

**OPEGA Recommendation for Project Direction**  
**Prepared for the Government Oversight Committee**  
July 20, 2022

**Reunification in Child Protective Services**

**Background**

The Government Oversight Committee (GOC) approved the scope of work for OPEGA's review of Child Protective Services (CPS) in August 2021.<sup>1</sup> The Committee divided this comprehensive review project into three components: Oversight, Investigations, and Reunification. The Oversight and Investigations components were completed in January 2022 and March 2022, respectively. OPEGA began preliminary research on reunification in April 2022. The research included:

- Interviewing Office of Child and Family Services (OCFS) management to understand various aspects of reunification and permanency;
- Interviewing the Child Welfare Ombudsman to understand issues identified in her 2021 annual report and GOC testimony and any other concerns related to reunification;
- Reviewing current state statute relevant to reunification and permanency;
- Understanding the design (policy) and implementation (practice) of reunification by OCFS;
- Reviewing current federal law relevant to reunification;
- Interviewing the Quality Assurance and Quality Improvement staff in OCFS to understand quality assurance and improvement efforts related to reunification;
- Understanding OCFS use of Structured Decision-Making tools in reunification;
- Determining case-level record information available from OCFS and accessibility to the GOC; and
- Identifying participant roles and perspectives by interviewing:
  - OCFS Program Administrators, Supervisors, and Caseworkers
  - Foster/resource parent representatives
  - Biological parent representatives
  - Judicial branch representatives, including judges, guardians ad litem, and court-appointed special advocates
  - Assistant Attorneys General
  - Defense Attorneys
  - Service providers

**Overview**

Reunification is one component within OCFS' overall goal of providing safety and permanency for children involved with CPS. At the end of an investigation of alleged child abuse or neglect, OCFS decides whether to close the case with no further involvement, or to open a permanency case, based on the likelihood of future maltreatment. The Department may file a child protection petition which sets in motion a judicial procedure to establish if a child's health or welfare is in jeopardy. If a court orders the removal of a child from their home by either a Preliminary Protection Order or Jeopardy Order, the statutory default for achieving permanency for the child is reunification. Other forms of permanency for the child include granting custody to the other parent or; upon termination of parental rights by a court, allowing adoption, permanency guardianship, or emancipation.

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<sup>1</sup> Review of Child Protective Services: Approved Scope. <https://legislature.maine.gov/doc/7043>

If the child comes into the custody of the State they may be placed into the care of resource parents (foster parents) or, in very limited circumstances, a residential care facility. Maine statute requires the Department to give preference to placing the child with an adult relative over a nonrelated caregiver, as long as the adult relative meets all relevant state child protection standards and the placement does not interfere with the active reunification with the parents.<sup>2</sup> The child's needs are assessed, and the Department endeavors to place the child with a caregiver able to provide for those needs, with the assistance of the OCFS caseworker and contracted service providers, as necessary.

Unless certain statutorily-defined aggravating factors exist, the Department is required to begin or continue reunification efforts by creating and following a rehabilitation and reunification (R&R) plan.<sup>3</sup> Components of the plan must include:

- A statement of the problems that present a risk of harm to the child,
- The services needed to address those problems,
- Provisions to ensure the safety of the child while the parent engages in services,
- A means to measure the extent to which progress has been made, and
- Visitation that protects the child's physical and emotional well-being.<sup>4</sup>

The Department assesses the rehabilitation needs of the parent and coordinates the services required to address the problems that present a risk of harm to the child. The caseworkers and supervisors assess the parent's progress toward meeting those goals, using information from discussions with service providers, guardians ad litem, foster parents, visitation monitors, and others. Structured Decision-Making tools are employed in an effort to provide consistency and ensure the breadth of risk and safety factors are assessed. The caseworker provides this information to the Assistant Attorney General and defense lawyers in preparation for the court's review of the jeopardy order.

There is a mandated court review of the jeopardy order at least every six months until the child has achieved some form of permanency. At this review, progress toward reunification is assessed. With evidence of sufficient progress toward rehabilitation, the judge may order reunification to proceed which typically includes progressively longer, unsupervised visitation and eventual trial home placement. The case may only be closed and the child removed from State custody by court order.

If progress toward reunification is insufficient, the trajectory of the case moves toward alternative forms of permanency. These plans for alternatives to reunification are developed concurrently with continued efforts to reunify. These alternative forms of permanency may include adoption, permanency guardianship, placement with a relative, or other permanency living situation. Permanency planning hearings occur every 12 months or until the child achieves permanency.

### **Key Participants in Reunification**

Reunification is a complex process that involves many different stakeholders with different roles. OPEGA's preliminary research sought to establish a basic understanding of the roles and perspectives of these stakeholders.

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<sup>2</sup> 22 MRSA §4005-G(1)

<sup>3</sup> 22 MRSA §4041(2)

<sup>4</sup> 22 MRSA §4041(1-A)

## OCFS Caseworkers and Supervisors

Permanency caseworkers and supervisors in OCFS oversee reunification efforts. Cases typically come to them from investigations units within the same district. Structured Decision-Making tools —Safety Assessment, Case Plan Tool, Reunification Tool, and Risk Reassessment—guide key OCFS decisions in each case. Caseworkers are responsible for developing a Rehabilitation and Reunification Plan with the family, referring parents and children to needed treatment and services, finding temporary placements for children taken into state custody, arranging Family Team Meetings, visiting children regularly, arranging visitation with biological parents, and preparing documents and case summaries for the court as part of the legal process called discovery.

## Biological Parents

The reunification process can vary widely for different families, and representatives working with biological parents expressed that these parents may struggle with understanding and knowing what to expect from the child protection process. Representatives explained that peer navigators and other support professionals are helpful because of the complexity and variability of the CPS process.

## Foster Parents

OPEGA spoke with representatives of organizations that support resource parents involved in CPS cases. Resource parent is an umbrella term to include foster and kinship caregivers who provide care for children who cannot live with their parents. The organizations help resource parents navigate CPS cases, court proceedings, and reunification efforts. One representative described resource families as temporary or potential long-term support for families, children, and the state of Maine who provide safe, nurturing environments. Through contracts, DHHS provides a required introductory training and ongoing training for resource families.

## Guardians ad Litem

Guardians ad Litem (GALs) play a specialized child advocacy role, determining and representing the best interest of the child in court cases. Their main responsibility is to provide complete information, accurate facts, and status updates to the judge. GALs serve as investigators, advocates, and mediators on behalf of the child. A Court Appointed Special Advocate (CASA) is a volunteer guardian ad litem supervised by an attorney. CASAs are appointed only in child protection cases and are subject to the same rules as GALs. Key elements of their work are to communicate with children and caregivers, coordinate with DHHS caseworkers, understand court and legal aspects, and investigate and write thorough reports for the court.

## Service Providers

In child protective cases, service providers play an important role in delivering health and welfare services to children, and in helping caregivers address the conditions that led to CPS involvement. Services needed in reunification can include case management, mental health counseling, behavioral services either in the home or on an outpatient basis, visitation supervision, domestic violence prevention, and substance abuse treatment. Service providers are responsible for keeping in contact with OCFS caseworkers, documenting client participation and progress, and may be called upon to testify in court proceedings.

## Attorneys

The defense attorney role is to represent the interests of the parent(s) in child protection cases. The interest of the parent is typically to maintain custody of their children or to reunify with their children as quickly as possible. Attorneys represent parents in court proceedings such as case management conferences, preliminary summary hearings, jeopardy hearings, jeopardy reviews, and hearings for termination of parental rights as well as non-court proceedings such as CPS-facilitated family team meetings.

The Office of the Attorney General has a Child Protection division with 29 Assistant Attorneys General. AAGs serve as lawyers representing the Department. Once the Department files a petition to take custody of a child or children, the court sets a case management conference to discuss the status and next steps in the case. If a parent contests the petition, a hearing will be scheduled, and the AAG presents evidence to the court in support of the Department's child protection petition. If the judge rules that there is no jeopardy, the case ends. If jeopardy is found, the Department works with the family toward reunification or another permanency outcome for the child, and the AAG continues to represent the Department in subsequent court proceedings.

## Judges

Judges are responsible for overseeing court proceedings and making the key decisions in reunification cases. They preside over case management conferences and hearings about removing children from parental custody, determining child jeopardy, reunifying families, determining custody within families, or terminating parental rights.

## **Phase 3: Reunification Project Recommendation**

Having completed preliminary research, we have identified two potential options for OPEGA's further Phase 3 CPS work related to reunification that vary in terms of scope, information provided, deliverable, and timing. We recommend that the GOC select one of the following options that best meet the needs of the Committee and Legislature.

### Option 1

OPEGA provides an Information Brief to the 130th GOC by the end of October 2022, that includes descriptions of the following components:

- how the reunification process works;
- the framework for reunification and other permanency decisions; and
- the roles and responsibilities of the various entities involved in the process.

A product of this nature would be descriptive, rather than employing evaluative tools (case reviews, data analysis, targeted interviews and surveys, etc.), and unlikely to contain findings and recommendations. This would be a similar product to the "Oversight of Maine's Child Protective Services" Information Brief presented to the GOC in January 2022.

### Option 2

OPEGA provides a full report to the 131st GOC by the end of January 2023 that includes the following components:

- Descriptions of the reunification process, the framework for reunification and other permanency decisions, and the roles and responsibilities of the various entities in the process (as proposed in Option 1); and
- The results of OPEGA’s evaluative work consisting of our analysis of QA review results and narrative descriptions, and interviews with caseworkers and supervisors to identify reunification practice issues and potential root causes.

A product of this nature would likely contain findings and recommendations. This would be a similar product to the “Child Protective Services Investigations” report presented to the GOC in March 2022.

### Considerations

In considering these two options, we note that, based on our preliminary research, it appears very likely that a full evaluative report of reunification (Option 2) will identify many of the same or similar issues and recommendations as the earlier “Child Protective Services Investigations” report. Both aspects of the child protective system—investigations and reunification—perform fundamentally similar functions: assessing the safety and risk to children.

### **Potential Topic Areas for Phase 4 Work**

During the course of preliminary research on CPS reunifications, we noted three specific topic areas that continually emerged and appear well-suited for further work by OPEGA. We offer these areas as potential options as the GOC considers adding a Phase 4 review to OPEGA’s work plan:

Topic Area 1: OCFS Staffing Levels. Such a review could potentially include an analysis of OCFS caseworker staffing levels, the factors that are contributing to current staffing challenges, and OCFS’s progress and performance in addressing these issues.

Topic Area 2: Availability of Services. Such a review could potentially examine the availability of key services throughout the State, accessibility issues and barriers to participation in services for children and families, and the impact of any barriers on child permanency.

Topic Area 3: Foster Parent Supports. Such a review could potentially examine OCFS’s expectations for foster parents, the responsibilities placed upon foster parents, the supports provided by OCFS, and the challenges experienced by foster parents.

Additionally, it is our belief that any one of these topics individually would fully utilize available office resources.