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May 12, 2011

Jan Rothstein
Division of Policy
Children's Bureau
Administration on Children, Youth and Families
Administration for Children and Families
1250 Maryland Avenue, S.W., 8th Floor
Washington, DC 20024

RE: 45 CFR Parts 1355, 1356 and 1357
Federal Monitoring of Child and Family Service Programs; Request for Public Comment and Consultation Meetings

Posted on: Federal eRulemaking Portal: http://www.regulations.gov
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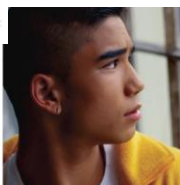
Subject Line: Comments on the CFRS Federal Register Notice/Vol. 76, No. 65/Tuesday, April 5, 2011/Proposed Rules

Dear Ms. Rothstein:

The National Council of Juvenile and Family Court Judges appreciates the opportunity to provide comment on the Child and Family Services Review process. We have read with interest the comments of many other organizations and it is clear there is a great deal of worthy feedback from many perspectives on this important topic.

The National Council's Permanency Planning for Children (PPCD) and Family Violence Departments (FVD) worked together to provide these comments. Both Council Departments are actively involved in child welfare work throughout the country. Our Family Violence Department specializes in the co-occurrence of domestic violence in child welfare cases. The PPCD is involved in all aspects of child welfare system improvement efforts through its Model Court Project in more than thirty different jurisdictions across the country.

Both Departments also serve as HHS Resource Centers and as such, are available to work with the Bureau throughout the CFRS revision process. The NCJFCJ, as the nation's oldest judicial membership organization is also available as a resource to bring judges across the country to the table to work in partnership to improve the CFRS process.



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Response to Specific Questions

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?

The current mix of accountability reviews is somewhat redundant and requires involvement in several different processes with different types of reporting. Creating one review process that accomplishes the requirements of the CFSR and the IV-E reviews, for example, would save time and resources. We also agree with the American Public Human Services Administrators that the CFSR and its PIP should be folded into and complement the state's CFSP and APSR resulting in one overarching plan for a five-year, continuous quality-improvement cycle. Creating measures that do not allow for differing definitions of data elements would help to ensure that results across the country are compared equally.

Creating a review process that acknowledges the many special issues at play in child welfare cases is also important. For example, research suggests a 30 to 60 percent overlap of child maltreatment and domestic violence, which points to a need for measures that report on outcomes for this population of families. In the current on-site review tool, for example, some questions call for a "clustering" of familial factors, like domestic violence, mental health, and substance abuse. While such a question may capture the quantity of factors at play in a child's environment, it may not capture the quality of the impact.

Research has also shown that children of color are disproportionately represented in the child welfare system and they experience disparate outcomes as well. The current CFSR does not require the reporting of data by race so these important differences cannot be illuminated in the current process.

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 measures are important for State/Tribal/local accountability?

While we are not experts on child welfare data systems, we do believe that measures should be based on consistent definitions state to state. Measuring actual child welfare outcomes is more important than measuring outputs. The current CFSR process has so many measures and they are so complex, that it is difficult to train our constituencies in courts as to the type of things they might wish to measure in order to be moving in the same system improvement direction as the child welfare system. Choosing a small number of measures and doing them well is more important than quantity with questionable quality.

Please see paragraph above regarding importance of measures relating to domestic violence and disproportionality and disparate treatment.



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?

While we do not have expertise to answer this question specifically, we would like to note that it is very important for juvenile courts to be involved in the review process during all phases and stages. Courts review the work of child welfare agencies regularly and have a very good overview of what is working and what is not in those systems. Judges, as independent decision makers, are conducting thousands of reviews a year. A more formalized way to survey the judges in the jurisdictions under review would be helpful to get a clear picture of the operation of the child welfare system.

Collecting and reviewing additional critical case information is an important consideration in refining the CFSR process. Much of the current information obtained is anecdotal and subject to the biases of individuals who are conducting interviews and those being interviewed. Questions require a subjectivity that undercuts the value of the quantitative evaluation. Decisions about substantial conformity are made on this subjective information.

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?

The federal government makes a very large investment in child welfare services. Child welfare agencies, courts, and many other stakeholders should be consulted in the development of performance targets but the final decisions should be made by the federal government who is funding the service delivery system.

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

The CFSR process must not work at cross purposes with other regulatory schemes. Incorporating targets and performance goals from other federal oversight efforts could avoid duplication in reporting requirements and free local programs to concentrate on achieving one set of performance goals. This would require a commitment federal agencies working together and perhaps identify a common unifying mission. If federal child welfare oversight efforts had a unified mission, such a value statement must provide a focus that includes a child's family and concerns the safety concerns of children and the non-offending parent and a differential response to offending parent and non-offending parent.

The CFSR process has put states through two rounds of a 5 year improvement process. Between the first and second round, the CFSR review targets and goals changed. It may be that having several oversight projects, each of which is subject to change leave agencies responding first to the moving federal targets rather than the needs of families.



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?

Incentives are always positive motivators. Incentives need to be geared toward keeping children safely with their families rather removing them and keeping them out of home. The entire child welfare financing scheme incentivizes foster care placement and adoption rather than honoring a child's most important connection, the connection to his or her family.

The current process that allows child welfare systems to engage in an improvement process before penalties are assessed should continue.

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?

Given the unique government to government relationship between the federal government and tribes, there should be intensive collaboration with tribes to establish performance targets but tribes should be able to develop programming and reporting systems that fit with their special cultural histories and current contexts.

8. Are there examples of other review protocols, either in child welfare or related fields, in which Tribal/State/local governments participate that might inform CB's approach to reviewing child welfare systems?

Specific examples in the domestic violence field include:

- .Entities distributing pass-through VOCA, FVPSA, Title IV-B, Title XX, VAWA funds are all conducting periodic site visits to domestic violence programs. These entities could be enlisted to screen for how effectively local programs are adhering to AFC DV targets.
- Many state domestic violence coalitions conduct some sort of monitoring. These entities could be funded to provide additional monitoring around domestic violence and local child welfare agencies to inform the CFSR process.

Thank you again for the opportunity to participate in this important process. The PPCD and FVD of the NCJFCJ look forward to continuing collaboration as the Bureau moves forward. Please do not hesitate to contact us for further information.





Respectfully Submitted,

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