

May 23, 2025

To the National Association of Counsel for Children Promoting Excellence Awards Committee:

It is my pleasure to nominate Melissa Colangelo for the NACC Outstanding Legal Advocate Award. Her appellate work has shaped DC child welfare law for the better – moving proceedings away from bias and stereotypes and toward an evidence-based understanding of harms facing children. Now, she is deeply involved in expanding this approach across the country, working with advocates to develop legal services organizations' appellate strategies and prevent children from unnecessarily being removed from their families.

Melissa joined Children's Law Center as an appellate attorney in 2011 under Allen Snyder, directly from her clerkship on the DC Court of Appeals. As you'll read in his attached letter, Melissa and Allen built our appellate team to be what it is today. In her 14 years at Children's Law Center, in front of DC's highest court, she has been the primary author of nearly 50 appellate pleadings and supervised the filing of even more. Melissa has also done a dozen appellate arguments, and supervised and helped prepare colleagues for nearly 20 more.

Allen passed the reins to her in 2021, and her wide-ranging impact on children and the law has only increased. She's successfully argued appeals on issues that range from [special education](#) to [child welfare](#). She handles and supervises appeals across the areas of family law we address, manages matters where Children's Law Center serves as an amicus curiae, and consults with colleagues on complex trial-level litigation to develop novel legal theories and preserve issues for appeal. She has also led her team in dramatically increasing support for trial attorneys in trial-level motions and intermediate appeals. Critically, she designs and implements long-term appellate litigation strategies to push the law in directions that will meaningfully improve clients' lives.

Over the course of her career, she has seen how government and judicial reliance on assumptions rather than evidence leads to constitutional rights being trampled on and to worse outcomes for children and families. She has worked tirelessly to change that in DC. She trains and supports trial attorneys in presenting data-driven evidence and preserving issues for appeal – and has successfully argued appeals in shelter care cases to clarify what evidence is required for removal and to prevent trial courts from basing decisions on biases about mental health, trauma and poverty. She and her team also successfully argued for the DC Court of Appeals to publish [its opinion in one such appeal, In re L.M.](#), in 2023. It was the first binding precedent addressing what evidence is sufficient to justify the harm of removal at the initial hearing in a DC neglect case – and is now a model for advocates nationwide.

Melissa has long been involved in national appellate advocacy and training on strategic and data-driven approaches, serving on the ABA Appellate Subcommittee of Family Justice Initiative, developing and co-authoring pamphlets on the appellate process for clients, trial attorneys and appellate attorneys, and presenting trainings on appellate advocacy in neglect and guardian *ad litem* cases for the ABA and NACC. Now, she is building on the progress of her appellate strategy in DC to help drive the law forward for children and families across the country. She spoke at last year's ABA Access to Justice Conference with Lakeshia Adeniyi-Dorsey about their appellate victories in DC and California, respectively, and how practitioners could adapt these strategies in their states to provide the best possible representation for children and families and prevent unnecessary removals. In November 2024, she developed and delivered an appellate training for the Defender Association of Philadelphia's Child Advocacy Unit, and was invited this year with her colleague, Appellate Deputy Director Katherine Piggott-Tooke, to be part of a nationwide working group on appellate strategies for family integrity. She knows how critical it is for this community to work together and build off every victory to protect children's rights.

As you'll see in the attached letters, Melissa has had a remarkable impact on everyone she works with – instilling passion, dedication, and strategy into every collaboration. Melissa is a consummate coach: always encouraging her colleagues, making sure they have all the training and practice they need to succeed at trial and in appellate arguments, and always eager to help from the smallest details to the big-picture strategic questions. She's also dedicated to making sure the next generation of advocates for children bring a similar tenacity to their work at this critical juncture. She served as a guest lecturer at the University of Michigan Law School's Child Welfare Appellate Clinic and has taught appellate advocacy skills at The George Washington University Law School for over a decade, with a focus on providing guidance to students planning careers in public service.

These are unprecedented times. Melissa, her appellate team, and the network of advocates they work with across the country fighting for family integrity have made so much progress toward courts recognizing the true harms of removal and the necessity of evidence over assumption and bias in family law. Now, they are working non-stop to protect that progress and find ways to keep moving it forward in this moment when the rule of law and access to justice are under attack. Melissa's dedication, experience and strategic acumen are critical to these efforts to ensure that children and families are treated with dignity and respect – and that their rights are protected – under the law.

Thank you for considering Melissa for this award. Please contact me with any questions.

Judith Sandalow
Chief Executive Officer

Supporting Documents

1. Letter of Support from Allen Snyder
2. Letter of Support from Matthew Fraidin
3. Letter of Support from Prudence Beidler Carr
4. Letter of Support from Mimi Laver
5. Letter of Support from Katherine Piggott-Tooke
6. Letter of Support from Allison Federoff
7. Letter of Support from Jennifer Morris, with Kylie Marcus and Rajan Bal
8. Melissa Colangelo Resumé
9. “The Need for Meaningful Parental Participation” and “The School had Given Up, But This Mom Didn’t” articles on special education appellate win from Children’s Law Center 2019 Annual Report
10. “A Win for Children and the Law” article on the *In re L.M.* shelter care decision from Children’s Law Center website
11. *In re L.M.* decision published December 21, 2023

May 22, 2025

To the NACC Promoting Excellence Awards Committee:

I am honored to support your consideration of Melissa Colangelo to receive the prestigious NACC Outstanding Legal Advocate Award.

After retiring from my three decades of law practice with a major D.C. law firm, I spent about ten years volunteering (almost) full-time at Children's Law Center (CLC) to set up and (initially - before handing the reins to Melissa) head an appellate law practice at CLC, a terrific group of lawyers who help D.C. children with serious unmet needs and for whom zealous legal advocacy could make a huge difference. CLC's outstanding lawyers had great experience and ability in representing children, but most of them had very little appellate experience to pursue those cases on appeal, when needed. It was apparent when I began that CLC's large docket of such cases would require substantial appellate time and energy to pursue a larger number of meritorious appeals than I could handle myself. I could not have been more fortunate when Melissa was one of many who applied for the position.

While I was the nominal head of the appellate group, Melissa was its heart, soul, and effective battler. She took charge of the search for additional personnel to staff our small group, and she personally handled (or supervised a more junior lawyer in handling) virtually all the appeals CLC pursued in the approximately ten years I was there. She showed remarkable appellate skills in drafting and reviewing others' drafts of all the many appellate briefs we filed over the years to correct what we saw as errors in the lower courts' decisions adversely affecting children whose needs were not being met by the child welfare bureaucracy or the lower courts.

She also personally handled the oral arguments in many of those cases, where the trial lawyer was not comfortable doing so, and counseled those trial lawyers who did wish to handle the oral arguments themselves. Over my ten years of volunteer work at CLC, I personally handled only a very few oral arguments; Melissa personally argued most of the rest and supervised other CLC attorneys in their arguments of the remaining cases. She personally reviewed and edited every single appellate brief that CLC filed in such cases, and was remarkably skilled and knowledgeable in all her work.

While working long hours so effectively managing, handling or assisting on all CLC's appellate cases - frequently with high stakes for the children and multiple conflicting deadlines in the large case load - Melissa never once lost her remarkably friendly, upbeat and supportive

manner in working with colleagues and others. We never kept statistical records on the outcomes of all our many appellate cases, but I do remember well that the vast majority of the cases Melissa supervised or handled herself (which was virtually every one of CLC's appellate caseload while I was there) had successful outcomes for the children we represented.

Melissa is highly deserving of the prestigious NACC Outstanding Legal Advocate Award.

Allen Snyder

To the NACC Promoting Excellence Awards Committee:

I'm thrilled to support Melissa Colangelo's nomination for the NACC Outstanding Legal Advocate Award.

In my roles as a professor of law at the University of the District of Columbia David A. Clarke School of Law, director of the DC Child Abuse and Neglect Moot Court Project, and steering committee member for the ABA Center on Children and the Law National Alliance for Parent Representation, I'm deeply focused on improving representation, transparency and fairness for children, parents and families involved in child welfare cases. As the District's child welfare system has evolved over the years, I have followed the impressive work Melissa and her appellate team are doing to create change.

The appellate strategy Melissa has led for Children's Law Center is aimed at moving the law in directions that will meaningfully improve the lives of children and families involved in the system in DC – and should provide a blueprint for advocates in other jurisdictions as well.

The Children's Law Center appellate team has won a number of recent challenges to unnecessary removals at the shelter care stage, successfully overturning decisions that relied on biases and assumptions about mental health, poverty, trauma, and the harm to children from removal.

In the case of *In re L.M.*, Melissa's team not only won on appeal but also successfully pursued a motion to publish the opinion over government objection – resulting in the first binding precedent addressing what evidence is sufficient to show that removal of a child from their family is required at the initial hearing in a DC neglect case.

The removal process is often shrouded in secrecy in the name of confidentiality, but published cases and clear examinations of what evidence is required for removal are essential to challenging biases in the system. The work Melissa and her team are doing will help prevent unnecessary removals within the District and provide a model for other advocates across the country to do the same.

Matthew I. Fraidin

/s/

Professor of Law
University of the District of Columbia
David A. Clarke School of Law

Center Staff

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Director

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Access to Justice for Children, Parents, and Families

May 28, 2025

Dear National Association of Counsel for Children:

I am honored to submit this letter of recommendation for Melissa Colangelo as a nominee for the 2025 NACC Outstanding Legal Advocate Award. This award is designed to celebrate excellence in legal representation that elevates standards of practice through knowledge of the law, social sciences, and zealous advocacy skills. As a leader in appellate advocacy, whose energy and dedication to making the law work better for children, parents and families has led to substantial legal system reform both in DC and nationally, Melissa would be a terrific celebrant for this award.

I have had the privilege of working with Melissa on a number of projects and have seen again and again how her passion for appellate practice inspires her audience to engage and tackle complex issues.

For example, several years ago we asked Melissa to assist with the Family Justice Initiative's appellate advocacy working group. In coordination with other appellate attorneys around the country, Melissa helped develop three key FJI tools that we have been implemented nationally to improve appellate advocacy.

- [Trial Attorney Appeals Brochure](#)
- [FJI Appellate Attorney Practice Guide](#)
- [What to Expect In An Appeal](#)

Melissa also assisted the ABA Center on Children and the Law in delivering an appellate advocacy training for a team of GALs through the Wyoming Court Improvement Program. Reviews from her session were exceptional. Several attorneys specifically noted how accessible the material was in her presentation.

Finally, last year as part of a curated session at the ABA's Access to Justice Conference in Virginia, we invited Melissa to lead a presentation with Keshia

Adeniyi-Dorsey, a parent attorney from California, titled “Docket Watch of Recent Appellate Wins: Implications for National Practice when Arguing about Definitions, Addressing Legal Presumptions, and Unpacking Subjective Assumptions at Initial Removal Hearings and Neglect Trials.” The session was packed and both Melissa and Keshia did an excellent job of highlighting appellate decisions issued at the end of 2023 – *In re N.R.* from the California Supreme Court and *In re L.M.* from the highest appellate court in Washington D.C. They used these two cases and other recent practice experiences to showcase how significant legal reform can be created through appellate advocacy — and how organizations and solo practitioners can drive the law forward for our clients nationwide. The session was such a success that several evaluations identified it as “the best and most informative session I went to. Very well done!”

More recently, I have also had the opportunity to see Melissa in action working on a small working group on appellate strategy for national partners. She is a pleasure to work with, a thoughtful leader for next generation attorneys, and a brilliant thinker! I have heard those same reflections from the team of colleagues she works with in DC at the Children’s Law Center, where she has been leading appellate strategy for fourteen years with a goal of elevating her own work to the highest level while also sharing her knowledge and leadership with colleagues to ensure everyone’s work reaches the next level of quality across state and federal legal systems designed to serve children, parents and families.

Sincerely,

A handwritten signature in cursive script that reads "Prudence Beidler Carr".

Prudence Beidler Carr
Center Director, ABA Center on Children and the Law

DEFENDER ASSOCIATION OF PHILADELPHIA

1441 Sansom Street
Philadelphia, PA 19102
(215) 568-3190

KEISHA HUDSON
CHIEF DEFENDER

May 28, 2025

Dear NACC Outstanding Legal Advocate Award Selection Committee:

I am writing to enthusiastically support the nomination of Melissa Colangelo for this year's Outstanding Legal Advocate Award because Melissa is, without a doubt, a truly outstanding advocate.

I've known Melissa since she was an intern at the ABA Center on Children and the Law during the summer before her 3L year and throughout her entire last year of law school. Melissa worked with my colleague Andrea Khoury and me on our Opening Doors for LGBTQ Youth Project and the writing of our first book for that project. I looked back and found the acknowledgement section of the book we published in 2008 and found that we had written the following:

Melissa Colangelo, what can we say? You were the intern extraordinaire who we wouldn't let leave! We appreciate your upbeat personality, shining smile and most importantly, incredible work. You helped us think through ideas and made them stronger, did our research, designed some presentations and conducted interviews. Congratulations on your graduation, you will make an excellent lawyer who we know will change the lives of many.

I have been fortunate to have worked with Melissa off and on ever since her internship and can honestly say her values and work ethic (not to mention positivity) have not changed in all these 17 years. Melissa was a teacher before starting law school and her passion for improving the lives of children has been a constant guiding principle for her entire professional life. Andrea and I were so right in predicting that Melissa would be an excellent lawyer who would change lives for the better.

Not only has Melissa focused on her own clients in Washington, DC, but she has willingly engaged in national work as well. For example, as one of the leaders of the [Family Justice Initiative](#), I asked Melissa to join an interdisciplinary work group focused on creating tools for children's and parents' attorneys about high-quality appellate advocacy. Melissa jumped right in and over the course of a couple of years, the group developed [three related guides](#) for trial and appellate counsel. While her name (or any of the committee members' names) are not attached to this work, I can assure this selection committee that Melissa was an essential and influential member. I am impressed by and proud of the products the group created.

In April 2024 I had the opportunity to hear Melissa present a very well attended workshop at the ABA Center on Children and the Law Access to Justice Conference about litigation strategies in furtherance of making systemic change through appellate advocacy. She was able to make a

dense topic understandable and enjoyable. It was a thrill for me to see Melissa on the stage! I introduced Melissa to the appellate attorney at my current office (the Child Advocacy Unit of the Philadelphia Defender Association) and the two of them planned a training for our CAU colleagues. Out of the goodness of her heart, Melissa came to Philadelphia to share her insights on this topic with the lawyers in my office. They enjoyed the presentation enormously and we were all grateful that Melissa was able to share her expertise to impact our clients in Philly.

These are just a few examples of why I could not be more enthusiastic about your consideration of Melissa Colangelo for this award. She has a brilliant legal mind that she has used for over two decades to improve the lives of children. There are few advocates more deserving of this honor than Melissa.

Thank you in advance for considering Melissa!

Best,

Mimi

Mimi Laver
Chief, Child Advocacy Unit
Defender Association of Philadelphia

May 28, 2025

To Whom It May Concern:

I enthusiastically write on behalf of Melissa Colangelo's nomination for NACC Outstanding Legal Advocate.

Melissa is deeply committed to changing the child welfare system through appeals. She sees ways in which the system is not adequately serving – or may be harming – clients and uses the law in strategic ways to improve outcomes for the youth we represent. For example, one of our strongest tools to prevent family separation is the GAL's unique statutory power to appeal an order placing a child in shelter care. Melissa led her team in creating comprehensive resources to support attorneys who are opposing the government's request for shelter care to help them better articulate the reasons underlying the opposition and to create a record that will enable a successful appeal. If they don't prevail in the initial hearing, Melissa leads the appeal process, working around the clock in the 48 hours permitted to file an appeal to ensure the strongest arguments are before the court.

Her work in this area has led to several successful appeals where children were able to return home and has pushed courts to more concretely consider the harm of removal and family separation. In one case, she argued that the government had not met its burden to show shelter care was required to protect our young client, and that the government instead relied on bias and harmful assumptions about mental health and disability. As a result of this argument, a baby was returned home to her mother, and the D.C. Court of Appeals published the first case substantively addressing the shelter care standard in D.C., illuminating a threshold for when the government simply has not provided sufficient support to justify the drastic remedy of removal.

Another recent area of impact – and example of her deep work tackling complex statutory interpretation – is her work crafting arguments that limit the impact of "aggravated circumstances," showing D.C. judges that the Adoption and Safe Families Act (ASFA) does not prevent them from doing the important work of making individualized decisions on behalf of children and families. She led the team that undertook a deep review of local and federal statutes, rules, and legislative history to gain a comprehensive view of the boundaries of the law, drafted a meticulous and thorough argument that calls upon judges to carefully consider

the circumstances of each child and showed a path by which they can consider reunification rather than moving automatically to adoption.

Melissa has focused much of her work on analyzing and advocating around complex constitutional issues. She has carefully pushed the court to recognize children's constitutionally protected rights to family integrity. And a theme of her work has been fighting to ensure that children and parents get the due process that their right to family integrity demands.

Melissa has also played a significant role in developing precedent around third party custody law. She has briefed and argued numerous cases that have resulted in published opinions on third party custody, and so she has been at the forefront of weighing in on complex and constitutional questions that have arisen as this body of law has taken shape over the last fifteen years.

Melissa is a keen strategic thinker. She stays laser-focused on the details of a case, spotting issues that are critical advocacy opportunities. She helped develop arguments to convince the court to quash a custody order for an 18-year-old client. This targeted advocacy for one client had a widespread effect because it shifted the way the agency and the courts approach teens who may leave their placements and limited the use of the police as a solution and primary player in certain neglect cases.

She is equally adept at zooming out to spot themes across cases, and strategizing around how to advocate in ways that will impact our clients across the board. For example, she provided in-depth analysis for an argument to limit the impact of a case that created an exception to courts applying the parental presumption in adoption cases. She clearly laid out why the court should not stretch to increase the impact of this holding: to prevent an outcome that could curtail constitutional rights across cases.

In this vein, she has developed CLC's amicus practice and is now asked routinely by the court and other DC organizations to weigh in on important questions before the Court of Appeals. She carefully evaluates these requests, determining where CLC may be able to have a critical impact on issues important to our clients. And through this process, she has developed important relationships that will allow CLC to call on other organizations when we need support advocating for priority issues.

It is a joy to watch Melissa do an oral argument. She connects with judges, showing them both how they can use the law to make decisions that benefit our clients and why they should – clearly and compassionately explaining our positions. And while she is lightning quick at

thinking on her feet, her oral advocacy is so successful because she practices and practices, diligently aware of each argument as a valuable opportunity to educate judges on principles that matter to our clients and further our positions in a broader sense, whether we win or lose a specific appeal. She is also an incredibly skilled writer who knows the power of word choice, and whose compelling briefs manage to both crisply convey her arguments and also imbue them with heart.

In addition to her passion for appeals, she works to support attorneys through individual case consultations, serving as a leader and supervisor for every attorney seeking help with a tricky issue or a challenging hurdle. She works with attorneys facing complex litigation to support successful outcomes before they even get to an appeal. In one case where the GAL strongly disagreed with the government's plan to fast track an adoption, she helped the attorney strategically plan for and draft a step-by-step series of motions that convinced the court to gradually increase family visitation and led to successful reunification of children with their mother. In another instance, she helped draft a motion that led the court to close a case at the request of an 18-year-old client who had herself worked tirelessly to grow her independent-living skills and who felt the involvement of the agency was preventing her from living the life she wanted. Melissa helped the attorney highlight the voice of this client, leading the judge to hear and prioritize the client's expressed wishes over arguments grounded in assumptions that an open case always helps teen clients. Melissa is able to listen to an attorney articulate their issues, frustrations, and goals for their client; pause; and then repeat back to them but in the form of a persuasive argument that attorney can incorporate into advocacy that drives to the heart of the matter both legally and emotionally.

One of Melissa's guiding principles is: when you know better, you do better. With that in mind, she is always striving to learn. She never allows herself to get rooted in a position or shy away from recognizing when she needs to shift her approach. She regularly challenges herself to think critically about whether a standing practice needs to be changed and welcomes the input of other perspectives. She thinks critically about how longstanding case practices are impacting clients, realizing that each case we have is an opportunity to change the way judges and other advocates think about recurring issues. She is also committed to examining bias and the way it impacts her, other advocates, and the court – and actively naming and calling out instances where she sees it influencing case decisions.

Finally, Melissa is an incredibly supportive supervisor and colleague. She is fully committed to teaching attorneys to thrive in this field, and actively carves out time to mentor and support her team. She has taken the time to share her expertise and passion in local and national trainings.

In this way, she is cultivating a new crop of lawyers that will continue to use appeals to better outcomes for families, expanding her impact beyond her own casework.

I am confident that her work has made a meaningful, positive difference not only for individual clients, but also for the way courts approach all of our cases. In helping to shape the law, she has had a tremendous impact on all of the children we serve and is paving the way for future changes that will continue to make the system in which we work more just.

Sincerely,

Katherine Piggott-Tooke, Esq.
Appellate Deputy Director

May 22, 2025

To the National Association of Counsel for Children Promoting Excellence Awards Committee:

It is with great enthusiasm and without any reservation that I write this letter of support on behalf of Melissa Colangelo's nomination for Outstanding Legal Advocate Award for 2025. In the nearly eleven years that I have worked with Melissa at Children's Law Center (CLC), I have been continually inspired and impressed by her dedication to using appellate advocacy to advance our child clients' interests. Not only is Melissa a passionate, humble, and collaborative leader in the way that she supports attorneys in understanding the legal framework and in creating a quality record for a potential appeal, but she is also an incredibly astute advocate and adept critical thinker.

I am an attorney in CLC's Guardian *ad litem* program, which provides comprehensive representation to children in the District of Columbia's abuse and neglect system. Throughout my years as a staff attorney carrying a full caseload of clients, and now, in my capacity as a supervising attorney who supervises three to four newer attorneys, I have had many opportunities to see and experience Melissa's talents in action. In a case of my own where several discrete issues were being appealed early in my tenure at CLC, Melissa helped shepherd my advocacy throughout litigation and through the conclusion of the ultimate appeals.

On the ground, Melissa closely collaborated with me to strategize about how to ensure I had a solid record for any eventual appeal, making herself available to talk through everything from how to navigate complex unanswered legal questions in my closing argument to the best ways to provide an oral proffer at the trial level if the judge refused to hear relevant evidence. As the case wound its way up through the appellate process, Melissa remained integral in helping me develop an issue-spotting memo for her paralegal to use while reviewing the transcript, provided feedback on my initial outlines of the brief and provided critically important substantive and stylistic feedback to my brief to ensure the final product was persuasive, detailed, and polished. Once the case was set for oral argument before the D.C. Court of Appeals, Melissa convened several moot sessions to help me – someone who had never done an oral argument in an appellate setting before – prepare for everything that could possibly unfold, from questions on the correct legal standard to be applied, ways to respond to an array of hypotheticals, and factually supported and salient responses to any areas where the record for our client was less strong.

Throughout this process, I felt incredibly supported – in terms of the substantive legal and practice pointers Melissa imparted upon me and also by her warm, supportive, and collegial demeanor. While the case ultimately did not go to oral arguments at the midnight hour and was instead decided on the pleadings, Melissa’s outstanding preparation left me feeling ready to navigate any panel of appellate judges that came my way.

In my supervisory capacity, it has been a privilege to bring Melissa into various strategy meetings on complicated issues early on in cases. Whether we are considering an immediate appeal of a shelter care order at the Initial Hearing, strategizing about creating the best record in the pretrial statement where we are opposing a neglect finding, or considering how to make creative arguments against the denial of a parent’s due process rights when a permanency goal change and/or “aggravated circumstances” finding is at issue, Melissa comes to every meeting prepared with on-point legal research, a set of strategic considerations for the team to consider as we devise next steps, and a genuine offer to remain a supportive resource going forward. Melissa always summarizes the next steps in writing after a collaborative meeting with the trial court team, helping memorialize her astute thinking and strategy into a clear path forward.

I understand other letters of support may address Melissa’s outstanding oral and written advocacy in more detail, but I would be remiss without noting here how impeccable her legal writing is and how artfully she engages in oral argument before appellate audiences. I have seen her in action both in cases where she has had months to work on a brief and prepare for an oral argument and in ones where she has fewer than 48 hours to pull together a pleading and deliver an argument. In all settings, Melissa exemplifies competence, dedication, and zeal for advancing client interests – all done with her trademark warm and approachable demeanor.

If the awards committee has any additional questions, please do not hesitate to reach out to me.

Sincerely,

Allison Federoff, Esq.

Supervising Attorney, GAL Program

Children’s Law Center

afederoff@childrenslawcenter.org

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May 30, 2025

To the NACC Promoting Excellence Awards Committee:

It is my pleasure to support the nomination of Melissa Colangelo for the NACC Outstanding Legal Advocate Award.

As the Director of Children's Law Center's Guardian *ad Litem* program, I have worked closely with Melissa for more than a decade – seeing firsthand the impact she has on our cases, and more importantly on the children we represent.

Melissa is a compassionate, zealous, creative, meticulous, collaborative, and generous advocate and colleague. She is always well prepared and incredibly thoughtful, culturally humble and aware of the stakes for our clients and families in her work.

Melissa has innovated both our direct advocacy and appellate work, providing our lawyers with all the advocacy tools they need in their toolbox.

For example, a landmark decision with huge implications for our work, *In re Ta.L.*, 149 A.3d 1060 (D.C. 2016) (en banc) was published in 2016. In *In re Ta.L.*, the Court of Appeals determined that the existing standards and processes when changing a child's permanency goal from reunification to adoption were not constitutionally sufficient to protect the critical due process rights implicated when children and parents may be set on a path toward terminating parental rights. As a result, the court set forth new detailed requirements for evidentiary hearings where the District of Columbia seeks to change a permanency goal from reunification to adoption. Melissa was a part of the stakeholder team who drafted the Family Court-issued Directive 1-2017, which provided guidance for "Ta.L." hearings to judges and practitioners in DC.

Each time a decision is made that could impact our work, she adds more tools to our lawyers' toolbox – from resources and tip sheets to case summaries, our attorneys are always aware of important decisions that might impact our cases, clients, advocacy or outcomes. She then deepens that knowledge by providing valuable trainings and resources to our staff, to the DC Superior Court and to solo practitioners across DC and the nation.

Melissa and her team's work has allowed us to get clarity on important decisions, to find useful cases to support our advocacy, and to use their knowledge and guidance to help advocate for a different precedent or decision. She then advises our attorneys on the important legal issues to look out for in cases so that we are prepared to make a good record at trial and then assist if we need to pursue the issue further on appeal.

Melissa has also been instrumental in pushing our advocacy forward with a racial equity and racial justice lens. Melissa and her team have made it possible for our program to push individually and collectively through our cases against the status quo, to explicitly name in our pleadings where bias (either individually or systemically) is present and to ensure that the agency and the court are following the law at every important moment in our cases.

I am sharing some examples from recent colleagues who saw how Melissa's appellate expertise had a direct impact on the children they represented over the years:

From Kylie Marcus, former Guardian *ad Litem*

Melissa's expertise and knowledge of neglect law is invaluable to the work Children's Law Center is doing to support children and make positive changes to the neglect system in the District of Columbia. Melissa's eagerness to assist, advise, and train myself and my colleagues allowed for better overall representation of my clients. More specifically, Melissa's efforts directly impacted two sets of families that I represented.

I represented one client, an infant, in an initial hearing when the trial level judge granted the government's request to separate my client from her biological mother despite the government failing to meet its burden of proof that removal was required. It was uncontroverted that my client was thriving in a safe, appropriate and comfortable home. Melissa did not accept the trial court's reliance on assumptions based on past behavior instead of the facts at hand and immediately jumped in to help interrupt the system from operating in this way. Melissa helped me, her trial level colleague, to draft an appeal and then handled the oral argument herself when the case went up on appeal. As a result of Melissa's impressively strong and passionate advocacy, there was an incredible outcome for my client, a young baby who was able to remain home to bond with her biological mother.

In another one of my cases, Melissa led a team to create a long-term strategy for fighting against aggravated circumstances being used to keep my young clients from reunification with their biological mother. Melissa worked diligently to take my case all the way to the D.C. Court of Appeals, as well as working closely with the trial level team to keep momentum moving forward while the case was up on appeal. Melissa advised and collaborated with the trial team to draft several pleadings in the face of contentious arguments from the opposition.

Melissa's work on this case again led to an incredible outcome for a family where the children all happily returned home with their mother – an outcome that would likely not have occurred without Melissa's involvement in the case. Further, Melissa has educated numerous attorneys at Children's Law Center regarding aggravated

circumstances to ensure further advocacy at the trial and appellate levels to make changes for both current and future clients.

From Rajan Bal, former Guardian *ad Litem*

I was able to confidently represent my client's best interest because I knew Melissa and the appellate team had my back. Court can often feel one-sided especially when opposing the government's position. For example, I represented an infant client whom the government sought to separate from her mother. I disagreed and argued that the best place for my client was with her mother. Unfortunately, the judge agreed with the government and ordered that my client be placed in shelter care. I was dejected, but Melissa was energized.

Melissa and the appellate team scheduled meetings, distributed tasks, and created a plan of attack to appeal the judge's ruling. A few days later, the appellate team submitted an almost forty-page brief opposing the ruling filled to the brim with well-developed legal arguments. The next day Melissa presented a passionate oral argument to a panel of DC Court of Appeals judges – and a few hours later, the order was reversed. We had won, and my client was returned home. The order eventually became binding precedent in the District of Columbia.

This task seemed insurmountable, but Melissa and the appellate team diligently laid out the path forward and worked late into the night to make it happen, like they do each time an appeal is warranted.

I hope you will see how incredibly deserving Melissa is of this award.

Thank you for your consideration,

Jennifer Morris
Director, Guardian *ad Litem* Program
Children's Law Center

MELISSA F. COLANGELO

8609 Rayburn Rd. • Bethesda, M.D. 20817 • 203-623-9794 • mcolangelo@childrenslawcenter.org

WORK EXPERIENCE

Children's Law Center, Washington, D.C.

Fall 2011 – Present

Appellate Program Director (Winter 2023 – Present)

Appellate Project Manager (Summer 2016 – Winter 2023)

Senior Appellate Attorney (Spring 2014 – Summer 2016)

Appellate Attorney (Fall 2011 - Spring 2014)

- Leader of department responsible for appellate work within the organization.
 - Design and implement long-term litigation strategies to push the law in directions that will meaningfully improve clients' lives: identify issues to address through precedent-setting appellate decisions, evaluate trial records for potential test cases, and personally handle or supervise resulting appeals.
 - Brief and argue neglect, custody, guardianship, adoption, and termination of parental rights appeals.
 - Supervise other attorneys' work on child neglect and custody appeals, including providing direction and feedback on issue framing, argument selection, briefing, and oral argument.
 - Assess *amicus curiae* opportunities based on the organization's strategic priorities and institutional positions on systemic issues; handle or supervise *amicus* participation.
 - Research and write memoranda analyzing key precedent in neglect and custody arenas; develop accompanying recommendations for attorneys.
- Advise and assist on complex trial-level litigation, including developing legal theories, consulting on issue preservation, suggesting strategies to prevent avoidable problems in an appellate record, and evaluating trial records to make recommendations on whether to appeal adverse final orders.
- Conduct dozens of trainings, both internally (for colleagues at Children's Law Center) and externally (for attorneys locally and nationally, as well as D.C. judges), on appellate advocacy best practices and key and/or complex neglect and custody doctrines. Selected external appearances include:
 - ABA National Conference on Access to Justice (2024): co-presenter on appellate advocacy and impact litigation in neglect cases.
 - Philadelphia Defenders Association, Child Advocacy Unit (2024): presenter of appellate training and long-term appellate litigation strategies.
 - Family Court Training for trial judges in D.C. (2023 and 2024): co-presenter on appellate perspectives from institutional litigants in neglect and custody matters.
 - ABA's Court Improvement Program (2022): presenter of appellate training in a webinar series for guardian *ad litem* attorneys in Wyoming.
 - National Association of Counsel for Children (2020): co-presenter of a two-part training series on appellate practice and process in neglect cases.
 - University of Michigan Law School's Child Welfare Appellate Clinic (2020): guest lecturer on effective written and oral advocacy techniques in neglect or contested adoption appeals.
 - District of Columbia Judicial and Bar Conference (2019): panelist speaking on the rights of parents and children in neglect cases.
 - Family Court Training for trial judges in D.C. and local attorneys (2014 and 2019): presenter on multi-jurisdictional issues and authorities in child neglect or custody litigation.
 - District of Columbia Neglect & Delinquency Practice Institute (2017): co-presenter on various complex legal doctrines and panelist speaking on open questions in neglect law.

The George Washington University Law School, Washington, D.C.

Fall 2011 – Present

Professorial Lecturer in Law

Instructor for course on External Student Competitions – teaching appellate advocacy skills to students participating in national moot court competitions in various legal fields. Instructor for Advanced Field Placement co-requisite course – providing experiential guidance to students interning at governmental or public interest organizations.

Honorable John R. Fisher, District of Columbia Court of Appeals, Washington, D.C. Fall 2009 – Fall 2011
Law Clerk

Researched and drafted opinions in family law, criminal, civil, and administrative cases. Assisted judge in preparing for oral argument. Observed arguments and debriefed with judge. Researched and prepared responses to other appellate judges' opinions.

Shearman & Sterling LLP, Washington, D.C. Fall 2008 – Fall 2009
Litigation Associate

Worked on civil commercial litigation, antitrust cases, and anti-corruption/FCPA matters. Co-drafted an appellate brief to a state's court of last resort on behalf of a client seeking postconviction relief in a death penalty case. Prepared a client's successful petition for legal resident status under the Violence Against Women Act.

EDUCATION

The George Washington University Law School, Washington, D.C.
Juris Doctor, *cum laude*, 2008

- Champion and Best Oralist, Van Vleck Constitutional Law Moot Court Competition, 2008
- Jacob Burns Award for Van Vleck Moot Court Championship, 2008
- Finalist, Gabrielli National Family Law Moot Court Competition, 2007
- Member, Moot Court Board, 2006-2008
- Intern at ABA Center on Children and the Law, 2006-2008
- Intern at U.S. Department of Justice, Criminal Division, Child Exploitation and Obscenity Section, 2007
- Research Assistant to Professor Dinah Shelton (international human rights law), 2006
- Research Assistant to Professor Orin Kerr (computer crime law), 2006

Brown University, Providence, R.I.
Bachelor of Arts, *magna cum laude* and Phi Beta Kappa, Sociology and International Relations, 2002

- William Gaston Scholarship for Academic Excellence in International Relations, 2002
- Sociological Research Methods Award for Outstanding Thesis Research, 2002
- Research Assistant to Professor Gregory Elliott (interfamily violence and at-risk youth), 2000-2002
- Teaching Assistant to Professor Michael White (institutional political inequality), 1999-2000

ADMISSIONS AND MEMBERSHIPS

- **Appellate Subcommittee, Family Justice Initiative**, member 2021 – 2023
- **Appellate Working Group, D.C. Bar Pro Bono Task Force**, member 2019 – 2022
- **District of Columbia Bar**, member since 2009

Education

THE NEED FOR MEANINGFUL PARENT PARTICIPATION

For several years, we passed the baton inside Children's Law Center – from trial attorneys to policy staff to our communications team to our appellate program. Our goal? To ensure children with disabilities would benefit from their parents' engagement in their education. This year, we won the relay race.

Children learn best when parents² participate in their education. This is particularly true for children with disabilities, because their education program must be tailored to their unique learning needs, and parents know their children best. It is why family engagement is at the core of our special education advocacy and why it's woven into local and federal law.

Sometimes it takes specific expertise to determine whether a classroom is meeting the needs of a child with a disability. Parents may send experts to observe their child in school to secure the information necessary to make decisions about their child's education.

When parents and schools disagree about whether a classroom or program is meeting the child's needs, one option is that parents may go to court to resolve the dispute. The educational expert's testimony is critical to the parents' ability to persuade the hearing officer or judge.

Advocating for Fair School Observations

Our race began in 2012. Children's Law Center's **education lawyers** identified the school system's objection to having parents and their experts observe children in class as a major barrier to securing needed special education supports. At that time, DC Public

Schools (DCPS) had a vague policy that each school implemented differently.

Our early attempts to challenge DCPS's observation policy through individual cases were unsuccessful so we decided to improve the law instead.

In 2014 and 2015, our **policy and communications teams** picked up the baton – ensuring the right to parent observation was included in DC's landmark special education legislation: the 2014 Student Rights Act.

A Win for DC's Special Education Students

But the race wasn't over. DCPS interpreted the new law in a way that still prevented parents from using their own experts to advocate before a judge. This time our **appellate team** worked with our trial lawyers to identify a case we could appeal to federal court. Together, they found a family who had only been allowed to send an education consultant to observe their child in the classroom if the family signed an agreement that prohibited the expert from testifying later.

In July 2019, we finally crossed the finish line. The judge agreed with Children's Law Center that DCPS's reading of the law was incorrect:

"The undersigned finds that the Student Rights Act's plain language and legislative history support a finding that the [hearing officer determination] placed an unlawful burden on the [parent] by requiring her expert to sign a non-disclosure agreement prior to observing her child, and that this prevented her from fully participating in his IEP³ meeting."

Deborah A. Robinson
United States Magistrate Judge

The court's opinion is a big win for the District's special education students – giving parents a stronger opportunity to meaningfully participate in their children's education.

**We always provide clients the option to change their name or use initials when sharing their story. Names in this story have not been changed.*

²Children's Law Center is proud to work with many kinds of families. We use the term "parents" to represent all adults who can legally make decisions about a child's education, including foster parents, grandparents, relatives and other important adults in a child's life.

³Individualized Education Program

This victory ensures that the parents of more than 13,000 DC students with identified special education needs can access a critical tool: expert observations.

THE SCHOOL HAD GIVEN UP, BUT THIS MOM DIDN'T

The moment Ms. Woodson held her son Donnoven, she knew she'd do anything to fight for his future. What she didn't know is just how much fighting she'd have to do.

Donnoven was born six weeks early. At four months old, his mom knew something wasn't right. "He wasn't turning over, he wasn't crawling," she recalled.

The pediatrician ignored her concerns, saying Donnoven would hit his milestones in time. Ms. Woodson later learned her son had a rare birth defect that impaired his development. During his first three years of life, her son underwent multiple surgeries.

When Ms. Woodson tried to enroll Donnoven in pre-kindergarten, DCPS told her it wasn't necessary for him to attend. Ms. Woodson worried that DCPS had already given up on her son. That's when she met Children's Law Center.

Her Children's Law Center team successfully advocated to get Donnoven in school. Then, a few years later, DCPS wanted to move Donnoven to a new elementary school – a school Ms. Woodson worried wouldn't challenge Donnoven enough to learn. She believed DCPS was underestimating his potential and not seeing his strengths.

Children's Law Center lawyer, Sarah Flohre, jumped back in.

"Working with Sarah was such a relief. I knew I wasn't alone," Ms. Woodson recalled. "She would say to me – 'Ms. Woodson, let me do that. That's what I'm here for.'"

Children's Law Center filed in court to keep Donnoven in school with his typically developing peers and to increase services to help him communicate. But the battle was far from over. Flohre and Donnoven's mom knew he could achieve even more, but they needed the family's education consultant to observe Donnoven in his classroom.

DCPS agreed but only if Donnoven's mom signed paperwork prohibiting the consultant from testifying about what the expert observed.

"DCPS's actions were a direct violation of the 2014 Student Rights Act that CLC had worked so hard to pass," said Melissa Colangelo, Children's Law Center appellate project manager. "Sarah filed a due process complaint challenging the decision and lost, but it was from that loss that we achieved an even greater outcome."

Children's Law Center filed an appeal in District Court and won. For Ms. Woodson, the victory is more than just a legal one: Donnoven is learning at a school he loves.

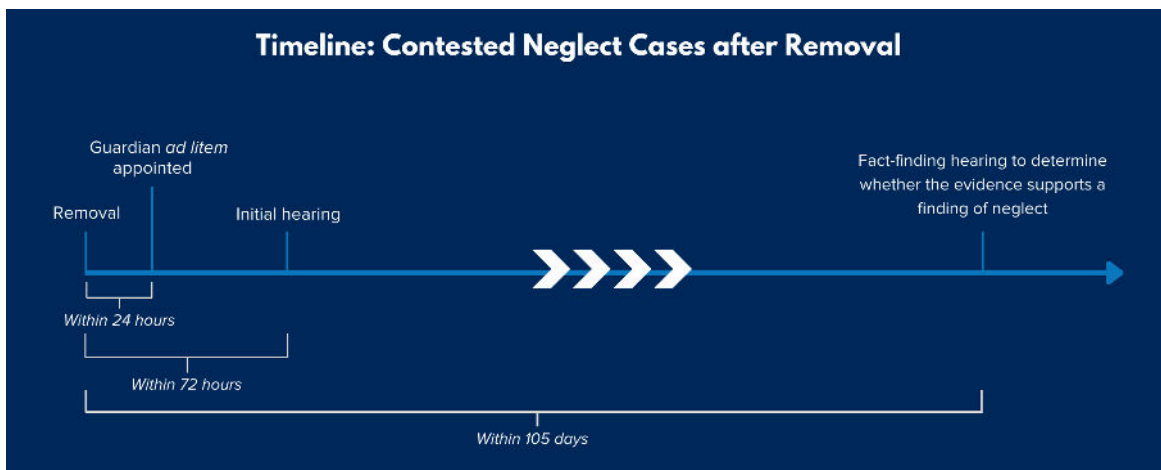


[← Systemic Reform](#)

A Win for Children and the Law



Every year, nearly two hundred DC children are removed from their parents and caregivers due to allegations of abuse or neglect. This initial separation can last months before the trial at which a judge determines if the child was neglected.



Years of research show that removing a child from their parents can have lasting, traumatic impacts on children. But until recently, although the law stated that removal needed to be required or necessary, practitioners and trial court judges had little guidance from DC's highest court on how to evaluate the harm of removal when determining whether to place a child in foster care.

Last year, a mother sought medical care at a local hospital, arriving with her infant. Hospital personnel called the child abuse and neglect hotline and reported concerns the mother would be unable to care for her child.

All reports showed that the baby was healthy and thriving, and the mother was discharged the following day – but the child was still removed.

We appealed the trial court's decision to keep the child in foster care – and won.

In December, the Court of Appeals granted our motion to publish its decision in the case – **the first binding precedent addressing what evidence is sufficient to show that removal of a child from their family is required** at the initial hearing in a DC neglect case.

This decision provides important guidance for this critical early stage in future cases:

- **Insufficient Evidence to Justify Family Separation**

While this decision leaves open the question of what the proper evidentiary standard in a shelter care hearing is, it gives practitioners a clear example of what constitutes insufficient evidence to justify family separation regardless of the standard used.

The court cites the uncontested health of the child, additional evidence that the parent generally functioned well as a caregiver and the availability of alternative arrangements and services to support the parent if they needed to seek treatment in the future all counting against a finding that removal was required.

- **Connection Between Mental Health and Ability to Provide Care**

The opinion emphasizes that any parent facing a health emergency could find themselves needing alternative arrangements for their child's care. The likelihood for need of additional medical treatment in the future could not make removal necessary. In its analysis, the Court of Appeals noted the trial court hadn't found a nexus between the parent's medical issues and an inability to provide or arrange care for their child going forward.

In a city where we need to reduce barriers in access to health care, especially those seeking mental health support, we can't risk parents avoiding hospitals and health care settings if they fear their child could be removed without cause. This ruling requires a clearer demonstration of impact rather than relying on biases and stereotypes.

- **Courts Must Consider Harm from Removal**

In its decision, the court also specifically reminded trial courts that they must "evaluate the harm to the child that may result from removal" in shelter care hearings.

Removal generally leads to a long, invasive court process – often lasting months after the shelter care hearing before a court even determines if the child was neglected. Research shows that **removal and even only temporary separation** from parents can have **severe negative effects on children** and **their development**. And the harm can be **especially damaging for infants**. It is critical that courts consider harms from all possible outcomes of a shelter care hearings and weigh them carefully.

Advocating for a child’s best interests amidst allegations of abuse or neglect is inherently complicated. While there can never be absolute certainty when it comes to a child’s future, what is certain is that separating a child from a parent is a drastic step – one that disparately impacts parents with disabilities, Black and immigrant families and families living in poverty. Although the law has long stated that removal is a step that should only be taken when necessary, this opinion provides critical guidance on how to make this heavy decision.



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DISTRICT OF COLUMBIA COURT OF APPEALS

No. 23-FS-0386

IN RE L.M., APPELLANT;

DISTRICT OF COLUMBIA, APPELLEE.

Appeal from the Superior Court
of the District of Columbia
(2023-NEG-000082)

(Hon. Judith Smith, Trial Judge)

(Argued May 11, 2023

Decided May 11, 2023*)

Before BECKWITH, EASTERLY, and MCLEESE, *Associate Judges*.

Melissa Colangelo, with whom *Rajan Bal* and *Katherine Piggott-Tooke* were on the brief, for Children’s Law Center, as Guardian ad Litem, for appellant L.M.

Pamela Soncini, Assistant Attorney General, with whom *Brian L. Schwalb*, Attorney General for the District of Columbia, *Caroline S. Van Zile*, Solicitor General, *Ashwin P. Phatak*, Principal Deputy Solicitor General, and *Stacy L. Anderson*, Senior Assistant Attorney General, were on the brief, for appellee District of Columbia.

MCLEESE, *Associate Judge*: Appellant L.M., through her guardian ad litem, sought summary reversal of an order placing her in shelter care. *See* D.C. Code § 16-2301(14) (defining “shelter care” as “temporary care of a child in physically

* On the date of argument, the court issued an order granting L.M.’s motion for summary reversal. This opinion, originally issued as an unpublished memorandum opinion and judgment on September 12, 2023, explains our reasoning. The opinion is being published on December 21, 2023, with minor changes, upon the court’s grant of the guardian ad litem’s motion to publish.

unrestricting facilities, designated by the [court], pending a final disposition of a [neglect] petition”). The District of Columbia filed a cross-motion for summary affirmance. We reverse.

I. Factual Background

On May 1, 2023, the District of Columbia Child and Family Services Agency (“CFSA”) took emergency custody of L.M., who was approximately five months old. CFSA then filed a petition alleging that L.M. was a neglected child under D.C. Code § 16-2301(9)(A)(ii) (child is “without proper parental care or control, subsistence, education as required by law, or other care or control necessary for [child’s] physical, mental, or emotional health”) and (iii) (child’s “parent, guardian, or custodian is unable to discharge . . . responsibilities to . . . child because of incarceration, hospitalization, or other physical or mental incapacity”). At a hearing on May 4, 2023, the trial court heard proffers and took evidence as to whether the allegation of neglect was supported by probable cause and whether to order shelter care going forward. D.C. Code § 16-2312(d)-(f).

A. Evidence at Probable-Cause Hearing

The evidence at the probable-cause hearing included the following. On May 1, 2023, L.M.’s mother K.M. was admitted to George Washington University Hospital (“GWUH”) complaining of fever, stomach pain, vomiting, and an apparent seizure. CFSA received a call reporting concerns about K.M.’s ability to care for

L.M. In response to the call, Emma Kwegyir-Afful, a CFSA social worker and mental-health clinician, went to GWUH. When Ms. Kwegyir-Afful initially spoke with K.M., K.M. was “alert” and used “nonverbal cues like shaking [her] head, nodding, and . . . signing with her hands to communicate.” Ms. Kwegyir-Afful did not know how to use sign language, and no sign-language interpreter was present, despite Ms. Kwegyir-Afful’s request that GWUH staff obtain one.

Ms. Kwegyir-Afful left K.M.’s hospital room but later returned and spoke with K.M. At that point, K.M. said that she went to the hospital because she was not feeling well and had a fever of 104 degrees. Ms. Kwegyir-Afful asked K.M. whether there was anyone Ms. Kwegyir-Afful could call to care for L.M. while K.M. was in the hospital. K.M. replied that there was “nobody and neither can I.” At this point, Ms. Kwegyir-Afful told K.M. that K.M. was experiencing a mental crisis and that a caregiver for L.M. had to be found. When Ms. Kwegyir-Afful informed K.M. that L.M. might have to go into foster care if K.M. could not find someone to care for her, K.M. stated that she would rather have L.M. go into foster care than have L.M. stay with K.M.’s family, which included “drug addicts, sex offenders, users, and other things.”

Stephanie Gannon, a GWUH social worker, told Ms. Kwegyir-Afful that K.M. was initially communicative but at some point stopped communicating. Nursing staff told Ms. Kwegyir-Afful that K.M. at one point “suddenly stopped

communicating” and was “using sign language.” Ms. Kwegyir-Afful estimated that K.M. was “nonverbal” for approximately five hours during Ms. Kwegyir-Afful’s visit.

Nursing staff told Ms. Kwegyir-Afful that they determined that neither K.M.’s bloodwork nor a CT scan indicated that K.M. was having physical symptoms, and nursing staff believed that K.M. was experiencing a mental-health crisis. According to hospital staff, K.M. had been to GWUH previously for the “same concerns.” Nursing staff also provided Ms. Kwegyir-Afful with information suggesting that K.M. was a missing person from Oklahoma. Based on this information, Ms. Kwegyir-Afful conducted an internet search of K.M.’s name and found a video of K.M.’s mother reporting that K.M. had been missing since 2019 and that K.M. has schizoaffective disorder, epilepsy, and the mental capacity of a ten-year-old.

Ms. Kwegyir-Afful observed L.M. with a nurse in a room separate from K.M. and conducted a physical assessment of L.M. Ms. Kwegyir-Afful concluded that L.M. was free of any marks, scars, or bruises; was dressed appropriately; was able to maintain eye contact with Ms. Kwegyir-Afful; moved around like a normal baby; was developmentally and physically on track; and appeared of normal weight for her height. Ms. Kwegyir-Afful had “[n]o concerns as it relate[d] to [L.M.’s] physical care or wellbeing at [that] time.” Ms. Kwegyir-Afful observed a diaper bag containing diapers, and GWUH had provided formula for L.M. CFSA nevertheless

took emergency custody of L.M. on the ground that K.M was having a mental-health crisis, could not care for L.M., and had no one else available to care for L.M.

K.M. was discharged from GWUH on May 2, 2023. The next day, Bianca McDonald, a CFSA social worker and mental-health clinician, visited K.M.'s apartment at Sasha Bruce transitional housing to evaluate whether L.M. could safely return home. K.M.'s two-bedroom, one-bathroom apartment had "minimal furnishings," and K.M. explained that the apartment was somewhat dirty because she had been unable to secure cleaning supplies. There were, however, a crib, a changing table, and other items that an infant would need.

Ms. McDonald found K.M. to be "very pleasant," well-spoken, and transparent about her past experiences. K.M. told Ms. McDonald that K.M. had only completed formal education through fourth grade and that her written communication skills were "self-taught." K.M. later showed Ms. McDonald a missing-persons poster that was created when she ran away from her home in Oklahoma in 2019 and contained a photo of K.M. wearing a backpack; K.M. explained that the picture was taken on one of the last instances she had attended school before leaving Oklahoma. K.M. explained that there was "abuse and neglect" in her Oklahoma home environment and that she had experienced human trafficking. Ms. McDonald found the information K.M. provided about her departure from Oklahoma to be "contradictory," citing an example in which K.M. at one point said

that she took a bus directly from Oklahoma to Washington, D.C., and at another point stated that she had traveled to all fifty states involuntarily and had been moved across the country as a trafficking victim.

K.M. explained to Ms. McDonald that she had also received services from a number of other social-service organizations and entities in the District, including the Latin American Youth Center (“LAYC”), a program called SMYAL, Martha’s Table, Mary’s Center, and a home nurse. K.M. told Ms. McDonald that SMYAL had previously forced her to schedule an abortion and that K.M. had experienced several miscarriages and stillbirths before giving birth to L.M. K.M. further said that she had been diagnosed with complex post-traumatic stress disorder and autism. K.M. reported that while she lived with her family in Oklahoma, K.M. took 160 medications daily, but she now prefers homeopathic and non-pharmaceutical treatments. K.M. explained that she had been unable to communicate verbally at times during her recent emergency-room visit because she was in a postictal period following a seizure—an occurrence that constitutes a “full reset” of her brain and often requires some time to return to normal functioning. K.M. also told Ms. McDonald that she had received medication while at GWUH that K.M. believed might also have affected her ability to communicate verbally.

When Ms. McDonald asked K.M. to describe how she financially supported L.M., K.M. explained that a number of friends and community resources supported

K.M. and provided her with access to things like baby formula and diapers. K.M. acknowledged that some of her friends were drug users.

K.M. mentioned that one of her friends—a person named Michelle—could potentially serve as a caregiver for L.M. if needed. Ms. McDonald sent a text message to Michelle using the phone number K.M. provided, but Ms. McDonald had not received a reply by the time of the hearing. Ms. McDonald also spoke to two on-site Sasha Bruce staff members, and Ms. McDonald was concerned that they were unfamiliar with K.M.’s potential mental-health concerns. Sasha Bruce staff members informed Ms. McDonald about a domestic-violence incident that took place approximately one month before the hearing. They explained that police had responded to a call regarding a potential robbery in which K.M.’s romantic partner was the perpetrator and K.M. was the victim.

Based on these conversations, Ms. McDonald was concerned that K.M. demonstrated “some potential delusional thought content with a significant amount of grandiosity,” “elaboration,” and “contradict[ion]” in the personal history K.M. described. Ms. McDonald’s clinical assessment of K.M. was that there was a “very strong likelihood” that K.M. was experiencing “heightened” mental-health symptoms. Ms. McDonald’s greatest concern for L.M.’s safety arose from K.M.’s conduct during her emergency-room visit, which Ms. McDonald described as “creat[ing] incredibly significant concern that [K.M.] was experiencing a psychotic

episode.” Ms. McDonald explained that psychotic episodes generally happen more than once, and that if K.M. were to experience another psychotic episode, K.M.’s symptoms—including her apparent inability to communicate verbally—could prevent her from ensuring L.M.’s safety. Ms. McDonald also expressed concern that both CFSA and other health-care providers lacked information about K.M.’s mental-health symptoms and any formal diagnoses she might have. Further, Ms. McDonald doubted the degree of oversight K.M. had from Sasha Bruce staff members, who had not reported the potential domestic-violence incident to CFSA.

Michelle Dai Zotti—K.M.’s friend and the person K.M. suggested could become L.M.’s emergency caregiver if needed—testified that she met K.M. at a playground in their neighborhood in February 2023. Ms. Dai Zotti lives in a two-bedroom apartment with her husband and her two-year-old son, works as a program manager at an international non-profit organization, and holds a master’s degree in international relations. K.M. stayed with Ms. Dai Zotti for one week in February 2023 while K.M. waited to be placed in an apartment. Ms. Dai Zotti saw K.M. again in March and once more shortly before the hearing, when the pair went for a walk. In addition to those in-person visits, K.M. and Ms. Dai Zotti communicated daily on the phone. Ms. Dai Zotti described K.M. as a caring and loving mother. Ms. Dai Zotti had observed K.M. feeding L.M. every two or three hours, playing with L.M., changing her diaper, and cleaning L.M. Ms. Dai Zotti had

never observed K.M. behaving in an inappropriate way toward Ms. Dai Zotti's son; in fact, Ms. Dai Zotti had left K.M. alone with her son on one occasion. Ms. Dai Zotti had not witnessed K.M. display behaviors that led Ms. Dai Zotti to be concerned about K.M.'s mental health, and Ms. Dai Zotti never felt uncomfortable with K.M. in her home or spending time with Ms. Dai Zotti's son. Ms. Dai Zotti offered to serve as an emergency contact for K.M. and as an emergency caregiver to L.M. if needed. Ms. Dai Zotti denied having received any text message from Ms. McDonald.

Benita Sholar, one of the Sasha Bruce staff members with whom Ms. McDonald met and a mental-health professional, testified that she generally communicates with K.M. daily Monday through Friday, frequently in person. Sasha Bruce is an independent-living facility that covers rent, utilities, and cable and internet service for its residents. Three staff members operate the program from 7 a.m. to 5 p.m. on Monday through Friday, and staff is unavailable on the weekends. L.M. accompanied K.M. during each of K.M.'s in-person visits with Ms. Sholar, and Ms. Sholar observed that K.M. "engage[d L.M.] appropriately" by making happy faces, cooing, and playing with L.M. None of these interactions left Ms. Sholar concerned about K.M.'s care for L.M. K.M. had recently been approved for permanent supportive housing and case-management services.

Approximately four weeks before the hearing, a couple of residents contacted Sasha Bruce staff complaining of vomiting, diarrhea, and headaches; K.M. complained of the same symptoms around this time. Ms. Sholar described K.M. as appearing sickly, weak, and fatigued. On May 1, 2023, K.M. sent Ms. Sholar an email reporting that K.M. had a high temperature and was going to seek medical attention. In a follow-up email, K.M. informed Ms. Sholar that she had sought help at a fire department while en route to the hospital. Later that day, Ms. Sholar spoke to a CFSA social worker and explained that K.M. had never had difficulty communicating with Sasha Bruce staff and that Ms. Sholar considered K.M. to be an effective communicator.

Ms. Sholar explained that she would be able to provide support for K.M. and L.M. when the Sasha Bruce office is open, and that although she has previously cared for children whose parents were hospitalized, she cannot take such children home. Ms. Sholar testified that she was not aware of a violent incident occurring at K.M.'s apartment; she explained that she was aware that the police were called, but she was unsure why.

K.M. testified as follows. She had a high fever on the morning of May 1, 2023. While on her way to urgent care to seek treatment, K.M. felt nauseated and decided to stop at a fire station for a COVID-19 test. At the fire station, K.M. was

informed that she would need to be transported to the emergency room in an ambulance due to the fever and other symptoms she presented.

K.M. had a seizure approximately three or four hours after arriving at GWUH. During the seizure, and for approximately one-and-a-half hours thereafter, K.M. was unable to care for L.M.; GWUH staff cared for L.M. during that time frame. K.M. had experienced one other seizure in the last year, and approximately five or six years before the hearing, she experienced another situation in which she was unable to communicate verbally. K.M. had been diagnosed with complex post-traumatic stress disorder and high-functioning autism. K.M. does not take medication for these conditions and prefers homeopathic and non-pharmaceutical methods of managing her mental health. K.M. is fluent in American Sign Language, which served as her primary means of communication during the first eight years of her life because she was non-verbal during that time.

K.M. receives assistance from Sasha Bruce; her friend Michelle, whom K.M. had seen in person at least fifteen times; Martha's Table, where she purchased diapers and other supplies; LAYC, where she purchased the same, in addition to completing a parenting class; Mary's Center, where K.M. receives mental-health services two or three times per week; and a home nurse, who K.M. estimated visits weekly, and who checks K.M.'s and L.M.'s vitals, monitors L.M.'s development, and brings resources like formula, diapers, and toys.

Finally, K.M. denied having been a victim of a crime on the day the police responded to her apartment, although K.M. recalled a stranger knocking on the door of her apartment.

B. Trial Court's Decision

The trial court concluded that CFSA had established probable cause to believe the allegations in the neglect petition were true. The trial court also continued L.M.'s shelter-care placement. The trial court generally credited all of the witnesses except for K.M., finding that K.M.'s testimony was contradicted by other testimony, was internally inconsistent, and "didn't necessarily make logical sense" at times. By way of example, the trial court found that K.M.'s indication that she saw Ms. Dai Zotti in person fifteen times or more conflicted with Ms. Dai Zotti's testimony that, apart from the week when K.M. stayed in her home, K.M. and Ms. Dai Zotti saw each other in person one or two times.

It was not entirely clear to the trial court whether a significant medical and physical issue or a mental-health issue caused K.M. to go to the hospital, and the trial court acknowledged that the information that GWUH provided to CFSA was inconsistent with a conclusion that K.M. was experiencing a physical issue. The trial court determined, however, that whether K.M.'s physical health or mental health led K.M. to seek medical care, K.M. was unable to care for L.M. for a period of time. The trial court concluded that K.M.'s testimony reflected a lack of

understanding about the need to have a caregiving plan in place for L.M. in case of a short-term lapse in K.M.'s ability to serve that function. Acknowledging that it was not in a position to diagnose K.M., the trial court observed that K.M. "seem[ed] to be a bit detached from reality."

The trial court noted that K.M. had taken some steps toward building a satisfactory emergency-care plan for L.M., including reliance on Ms. Dai Zotti, but expressed concern that K.M. did not appear to "truly accept" her mental-health diagnosis. Because Sasha Bruce staff are only on site from 7 a.m. to 5 p.m. on weekdays, the trial court found that K.M. was not adequately connected to mental-health services in an "ongoing way" and it was unclear what resources K.M. would be able to access in the evenings and during weekends. The trial court also found that the District had made "reasonable efforts" to prevent L.M.'s removal, including contacting K.M.'s relatives.

After the hearing, the trial court issued a written order memorializing its conclusions that continued shelter care was required (1) "to protect the person of" L.M., or (2) "because [L.M.] has no parent, guardian, custodian or other person or agency able to provide supervision and care for [L.M.]" and "no alternative resources or arrangements are available to the family that would adequately safeguard [L.M.] without requiring removal."

II. Legal Standards

As previously noted, when CFSA believes that a child is neglected, CFSA may place the child in shelter care before any proceedings have begun in a neglect case if certain statutory requirements are satisfied:

A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required –

- (1) to protect the person of the child, or
- (2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself and that
- (3) no alternative resources or arrangements are available to the family that would adequately safeguard the child without requiring removal.

D.C. Code § 16-2310(b)(1)-(3). When the issue arises in court, CFSA bears the burden of showing that shelter care is required, but the applicable statutes and court rules do not specify the magnitude of that burden. *See id.*; *id.* § 16-2312(d)(1) (at end of shelter-care hearing judge “shall” order shelter care if the judge “finds that . . . shelter care is required under the criteria in [D.C. Code] section 16-2310”); Super. Ct. Neg. R. 13(a) (government has burden to show that shelter care is required).

Court rules list numerous factors relevant to determining whether shelter care is necessary. Super. Ct. Neg. R. 13(b)(1)-(5), (c)(1)-(4). Before placing a child in shelter care, the trial court must determine both that no alternative arrangements are

available that would “adequately safeguard the child without requiring removal” and that no other custodian is available to adequately care for the child. Super. Ct. Neg. R. 13(d)(1)-(2). The trial court must also “evaluate the harm to the child that may result from removal.” Super. Ct. Neg. R. 13(e). Finally, in neglect cases, an order of shelter care must include a determination of whether (1) reasonable efforts were made to avoid the need for removal, or removal would be necessary regardless of the services that could be provided; and (2) placing the child in the child’s home would be contrary to the welfare of the child. D.C. Code § 16-2312(d)(3).

We generally review the trial court’s rulings in neglect cases for abuse of discretion. *In re D.S.*, 88 A.3d 678, 691 n.21 (D.C. 2014) (“In conducting [a] review of the trial court’s orders in neglect proceedings, we employ an abuse-of-discretion standard and evaluate whether the trial court exercised its discretion within the range of permissible alternatives, based on all relevant factors and no improper factor.”) (internal quotation marks omitted).

III. Analysis

We first flag an issue that we need not and do not decide. As previously mentioned, the applicable statutes and court rules do not explicitly specify a standard by which to measure the District’s burden of proof in connection with a trial court’s decision whether to order continued shelter care at the end of the shelter-care hearing. D.C. Code §§ 16-2310(b)(1)-(3), 16-2312; Super. Ct. Neg. R. 13(a). L.M.

argues that the District should bear the burden of proof by a preponderance of the evidence. The District argues that its burden should “at most” be to establish probable cause. Because we conclude that the District failed to carry its burden even under a less-demanding probable-cause standard, we assume without deciding that a probable-cause standard applies.

It is true that there was a period at the hospital where K.M. was not able to care for L.M. Such a period could arise, however, for any parent facing a health emergency. As the District appears to acknowledge, whether shelter care was necessary going forward depends on the extent to which there was a sufficient risk that similar periods would arise in the future during which neither K.M. nor other resources would be available to care for L.M.

It is also true that the record supports the trial court’s conclusions that K.M. had mental-health issues that had not been fully addressed. What we conclude is lacking, however, is adequate support in the record for a conclusion, even at the level of probable cause, that K.M.’s mental-health issues were sufficiently likely to endanger L.M.’s welfare as to make shelter care necessary. We reach that conclusion for several reasons.

First, it is uncontested that L.M. presented at the hospital as an entirely healthy child. Second, there was ample evidence, from witnesses the trial court generally credited, that K.M. generally functioned well as a caregiver to L.M. Third, there

was ample evidence as to various support systems and resources available to K.M, including various social-service agencies and K.M’s friend Ms. Dai Zotti. *Cf. In re D.S.*, 88 A.3d 678, 695 (D.C. 2014) (noting that District is required to “make a showing that . . . placement in shelter care was the only available option to protect the children”). Finally, there was no clear evidence, and no clear finding by the trial court, as to the precise nature of K.M.’s mental-health issues or the likelihood that those mental-health issues would recur in a way that would endanger L.M. *Cf. In re K.M.*, 75 A.3d 224, 231 (D.C. 2013) (requiring, in context of neglect finding based on mental incapacity of parent, that District “demonstrate the existence of a nexus between a parent’s [] mental incapacity and an inability to provide proper parental care”).

For the foregoing reasons, we granted L.M.’s motion for summary reversal, remanded the case to the Superior Court, and directed the Superior Court to return L.M. to the custody of K.M., subject to conditions imposed by the Superior Court.

So ordered.