

CHILDREN'S FAST TRACK APPEAL  
IN THE SUPREME COURT OF PENNSYLVANIA  
EASTERN DISTRICT

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**Nos. 67 EAP 2024 & 68 EAP 2024**

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IN THE INTEREST OF: R.B., A MINOR  
PETITION OF: F.H., MOTHER

IN THE INTEREST OF: S.B., A MINOR  
PETITION OF: F.H., MOTHER

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BRIEF OF *AMICUS CURIAE* JUVENILE LAW CENTER  
AND EDUCATION LAW CENTER-PENNSYLVANIA  
IN SUPPORT OF APPELLANT F.H.

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Appeal from the September 6, 2024 Judgment of the Superior  
Court of Pennsylvania, Nos. 230 EDA 2024 & 231 EDA 2024,  
Affirming the December 28, 2023 Order of the Court of  
Common Pleas of Philadelphia County, Juvenile Division,  
CP-51-DP-0001305-2017

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Vivek Sankaran et. al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 Marq. L. Rev. 1161 (2019).....23, 24

## STATEMENT OF INTEREST OF AMICI CURIAE<sup>1</sup>

**Juvenile Law Center** fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center’s legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children’s unique developmental characteristics and human dignity.

The **Education Law Center-PA** (ELC) is a non-profit, legal advocacy organization dedicated to ensuring that all children have access to a quality public education. Through individual and impact litigation, ELC advances the rights of children who are most marginalized by our education system—including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, and children experiencing homelessness. These are the same children who are most impacted by

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<sup>1</sup> Pursuant to Rule 531, no counsel for a party authored this brief in whole or in part. No person or entity, other than *Amici*, its members, or its counsel made a monetary contribution for the preparation or submission of this brief.

Pennsylvania's truancy laws because, as acknowledged by Joint State Government Commission's report in 2015, "poverty and racism" are the likely drivers of the disparities in truancy rates. See Truancy Advisory Comm., Joint State Gov't Comm'n, *Truancy and School Dropout Prevention: Report*, 35 (2015), <http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2015-10-27%202015%20TAC%20Final%20Report%2010-27-15%203pm.pdf>.

ELC has handled hundreds of individual matters involving truancy and dependency, including representing parents facing possible adjudication of their children as dependent and challenging the imposition of fines, fees, or jail time on parents and students. In most cases, we have represented families of color whose children are impacted by preventable school-based barriers to school attendance such as unaddressed accommodations for a child's disability, a student's need for special education services, barriers emanating from homelessness, or the failure of schools to address bullying and harassment. ELC also participated as a member of the Pennsylvania State Roundtable on Educational Success and Truancy Prevention and worked with legislators and stakeholders to draft the Commonwealth's major truancy law, Act 138.

## SUMMARY OF ARGUMENT

The Juvenile Act favors family unity. *See* 42 Pa. Cons. Stat. Ann. § 6301 (West). To protect the right to family unity, the Act prohibits the removal of children from their guardians unless there is a clear necessity to do so. *Id.* This right is so important and the impact of family separation is so great, that the court must take due care with its considerations.

However, too often children are deemed dependent and removed from their homes on the basis of nonattendance from school. School records do not always tell the entire story and are too often weaponized against the most vulnerable families. Therefore, it is crucial for the reliability of these records to be rigorously tested. School attendance records are frequently incomplete and inaccurate, yet, courts routinely rely heavily, or totally, on these records to make dependency determinations. Children with disabilities are penalized with unexcused absences when their attendance is made nearly impossible because their schools haven't provided the necessary accommodations. Black children are likely to receive harsher punishments for absences, including being found dependent, subjected to surveillance and removed from their families.

Furthermore, when children are adjudicated dependent, they are at greater risk of being separated from their families. Research clearly establishes that family separation has devastating and lifelong impacts for children who are removed from

their guardians. *See, e.g.,* Annie E. Casey Foundation, *Every Kid Needs a Family: Giving Children in the Child Welfare System the Best Chance for Success* 5 (2015), <https://assets.aecf.org/m/resourcedoc/aecf-EveryKidNeedsAFamily-2015.pdf>.

In matters of such import, meaningful and careful appellate review is essential to safeguarding both the best interest and educational futures of children. For the reasons set forth below, we urge this Honorable Court to reverse the Superior Court's Order due to the insufficiency of competent evidence to support the trial court's adjudication of dependency and reliance on admitted evidence that failed to comply with the clear requirements of Pennsylvania Rule of Evidence 803(6).

## **ARGUMENT**

### **I. THE SUPERIOR COURT ERRED BY RELYING ON SCHOOL ATTENDANCE RECORDS WHICH WERE NEVER PROPERLY ADMITTED INTO EVIDENCE PURSUANT TO PA.R.E. 803(6)**

#### **A. School Attendance Records Are Often Incorrect and Unreliable**

Attendance records are often riddled with inaccuracies, despite Pennsylvania schools' legal obligation to monitor the absences of enrolled children. 24 P.S. § 13-1329. *See, e.g.,* *Performance Audit, School District of Philadelphia's Oversight and Monitoring of District Authorized Charter Schools* 43-44 (April 2016), <https://www.paauditor.gov/wp-content/uploads/audits-archive/Media/Default/reports/sch77432philadelphiacitysdcso040716.pdf> (noting lack of oversight of Philadelphia Charter Schools, including insufficient enrollment audits to monitor and ensure

accuracy of attendance records). Over the past two years, ELC has received approximately one hundred calls to our Helpline related to truancy matters. This concerning reality is often caused by a variety of factors, including a school's failure to accurately record the type of absence (excused vs. unexcused), failure to record the duration of students' excused absences as well as misunderstandings and misapplications of state attendance laws, the Pennsylvania Department of Education's ("PDE") guidance, and district or school-level attendance policies. For example, ELC has seen absences incorrectly marked as unexcused when a child has been suspended, a note was provided by a medical provider, a child with a disability failed to receive mandated transportation, tardies were illegally or wrongly calculated and treated as a full-day absence, or a district has relied on "cumulative" absences over the course of two or three years in violation of the specific language of Act 138. 24 P.S. § 13-1326.

As explained in state guidance, the collateral consequences of failing to keep accurate attendance records are great and can serve as the entry point into system involvement for children and families. Pa. Dep't Educ. Basic Educ. Circulars, *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (2006), <https://www.pa.gov/en/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/compulsory-school-attendance-unlawful-absences-and-school-attendance->

improvement-conferences.html. Without legal representation, families are often unable to successfully challenge a child's inaccurate attendance record, even when there are clear errors on its face. In ELC's experience working on individual matters, responses to non-attendance by students of color are disproportionately harsher – including imposing sanctions of high fines, jail time, swifter referrals to dependency court, and referrals of youth to residential placement, as well as heightened police interaction with families.

**1. School records often inaccurately identify absences as unexcused**

Under Pennsylvania's compulsory school laws, a student is considered "truant" if they have three or more unexcused absences in the current school year. 24 P.S. § 13-1326. They are considered "habitually truant," if they have six or more unexcused absences in the current school year. *Id.* Pennsylvania law broadly defines absences as excused when a student is prevented from attending school due to physical or mental conditions or "other urgent reasons." 24 P.S. § 13-1329. Pursuant to PDE's guidance,

an absence is lawful when a student is dismissed during school hours by a certified school nurse... the student is absent to obtain professional health care or therapy care service rendered by a licensed practitioner in the healing arts. Additionally, schools and nonpublic schools should consider illness, family emergency, death of a family member, medical or dental appointments, authorized school activities, and educational travel with prior approval as lawful absences.

Pa. Dep't Educ. Basic Educ. Circulars, *supra*. PDE's guidance is also clear that

absences that “require[] a student to leave school for the purposes of attending court hearings related to their involvement with a county children and youth agency or juvenile probation may not be categorized as unlawful” and “absences caused by homelessness must not be counted as unexcused absences.” *Id.*

Despite this, schools do not always follow the law or PDE’s guidance. Attendance records do not always make clear distinctions between excused and unexcused absences, which can lead to harmful errors that negatively impact families. ELC has represented several families in truancy matters in which a student should not have been in truancy court in the first place, because although the student had more than three absences, the absences were in fact excused or the child was no longer of compulsory school age, or the student was absent due to the death of a family member. The parent may have provided a proper excuse note as required by law, but it was not recognized as such or was never considered or reviewed by the school. In some instances, ELC has represented students where disciplinary suspensions imposed by the school were nonetheless improperly treated as “unexcused” absences -- a scenario that appears to also have occurred in this case for R.B. In other cases, despite the school record listing an “excused reason,” the absence was simply miscoded as “unexcused” resulting in the student being improperly referred to truancy court.

In one case, ELC represented an elementary school-aged student who was

hospitalized for several weeks after the school had called Philadelphia Children's Crisis Response Center based on a conclusion that the youth was experiencing acute mental crisis at school. Although the school triggered the child's referral and placement, the school marked the student's absences as "unexcused" despite regular communications with the parent and the hospital and having received detailed records corroborating the student's hospitalization. ELC has also worked with students who were marked absent and unexcused through no fault of their own, such as when their school bus was late or never showed up. There are many other ways in which attendance records can be inaccurate and confusing, and mistakes are often made. For example, ELC worked with a 19-year-old student, who despite not being subject to compulsory school age laws, was still referred to truancy court.

Notably, students with disabilities face unique and recurring attendance-related barriers which often lead to attendance record errors and inaccuracies. In particular, ELC has seen a sharp increase in school-avoidance, often reflected in a documented mental health diagnosis, which has become more prevalent in the wake of the COVID-19 Pandemic. School districts are required to provide accommodations for students with disabilities who are encountering school attendance barriers and students have unique protections under the Individuals with Disabilities Act ("IDEA") and Section 504 of the Rehabilitation Act ("Section 504"). Pa. Dep't Educ. Basic Educ. Circulars, *supra*. Despite these critical protections,

students with disabilities are frequently cited for truancy even when it is clearly improper and a violation of their recognized rights has occurred under federal and state law. *See* 22 Pa. Code §§14.101 et seq. & 15.1 et seq. For example, ELC represented a student with asthma who had a 504 Plan and provided the district with a doctor’s note advising that the child could not attend school if the temperature was below a certain degree. Despite providing additional doctor’s notes when the student was absent, the school rejected the notes and improperly marked the child’s absences as unexcused. These records were subsequently corrected only after the child’s caregiver obtained representation and a legal proceeding was initiated.

**2. Attendance records alone are insufficient to establish truancy**

In addition to inaccuracies in attendance records, it is clear that attendance records alone do not paint a complete picture of what is going on with a student to inform a court’s assessment regarding truancy or to determine whether to adjudicate a child dependent under the Juvenile Act. For example, a student’s attendance records will not disclose whether a child is being bullied or harassed in school, is exhibiting school avoidance, or whether a school failed to provide required accommodations for a student with disabilities. *Amici* assert that nonattendance alone should never be a basis for adjudication of a child as dependent. However, at a minimum, a conclusion that a child is “habitually and without justification truant from school” under 42 Pa.C.S.A. § 6302(5) of the Juvenile Act must consider a

child’s entire situation and other evidence such as other school records and the testimony of the student, family members, medical providers, etc. Notably, it is very difficult to correct inaccurate attendance records. For example, even when ELC is involved in a case and intervenes to request that the District correct attendance records under the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g(a)(2) and 34 CFR 99.20, it can take several weeks and repeated correspondence to force districts to rectify known issues. In fact, the problem of inaccurate attendance records has occurred with such frequency that ELC developed a self-advocacy tool for parents to use to request that inaccurate attendance records be corrected. *See* Educ. L. Ctr., *Self-Advocacy Tool: Request for Attendance Record Correction* (2021), <https://www.elc-pa.org/wp-content/uploads/2021/08/self-help-request-for-attendance-record-correction-fillable-20210825.pdf>.

ELC has also worked with numerous families where a student’s lateness was subsequently treated as a full-day unexcused absence, despite the lates not adding up to the equivalent of full days missed. In one instance, a school incorrectly added together a student’s absences from the morning on some days and absences from the afternoon on other days and counted them as full-day unexcused absences. Further, individuals not familiar with education records or a school district’s coding system may look at an attendance record and not properly interpret the record. For example, some records note the “total absences,” which sometimes are listed without

distinguishing which are excused and which are unexcused. Someone unfamiliar with these records may assume all the absences are unexcused, leading to errors in findings and legal conclusions by truancy and dependency courts.

Perhaps one of the most egregious case examples of the need to understand an attendance record in context involved an ELC client who was a student with significant disabilities and used a wheelchair and communicated non-verbally. The prior school year, the District had changed the student's Individual Education Program ("IEP") to a school placement of homebound services. Despite this drastic change whereby the student would be educated at home instead of in school, the following school year the District failed to provide the student with homebound education and then referred the student to truancy court. The school records indicated the student had unexcused absences for the entire school year, when in fact the student was not required to attend school at all and was awaiting homebound services the district failed to provide as legally required by the child's IEP. The student's mother only spoke Spanish, and she was confused about the entire process. If ELC had not intervened to represent the parent, the student may have been found to be truant. In this matter, as in so many others we see, if the court had only reviewed the child's attendance records and nothing more, the court could easily misunderstand the circumstances by relying on the records.

Relying solely on attendance records in the absence of someone with

knowledge and expertise from the specific school district at issue to explain and verify those records can easily result in erroneous factual findings and lead to dire consequences for families and children. In addition to other harms discussed above, a decision by a court to adjudicate a child dependent undermines their educational success, resulting in lower academic achievement and decreased likelihood of graduating from high school. *See* Am. Bar Ass'n, Ctr. on Child. & L., *Fast Facts: Foster Care & Education Data at a Glance* (2022), <https://shorturl.at/uLW2E>.

**B. School Attendance Records Must be Subject to the Same Indicia of Reliability as All Other Business Records**

Pennsylvania Rule of Evidence 803(6) requires the proponent of documentary evidence to establish circumstantial trustworthiness. In part, Pa.R.E. 803(6)(b) requires that the record be created by a person with knowledge, and while the witness need not necessarily have created the document or even know the individual within the organization that did, they must be able to testify about the system and verify that the system used to create the records required such knowledge. *See, e.g., Commonwealth v. Graver*, 461 Pa. 131, 138-39 (1975). For example, where there is no evidence as to who provided the information set out in a report, it is not admissible as a business record. *See Todd's by the Bridge v. Pennsylvania LCB*, 74 A.3d 287 (Pa. Commw. 2013) (police records inadmissible where proffered witness was not a custodian of the records and had no firsthand knowledge of the manner in which the reports were prepared or maintained).

This Rule further requires that the business information be recorded “at or near the time” of the event or act reported. Pa.R.E. 803(6)(c). This element is vital to ensure the accuracy of the records, as courts look to “whether the time span between the event and its entry.... is so great that it suggests a danger of inaccuracy resulting from memory loss.” *In re Estate of Indyk*, 488 Pa. 567, 572 n.2 (1979). The records should be made “contemporaneously with the events it purports to relate.” *See, e.g., Brennan v. St. Luke’s Hosp.*, 446 Pa. 339, 346 (1971). In contrast, records created after the fact will not have been made contemporaneously with those events and are therefore inadmissible under the Rule. *Commonwealth v. Garcia*, 478 Pa. 406, 426 (1978) (letter written by hospital superintendent based on records previously prepared by others not admissible as business record). When evaluating the trustworthiness of business records, “the period of delay prior to preparation of the record” is a factor to be considered. *Ganster v. Western Pa. Water Co.*, 349 Pa. Super. 561, 568-69 (1985).

Due process protections in child welfare proceedings are also exceedingly important to the analysis at issue in this case and are enshrined within the Juvenile Act. 42 Pa.C.S.A. § 6301(b)(4). “The right of a litigant to in-court presentation of evidence is essential to due process; in almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” *M.O. v. F.W.*, 42 A.3d 1068, 1072 (Pa. Super.

2012). For example, the Pennsylvania Superior Court found that children’s due process rights were violated in *In re D.C.*, 2018 WL 2750250, at \*7-8 (Pa. Super. Ct. June 8, 2018), noting specifically that the children were not able to complete cross-examination of a witness, and therefore were not provided with a meaningful opportunity to be heard or to defend themselves.

Here, at the October 12, 2023 adjudicatory hearing, Community Umbrella Agency (“CUA”) case manager Niema Barnet testified regarding R.B. and S.B.’s absences. She testified that S.B. was absent two days during the current school year – both of which were days that he was sick. With regard to R.B., she testified that he was sick two days and he was suspended two days. It is important to note here that neither student was considered legally truant at all, according to the testimony of Ms. Barnet. The matter should have been dismissed at this point, but it was not, and another matter was scheduled for December 2023.

At the December 28, 2023 hearing, additional testimony was heard from the CUA case management supervisor, Shakar Albert. Mr. Albert alone testified about the children’s school records. Like Niema Barnet, Mr. Albert is not an employee of the school district, did not have any personal knowledge regarding the creation or maintenance of School District of Philadelphia records and was unable to “provide sufficient information relating to the preparation and maintenance of the records to justify a presumption of reliability.” *See Commonwealth Fin. Sys., Inc. v. Smith*,

2011 PA Super 30, 15 A.3d 492, 499 (2011). Nonetheless, utilizing Mr. Albert's testimony alone regarding the records, the court adjudicated both students dependent.

Here, particularly with regard to attendance records as the core issue to establish a child's potential adjudication, it was crucial to ensure that the person presenting this evidence had actual knowledge concerning the creation of those records, how to interpret them, and when the records were created in relation to the absences at issue. As evidenced above, attendance records may be difficult to read and interpret and are often inaccurate. Reliability to support the admission of such evidence stems from proffering a witness who is able to properly authenticate them. In addition, the consequences for error in this context are severe – a child is declared dependent and ordered to be separated from their family.

As such, the testifying witness seeking to admit such a record must understand and explain these documents and their creation, including where the records came from, who or what created them, how they are used and maintained, and how to interpret them, including the use of coding for attendance records which is unique in every school district. Moreover, a parent must have the opportunity to cross-examine such a witness and to identify and challenge any potential errors. Someone outside of the school system – such as a CUA supervisor in this case – cannot authenticate or verify such documents and lacks the requisite knowledge to comply with the

requirements of Rule 803(6). As a result, a parent cannot meaningfully cross-examine this witness and fully defend her case.

In its Opinion, the court improperly modified the entire test for the business records exception by rubber-stamping the admission of these documents. The Opinion removed the requirement that business records be made “at or near the time of the event,” among other things. In the context of education records, removing this particular requirement is extremely detrimental as absences should be recorded immediately, and excuse notes documented simultaneously to avoid errors. Delays in the creation of the attendance record significantly undermines reliability due to memory loss, loss of documentation, inaccuracies, and confusion. As ELC has seen in numerous cases, attendance records in particular are often inaccurate, making it especially imperative that admission of such evidence be conferred through a witness knowledgeable about the creation of such records. Removing these basic indicia of reliability as mandated by Pa.R.E. 803(6)(c) denies a parent their right to confrontation and will only lead to dispositional errors and harm the children the Juvenile Act was intended to protect.

## **II. THE SUPERIOR COURT ERRED BY AFFIRMING THE ADJUDICATION OF DEPENDENCY BASED ON TRUANCY ALONE**

Pennsylvania’s Juvenile Act favors family unity and permits courts to remove children from their guardians only when it is clearly necessary to do so and when it is in the child’s best interest. *See* 42 Pa.C.S.A. § 6301. A child’s nonattendance in

school alone should not constitute sufficient evidence justifying an adjudication of dependency, which can ultimately lead to removal of a child from their guardian.

Separating a child from their family can have long-term, devastating consequences for the child. While often done under the guise of a “child’s best interest,” research consistently demonstrates that removal from family “may be ‘more damaging to the child than doing nothing at all.’” *See, e.g.,* Lynn F. Beller, *When in Doubt, Take Them Out: Removal of Children from Victims of Domestic Violence Ten Years After Nicholson v. Williams*, 22 Duke J. Gender L. & Pol’y 205, 216 (2015) (quoting *Nicholson v. Williams*, 203 F.Supp.2d 153, 204 (E.D.N.Y. 2002)). Ongoing family separation creates a remarkable risk of long-term harm for children, including chronic exposure to toxic stress, the destruction of essential attachments, grief, loss, “anxiety, emotional distress, behavioral problems, depression, and lifelong health consequences.” Kele M. Stewart, *Re-Envisioning Child Well-Being: Dismantling the Inequitable Intersections Among Child Welfare, Juvenile Justice, and Education*, 12 Colum. J. Race & L. 630, 639 (2022) (citing Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L. & Soc. Change 523, 549-50 (2019)).

**A. Truancy Does Not Justify the Trauma and Harm that Family Surveillance Causes**

A child’s nonattendance in school must not form the basis to open a dependency case and implement ongoing surveillance. Under Pennsylvania law, a

child may be adjudicated dependent if they are found to be frequently truant. 42 Pa.C.S.A. § 6302 (“Dependent child”)(5). And Pennsylvania’s truancy law is primarily designed to “improve school attendance and deter truancy” through a comprehensive approach that identifies and addresses attendance issues using credible intervention techniques which “[p]reserve the unity of the family whenever possible” and “[a]void . . . the possible entry of a child to foster care and other unintended consequences of disruption of an intact family unit.” 24 P.S. § 13-1325. Adjudicating a child dependent based on nonattendance at school is at odds with the law’s purpose.

When a child is adjudicated dependent and the family is subject to ongoing supervision, the result is a significant intrusion in the family’s daily life, tangible harm to the child and parents, and an increased likelihood that children will penetrate deeper into the child welfare system. This kind of traumatic intrusion should not be imposed lightly because it can lead to the child’s separation from their parents. Pennsylvania courts, when weighing the evidence to determine whether it is clearly necessary to order a child removed from the home, may consider a child’s truancy as a *contributing* factor supporting removal, *see In re E.P.*, 841 A.2d 128, 130 (Pa. Super. Ct. 2003), but truancy is not sufficient itself to support a finding of clear necessity for removal.

## 1. Ongoing surveillance causes trauma to children and parents

Research confirms that surveillance of families who are subject to dependency proceedings causes substantial trauma, significant harm, and undermines a child's education. See Charlotte Baughman et al., *The Surveillance Tentacles of the Child Welfare System*, 11 Colum. J. Race & L. 501, 518 (2021) (“A visit from a family regulation worker is often a traumatic experience for parents and children, and it can erode the family's trust and collaboration with the educational and school community.”). Family “oversight” by child welfare agencies often includes unannounced home and school visits and invasive “body checks”. See Hum. Rights Watch, Summary, *“If I Wasn’t Poor, I Wouldn’t Be Unfit”: The Family Separation Crisis in the US Child Welfare System* (2022), <https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare>.

When a referral is first made to the child welfare agency reporting school nonattendance, neglect, or abuse, the agency initiates an investigation into the family. During investigations, children report feeling betrayed and as if they have no control over what they are experiencing. Port. St. Univ., Sch. Soc. Work, Ctr. for Improvement of Child & Fam. Servs., *Reducing the Trauma of Investigation, Removal, & Initial Out-of-Home Placement in Child Abuse Cases: Project Information and Discussion Guide* 12-13 (2009), <https://www.pdx.edu/center-child-family/sites/centerchildfamily.web.wdt.pdx.edu/files/2020-07/CJA-project->

Information-and-discussion-guide.pdf. Studies have also shown that families being investigated “suffer from a range of responses including trauma, anxiety, fear, shame, guilt, stigmatization, powerlessness, self-doubt, depression and isolation.” Doriane Lambelet Coleman, *Storming the Castle to Save the Children: The Ironic Costs of a Child Welfare Exception to the Fourth Amendment*, 47 Wm. & Mary L. Rev. 413, 518-21 (2005). Parents under surveillance experience increased rates of depression. Kristen A Campbell, Lawrence J. Cook, Bonnie J. LaFleur Heather T. Keenan, *Household, Family, and Child Risk Factors After an Investigation for Suspected Child Maltreatment: Are We Missing an Opportunity for Prevention?*, 164 Archives Pediatric Adolescent Med. 943, 944 (2010).

Additionally, the anxiety and fear experienced by children and their families pursuant to court and child welfare intervention and surveillance directly impact children's education. “Essentially, when interacting with CPS, aspects of parental choice and control are scrutinized and can be diminished by both the child welfare and education systems.” Darcey H. Merritt, *How Do Families Experience and Interact with CPS?*, 692 Am. Acad.Pol. & Soc. Sci, 203, 208 (2020). Educational institutions are often weaponized to carry out family surveillance, eroding trust and negatively impacting education. *Id.* at 207-08. Surveillance by child protective services is also associated with significantly lower academic outcomes for children. See Brian A. Jacob & Joseph Ryan, *How Life Outside of School Affects Student*

*Performance in School*, Evidence Speaks Reports (2018). In fact, children who have been investigated for maltreatment perform worse in school than their peers who have not been referred with significant performance gaps in reading and math. *Id.* Furthermore, in the long-term, students who experience court interventions for truancy are at an increased risk of accruing more absences, dropping out of school, and having contact with the criminal justice system, compared to truant students who escape court involvement. Dana Goldstein, *Inexcusable Absences*, New Republic (Mar. 6, 2015), <https://newrepublic.com/article/121186/truancy-laws-unfairly-attack-poor-children-and-parents>.

## **2. Family surveillance pushes children further into the family regulation system**

Once an investigation is initiated, the likelihood of it leading to further supervision and surveillance by the court system is high. A finding of dependency places families in a cycle of heightened surveillance, government intrusion, and coercive services that perpetuate gendered, racialized, and ableist marginalization. S. Lisa Washington, *Pathology Logics*, 117 Nw. U. L. Rev. 1523, 1530-31 (2023). The family regulation system perpetrates over-surveillance, which in turn leads to further system involvement, whether through additional child maltreatment investigations, voluntary or court ordered services, or in the worst scenario, the removal of a child from their home. Baughman, *supra*, at 526. When courts order supervision, “[f]amilies are required to comply with family regulation actors to avoid

the ‘civil death penalty’--the permanent severance of the parent--child relationship.” Washington, *supra*, at 1530.

The child welfare system utilizes surveillance, regulation, and punishment to control families and ensure adherence to white standards of parenting. See Emma Ruth, upEND, *Regulating Families: How the Family Policing System Devastates Black, Indigenous, and Latinx Families and Upholds White Family Supremacy*, 3-4 (2022), <https://upendmovement.org/wp-content/uploads/2022/06/upEND-Regulation.pdf>. State and federal law provide minimal guidance to assess the adequacy of a family’s home, furnishings, material provisions, and income, and what little guidance does exist is vague. See David Pimentel, *Punishing Families for Being Poor: How Child Protection Interventions Threaten the Right to Parent While Impoverished*, 71 Okla. L. Rev. 885, 895-96 (2019). As a result, these assessments are left to the discretion of agency investigators and case managers who rely upon their own judgment and instincts to determine the appropriateness of a family’s home. See *Id.* This creates a legal paradigm that is ripe for bias, and, thus, requires close judicial oversight to ensure that families are not separated and permanently severed for environmental conditions related to poverty and marginalization.

### **3. Family separation following a dependency adjudication inflicts lasting emotional and psychological damage on children and families**

Research supports the fact that the detrimental impact of family separation far outweighs the purported benefits. Being disconnected from relationships and community “contributes to feelings of sadness, loss, isolation, and anxiety.” Stewart, *supra*, at 640.

The emotional and psychological impact of family separation also manifests physically in children. In the immediate moments of separation, children’s cortisol levels (the stress hormone) skyrocket, their blood pressure rises, and their heart rates accelerate. *See* Am. Bar Ass’n, *Trauma Caused by Separation of Children from Parents: a tool to Help Lawyers* 6-10 (2020), [https://www.americanbar.org/content/dam/aba/publications/litigation\\_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf](https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf). Removing children from their family causes a release of higher levels of stress hormones in children that can cause irreparable brain cell damage. Vivek Sankaran et. al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 Marq. L. Rev. 1161, 1167 (2019). Children who have been exposed to multiple unresolved traumatic events, such as being separated from parents and experiencing multiple foster care placements, may suffer from “body dysregulation, difficulty managing emotions, dissociation, poor self-regulation and self-concept, cognitive impairment,

and multiple long-term health consequences.” *Id.* at 1166-67. Grief can further manifest in “guilt, post-traumatic stress disorder, isolation, substance abuse, anxiety, low self-esteem, and despair.” Monique B. Mitchell, *The Neglected Transition: Building a Relational Home for Children Entering Foster Care* 4-5 (2016).

**4. Dependency adjudications can lead to the obliteration of the parent-child relationship, which imposes a unique type of harm**

If the case elevates toward termination, as the federal law requires after a certain amount of time during which a child is in out-of-home care, termination proceedings significantly exacerbate these negative effects because the State seeks not only to temporarily disrupt a child’s relationships and connections, but to end them entirely. The severity of the loss itself is devastating; when parental rights are terminated, children lose their legally recognized relationship with their parents, siblings, and the entirety of their extended family networks. The grave impact of termination proceedings on children and families has been emphasized by social science researchers and legal professionals alike. For example, as the American Bar Association has emphasized:

Many people with lived experience in foster care note that even in situations where they could not remain with their birth parents, a termination of parental rights carries greater consequences than the law recognizes. A TPR not only ends the relationship with birth parents, but often results in cutting connections to other family members, grandparents, cousins, aunts, uncles, even siblings.

Am. Bar Ass’n Res. 606 11-12 (2022), <https://www.americanbar.org/content/dam/>

aba/administrative/news/2022/08/hod-resolutions/606.pdf.

“[U]nlike other types of losses--like death--which bring with them a sense of certainty and finality, terminating parental rights creates ‘ambiguous loss’” because children’s emotional and psychological ties to their birth families persist but they lack the legal relationship to the parent. Vivek S. Sankaran & Christopher E. Church, *The Ties that Bind Us: An Empirical, Clinical, and Constitutional Argument Against Terminating Parental Rights*, 61 *Fam. Ct. Rev.* 246, 257 (2022). This raises “a ‘lifetime of questions’” about identity and belonging, and leads to “feelings of fear, anger, abandonment, shame, embarrassment, and low self-esteem.” *Id.* at 258 (first quoting Gina Miranda Samuels, *Ambiguous Loss of Home: The Experience of Familial (Im)permanence Among Young Adults with Foster Care Backgrounds*, 31 *Child. & Youth Servs. Rev.* 1229, 1230 (2009), then citing Gabrielle Glaser, *American Baby, A Mother, A Child, and the Secret History of Adoption*, 186, 189, 270 (2021)). The consequences are severe and lasting because “there is no end to the uncertainty and, therefore, no hope for true closure.” Gina Miranda Samuels, Chapin Hall Ctr for Child. Univ. Chi., *A Reason, A Season, or a Lifetime: Relational Permanence Among Young Adults with Foster Care Backgrounds* 13 (2008), <https://assets.aecf.org/m/resourcedoc/UC-AReasonaSeasonoraLifetime-2008.pdf>.

**B. Racial Disparities in the Child Welfare System Are Exacerbated By Dependency Adjudications Based On Truancy Alone**

**1. Black children are disproportionately placed in dependent care**

The child welfare system is marked by stark racial inequity, an inevitable outcome of policies and practices originally designed to separate Black families for profit evolving into seemingly neutral laws “that obfuscate the role of race and class and operate in particularly pernicious ways in the same poor communities of color.” Stewart, *supra*, at 631-32. “Almost every policy pillar of the current family regulation system has been theorized to drive disproportionality and the destruction of Black families.” *Id.* at 638.

The racial disparity is readily apparent at both the federal and state levels. Both nationally and in Pennsylvania, Black children continue to be overrepresented in the child welfare system, and racial disparities permeate every stage of decision-making. See Children’s Bureau, U.S. Dept. of Health & Hum. Servs., *Child Welfare Practice to Address Racial Disproportionality and Disparity* (2021), [www.childwelfare.gov/pubPDFs/racial\\_disproportionality.pdf](http://www.childwelfare.gov/pubPDFs/racial_disproportionality.pdf) (summarizing national data regarding racial disproportionality at various decision making points in child welfare intervention); Pa. Dep’t Hum. Servs., *Racial Equity Report* 12-13 (2021), <https://www.dhs.pa.gov/about/Documents/2021%20DHS%20Racial%20Equity%20Report%20final.pdf>.

These disparities are at least in part due to the heightened levels of surveillance Black families are subjected to by the child welfare system. Family policing relies on an expansive network of information sharing between schools, health care facilities, public assistance offices, and law enforcement. Black parents, who are statistically more likely to rely on public assistance, are exposed to individuals required by law to report suspected child abuse. *See* Hum. Rights Watch, *supra*. The factors most likely to cause truancy – such as unmet financial needs, violence in neighborhoods, and poor identification of special education needs – are often related to poverty. Yet, teachers, doctors and law enforcement encounter children who are absent from school and they are required to report the parents of these children, though the underlying reasons for the absence are unrelated to abuse or neglect. OJJDP, *Truancy Prevention 2-3* (updated 2010), [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/truancy\\_prevention.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/truancy_prevention.pdf)

## **2. Black and Brown children are disproportionately subject to punishment for truancy**

Racial disparities are well-documented within all categories of the juvenile court system and studies show that racial stereotypes play a key role in how courts make decisions about children. Laura L. Rubino et al., *An Examination of Racial/Ethnic Disparities in Truancy Court*, 66 *Crime & Delinquency* 33, 36 (2020). Black, Latine, and Indigenous youth are treated more harshly throughout the juvenile court system, even after controlling for legal and extralegal characteristics, with

Black children being twice as likely as their white peers to be adjudicated in all categories. *Id.* at 36-37. Truancy adjudications show similar patterns. *Id.* at 33. For example, a 2019 study found that Black and Multiracial students are more likely to receive a second truancy petition than their white peers. *Id.* at 37.

In its report on truancy, Pennsylvania’s Joint State Government Commission recognized that the driver of disparities between white children and children of color is likely “poverty and racism,” noting that while “all non-white students” combined equal 31% of the total student enrollment in Pennsylvania, they represent 65% of students identified as habitually truant. Truancy Advisory Comm., Joint State Gov’t Comm’n, *Truancy and School Dropout Prevention: Report 35* (2015), <http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2015-10-27%202015%20TAC%20Final%20Report%2010-27-15%203pm.pdf>. An article published in PublicSource in 2021 noted that highly discretionary policies regarding what constitutes an excused versus an unexcused absence leads to racial bias and variation in whose absences are “more likely to be designated unexcused.” TyLisa C. Johnson, *Unexcused: Do PA Schools Have to Send Kids to Court for Truancy? 4 Debunked Myths*, PublicSource (Oct. 28, 2021), <https://www.publicsource.org/pa-schools-truancy-court-unexcused-absences-myths>. A 2021 study found that on average, Native American and Black students were more likely to have absences defined as unexcused and Black students were more than 2.5 times as likely as white students

to be petitioned to juvenile court for truancy. Clea A. McNeely et al., *Exploring an Unexamined Source of Racial Disparities in Juvenile Court Involvement: Unexcused Absenteeism Policies in U.S. Schools* 7 AERA Open 1, 8 (2021) [https://www.attendanceworks.org/wp-content/uploads/2019/06/Clea\\_McNeeley\\_AERA\\_Open\\_April\\_2021.pdf](https://www.attendanceworks.org/wp-content/uploads/2019/06/Clea_McNeeley_AERA_Open_April_2021.pdf).

The most recent report on truancy issued by the Pennsylvania Joint State Government Commission in April 2024 also identified a number of root-cause barriers to regular school attendance for students, including bullying and harassment, lack of reliable transportation, unmet mental health needs, lack of access to basic food and housing, fear of school and community violence, the need for a student to balance full-time employment with schools, and a caregivers' difficulty understanding school attendance policy. Advisory Comm. on Act 138, Joint State Gov't Comm'n, *The Truancy Process: The Challenge of Improving Attendance in Pennsylvania Schools* 11, 20 (2024), [http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2024-04-09%20\(Act138\)%20Truancy%20Web%204.9.24%20930am.pdf](http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2024-04-09%20(Act138)%20Truancy%20Web%204.9.24%20930am.pdf). These barriers were further exacerbated by the disparate treatment of students of color during and after the Covid-19 pandemic: Black and Brown children and children living in poverty were subjected to the brunt of the “pandemic growth in chronic absenteeism” which “exacerbated pre-existing inequalities.” Thomas S. Dee, *Higher Chronic Absenteeism Threatens Academic*

*Recovery from the COVID-19 Pandemic*, 4 (2023), <https://osf.io/preprints/osf/bfg3p>. In comparison to their peers, “economically disadvantaged students as well as Black students and Hispanic students” experienced comparatively large increases in chronic absenteeism. *Id.* This is due in part to the fact that Black and Brown students are educated in Pennsylvania’s most underfunded schools which lacked the resources to support students during the pandemic. See *Testimony of Matthew G. Kelly to the Basic Education Funding Commission 2* (September 12, 2023), <https://pubintlaw.org/wp-content/uploads/2023/09/Kelly-BEF-written-testimony-final.pdf>.

Black families in particular are also more likely to come into contact with the family surveillance and regulation system as a result of truancy. These disparities have been found to be structural and associated with social inequalities faced by Black communities, as well as the racial prejudices embedded in educational systems, law enforcement agencies, juvenile justice systems, and child welfare workers. Mary Cénat, Sara-Emilie McIntee, Joana N. Mukunzi, Pari-Gole Noorishad, *Overrepresentation of Black Children in the Child Welfare System: A Systematic Review to Understand and Better Act* (2021), <https://www.sciencedirect.com/science/article/abs/pii/S019074092032137X>. While supportive interventions have been found to be more effective in reducing chronic absenteeism in student populations most impacted by inequities, schools, child welfare agencies,

and courts continue to rely on punitive measures instead.

## CONCLUSION

For the foregoing reasons, *Amici* respectfully request that this Court grant allocatur, and reverse the decision of the Superior Court in this matter.

Respectfully submitted,

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Dated: December 17, 2024

## CERTIFICATE OF COMPLIANCE

I certify that the foregoing brief complies with the word count limitation of Rule 531 and 2135 of the Pennsylvania Rules of Appellate Procedure. This brief contains 6,714 words. In preparing this certificate, I relied on the word count feature of Microsoft Word.

I further certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that requires filing confidential information and documents differently than non-confidential information and documents.

Dated: December 17, 2024

/s/ Marsha L. Levick

Marsha L. Levick