 to 2007 and again from 2007 to 2008.</p> <p>Strategies included in plan are quite general. Panel encourages Department to more closely examine foster parent survey data for the questions that are used in calculating compliance with this outcome to identify the specific items on which performance is most problematic, and to incorporate strategies addressing these issues.</p> |
| <p><u>Goal 1, Outcome 3</u> Licensed caregivers will report adequate provision of information about the needs of children placed with them (including, but not limited to, behavioral, medical, developmental and educational needs).</p> | <p><u>Benchmark:</u> CY08=85% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 72.3% Regional performance ranged from 67.2-79.6% CY07=72.4%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan not approved</p> <p>Panel is concerned by the declining trend in performance on this outcome. Performance declined from 2006 to 2007 and again from 2007 to 2008.</p> <p>Strategies included in plan are quite general. Panel encourages Department to more closely examine foster parent survey data for the questions that are used in calculating compliance with this outcome to identify the specific items on which performance is most problematic, and to incorporate strategies addressing these issues.</p> |

UNSAFE & INAPPROPRIATE PLACEMENTS- DECISIONS ON OUTCOME COMPLIANCE PLANS

| Outcome | Panel Findings in Monitoring Report #7 (October 8, 2009) | Panel Decision on January 2010 Compliance Plan |
|---|--|--|
| <p><u>Goal 1, Outcome 3</u> Children identified as sexually aggressive (SAY) pursuant to the statutory definition will be placed with caregivers who have received specialized training and have a plan developed to address safety and supervision issues.</p> | <p><u>Benchmark:</u> CY08=95% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 68.5% Regional performance ranged from 47.4-81.8% CY07=55%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan not approved</p> <p>Panel is concerned by the significant gap between performance and the benchmark. Given the relatively small number of children involved, the Department should be able to better analyze where there are problems and closely manage these cases.</p> <p>Strategy #2 in the proposed plan discusses Quality Assurance Plans, which seem to address the key requirements of the outcome. However, the plan provides almost no information on what is included in these plans, how they are being implemented, and how they will result in improved performance.</p> |
| <p><u>Goal 1, Outcome 4</u> Children identified as physically assaultive or physically aggressive (PAY) pursuant to the statutory definition will be placed with caregivers who have received specialized training and have a plan developed to address safety and supervision issues.</p> | <p><u>Benchmark:</u> CY08=95% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 50% Regional performance ranged from 37.5-61.1% CY07=44.7%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Panel has ongoing concerns regarding placement of SAY/ PAAY children with caregivers who have not been trained to care for children with these behaviors. Under these circumstances, is there a specific deadline by which the caregiver must receive training?</p> <p>Panel also has continued concerns regarding procedures for children for whom SAY/ PAAY behaviors are not identified until after they enter placement. Are there staffing meetings, training requirements, and procedures for these youth?</p> |
| <p><u>Goal 1, Outcome 5</u> Medically fragile children will be connected to ongoing and appropriate medical care and placed with caregivers who have specialized skills or receive consultation and ongoing training regarding their caretaking responsibilities for the medical condition.</p> | <p><u>Benchmark:</u> CY08=90% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 87.6% Regional performance ranged from 76.7-95.7% CY07=75.1%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan approved</p> <p>Panel is pleased to note that 4 out of the 6 regions exceeded the benchmark for this outcome. However, the remaining 2 regions fell short of the benchmark. In order to achieve compliance in the future, this issue will need to be addressed.</p> |

SIBLING SEPARATION- DECISIONS ON OUTCOME COMPLIANCE PLANS

| Outcome | Panel Findings in Monitoring Report #7 (October 8, 2009) | Panel Decision on January 2010 Compliance Plan |
|--|--|--|
| <p><u>Goal 2, Outcome 1</u> Children placed apart from their siblings will have two or more monthly visits or contacts (not including staffing meetings or court events) with some or all of their siblings. - If the CA or the court determines that visitation/contact poses a risk to either child's health, safety or welfare, this finding will be approved by the supervisor and documented in the child's file.</p> | <p><u>Benchmark:</u> CY08=75% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> CY08= 53.7% Regional performance ranged from 42.9-56.8% CY07=52.4%</p> <p><u>Monitoring Report #7 Status:</u> Failed to reach CY08 benchmark: updated compliance plan required</p> | <p>Compliance plan not approved</p> <p>The gap between performance and the benchmark is quite significant, and the Panel is not convinced that the strategies in the proposed plan are sufficient to bring about the magnitude of improvement required.</p> <p>Strategies are very similar to previous versions of this compliance plan, despite the fact that performance has not shown meaningful improvement. In addition, the proposed plan seems to focus on shifting from the foster parent survey to FamLink as a source of data for this outcome, rather than addressing actual performance change or practice improvement.</p> |

SERVICES TO ADOLESCENTS- DECISIONS ON OUTCOME COMPLIANCE PLANS

| Outcome | Panel Findings in Monitoring Report #7 (October 8, 2009) | Panel Decision on January 2010 Compliance Plan |
|--|--|--|
| <p><u>Goal 2, Outcome 2</u> The percentage of youth in out-of-home placement in grade 9 who remained in placement continuously through grade 12 who graduate from high school on time with a regular or adult (IEP) diploma, including students with disabilities who graduated within the number of years designated in their IEP, will increase.</p> | <p><u>Benchmark:</u> FY08=50% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> <i>Acceptable data not available</i></p> <p><u>Monitoring Report #7 Status:</u> Failed to reach FY08 benchmark: compliance plan required</p> <p>Panel has determined that benchmark has not been reached based on failure to provide data.</p> | <p>Compliance plan approved</p> <p>Data for this outcome were submitted by the Department subsequent to Monitoring Report #7. Data show FY08 performance at 48%, with a range in regional performance from 27%-75%.</p> <p>Based on these data, the FY08 benchmark was not reached and a compliance plan addressing performance concerns was submitted.</p> <p>The Panel has approved this compliance plan.</p> |
| <p><u>Goal 2, Outcome 3</u> A multi-disciplinary staffing meeting will be held six months prior to a youth's exit from foster care to address issues related to transition to independence.</p> | <p><u>Benchmark:</u> CY08=75% Statewide benchmark must be met, and no region's performance may be more than 10 percentage points lower than the statewide benchmark.</p> <p><u>Performance:</u> <i>Acceptable data not available</i></p> <p><u>Monitoring Report #7 Status:</u> Failed to reach FY08 benchmark: compliance plan required</p> <p>Panel has determined that benchmark has not been reached based on failure to provide data.</p> | <p>Pending</p> <p>Panel requests presentation of all available data at the March public meeting.</p> |