

IN THE SUPREME COURT OF OHIO

State of Ohio, ex rel.  
Stephanie Y. Clough,

Relator,

v.

Franklin County Children Services, et al,

Respondents.

:  
:  
:  
:  
:  
:  
:

Case No. 14-1122

(Original Action in Mandamus)

---

**SUBMISSION OF EVIDENCE OF RESPONDENTS FRANKLIN COUNTY CHILDREN SERVICES, EXECUTIVE DIRECTOR CHARLES M. SPINNING, AND CHIEF LEGAL COUNSEL ANNE C. O'LEARY**

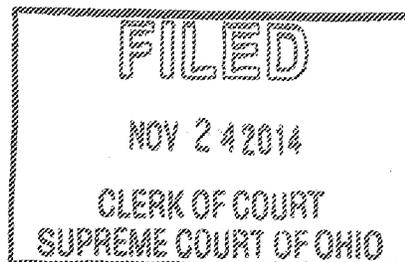
---

Stephanie Y. Clough  
8060 Wright Road  
Broadview Heights, Ohio 44147  
(440) 417-3382  
stephanieclough@hotmail.com

Relator, *pro se*

Nick A. Soulas, Jr. (0062166)  
First Assistant, Civil Division  
Amy L. Hiers (0065028)  
Assistant Prosecuting Attorney  
373 South High Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215-6318  
(614) 525-3520  
(614) 525-6013 FAX  
nsoulas@franklincountyohio.gov  
ahiers@frankincountyohio.gov

Counsel for Respondents,  
Franklin County Children Services,  
Charles M. Spinning, and  
Anne C. O'Leary



**SUBMISSION OF EVIDENCE**

Respondents, by and through undersigned counsel, hereby submit the following evidence pursuant to this Court's November 5, 2014 Entry:

1. Affidavit of Anne C. O'Leary
  - a. Exhibit 1 to Affidavit: Franklin County Children Services Consumer Rights and Information pamphlet
  - b. Exhibit 2 to Affidavit: Franklin County Children Services Board Policies Excerpt; Pages 7, 8, 9, and 10
  - c. Exhibit 3 to Affidavit: May 6, 2011 letter from Ohio Department of Job and Family Services to Relator

Respectfully submitted,

**RON O'BRIEN  
PROSECUTING ATTORNEY  
FRANKLIN COUNTY, OHIO**



Nick A. Soulas, Jr. 0062166  
First Assistant, Civil Division  
Amy L. Hiers 0065028  
Assistant Prosecuting Attorney  
373 South High Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215-6318  
(614) 525-3520  
(614) 525-6013 FAX  
nsoulas@franklincountyohio.gov  
ahiers@frankincountyohio.gov

Counsel for Respondents

**IN THE SUPREME COURT OF OHIO**

State of Ohio, ex rel.	:	
Stephanie Y. Clough,	:	
	:	
Relator,	:	Case No. 14-1122
	:	
v.	:	
	:	(Original Action in Mandamus)
Franklin County Children Services, et al,	:	
	:	
Respondents.	:	
	:	

**AFFIDAVIT OF ANNE C. O'LEARY**

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

I, Anne C. O'Leary, being duly cautioned and **SWORN**, hereby state the following:

- 1.) I am more than 18 years of age, I have personal knowledge of all of the facts contained in this Affidavit, and I am competent to testify to the matters contained herein.
- 2.) I am the Chief Legal Counsel for Franklin County Children Services ("FCCS"). I have served in that capacity for 11 years. My duties include advising the executive director, the board of trustees, and agency employees on legal matters related to the duties and responsibilities of a public children services agency.
- 3.) Exhibits B, C, and D to Relator's Original Action in Mandamus are true and accurate copies of the correspondence related to Plaintiff's public records request.
- 4.) Attached hereto as Exhibit 1 is a true and accurate copy of the Franklin County Children Services Consumer Rights and Information pamphlet, generally referred to as the "client rights pamphlet."

- 5.) Attached hereto as Exhibit 2 is a true and accurate copy of pages 7, 8, 9, and 10 of the Franklin County Children Services Board Policies.
- 6.) As I stated in my April 28, 2014 letter to Mr. Steven LaTourette, (Exhibit D to Plaintiff's Complaint), the records sought by Relator's request were investigatory records concerning allegations of abuse and neglect, which are confidential pursuant to O.R.C. 2151.421 and 5153.17 and which may be released only in limited circumstances. I also detailed the steps taken by FCCS in response to Relator's request for records (and other requests) and attached a letter from the Ohio Department of Job and Family Services, a true and accurate copy of which is attached hereto as Exhibit 3.
- 7.) As I attempted to clarify in my May 20, 2014 letter to Mr. Steven LaTourette, (Exhibit D to Plaintiff's Complaint), FCCS did not open a case after the investigation into the physical abuse allegation was concluded, and, therefore, the only records Franklin County Children Services had related to the Clough family were investigatory records.
- 8.) As set forth in the client rights pamphlet, clients may "review their case record as long as the law does not prohibit access." (Exhibit 1, attached hereto, p. 7, #4.)
- 9.) As further detailed in the FCCS board policy concerning client access to records: "It is the policy of the Franklin County Children Services Board that adults and children who are clients of the Agency shall have the following rights. The right to: ... review their case record, subject to applicable federal and state statutes and regulations. *Please be aware that specific provisions in the law prohibit the release of referral source information and investigatory records.* Requests for review are considered by

the Executive Director, and may be approved, or approved with limitations (information redacted) as mandated by the provision of RC 149.42, 2151.421, 1347., 5101.13-5101.134, 5153.17, and OAC 5101:2-33-21 and 22.” (Exhibit 2, attached hereto, p. 7, III.D.4.) (emphasis added.)

10.) As I explained in my May 20, 2014 letter to Mr. LaTourette, it is FCCS’s position that the Clough investigatory records are confidential pursuant to law and, that, while the Executive Director may authorize the release of certain records, he was not exercising his discretion to do so regarding the records requested by Relator.

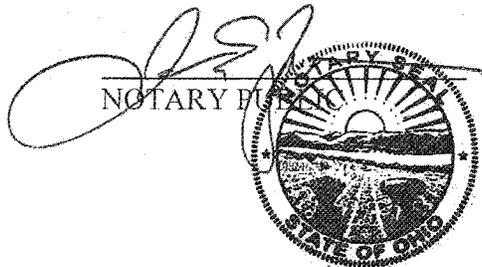
11.) All FCCS policies were fully complied with in responding to Relator’s request for records.

**FURTHER AFFIANT SAITH NAUGHT.**



\_\_\_\_\_  
Anne C. O’Leary

SWORN to before me and subscribed in my presence this 21<sup>ST</sup> day of November, 2014.



JAMES E. ZORN, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R.C.

Through collaboration with families and their communities, we advocate for the safety, permanency and well-being of each child we service in a manner that honors family and culture.



# Consumer Rights & Information

Supervisor: \_\_\_\_\_

Associate Director: \_\_\_\_\_

Director: \_\_\_\_\_

### Office Locations:

Intake	.....	525 E. Mound St.	.....	614-229-7100
Central	.....	525 E. Mound St.	.....	614-421-5500
East at 205	.....	205 N. Hamilton Rd.	.....	614-575-3500
West	.....	1919 Frank Rd.	.....	614-278-5800
Foster Care Dept.	.....	855 W. Mound St.	.....	614-275-2757
Adoptions Dept.	.....	855 W. Mound St.	.....	614-341-6000
Training Dept.	.....	855 W. Mound St.	.....	614-278-5906
Human Resources	.....	855 W. Mound St.	.....	614-351-2000
Client rights	.....	855 W. Mound St.	.....	614-275-2621

**Main Office:**  
855 West Mound St.  
Columbus, OH 43223  
614.275.2571



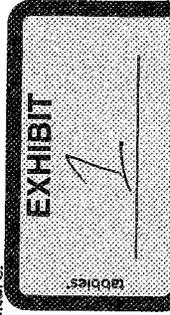
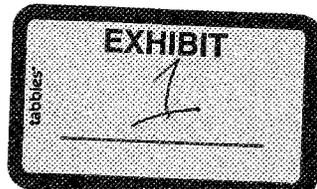
Franklin County  
Children Services  
855 West Mound Street  
Columbus, Ohio 43223-2208  
614.275.2571  
614.275.2755 (fax)  
[www.co.franklin.oh.us/children\\_services/](http://www.co.franklin.oh.us/children_services/)



**"Protecting Children by Strengthening Families"**

Published by Franklin County Children Services  
Office of Client Rights

**M**ission: Through collaboration with families and their communities, we advocate for the safety, permanency and well-being of each child we service in a manner that honors family and culture.



## What is Franklin County Children Services?

Our agency is mandated by law to investigate abuse, neglect and dependency referrals. We will only get involved to assure the safety of children or to help the family during a crisis. Our initial goal is always to keep children safely in the home and provide those services that may prevent the case from opening. If a case is opened we respond in three ways. If a child can be safely maintained at home, we will work with the family on a mutually agreed upon plan to solve the problems that led them to us. Sometimes it is necessary to remove children temporarily from their home. When it has proven impossible to safely reunify a child with the family the agency will seek permanent custody and place them for adoption.

Throughout the life of a case, families are encouraged to provide input and be a part of the team decision-making process. Families are best served when they can help identify the issues that are challenging them and are included in developing the service plan to help them.

Every child deserves a stable, permanent home. This permanence may take many forms—reunification with birth family, kinship care, adoption, foster family contact and /or community connections can all offer a lifetime of support for youth.



### Children Services wants you to call if:

- ☒ You think protective services could be useful to yourself or your family.
  - ☒ You received protective services once but need them again.
  - ☒ You think any child or family is in need of the protective services.
- A caller has the right to remain anonymous.

### Children Services follows these guiding principles:

- ◆ We are child welfare professionals;
- ◆ We honor families;
- ◆ We value every child; and
- ◆ We value partnerships

## About this booklet

It is our policy to give you this brochure and discuss it at your first in-person interview with one of our caseworkers. If you have questions, please call your caseworker or supervisor listed on the front cover. If your case is opened and sent to one of our region offices, the new caseworker will assure that you have a copy with the new supervisor and caseworker's names.

### About your right to effectively communicate

All persons who are unable to communicate using English, whether orally or in writing, will have equal access to services provided by Franklin County Children Services. Effective communication will be provided through Children Services staff whenever possible. When that is not possible, a certified interpreter will be provided at no cost.

## Table of Contents

What is Franklin County Children Services?.....	1
What can I expect from FCCS?.....	2
How does The Indian Child Welfare Act effect you? .....	3
What services can help my family?.....	4
What happens if my children must leave home?.....	5
What are my rights?.....	6
How are my rights protected? .....	10
When Disaster Strikes.....	13

### What can I expect from Children Services?

Our caseworkers work with families to solve their problems. The law requires Children Services to investigate allegations concerning children who may be abused, neglected or dependent and in need of protection.

#### These calls are usually about:

- ◆ lack of supervision, food, shelter, utilities, medical care of a child
- ◆ physical abuse of a child
- ◆ sexual abuse of a child
- ◆ a child who fails to thrive, grow and develop
- ◆ educational neglect
- ◆ a child showing severe behavior problems
- ◆ a child who has run away from home
- ◆ drug or alcohol abuse in the family
- ◆ safety or protection of a child
- ◆ child death

The Children Services caseworker will tell you what areas of concern were reported and find out if there is a problem in any of these areas. This will be done through talking with you, your children, school, professional, and others involved, if necessary. Under Ohio law, the name of the person who made the referral is confidential.

If the facts from the investigation show that there is no protective need, we will tell you, and no more must be done.

If the facts show that there is a protective need, Children Services will work with you. This work may be done through agreement, or orders from the juvenile court.

Necessary services will be listed in a case plan created with your family and the caseworker. This plan tells what the parent, child and agency will do to make necessary changes. As your needs or the needs of your children change, the plan may be changed. You will be asked to sign this plan and any changes made to it. You will get a copy of the case plan.

Meetings about your case are held twice a year by Children Services (and by the Juvenile Court when involved) to update the plan and review what progress is being made. If your family disagrees with services or a decision, steps should be taken to address those concerns (see page 8).

A mandated reporter who makes a report of child abuse or neglect. Upon request, the reporter shall be informed of all of the following:

- A. Whether the PCSA has initiated an investigation.
- B. Whether the PCSA is continuing to investigate.
- C. Whether the PCSA is otherwise involved with the child who is the subject of the report.
- D. The general status of the health and safety of the child who is the subject of the report.
- E. Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

The Indian Child Welfare Act (ICWA) is a federal law that seeks to keep American Indian children with American Indian families. Congress passed ICWA in 1978 in response to the high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). Caseworkers must make several considerations when handling an ICWA case, including:

- providing "active efforts" to the family;
- identifying a placement that fits under the ICWA preference provisions;
- notifying the child's tribe and the child's parents of the child custody proceeding; and
- working actively to involve the child's tribe and the child's parents in the proceedings.

Your caseworker should be able to explain your rights under ICWA and any other case actions in a manner that is easy for you to understand.

If you feel that ICWA is not being applied correctly in your child's case, you should speak to the caseworker's supervisor. The office of Client Rights can also assist in assuring ICWA is appropriately applied.

### What services can be of help to my family?

#### Children Services offers services including

- ◆ investigation of child abuse and neglect
- ◆ protective services and case management
- ◆ services to adolescents
- ◆ counseling services
- ◆ home-based services
- ◆ home management services
- ◆ volunteer services
- ◆ medical services for children
- ◆ emancipation and independent living services for youth 16 years and older
- ◆ adoption services for children of all ages
- ◆ family preservation services

#### Children Services makes referrals to community agencies for other supportive services:

- ◆ mental health services
- ◆ parenting education
- ◆ psychiatric and psychological assessment/consultation
- ◆ drug and alcohol assessment and treatment
- ◆ assistance with day care
- ◆ services to help the healthy development of children
- ◆ material assistance
- ◆ housing
- ◆ services for troubled teens

### What happens if my children must leave home?

All children deserve a permanent home. In an effort to assure this, they may be placed temporarily in the most home-like setting available. That setting may include:

- ◆ a relative's home - kinship home.
- ◆ a foster home
- ◆ a group home
- ◆ a residential facility as close to home as possible
- ◆ Adoptive home.

Your family is expected to work as a partner with Children Services to help strengthen and reunify. This is done to provide children with permanency.

#### Families are expected to:

- ◆ help write the case plan that includes services to meet your family's needs;
- ◆ provide a safe, clean, and loving home for your child or children;
- ◆ meet with your caseworker and other staff to review progress;
- ◆ attend and participate in programs or services listed in the case plan; and
- ◆ attend court hearings and follow court orders set by the court.

In all instances when children come into care, Children Services routinely notifies the Franklin County Department of Jobs and Family Services and Franklin County Child Support Enforcement Agency.

Ask your worker for a copy of the pamphlet "When Your Child is Placed Away From Home." It has more information on this matter. For children over 12, there is "A Guide To Your Rights & Responsibilities." It offers helpful information when placement away from home takes place.



## What are my rights?

Children Services is committed to maintaining an environment free from discrimination and harassment and will tolerate neither when directed against a person for his or her race, religion, creed, color, national origin, sex, marital status, age, physical or mental disability, sexual orientation, military status, political affiliation, organizational membership, or legal activity.

Ohio and federal law provides specific safeguards for your rights while you are receiving services from Franklin County Children Services. Additional questions regarding your rights can be discussed with staff or anyone in the office of Client Rights.

The Children Services office of Client Rights has established procedures for the review of client grievances and administrative appeals. The office of Client Rights informs clients of their rights under agency policy and Ohio rules. The office of Client Rights is responsible for assuring agency compliance with client rights and grievance/appeal procedure rules. Those entitled to access the grievance/appeal process include, but are not limited to, children, parents, related and unrelated caretakers, individuals accused of abuse or neglect of a child, and professionals with a significant stake in the services provided by staff. The office of Client Rights:

- acts as a grievance facilitator and assists as needed, including attendance at grievance hearings;
- acts as an administrative hearing officer for contested investigative findings
- submits reports to the board;
- reports to the executive director for administrative and budget concerns. Discussions regarding individual cases with the executive director are reported to the board chair in writing;
- cannot be subjected to disciplinary action without approval of the board chair; and
- may request placement on the board's agenda at any time to report on any individual case situation or other information related to the work of the office of Client Rights. Only the board chair can deny the request.

The office of Client Rights is located in the administrative offices of Franklin County Children Services. Contacting the Client Rights office is easy:

Mail: 855 W. Mound St., Columbus, Ohio 43223  
 E-mail: [cro@fccs.co.franklin.oh.us](mailto:cro@fccs.co.franklin.oh.us)  
 Phone: 614-275-2621  
 Fax: 614-275-2755

The Franklin County Children Services Board has determined adults and children who are clients of the Agency shall have the right to:

1. interpreter services, at no cost to the client, whenever requested to assist the client in all interactions with Children Services staff, including all meetings, case planning and interactions with Agency staff;
2. be treated in a culturally sensitive way with consideration and respect for personal dignity, autonomy, and privacy;
3. service in the least restrictive, most humane setting feasible. This is defined by Ohio law and rule or in the case/service plan;
4. review their case record as long as the law does not prohibit access. Requests for information may be denied if the information requested poses a serious risk of harm to anyone. All requests for access to case records must be made in writing. Persons requesting information must present photo identification prior to receiving access to their record. If there is information that is prohibited by law or would pose a serious risk of harm to anyone in the record, it will be removed before giving you access.

If your case is open the region director is responsible for responding to a request for access. Client may review their record at an FCCS office in the presence of agency staff.

If your case is closed please contact Matt Miller of the Legal department. His number is 614-275-2584. The information made available to persons requesting information on closed cases will be sent directly to the requestor.

A decision to deny client access to records will be documented in writing and offered you in a letter.

5. insert any statement into their the case record and to review any statements provided by Agency staff in response to the client's statement;
6. have an opportunity to participate in the creation of the case plan and be provided a copy of the case plan and case plan amendments, and of proposed or current services, treatment or therapies; mental and physical health, and social or economic needs, and that specifies how available, appropriate, and adequate services are to be provided either directly or by referral;
7. consent to or refuse any service, treatment, or therapy upon full explanation of the expected consequences of such consent or refusal unless ordered to participate in services by a direct court order or a case/service plan journalized by a court of competent jurisdiction. A parent or legal guardian may consent to or refuse any service, treatment, or therapy on behalf of a minor client unless ordered to participate in services by a direct court order or a case/service plan journalized by a court of competent jurisdiction.

8. a current, written, individual case/service plan that addresses child safety,
9. active and informed participation in the establishment, periodic review, and reassessment of the case/service plan;
10. freedom from unnecessary or excessive medication;
11. freedom from unnecessary restraint or seclusion;
12. be informed of & to refuse an unusual or hazardous treatment procedure;
13. participate in any appropriate and available Agency service, regardless of refusal of one or more other services, treatments, or therapies or regardless of relapse from earlier treatment in that or another service, unless there is a valid and specific necessity which precludes and/or requires the client's participation in other services. This necessity shall be explained to the client and written in the client's case/service plan;
14. have the opportunity to consult with independent treatment specialists or legal counsel at one's own expense;
15. confidentiality within the limitations and requirements of Ohio and Federal laws or rules, court orders, or a journalized case/service plan. Any person having the legal capacity to consent to the release of information regarding an Agency client may do so consistent with Ohio and Federal laws or rules;
16. be informed in advance of the reason or reasons for discontinuance of service and to be involved in planning;
17. receive an explanation of the reasons for denial of service;
18. not to be discriminated against in the provision of service on the basis of person's culture, race, sex, age, religion, color, sexual orientation, physical or mental disability, national origin, level of income, or political affiliation;
19. know the cost of services;
20. be fully informed of all rights;
21. exercise any and all rights without reprisal in any form, including access to services, which must not be compromised;
22. file a grievance; and
23. have oral and written instructions for filing a grievance.

and in regard to children in our care

Children Services' staff, foster parents, and adoptive parents with children placed prior to adoption are trained on how to respond to out-of-control behavior. Staff and caretakers shall not use any restrictive behavior management interventions including: physical, mechanical or chemical restraints, isolation or locked seclusion.

Children Services' staff, foster parents, and adoptive parents with children placed prior to adoption shall not:

1. Censor or open any outgoing and incoming mail of children in the Agency's custody unless:
  - a. it is suspected to contain unauthorized, dangerous, or illegal material or substances, in which case mail may be opened in the presence of designated personnel,
  - b. receiving or sending unopened mail is contraindicated in the service plan excluding e-mail, or
  - c. receiving or sending mail to specific persons is a serious threat to the safety of the child or foster parents or contrary to the best interests of the child and the persons and reasons for this censorship of mail are documented in the case record.
2. Restrict the right of children in the Agency's custody to have private telephone conversations unless the restriction is:
  - a. based on contraindications in the service plan related to the safety of the child, foster parents or staff, or is in the best interest of the child, and is
  - b. approved in advance and reviewed monthly by a Region Director or Associate Director or an appropriate designee,
  - c. reviewed weekly by the Supervisor of the Caseworker to whom the child is assigned, and
  - d. the approval and reviews are documented in the case record,
  - e. or is pursuant to a specific court order.

The office of Client Rights can assist in filing a grievance if you are dissatisfied with services. You can file a grievance no later than thirty-calendar days after the event, or learning of the event. To address a concern contact the office of Client Rights (see page 6).

The office of Client Rights can also assist in filing an administrative appeal of an investigative finding. An appeal must be filed within thirty-calendar days after learning of the investigative finding. To file an administrative appeal, contact the office of Client Rights (see page 6).

For those whose case is being served by Permanent Family Solutions Network (PFSN) or National Youth Advocate Program (NYAP), two agencies that provide contracted protective services directly to families and children, they have their own protocol for addressing grievances and concerns. You are encouraged to resolve your concern with the caseworker or supervisor. If you are unable to do so, please contact the Client Rights Officer for the agency that is serving your case.

## How are my rights further protected?

### Filing a Grievance

A grievance is a formal complaint concerning services or lack of them. Filing a grievance must be timely. The grievance can be filed no later than thirty-calendar days after the event, or learning of the event. Contact the office of Client Rights (614-275-2621) if you have questions.

Resolving a complaint or concern can take different forms: working with the service team, associate director; or through mediation. If your concerns have not been resolved using these tools, a grievance can be filed. A grievance packet can be sent to you or you can complete a grievance form online at: [http://www.franklincountyohio.gov/children\\_services/programs/client-rights-officer.cfm](http://www.franklincountyohio.gov/children_services/programs/client-rights-officer.cfm)

1. Once the grievance is received it will be sent to the director of the appropriate department. A representative from the office of Client Rights may attend any of the following meetings upon the request of the grievant or the department administrator. You must be able to meet with or discuss your grievance with the director within thirty-calendar days of having filed the grievance. The director will contact you to set up a time for a meeting. The director's written response should be sent to you within thirty-calendar days after having received your grievance.

2. If the director's response is unsatisfactory, contact the office of Client Rights within thirty-calendar days of receiving that response. Your grievance will then be directed to a member of the executive council of Franklin County Children Services. Once the grievance/appeal has been filed at this level, you must be able to meet with or discuss it with the executive council member within thirty-calendar days. Within ten-working days a hearing with you should be scheduled. The executive council member's response should be sent to you within ten-working days after the hearing.

3. If the response of the executive council member does not resolve your grievance, contact the office of Client Rights within thirty-calendar days of that response. Your grievance will then be directed to the executive office of Franklin County Children Services. Once the grievance has been filed, you must be able to meet with or discuss it with the executive director within thirty-calendar days. Within ten-working days a hearing with you should be scheduled. The executive director's response should be sent to you within ten-working days after the hearing. The decision of the executive director is a final remedy within Franklin County Children Services.

### Filing an Appeal

An appeal can be filed by an individual who has been named as an alleged perpetrator in the substantiated or indicated abuse or neglect of a child. An appeal must be filed within thirty-calendar days of being notified of the finding. If you wish to appeal an investigative finding, contact the office of Client Rights (see page 6). In the appeal of an investigative finding, the appeal cannot proceed until any and all pending court cases related to the finding have been adjudicated. Once all adjudications related to the finding have been made, the appellant may proceed, but must do so within thirty-calendar days of the last adjudication. Exceptions to this time frame may be granted by the hearing officer for good cause.

1. An administrative appeal can be generated verbally, but the appeal form must be signed by the person found to have abused or neglected a child. The appeal packet you will be sent contains necessary forms and information on how to file an administrative appeal. Complete (the office of Client Rights can assist) and sign the administrative appeal form. Return it, along with any relevant and supporting documents to the office of Client Rights. Once the administrative appeal is received it will be sent to the director of the Intake and Investigation department. You must be able to meet with or discuss your appeal within thirty-calendar days. The meeting for this first step will take place at 525 East Mound Street. The administration's written response will be sent to you following the meeting.

2. If the administrative appeal response does not resolve the appeal, contact the office of Client Rights within thirty-calendar days of receipt of that response. Your appeal will then be sent to the agency's administrative hearing officer. After filing an appeal you must be able to participate in the hearing within thirty-calendar days. The meeting for this second step will take place at 855 West Mound Street. The hearing officer for good cause may grant continuances. The hearing officer is not directly involved in the investigation or approval of the case disposition. Hearings are scheduled for one hour. The appellant must inform the office of Client Rights in advance of any special accommodations needed. The appellant may bring an attorney and witnesses who can offer relevant testimony. The hearing will be audio recorded. The hearing officer may exclude any party from the hearing whose conduct is not respectful. All parties who will be testifying will be sworn in. The hearing officer will submit a written report within 30-calendar days of the hearing. The decision of the hearing officer is the final remedy offered by Franklin County Children Services.

*NOTE: Hearings are not judicial proceedings and as such, the rules of evidence do not apply. The Children's Services record of the investigation remains confidential by law and will not be released or shared with the appellant before, during or after the hearing.*

In addition to the Children Services complaint and grievance process, the Ohio Department of Jobs and Family Services is responsible for assuring that all county children service agencies comply with state rules. You can contact them by calling The Bureau of Family Services, toll free at 866-886-3537 Option 4.

Children Services claims reimbursement for service to children under federal and state programs and is required under law to provide services in compliance with Federal and State mandates. If you believe that you have been discriminated against on the grounds of your race, color, national origin, physical or mental disability, gender, or have been otherwise subjected to discrimination under any program, service or benefit authorized or provided by Franklin County Children Services you may contact any one of the following services:

- ◆ Children Services has a Civil Rights Coordinator. The Client Rights Officer (CRO) is a specialist in handling complaints regarding discrimination. The CRO can assist and offer direction in concerns involving civil rights. The CRO is located at 855 West Mound St., Columbus, OH, 43223, and can be reached at 614.275.2621;
- ◆ Ohio Legal Rights Service, 8 E. Long St, 5th Floor, Columbus, Ohio 43215-2999, State-wide toll-free (voice): 800-282-9181, State-wide toll-free (T.T.Y.): 800.858.3542, Phone: 614.466.7264; T.T.Y.: 614.728.2953, Fax: 614.644.1888; and
- ◆ Office for Civil Rights, U.S. Dept. of Health and Human Services, 200 Independence Ave, S.W., Rm. 509F, Hlth Bldg, Washington, D.C. 20201, toll-free TDD line: 800.537.7697

If you feel you were entitled to services that were not delivered you may also file a complaint with any of several organizations including, but not limited to:

State of Ohio Counselor, Social Worker and Marriage & Family Therapists Board 50 West Broad St., Columbus, Ohio 43215 614.466.0912	State Board of Ohio Psychology, 77 S. High St., Columbus, Ohio 43215 614.466.1143
Alcohol, Drug Addiction and Mental Health (ADAMH) Services 447 E. Broad St., Columbus, OH 43215 614.224.1057	State of Ohio Nursing Board 17 S. High St., Suite 400, Columbus, Ohio 43215 614.466.3947

A Client Rights officer can assist in directing your concern.

### If FCCS is working with you and your family when disaster strikes...

In the event a disaster requires the evacuation of your family from your home or location, please notify FCCS immediately. If the disaster affects the entire community, we will attempt to operate a means to notify us at these contact points.

by email at: [FCCSDisaster@fccs.co.franklin.oh.us](mailto:FCCSDisaster@fccs.co.franklin.oh.us)

by phone at: (614) 229-7680.

Please be prepared to share as much information as possible to help us identify who you are and where you will be living.

If FCCS is helping you with family visitation or visitation is court ordered, please let us know if family visitation can occur where you are. We will work with you to keep your visits from being interrupted during this difficult time, but we will need you to stay in touch with us.

Please stay tuned to local media for communications from FCCS.

Visits will not take place if the Sheriff declares a level-2 (or higher) snow emergency here in Franklin County or in the county where your child is located. Please stay in touch with your caseworker or the caseworker's supervisor during this weather emergency. Every effort will be made to make up any missed visits when the weather allows.

### Contacts

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

### Contacts

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

### III. GRIEVANCE PROCEDURE AND CONSUMER RIGHTS

*[History: Approved 3/14/79. Amended 9/10/92; 12/9/93; 5/28/98; 6/26/03, 7/29/04, 9/22/11]*

- A. Ohio and federal law provides specific safeguards for your rights while you are receiving services from Franklin County Children Services. Questions regarding your rights can be discussed with staff or someone from the Office of Client Rights.
- B. The Children Services Office of Client Rights has established procedures for acceptance and review of client concerns, complaints, grievances, and appeals. The Office of Client Rights also informs clients of their rights under agency policy and Ohio and federal laws and rules.
- C. The Office of Client Rights is responsible for assuring compliance with client rights, grievance, and appeal procedures and rules. The Office of Client Rights is available from 8 a.m. until 5 p.m., Monday through Friday, and is located in the administration building at 855 West Mound St., Columbus, OH 43223, or by calling 614-275-2621.
- D. It is the policy of the Franklin County Children Services Board that adults and children who are clients of the Agency shall have the following rights. The right to:
  1. interpreter services, at no cost to the client, whenever requested to assist the client in all interactions with Children Services staff, including all meetings, case planning and interactions with Agency staff;
  2. be treated in a culturally sensitive way with consideration and respect for personal dignity, autonomy, and privacy;
  3. service in the least restrictive, most humane setting feasible. This is defined by Ohio law and rule or in the case/service plan;
  4. review their case record, subject to applicable federal and state statutes and regulations. Please be aware that specific provisions in the law prohibit the release of referral source information and investigatory records. Requests for review are considered by the Executive Director, and may be approved, or approved with limitations (information redacted) as mandated by the provisions of RC 149.43, 2151.421, 1347., 5101.13-5101.134, 5153.17, and OAC 5101:2-33-21, and 22. These requests will be reviewed pursuant to the following corresponding policies:
    - a. For open cases, the agency will follow FCCS policy "Client Access to Records," which will be produced for the requestor. To summarize, the request must be made on the A-12 Consent for Information Release Form. The Legal Department will redact a copy of the record, as required by law, and the Regional Director or designee will be the contact person to arrange the viewing.
    - b. For closed cases, requests will be forwarded to the Legal Department, pursuant to agency policy. The Legal Department will redact any confidential information that is not subject to release, and will forward the information to the requestor. Decisions made to deny access to records will be documented and offered to the requestor.
  5. insert any statement into the case record and to review any statements provided by Agency staff in response to the client's statement;



6. active and informed participation in the periodic review, and reassessment of the case/service plan;
  7. participate in the creation of the case plan that addresses child safety and be provided a copy of the case plan and case plan amendments, and of proposed or current services, treatment or therapies;
  8. consent to or refuse any service, treatment, or therapy upon full explanation of the expected consequences of such consent or refusal unless ordered to participate in services by a court order or a case/service plan journalized by a court of competent jurisdiction. A parent or legal guardian may consent to or refuse any service, treatment, or therapy on behalf of a minor client unless ordered to participate in services by a court order or a case/service plan journalized by a court of competent jurisdiction;
  9. freedom from unnecessary or excessive medication;
  10. freedom from unnecessary restraint or seclusion;
  11. be informed of and to refuse any unusual or hazardous treatment procedure;
  12. participate in any appropriate and available Agency service, regardless of prior refusal of one or more other services, treatments, or therapies;
  13. have the opportunity to consult with independent treatment specialists or legal counsel at one's own expense;
  14. confidentiality within the limitations and requirements of Ohio and Federal laws or rules, court orders, or a journalized case/service plan. Any person having the legal capacity to consent to the release of information regarding an Agency client may do so consistent with Ohio and Federal laws or rules;
  15. be informed in advance of the reason or reasons for discontinuance of service and to be involved in planning;
  16. receive an explanation of the reasons for denial of service;
  17. not to be discriminated against in the provision of service on the basis of person's culture, race, sex, age, religion, color, sexual orientation, physical or mental disability, national origin, level of income, or political affiliation;
  18. know the cost of services;
  19. be fully informed of all rights;
  20. exercise any and all rights without reprisal in any form, including access to services, which must not be compromised;
  21. file a grievance; and
  22. have oral and written instructions for filing a grievance.
- E. Children Services' staff, foster parents, and adoptive parents with children placed prior to adoption shall not:
1. Censor or open any outgoing and incoming mail of children in the Agency's custody unless:

- a. it is suspected to contain unauthorized, dangerous, or illegal material or substances, in which case mail may be opened in the presence of designated personnel,
  - b. receiving or sending unopened mail is contraindicated in the service plan excluding e-mail, or
  - c. receiving or sending mail to specific persons is a serious threat to the safety of the child or foster parents or contrary to the best interests of the child and the persons and reasons for this censorship of mail are documented in the case record.
2. Restrict the right of children in the Agency's custody to have private telephone conversations unless the restriction is:
- a. based on contraindications in the service plan related to the safety of the child, foster parents or staff, or is in the best interest of the child, and is
  - b. approved in advance and reviewed monthly by a Region Director or Associate Director or an appropriate designee,
  - c. reviewed weekly by the Supervisor of the Caseworker to whom the child is assigned, and
  - d. the approval and reviews are documented in the case record,
  - e. or is pursuant to a specific court order.

#### IV. MANAGEMENT POLICIES

##### A. Confidentiality

**1. Confidentiality of Case Information** [*History: Approved 3/31/82. Amended 1/1/88; 6/9/93; 5/28/98*]

- a. Confidentiality of case information is required by Children Services. All case information obtained by Children Services in the course of its work on behalf of clients shall be used only for that purpose and shall not be released to unauthorized persons. All clients and persons seeking services will be advised of the Agency's policy on confidentiality at the time of initial contact, at the six-month service review, and whenever service linkage with another agency occurs.
- b. A client's right to confidentiality shall be within the limitations and requirements of Ohio and Federal laws or rules, or as determined by a direct court order or a journalized case/service plan. Any person having the legal capacity to consent to the release of information regarding an Agency client may do so consistent with Ohio and Federal laws or rules. The client's signed consent is required to request or share information about the client unless otherwise allowed by law or rule.

**2. Confidentiality and Dissemination of Information Relating to Child Abuse or Neglect** [*History: Approved 3/31/82. Amended 1/1/88; 6/9/93; 5/28/98*]

- a. Each report and investigation of alleged child abuse or neglect is confidential and may be shared only when dissemination is authorized by §5101:2-34-38 of the Ohio Administrative Code (O.A.C.). The identity of the reporter shall be considered a part of the report and shall not be released or affirmed by Agency staff except as authorized

in §5101:2-34-38. This rule directs that information be shared without parental or court consent among agencies involved in the investigation. Agencies involved in the investigation must agree to maintain the standards of confidentiality outlined in Federal and state law and in §5101:2-34-38. Signatories to the "Child Abuse and Neglect Memorandum of Understanding" (O.A.C. §5101:2-34-71) will follow the policies and procedures contained in the Memorandum of Understanding.

- b. Prior to the dissemination of information to any agency or organization, Children Services shall verify that the agency or organization has rules or policies governing the dissemination of confidential information which are consistent with §5101:2-34-38. In addition to the authorization for dissemination of information included in §5101:2-34-38, information shall be disseminated when the Children Services Executive Director or designee provides written authorization to disseminate information that is believed to be in the best interest of an alleged child victim, her/his family or caretaker; any child residing or participating in an activity at an out-of-home care setting where a report has been made alleging child abuse or neglect, or a child who is an alleged perpetrator.

**3. Records Pertaining to Adoption** [*History: Approved 3/31/82. Amended 10/11/85; 6/9/93; 5/28/98*]

- a. All papers and records pertaining to adoption are confidential and shall not be released to any person or agency except on written authority of the probate judge of the county in which any such adoption proceeding is pending, under the conditions in 4. below, or as allowed by the Ohio Revised Code or Ohio Administrative Code.
- b. All papers and records pertaining to adoption include all notes, memoranda, recordings, reports, and forms that pertain to the social or medical histories of the birth parents of an adopted person and all notes, memoranda, recordings, reports and forms pertaining to:
  - (1) The physical and mental health, emotional stability, and personal integrity of the petitioner, and the ability of the petitioner to provide for the needs of the minor;
  - (2) The physical, mental, and developmental condition of the minor to be adopted;
  - (3) The minor's family background, including names and identifying data, regarding biological or other legal parents and, except when the adoption is by a stepparent or grandparent, the form documenting social and medical histories of the biological parents;
  - (4) Reasons for the minor's placement with persons other than his/her biological or other legal parents, their attitude toward the proposed adoption, and the circumstances under which the minor came to be placed in the home of the petitioner;
  - (5) The attitude of the minor toward the proposed adoption in any case in which the minor's age makes this feasible.

**4. Sharing Information About the Child and Birth Parent(s) With Adoptive Parent(s) and the Adopted Person** [*History: Approved 3/31/82. Amended 10/11/85; 6/9/93; 5/28/98*]

# Ohio

## Department of Job and Family Services

John R. Kasich, Governor  
Michael B. Colbert, Director

RECEIVED

MAY 11 2011

May 6, 2011

EXECUTIVE DIRECTOR

Stephanie Clough  
2638 Rustling Oak Boulevard  
Hilliard, OH 43026

Dear Ms. Clough:

Thank you for contacting the Ohio Department of Job and Family Services' (ODJFS), Office of Families and Children regarding your daughter. I understand and appreciate the concerns that you have for your family.

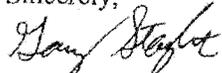
It is our understanding that you believe Franklin County Public Children Services Agency (FCPCSA) had no justification to render an "unsubstantiated" determination. Therefore, you are requesting a change in disposition or an explanation supporting the current disposition.

The state of Ohio is county administered and state supervised which means that Public Children Services Agencies (PCSAs) receive reports of child abuse or neglect; complete assessments/investigations; and respond in accordance with Ohio's Child Welfare Law. Our authority is to ensure that PCSAs are in compliance with Ohio law and administrative procedures were followed. We have no authority to change or overturn any decision of the county or the court.

ODJFS Child Protection Oversight and Evaluation staff has reviewed your case and found that FCPCSA was compliant with Ohio law, and made an appropriate determination of "unsubstantiated" based on interviews, evaluations, and reports.

I hope this information is helpful, and thank you for allowing us the opportunity to be of assistance to you.

Sincerely,



Gary Stought  
Office of Families and Children  
Help Desk Manager

Cc: Anne O' Leary, Interim Director, FCPCSA

30 East Broad Street  
Columbus, Ohio 43215  
jfs.ohio.gov

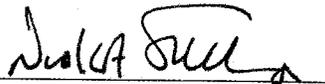
An Equal Opportunity Employer and Service Provider

EXHIBIT

3

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing "Submission of Evidence of Respondents Franklin County Children Services, Executive Director Charles M. Spinning, and Chief Legal Counsel Anne C. O'Leary" was served by First Class U.S. Mail, postage prepaid, to Stephanie Y. Clough, 8060 Wright Road, Broadview Heights, Ohio 44147, Relator *pro se* on this 24<sup>th</sup> day of November, 2014.



Nick A. Soulas, Jr. 0062166  
First Assistant Prosecuting Attorney  
Civil Division