

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

MARCH 15, 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. Compliance plans in some of these areas were approved in January 2010. However, in that document, several compliance plans were not approved. These plans were subsequently revised by the Department, and the Panel's decisions on those plans are provided in this document.

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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.

Panel Decisions on Compliance Plan #7 (January 20, 2010)²

On January 20, 2010, the Panel issued decisions on the Department's proposed compliance plans:

- *Action steps-* For the three action steps for which compliance plans were required based on Monitoring Report #8, the Panel approved one compliance plan, rejected one compliance plan, and noted that no compliance plan had been submitted for the remaining action step.
- *Outcomes-* For the ten outcomes for which compliance plans were required based on Monitoring Report #8, in its January 2010 decisions, two compliance plans were approved by the Panel, compliance plans for six outcomes were not approved, a decision on one compliance plan was considered pending, and an extension was granted for one compliance plan.

Pursuant to the Settlement Agreement, the Department revised and resubmitted plans for the action step and outcomes for which the previous version of the compliance plans were not approved. These plans were submitted in February 2010, and comments were provided by plaintiffs' counsel in March 2010. This document addresses the two action steps and eight outcomes for which compliance plans related to Monitoring Report #7 were not previously approved.

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.

² The Panel's decision document, as well as all other Panel reports, can be found online at <http://www.braampanel.org/reports.asp>

Monitoring Report #8 (March 4, 2010)

In Monitoring Report #8, new information was provided by the Department that resulted in the Panel making an additional finding of non-compliance for the action steps and outcomes addressed in this document.

For these action steps and outcomes, the Panel determined that separate compliance plans addressing the new finding of non-compliance would not be required because there were compliance plans related to the previous Monitoring Report that were still actively under review. *Therefore, the Panel's decisions on the compliance plans included in this document apply to the findings of non-compliance in both Monitoring Report #7 and Monitoring Report #8.*

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 the two action steps for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report and were not approved in January 2010 is provided beginning on page 7. Decisions and comments are found in the matrix beginning on page 8.
- *Part II- Decisions on Compliance Plans for Outcomes-* Summary information related to the eight outcomes for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report and were not approved in January 2010 is provided beginning on page 10. Decisions and comments are found in the matrix beginning on page 11.

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

Next Steps

The Panel recently issued Monitoring Report #8 (March 4, 2010). Compliance planning for action steps found to be incomplete and outcomes for which benchmarks were not reached is now underway.

PART I: DECISIONS ON COMPLIANCE PLANS FOR ACTION STEPS

The Panel's decisions on the compliance plans related to the two action steps for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report and were not approved in January 2010 can be summarized as follows:

- No Compliance plan was submitted for the following action step:
 - Mental Health, Action Step 1 – Initial health screens

- The compliance plan for the following action step was approved:
 - Services to Adolescents, Action Step 4 – Attendance, truancies, 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), the third column shows the Panel's comments on the previous version of the compliance plan and the final column shows the Panel's decision and comments on the February 2010 version of the compliance plan.

The following matrix includes only the two action steps for which compliance plans were required as a result of the Panel's October 2009 Monitoring Report #7 and for which compliance plans were not approved in January 2010. Further detail on the status of other Braam action steps can be found in that Monitoring Report, and in the Panel's recent Monitoring Report #8 (March 2010).³

³ 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	Panel Decision on February 2010 Revised 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 1⁴ 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>	<p>No compliance plan submitted</p>

⁴ 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	Panel Decision on February 2010 Revised 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>Compliance plan approved⁵</p>

⁵ The Panel has determined that this compliance plan addresses the finding of incomplete in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

PART II: DECISIONS ON COMPLIANCE PLANS FOR OUTCOMES

The Panel's decisions on the compliance plans related to the eight outcomes for which compliance plans were required pursuant to the Panel's October 2009 Monitoring Report and were not approved in January 2010 can be summarized as follows:

- Compliance plans for 5 outcomes are approved
 - Mental Health, Goal 3, Outcome 2- Annual Mental Health Screening
 - 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
 - Sibling Separation, Goal 2, Outcome 1- Sibling Visits and Contacts

- Compliance plans for 3 outcomes are under revision
 - Unsafe and Inappropriate Placements, Goal 1, Outcome 3- Sexually Aggressive Youth
 - Unsafe and Inappropriate Placements, Goal 1, Outcome 4- Physically Assaultive/ Aggressive Youth
 - Services to Adolescents, Goal 2, Outcome 3- Multidisciplinary Staffings

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 and was not approved in January 2010. 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), the third column shows the Panel's decision on the previous version of the compliance plan, and the final column shows the Panel's decision and comments on the compliance plan submitted in February 2010.

The following section includes only the 8 outcomes for which compliance plans were required as a result of the Panel's Monitoring Report #7 and were not approved in January 2010. Further detail on the status of other outcomes can be found in that Monitoring Report, as well as in the Panel's recent Monitoring Report #8 (March 2010).⁶

⁶ All Panel reports can be found online at <http://www.braampanel.org/reports.asp>.

MENTAL HEALTH- DECISIONS ON REVISED OUTCOME COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #7 (October 8, 2009)	Panel Decision on January 2010 Compliance Plan	Panel Decision on February 2010 Revised Compliance Plan
<p>Goal 3, Outcome 2 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>	<p>Compliance plan approved⁷</p> <p>Panel requests that the Department includes two sets of data when data for FY09 and FY10 for this outcome are submitted: data reflecting the adjustments previously approved by the Panel (which will be used for compliance) and data that are developed consistent with the method used for previous year's data (which will be used for informational purposes in assessing trends).</p>

⁷ The Panel has determined that this compliance plan addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

FOSTER PARENT TRAINING AND INFORMATION- DECISIONS ON REVISED OUTCOME COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #7 (October 8, 2009)	Panel Decision on January 2010 Compliance Plan	Panel Decision on February 2010 Revised 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>Compliance plan approved⁸</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</p>	<p>Compliance plan approved⁹</p>

⁸ The Panel has determined that this compliance plan addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

⁹ The Panel has determined that this compliance plan addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

		specific items on which performance is most problematic, and to incorporate strategies addressing these issues.	
<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>	<p>Compliance plan approved¹⁰</p>

¹⁰ The Panel has determined that this compliance plan addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

UNSAFE & INAPPROPRIATE PLACEMENTS- DECISIONS ON REVISED OUTCOME COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #7 (October 8, 2009)	Panel Decision on January 2010 Compliance Plan	Panel Decision on February 2010 Revised 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>Compliance plan under revision¹¹</p> <p>Compliance plan is being revised by the Department to address issues discussed at the March 2010 Braam public meeting, including the development of safety & supervision plans and the timeframe for provision of training to unlicensed caregivers and/ or licensed caregivers caring for a child whose SAY/ PAAY behaviors were identified after the time of placement.</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>	

¹¹ The Panel has determined that the compliance plan that is under revision addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

SIBLING SEPARATION- DECISIONS ON REVISED OUTCOME COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #7 (October 8, 2009)	Panel Decision on January 2010 Compliance Plan	Panel Decision on February 2010 Revised 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>	<p>Compliance plan approved¹²</p> <p>Panel requests that the plan be modified to reflect that foster youth/ alumni and birth parent representatives will be involved in the workgroup described in strategy #5 of the compliance plan (statewide workgroup to develop standard protocol and guidelines for placement coordinators and staff making placement decisions).</p>

¹² The Panel has determined that this compliance plan addresses the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.

SERVICES TO ADOLESCENTS- DECISIONS ON REVISED OUTCOME COMPLIANCE PLANS

Outcome	Panel Findings in Monitoring Report #7 (October 8, 2009)	Panel Decision on January 2010 Compliance Plan	Panel Decision on February 2010 Revised Compliance Plan
<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: CY08=75%</u> 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>	<p>Revised compliance plan required¹³</p> <p>Previous compliance plan was developed before data were available. Data have now been provided by the Department for the period of July 1, 2009-December 31, 2009 showing 25% compliance with this outcome.</p> <p>A compliance plan is now required to address the gap between performance and the benchmark.</p>

¹³ The Panel has determined that the compliance plan that is under revision will address the finding of non-compliance in Monitoring Report #7 as well as Monitoring Report #8. A separate compliance plan for Monitoring Report #8 is not required.