



Office of Children and Family Services

ANDREW M. CUOMO
Governor

SHEILA J. POOLE
Commissioner

September 16, 2020

Dear Colleagues:

On June 24, 2020, the Office of Children and Family Services (OCFS) shared a letter from the Children's Bureau which provided information and guidance as it pertained to the filing of petitions to Terminate Parental Rights (TPR's) during the pandemic. In essence, the letter, underscored the Social Security Act (475(5)(E)) which requires Title IV-E agencies to initiate a petition to terminate a parent's rights if the child has been in foster care for 15 out of the most recent 22 months, provides statutory exceptions if the following circumstances exist:

- The agency is required to make reasonable efforts to reunify the family, but has not provided the family the services necessary for the safe return of the child; or
- The agency has documented a compelling reason that filing a TPR petition is not in the child's best interests.

There is a recognition of the significant impact the COVID-19 pandemic has had on the child welfare system and the challenges that have occurred as it pertains to delivery of services. These challenges have impacted many key decision-making points of our systems, including permanency goals for children in foster care, which has necessitated a thoughtful and deliberative approach as how best to respond and proceed.

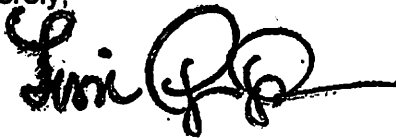
As we analyze the data pertaining to the number of TPR's filed March through August 2019 versus the same period of time for 2020, it is noted the number of TPR filings has dramatically decreased, 225 in 2019 and 8 for the same period in 2020. This would seem to reflect that there is widely held understanding that COVID-19 impacted reasonable efforts and service provision, factoring into the decision by the LDSS as whether a TPR petition should be filed at this time.

As we are in a space of re-opening inclusive of programs, services the courts, etc., OCFS would strongly urge that LDSS continue to apply a very careful and critical lens when determining whether or not to proceed with filing a TPR petition. As outlined in the ACF letter (which is attached for further reference) areas for consideration include:

- Was a parent's access to services that were necessary to work toward reunification (such as drug rehabilitation or ability to have parent-child family time) compromised as a result of the pandemic?
- Were there other challenges (such as illness, shelter in place requirements, lack of transportation, lack of suitable locations for family time, etc.) that impeded a parent's ability to progress in their goals related to reunification?

Please disseminate this to your staff widely. Also, please know that we at OCFS recognize and truly appreciate the diligence of efforts that LDSSs and voluntary agencies to improve outcomes for the population that we serve. The importance of this work and your continuing dedication to it has never been more apparent than during this time of the COVID-19 pandemic. As always, thank you for the work you and your staff do each day on behalf of children and families.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa Gharthey Ogundimu', with a long horizontal flourish extending to the right.

Lisa Gharthey Ogundimu
Deputy Commissioner
Division of Child Welfare and Community Services
New York State
Office of Children and Family Services