



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Health and Social Services**

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Kathleen McHugh
US Department of Health and Human Services
Administration for Children and Families
Director
Policy Division
330 C Street, SW
Washington, DC 20004

RE: Advanced Notice of Proposed Rulemaking for Adoption and Foster Care
Analysis Reporting System

Dear Ms. McHugh:

The State of Alaska welcomes the opportunity to respond to the Advanced Notice of Proposed Rulemaking as it relates to the Adoption and Foster Care Analysis and Reporting System (AFCARS). Alaska is facing a substantial effort to supply the data required by the 2016 Final Rule for AFCARS. Alaska's SACWIS case management system, does not currently collect or store data needed for 126 of the data elements, which will require Alaska to create data reporting points and interfaces to collect and store this data. New policies and business processes must be designed, and either new staff must be hired to implement the new processes, or existing staff resources must be diverted. When the 2016 rule was in effect and states were expected to begin collecting 2.0 data on 10/1/2019, Alaska estimated one full year for planning and execution for just activities related to case management system enhancements, with work originally scheduled to begin on 10/1/2018.

Alaska is supportive of the prospect of a two-year delay while the 2016 rule is reviewed. In Alaska, caseloads are at an all-time high and Alaska's 2017 Children and Family Services Review (CFSR) found that Alaska is not in substantial conformity with all seven outcomes and six of the seven systemic factors. Concerns noted in the CFSR were related to risk and safety assessment, safety provision and safety planning; poor engagement with children and families and infrequent or insufficient caseworker visitation; the lack of comprehensive assessment of needs; and disparity with safety between foster care and in-home cases. In order to meet the 2016 Final Rule requirements timely, Alaska will likely need to divert caseworkers from activities related to their core mission and improvements related to the CFSR,

in order to collect and document required data. In some instances the new elements outlined in the 2016 Final Rule will add substantial and significant burden to caseworkers as these elements:

- Cannot be collected in the course of normal casework;
- Are not typically collected in the course of normal casework, but they could be introduced for the sake of the AFCARS report. Which in turn, creates new workflows for caseworkers and supervisors, resulting in time taken away from critical activities;
- Are collected in the course of normal casework, but the act of documenting the event(s) introduces an additional task, especially if that documentation must occur each reporting period, for each child, for each event;
- Create an undue burden where caseworkers have to document that something did *not* happen each reporting period. Alaska anticipates that states will then be required to add effective dates to account for subsequent reporting periods and resubmissions.

In addition to increasing the burden to frontline staff, we have the following concerns that some of the new data element(s):

- Will negatively impact the caseworker's relationship with the children and families;
- Will negatively impact the relationship between licensing workers and providers;
- May discourage individuals from becoming foster parents;
- Do not have a universal application across states;
- Are qualitative in nature and will require a time consuming case review to answer if the data is to be valid;
- Are not overtly relevant to child welfare practice so the practical utility of collecting and reporting the data is questionable;
- Attributes are such that consistent accuracy cannot reasonably be validated. Failure to provide complete and accurate data will then cause the state to be in non-compliance and face a financial penalty for the noncompliance period and any subsequent period of noncompliance.

Below is a specific response for particular data elements that are of concern for Alaska:

- Element 7 – Child's Sexual orientation.
 - Alaska is unclear on what this data will be useful for and fears being the catalyst of family conflict related to elicitation of the child's sexual orientation, gender identity, or gender expression. The response option 'something else' to cover the myriad of sexual orientations besides those specified would suggest the data is not needed as it would not be valid. Alaska is unclear on how the data validity will be evaluated.
- The following elements represent the need for States to demonstrate compliance with revised regulations related to the Indian Child Welfare Act, as adopted through the Bureau of Indian Affairs in 2016. Alaska has previously submitted strong support for the revised ICWA regulations, and the addition of some of the data elements related to ICWA standards in AFCARS. However, Alaska does have concern that some of these elements will be a challenge

to consistently and reliably collect accurate data to support this effort. In addition, the new Comprehensive Child Welfare Information System (CCWIS) regulations will require, to the extent practicable, for a State's case management system to exchange data with the systems operated by the courts. The CCWIS regulations recognize that challenges such as lack of infrastructure and resources means that building a data exchange is not feasible. The CB may consider such an approach with states where this AFCARS data is collected via a data exchange to the extent practicable. Alaska has identified that the accurate reporting on the following ICWA data elements will be challenging without an existing interface with the courts:

- Elements 21-23, related to Notification of child custody proceedings;
- Elements 96- 100 and 103-105 related to State Court findings, Court orders, court hearing attendees and evidence presented;
- Elements 166- 171 related to Basis for Good cause under ICWA to deviate from placement preference;
- Elements 267-272 related to Basis for Good cause under ICWA to deviate from adoption or guardianship placement preference;
- Element 34 Race Unknown/Abandoned/Declined.
 - The working assumption behind valid data is that parents are the data source to deem their child's race. It's unlikely that users will internalize the rule that when a child is abandoned, the federal requirement does not consider any other source of information for the child's race valid. This value could be derived from 'abandonment' indicated at a removal episode, and the user selection ignored. However, Alaska expects that the CB will not accept a derived value, even though Alaska is stating in advance that the data will not be valid unless it is derived.
 - It's unclear what the difference is between 'unknown' and 'not known due to being abandoned';
 - Alaska expects that 'unknown' will eventually not be a satisfactory answer;
 - Alaska expects that 'declined' will eventually not be a satisfactory answer.
- Element 37 Child's Hispanic or Latino ethnicity. (Same as for element 34)
- Element 63 Child is pregnant at the end of the report period.
 - A precise date of pregnancy is difficult to target, and this element appears fraught with complications regarding when the information was discovered and when it was documented, thus ensuring the need for re-submissions;
 - It is not clear how this information is relevant to child welfare practice so the practical utility of collecting/reporting the data is questionable;
 - Though this information may be learned during the normal course of casework, requiring documentation of *the lack* of this event will cause a burden as it means that the question will have to be asked of all children, and documented YES/NO for all children for each reporting period.
- Element 64 Child has ever fathered or bore a child:
 - It is not clear how this information is relevant to child welfare practice so the practical utility of collecting and reporting the data is questionable;
 - Though this information may be learned during the normal course of casework, requiring documentation of the lack of this event will cause a burden as it means that the question will have to be asked of all children, and documented YES/NO for all children for each reporting period.

- Element 94 - Termination/modification of parental rights petition – Alaska questions why this element is relevant? If Time to Permanency is not achieved then root cause analysis belongs elsewhere.
- Element 160 – 164 related to available ICWA foster care and pre-adoptive placement preferences. It is unclear how this would be accurately assessed. It would be a significant burden for the worker to document the availability or *absence* of alternative placement preferences each time a child changes placements.
- Element 185 and 197, First and Second Foster Parent Sexual Orientation, and 244 and 256, First and Second Adoptive parent, guardian, or other member of couple sexual orientation. Alaska is unclear on what this data will be useful for and fears that expecting potential foster parents to divulge this private information will discourage potential licensees. The response option 'something else' to cover the myriad of sexual orientations besides those specified would suggest the data is not needed as it would not be valid. Alaska is unclear on how the data validity will be evaluated.
- Elements 207 - 219 related to Active Efforts:
 - All data elements in this set are qualitative in nature and will require a time consuming case review to answer if the data is to be valid. For example, states must report whether or not 'appropriate services' and 'necessary resources' were identified and whether the state 'offer[ed] all available and culturally appropriate...strategies' or took steps to keep siblings together 'whenever possible';
 - It is unclear when this should be assessed and for what time period. Assessing this information every reporting period would be unmanageable.

Alaska has worked diligently to come into compliance with the 2016 Final Rule, but it is also recognized that there are many areas which simply cannot be in compliance at this time and the necessary interfaces, such as those with the court systems, are simply not in place. Funding to establish these interfaces is not available in Alaska as we are facing clearly austere financial times. Thus, many of the data elements required will be unmet in AFCARS should the 2016 Final Rule be implemented as planned. Alaska is supportive of the delay by 2 years of the implementation of the 2016 Final Rule, if such a delay can better define and clarify the qualitative data elements for which there is concern.

Thank you for the opportunity to address the Advanced Notice of Proposed Rulemaking regarding the AFCARS elements. We look forward to further direction from the Children's Bureau on this important matter.

Respectfully,



Tracy Spartz Campbell,
Deputy Director

cc: Christy Lawton, Director
Paula Bentz, Children's Bureau, Region X