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Nine foster children sue Louisiana's child welfare agency over failures to find safe homes

BY ANDREA GALLO | Staff writer

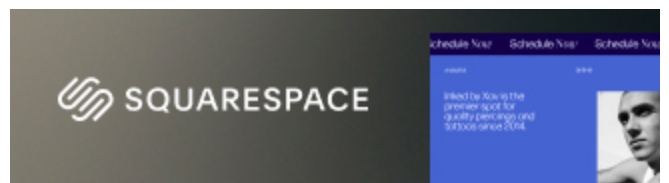
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A memorial for 2-year-old Ezekiel Harry surrounds a trashcan on Daspit Street in Houma on Friday, July 15, 2022. Ezekiel died due to blunt force trauma to the head earlier in the week, and his remains were found in a trashcan. (Photo by Brett Duke, NOLA.com | The Times-Picayune | The New Orleans Advocate) ORG XMIT:

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STAFF PHOTO BY BRETT DUKE



Nine foster children in Louisiana who have cycled through abusive homes and psychiatric hospitals are plaintiffs in a federal lawsuit filed Wednesday against the state's Department of Children and Family Services and the governor's office, alleging that Louisiana is failing its children and violating their due process rights.

The lawsuit, filed in Louisiana's Baton Rouge-based Middle District, asks the courts to order the DCFS to lower its workers' caseloads, keep children safe in foster care, stop overuse of group placements for kids, provide necessary services for children with disabilities and more. The plaintiffs are seeking class-action status to represent more than 4,300 children in foster care across the state.

"Louisiana's really terrible in terms of caseloads," said Marcia Robinson Lowry, executive director of the national nonprofit A Better Childhood, one of the groups that filed suit.

"And you can't just fix caseloads without fixing the system," she added, saying Louisiana needs more placements for children and more resources for parents. "The people who work in the system, we have found, are enormously frustrated by their inability to do a good job for the people they care about. This is not a matter of bad caseworkers, by any means."



Special report: Suffering So Young in Louisiana

BY ANDREA GALLO | Staff writer

A DCFS spokesperson said Wednesday that they were aware of the complaint and reviewing it.

The lawsuit details how systemic problems at the DCFS have affected children on an individual level. Named under pseudonyms and represented by agents of the court given their ages, their stories explain the human toll of the dysfunction at the DCFS.

Jacob B., for example, is a 16-year-old who has cycled through five placements in the past year alone. None of them have been family-like structures, according to the lawsuit. His parents died when he was a newborn and an aunt raised him until he was 15. When he exhibited “self-harming and defiant behaviors,” he entered DCFS custody.

Since then, he’s been diagnosed with myriad mental health disorders, placed on psychotropic medications and placed in inpatient psychiatric treatment that included being placed in a room without windows and unable to leave. At one point, the DCFS placed him in a short-term inpatient psychiatric unit where patients are meant to stay for a few days. Instead, he stayed for nine months and went without schooling the whole time, according to the lawsuit.

He reported that he was sexually assaulted by another patient while he was there.

“Due to its failure to communicate with Jacob’s health care providers or review his care plan, DCFS did not learn of Jacob’s sexual assault for nearly four months, when a DCFS caseworker eventually noticed that Jacob was being treated for a sexually transmitted infection,” the lawsuit says. “Despite learning that he had been assaulted, DCFS allowed Jacob to remain at that facility for another seven months. During that time, DCFS did not ensure that Jacob was properly treated for the infection.”

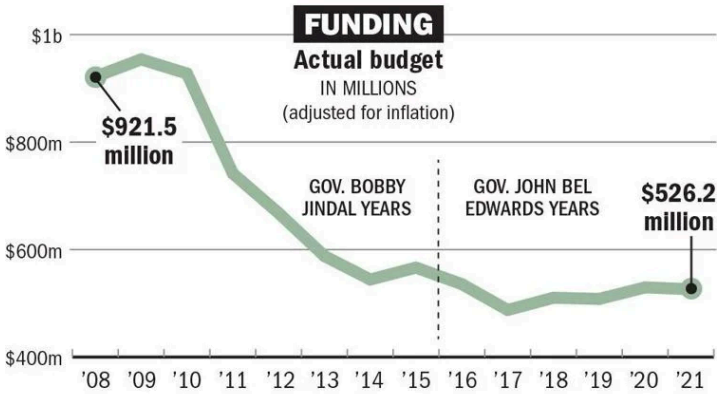
Jacob is now living in a New Orleans facility that generally houses adults. He’s the only resident under 18, according to the lawsuit.

DCFS warnings have not prompted change

DCFS leaders have spent years warning the governor’s office and legislature that they are chronically underfunded and understaffed. After multiple high-profile deaths of children in 2022 whose cases DCFS had been warned about, legislators convened oversight hearings and the agency went on a hiring spree.

Less investing in vulnerable children

Louisiana Department of Children and Family Services funding and staffing, 2007-2021



Source: Louisiana Division of Administration

Staff graphic

But the state has done little to restore the DCFS' funding – which former Gov. Bobby Jindal's administration slashed nearly in half. The agency's new secretary, David Matlock, said in a recent interview that the DCFS is in a downward spiral and still bleeding staff. He said the agency needs 300 additional child welfare employees: DCFS is losing nine employees for every eight new hires per pay period, and reports of child abuse and neglect are up by 43%.

The youngest plaintiff in the case is just 7.

Katrina R. has been in DCFS custody largely since she was born with drug withdrawal from in utero exposure to cocaine and marijuana, according to the lawsuit. Her grandmother initially tried to raise her, but could no longer care for her by the time she turned 4.

“Katrina has been in at least seven foster homes before turning 8 years old, has not found a permanent home or family, and has not received services necessary for her well-being and to prevent her from suffering additional harm,” the lawsuit says.

Katrina was finally placed with a foster mother named Claris Smith in April 2022 who grew attached to her and tried to help her receive services that DCFS failed to provide, according to the lawsuit. Though Katrina was aggressive and had psychiatric episodes, the DCFS did little to help Smith understand her background.

Smith did not know, for example, that Katrina had a brother who has since been adopted. The DCFS also declined Smith’s repeated requests to see Katrina’s case file, according to the lawsuit.

In an incident earlier this year, Katrina bit Smith and Smith pulled her off and self-reported the incident to a caseworker with Methodist Foster Care, according to the lawsuit. The worker wound up placing Katrina in a different foster home that has again upended any sense of stability, the court filings say.

“Since removing Katrina from Ms. Smith, DCFS discontinued Katrina’s therapy, destroying the 20-month relationship she had formed with her therapist,” the lawsuit states.

Smith now represents Katrina in the lawsuit.

Kids were sent back to abusive homes, suit says

The suit also details repeated attempts by the DCFS to reunite children with parents who either previously abused them or tried to relinquish them.

Alan W., for example, was removed from his father’s home in 2022 after reports that the father was physically abusing him, neglecting him and starving him, according to the lawsuit.

Requested funds vs. allotment

A look at the Department of Children and Family Services’ requests and allotments from the state’s general fund:

Year	Funds requested	Allotment enacted	% difference
2023	\$267,353,942	\$256,350,288	↓ -4.12%
2022	\$248,298,722	\$223,401,603	↓ -10.03%
2021	\$288,297,402	\$211,525,892	↓ -26.63%
2020	\$250,885,987	\$208,169,246	↓ -17.03%
2019	\$230,968,378	\$193,377,419	↓ -16.28%
2018	\$226,096,630	\$174,237,433	↓ -22.94%
2017	\$181,786,107	\$161,169,925	↓ -11.34%

Source: Louisiana Department of Children and Family Services

Staff graphic

“Notwithstanding the prior abuse allegations, DCFS tried to convince Alan’s father to take him back during this time, but his father refused,” the lawsuit states.

Now 12, Alan is now living at Louisiana Methodist Children's Home in Ruston, which the lawsuit alleges is "too restrictive of a placement" for him, according to those familiar with his case.

DCFS also keeps returning a 16-year-old named Jackson J. to his mother's custody, despite her repeatedly turning him over to the DCFS or abandoning him at hospitals, the lawsuit says.

In 2023, DCFS placed Jackson at the Johnny Gray Jones Youth Shelter and Correctional Facility in 2023, which houses both children accused of crimes and children with nowhere else to go. Jackson didn't understand why he was being sent to a correctional facility because DCFS never explained the circumstances to him, the lawsuit says.

He ran away multiple times before DCFS placed him in Cato Juvenile Detention Center last year, which the lawsuit describes as "a secure facility and an inappropriate choice for a child not charged with any crimes." He ran away again and, according to the court filings, DCFS does not know his location and cannot find him.

Overreliance on psychiatric units a concern

The lawsuit also accuses the DCFS of overreliance on psychiatric treatment placements for children with nowhere else to go. While kids may need short-term stays in psychiatric units, the lawsuit details several instances of children being in such places for months because the agency cannot find anywhere else for them.



This sign welcomes patients and visitors to Northlake Behavioral Health Center in Mandeville. The psychiatric hospital has been the subject of state and federal scrutiny over its flagging standards.

By ALEX LUBBEN | Staff writer

Two plaintiffs in the lawsuit were sent to Northlake Behavioral Health System in Mandeville, which inspectors have found to be out of compliance with federal regulations. The hospital has received three “immediate jeopardy” notices in the last year from the Centers for Medicare and Medicaid Services, which happen when patients are at risk of “serious injury, serious harm,

serious impairment, or death.”

The Louisiana Department of Health recently put the hospital on notice that it was at risk of losing its ability to collect Medicaid and Medicare payments.

“Despite knowing this, DCFS continues to place children at Northlake, perhaps due to ‘a lack of in-patient psychiatric beds, particularly for adolescents’ in the New Orleans metro area,” the lawsuit states.

Plaintiff Amelia M., who is 17, wound up there after a long history in the state's foster care system. She cycled through 12 foster homes before she even turned 3. During her time at Northlake and in other psychiatric facilities, she has not received consistent schooling, the lawsuit says. Another plaintiff, Mikaela S., 16, was also placed at Northlake for about three months and received no education while she was there, the lawsuit says.

“Her DCFS caseworker appeared at a December 2023 court appearance and was unable to provide the judge with a diagnosis justifying Mikaela's placement at Northlake,” the lawsuit says.

Mikaela has been in 27 placements in the last four years, according to court filings. She entered DCFS custody in 2020 because her mother could not find housing. In the past four years, the lawsuit says the agency has failed to help her mother do so.

Her mother retains parental rights and the lawsuit says Mikaela has repeatedly fled her DCFS placements to try to return back to her.

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