

FOR IMMEDIATE RELEASE

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LAWSUIT CHALLENGES NEW HAMPSHIRE'S UNLAWFUL TREATMENT OF OLDER YOUTH IN FOSTER CARE

January 5, 2021 -- New Hampshire is violating the constitutional and statutory rights of older youth in foster care and putting children at severe risk of dangerous and tragic outcomes, according to a federal lawsuit filed by advocates for children's rights. The class action lawsuit was brought by the ACLU of New Hampshire, Disability Rights Center - NH, New Hampshire Legal Assistance, the national advocacy group Children's Rights, and the law firm Weil, Gotshal & Manges LLP.

The [complaint](#) focuses on specific structural failures that are harming older youth in foster care, all of whom have already experienced the trauma of being separated from their families and removed from their homes. The class action is brought on behalf of children ages 14 to 17 who are in the custody of New Hampshire's Division for Children, Youth and Families (DCYF), have a mental health impairment, and are in, or are at risk of being placed in, an institutional or other group facility setting (also called "congregate care").

"The teenage years are difficult for many children, but they are exponentially more challenging for children who have been removed from their parents due to allegations of abuse or neglect. These teens need to feel connected to their families, friends, schools, and communities to navigate the transition from childhood to adulthood. By unnecessarily institutionalizing older youth who could receive mental health treatment and supports in their communities and live successfully with family members or with foster families, New Hampshire unlawfully deprives children in its care of the community-based services and family placements they need to grow into successful adults." said Karen Rosenberg, Senior Staff Attorney at Disability Rights Center - NH.

In addition to failing to place older foster youth in community-based family settings that will help them thrive, the complaint asserts that the state unconstitutionally denies older youth legal representation when placing them in restrictive group care settings and violates federal law by failing to adequately and timely provide and implement critical case plans.

"Too many older youth in New Hampshire are subject to unnecessary warehousing by a state system that prioritizes institutionalization over family and community. The physical, emotional, and mental harms associated with placement in congregate settings are well known and lead to tragic outcomes including homelessness, unemployment, incarceration, and a lack of educational attainment," said Shereen White, Senior Staff Attorney at Children's Rights. "The

risks of serious harm to these youth are even more imminent during the COVID-19 public health emergency, because social distancing is virtually impossible in group care facilities.”

Compared to other states, New Hampshire disproportionately places older foster youth in group settings, which are known to have profoundly negative impacts on children’s social, emotional, and physical wellbeing. In 2019, the majority (70.3%) of foster youth in the Granite State ages 14 through 17 were housed in congregate care facilities—the national average for this age group is 31%. This is even worse for older youth with mental health diagnoses—in 2019, 90.5% were placed in congregate care settings compared to the national average of 39.8%.

New Hampshire DCYF also moves older foster youth from placement to placement with alarming frequency. In 2018, older youth living in New Hampshire’s foster care system for less than a year were moved more than three times more frequently than the national standard, an alarming disparity, with New Hampshire’s rate increasing in 2019. This constant movement from place to place can have severe consequences for social and emotional development, cause mood disorders, anxiety disorders, and behavior problems, and lead to further placement instability.

Youth in New Hampshire who age out of foster care at the age of 18 are often without permanent homes and are more likely to experience homelessness, incarceration, and unemployment, and less likely to graduate from high school or earn a GED, vocational, or college degree.

The lawsuit seeks to stop ongoing violations of the rights of older youth in foster care in New Hampshire, and remedy the structural failings that harm youth and leave them at risk of harm.

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ABOUT the ACLU of NEW HAMPSHIRE

The American Civil Liberties Union of New Hampshire (ACLU-NH) is a nonprofit, nonpartisan membership organization dedicated to preserving the individual rights and liberties guaranteed in the Bill of Rights and the Constitution. ACLU-NH, founded in 1968 by a small group of devoted civil libertarians, is one of 53 affiliates of the ACLU Nationwide. Today the National ACLU is comprised of more than 1,500,000 members.

ABOUT DISABILITY RIGHTS CENTER - NH

Disability Rights Center - NH is New Hampshire’s designated Protection and Advocacy system and is dedicated to eliminating barriers existing in New Hampshire to the full and equal enjoyment of civil and other legal rights by people with disabilities. More information about DRC-NH can be found at www.drcnh.org.

ABOUT NEW HAMPSHIRE LEGAL ASSISTANCE

New Hampshire Legal Assistance is a state-wide non-profit law firm providing civil legal services to low-income and elderly New Hampshire residents who cannot afford a lawyer. Typical clients are families facing eviction or foreclosure, victims of domestic violence, veterans, at-risk children and youth who need an advocate to protect their rights, and other people with disabilities trying to access their benefits. NHLA maintains offices in Berlin, Claremont, Concord, Manchester, and Portsmouth.

ABOUT CHILDREN'S RIGHTS

Every day, children are harmed in America's broken child welfare, juvenile justice, education, and healthcare systems. Through relentless strategic advocacy and legal action, we hold governments accountable for keeping kids safe and healthy. Children's Rights, a national non-profit organization, has made a lasting impact for hundreds of thousands of vulnerable children. For more information, please visit www.childrensrights.org.

ABOUT WEIL, GOTSHAL & MANGES, LLP:

Founded in 1931, Weil, Gotshal & Manges LLP has been a preeminent provider of legal services for the past 90 years. With approximately 1,100 lawyers in offices on three continents, Weil has been a pioneer in establishing a geographic footprint that has allowed the Firm to partner with clients wherever they do business. The Firm's four departments, Corporate, Litigation, Restructuring, and Tax, Executive Compensation & Benefits, and more than two dozen practice groups are consistently recognized as leaders in their respective fields.