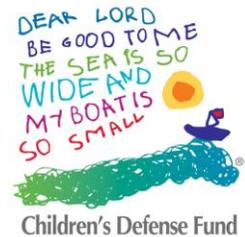


May 20, 2011



Jan Rothstein
Division of Policy
Children's Bureau
Administration on Children, Youth and Families
Administration for Children and Families
Department of Health and Human Services
1250 Maryland Ave, S.W., 8th Floor
Washington, D.C. 20024

Re: Federal Monitoring of Child and Family Service Programs; Request for Public Comments and Consultation Meetings

Dear Ms. Rothstein:

The Children's Defense Fund (CDF) appreciates the opportunity to offer comments on the Federal Monitoring of Child and Family Service Programs, as noticed in the *Federal Register* on April 5, 2011 (*Federal Register*, Vol. 76, No. 65).

The Children's Defense Fund's mission is to Leave No Child Behind® and to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start, and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. As we have pursued our mission over more than three decades, we have worked hard to ensure a commitment at the federal level to making the promise of safety, permanence and well-being a reality for all children who come to the attention of the child welfare system and to seek policy and program changes to help achieve this goal.

Progress was extremely slow in coming, but the use of the Child and Family Service Reviews (CFSR) beginning in 2000, which has been accompanied by advances in technology unthinkable when the 1980 Adoption Assistance and Child Welfare Act was first passed, has helped begin to increase accountability for child outcomes. The reviews, as you note in the *Federal Register*, have helped to increase attention to the need for improvements in child welfare policies and practices across states and to system changes that can help promote outcomes for children. The focus of the CFSRs on joint federal-state planning, broad participation by stakeholders and continuous improvement are key to promoting important gains for children and families. A number of states also enhanced their own accountability by going beyond the federal requirements and establishing their own procedures for ongoing practice reviews.

Important steps have been taken, but there is still far to go. The Administration on Children, Youth and Families (ACYF) has a unique opportunity now as you revisit the CFSRs to look at increased coordination with other review systems and to incorporate recommendation for changes to the Adoption and Foster Care Analysis and Reporting System (AFCARS) that CDF and many others made in October 2010. We urge you to act quickly. We include several general recommendations below and then answer the specific questions posed in the *Federal Register*.

Emphasizing the Multiple Benefits of a Well Designed and Implemented Review System

We are pleased that ACYF is seeking ways to improve the federal review process for holding child welfare agencies accountable for achieving positive outcomes for children and families and continuously improving their systems. We believe that such a system can also have an impact that extends beyond the benefit to individual states and can maximize benefits to children. A well designed and implemented review system can:

- Help familiarize a broad group of community stakeholders and the broader public about areas where gains are being made for children and also areas where more community involvement can be extremely helpful. For example, it can help build popular support for the resources needed to make further improvements for children.
- Bring multiple systems to the table as stakeholders and keep them there to help children get the range of early childhood, education, health, mental health and substance abuse services they need. The need for shared services across systems has never been greater.
- Help restore public confidence in the child welfare system as improvements are highlighted and a commitment to continuous quality improvement is made clear.
- Promote accountability across states, as well as within states. As a refined and improved monitoring system is put in place it is essential that there be monitoring across states on certain key services and protections for children. We can no longer let a child's safety, permanence and well-being is dependent on the lottery of geography. We certainly know much more than we did in 1980 and even in 2000 and we must *begin* now to assess how children are faring nationally.

Important General Principles for a Quality Review System

Before we respond to the questions posed, we also want to highlight several general principles about monitoring and review systems. We urge that you make them part of your final recommendations. Any quality review and monitoring process must:

- Address children's full experiences as they first come to the attention of the child welfare system from prevention and early intervention through their experiences in care and as they exit from care to a permanent family and are helped to remain there.
- Track and differentiate the experiences of children in care by race, ethnicity, gender, special needs and geographic location in order to be able to identify the possibility of disparate and inequitable treatment when it occurs.
- Focus on the most important outcomes for children and not get lost in the detail of numerous indicators whose impact has not been assessed.
- Track progress in achieving continuous quality improvement but also identify the range of services, treatments, staff improvements and other practices that have contributed to the improvements for children.
- Provide incentives for states that can identify progress to encourage them to proceed further in order to reach more children and families and to begin to assess the impact of such measures across states.

- Hold states accountable for child outcomes for substantial conformity with the requirements and protections in Title IV-B, Title IV-E, and other important pieces of legislation.

Convening a Forum for Achieving Consensus

As ACYF moves ahead quickly to develop a revised monitoring system by which to review Title IV-B and IV-E plans, we urge you to build in the opportunity for a forum for deliberation and discussion around recommendations received in response to this April 5th announcement. The American Public Human Services Association and its affiliate, the National Association of Public Child Welfare Administrators, has already engaged state child welfare agencies and an expert panel in a process for recommending changes to a monitoring process. They have developed a thoughtful set of recommendation from state child welfare administrators that could be the basis for further discussion about many of the issues identified. An ACYF forum would provide the opportunity to review what you heard in your consultation meetings and from the states and solicit further input from advocates for children and families, youths who have been in the child welfare system, caregivers, court officials, and representatives of private child welfare agencies and services systems about other changes that are needed. Hopefully significant consensus could be achieved through this interactive dialogue.

Responses to Questions Posed About the Review Process

Question 1: How could ACF best promote and measure continuous quality improvement in child welfare outcomes and the effective functioning of systems that promote positive outcomes for children and families?

Question 2: To what extent should data or measures from national child welfare databases (e.g., the Adoption and Foster Care Analysis and Reporting System, the National child Abuse and Neglect Data System) be used in a Federal monitoring process and what measure are important for State/Tribal/local accountability?

The Children's Defense Fund is answering Questions 1 and 2 together because we believe that the measures used and process for measuring are key to tracking continuous quality improvement in child welfare outcomes and the effective functioning of systems that promote positive outcomes for children.

To ensure accountability for outcomes for children, there must be data that tell us how we are serving children and families, what services they are getting, and how well children and families are doing as a result of these efforts. There must also be mechanisms in place to ensure that variations by child demographics, caregivers, geographic locations, and multi-system and court involvement are reflected.

To help ensure that data tell what we need to know, the data must be longitudinal and track children's progress in care over time and not only at a single point in time. Point in time data offer little sense of the progress being made in improving outcomes for children since they do not allow the tracking of children's experiences throughout their time in care. As we have recommended in the past, there must be support for states to develop longitudinal data bases and a multi-year longitudinal federal data base as well. Longitudinal data on children who come to the attention of the system, receive services, enter care and exit care to permanent families is long overdue. There is much valuable experience to draw on in finalizing the technicalities of a system to produce longitudinal data. The Multistate Foster Care

Data Archive operated by the Chapin Hall Center for Children at the University of Chicago, the California Child Welfare Performance Indicators Project and the Child Welfare Dynamic Report System developed by the Center for Social Services Research at the School of Social Welfare at the University of California at Berkeley, and other research centers already have developed useful longitudinal data. Steps must be taken to establish such a system as part of establishing a new review system. For example, in assessing the reunification of children, it is very important to be able to assess the extent to which children re-enter care over the years. Continuing permanency efforts should also be maintained and tracked for children over time.

In assessing progress for children, there must be an encrypted, unique personal identification number used that is the same for the child no matter where the child lives so all files can be linked together and a child's full experience in the system can be tracked. A family record number or identifier is also needed. It will also be important that these same identifiers be used by state agencies in the multiple data systems that will be used in the monitoring system. These identifiers, for example, would make it possible to learn more about children's access to preventive services prior to placement – an area that is currently missing in the CFSRs.

In using data from the national data bases in the monitoring system, it is important to keep the focus on about ten key outcomes that we believe are necessary to assess the performance of the child welfare system as it impacts children in care. They include:

- Rate of referrals
- Rate of victimization
- Home-based v. out of home care
- Use of the least restrictive form of care
- Positive attachments to family, friends and neighbors
- Stability of care
- Length of stay
- Permanency through reunification, adoption and guardianship
- Re-entry into care.

As we have recommended in the past, we believe that these outcomes coupled with key process measures can provide an important sense of efforts made to provide children with safety, permanency and well-being. Specific work must be done with rates of referrals and victimization to accurately reflect the experiences of children. Although these rates are intended to catch children who return to the system, there are often children who come to the attention of the system repeatedly but for whom abuse is not substantiated, and they are only finally counted when the abuse is finally substantiated. Efforts at prevention could be better judged if there was some way to capture these cases earlier.

In assessing outcomes, there must also be data on basic demographics about the child, such as date of birth, race, ethnicity and special needs, their caregivers, where they reside, whether they are in multiple state systems, and the involvement of the court. It must be possible to look across data elements and differentiate progress on outcomes by these demographic variables. Child characteristics such as these can influence performance outcomes and it is critically important to understand that intersection. A state, for example, where the majority of children entered care after the age of 12, may have different

permanency outcomes than one where a significant portion of children in care were pre-school age. There also are states that have a large portion of children who are in both foster care and juvenile justice systems and outcomes for them may look very different than for other children.

In order to assess the relevance of improvements in outcomes it is also important to be able to measure prevention services at multiple levels and also health and mental health services as well as early childhood and education services. Better measurement of services provided will help identify what it will take to make additional improvements in child outcomes.

Attention also must be given to ensuring that any new monitoring system includes the data and review mechanisms necessary to address state progress in achieving substantial conformity with the new protections for children the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections). In CDF's October 21, 2010 comments to ACYF on AFCARS, we included a number of suggestions to help ensure that children are actually benefitting from Fostering Connections and determining conformity with it. We believe these should be incorporated in any new review system and ask that they be incorporated here by reference. They address children's interaction with kin through guardianship, identification, notice, and licensing provisions; sibling placement, visitation and contact; extension of care to age 21; transition planning; a series of education protections – educational stability, early intervention/special education; adoption and health care .

As data are being refined and new measures are developed, there must also be a decision about those measures that can be used for cross-state comparisons. While the elements may be limited initially, some must be identified. Requests for national data were first made in Congress more than 30 years ago. We cannot wait any longer. With the sophistication of data systems and means to communicate there is no excuse for not identifying at least a minimum number of measures. There should be many others against which states measure their individual progress. But some core elements must be identified that will assure children of a basic quality of care across states.

Question 3. What role should the child welfare case management information system or systems that States/Tribes/local agencies use for case management or quality assurance purposes play in a Federal monitoring process?

A meaningful method of quality assurance is key to accountability and should be part of federal monitoring process. A quality assurance process should be ongoing and a constant reminder of where progress in being made and additional changes that must be made. States currently are required to have quality assurance as a CFSR systemic process and must continue to do so. Some, however, allege that a major problem with the CFSRs is the fact that states gear up for the onsite reviews and then let their guard down once the rigorous review process ends. CDF does not believe that quality assurance can be a substitute for onsite reviews by external bodies, whether conducted by federal agency staff or a group of stakeholders from the state and community level. While CDF agrees that the nature of the current onsite review needs to be modified, the sense that people from outside are taking a look at performance has an impact that an internal quality assurance process alone, no matter how well done, does not have.

Question 4: What roles should State/Tribal/local child welfare agencies play in establishing targets for improvement and monitoring performance towards those targets? What role should other stakeholders, such as courts, clients, and other child-serving agencies play?

CDF believes that all parts of the child welfare system and the broader community have a responsibility for keeping children safe and in nurturing permanent families and communities. Therefore, we recommend that targets for improvement and the process for monitoring performance towards those targets should be done jointly by the state and local child welfare agencies and tribes with early and ongoing input from private agencies, courts, other service providers, advocates, youth (in care and alumni of the system), families and caregivers. Engaging all stakeholders in this process helps assure that they assume ownership of the targets and will be more likely to work to ensure targets are achieved for individual children.

Questions 5: In what ways should targets and performance goals be informed by and integrated with other federal child welfare oversight efforts?

CDF recommends that there be increased coordination among and sometimes consolidation of various federal child welfare oversight efforts. In some cases too there are requirements in federal child welfare policy, such as in the Child Abuse Prevention and Treatment Act (CAPTA) and the Promoting Safe and Stable Families Program, that do not get the same scrutiny as the requirements and protections in Titles IV-B and IV-E of the Social Security Act. The National Child Abuse Coalition in its comments to this notice recommends that the CFSRs be structured in such a way that several of the provisions in CAPTA could be better monitored. Examples cited include the requirement that children under the age of three who are substantiated victims of maltreatment are referred to IDEA Part C services for evaluation and the requirement that there be collaboration between child protective services agencies and those agencies providing family violence services. More attention to states' use of differential response in the CFSRs would also be helpful.

It is important as decisions about consolidating oversight mechanisms are made that there continues to be oversight at some point by a party or parties outside of the state or local agency being reviewed. While self assessment and continuous improvement is important, without some external review, it is easy for it to become routine and the importance of achieving true conformity with federal protections for children will get lost.

Question 6: What specific strategies, supports, incentives, or penalties are needed to ensure continued quality improvement and achievement of positive outcomes for children and families that are in substantial conformity with Federal child welfare laws?

Some of the changes needed to help promote positive outcomes for children and families are beyond the scope of the discussion of federal monitoring procedures. CDF believes, for example, that important child welfare financing reforms are essential to increase the capacity of states in prevention and early intervention, specialized treatment, permanency and post-permanency options, workforce improvements and enhanced accountability. Only with such reforms and more will we see the breadth of improvements needed in child and family outcomes. CDF is working with others in the Partnership to Protect Children and Strengthen Families to make improvements in current federal child welfare

financing to increase opportunities for leveraging the funding necessary to promote key reforms for children.

In order to promote substantial conformity with federal child welfare laws, we believe it is important to provide clarity as to the outcomes that are expected, technical assistance about how to achieve them, fiscal incentives to promote reform and additional incentives when progress in outcomes is identified. States should be rewarded for improvements in outcomes.

While we are not supportive of penalties, we believe that there are several characteristics of a penalty system that can help improve its usefulness. First, penalties should be implemented over time and graduated depending on the level of non-conformity. They should be based on a realistic standard for assessing compliance. And there should be a provision for a reinvestment of the penalty in a way that can help the state enhance the safety, permanence and well-being of children.

Question 7. In light of the ability of Tribes to directly operate Title IV-E programs through recent changes in the statute, in what ways, if any, should a federal review process focus on services delivered to Indian children?

CDF believes there must be a system for ensuring that the needs of Indian children are being met in an appropriate and culturally relevant manner that respects their individual needs. This system must be developed by the tribes and the federal government with input from organizations that have extensive knowledge of and experience working with Indian children and their tribes.

The requirement for engagement of tribal representatives is essential and there must be efforts to engage tribes with different relationship with states and different levels of involvement in child welfare.

Thank you again for the opportunity to submit comments on Federal Monitoring of Child and Family Service Programs. CDF believes that there is no more important direction for ACYF than improving outcomes for children and families who come to the attention of the child welfare system and preventing problems that bring them there and keep them in the system. The monitoring and review process you develop for holding child welfare agencies accountable for achieving positive outcomes for children and families and continuously improving their systems will be key to this result. At the same time it will help to educate the broader community and broader public to the special challenges facing these children and families and systems charged with their care and improvements that can be made on their behalf.

We look forward to an improved review system and would of course be happy to discuss any of our comments on federal monitoring in further detail.

Sincerely yours,

A handwritten signature in cursive script that reads "MaryLee Allen".

MaryLee Allen, Director
Child Welfare and Mental Health