

June 13, 2018

Kathleen McHugh
U.S. Department of Health and Human Services
Administration for Children and Families
Director, Policy Division
330 C Street SW, Washington, DC 20024

Re: Response to Request for Public Comments on the Education Elements of the Adoption and Foster Care Analysis and Reporting System (AFCARS) 2016 Final Rule

Dear Ms. McHugh,

Thank you for providing an opportunity to share comments regarding the Adoption and Foster Care Analysis Reporting System (AFCARS). Pursuant to the notice published in the Federal Register on March 15, 2018 (83 Fed. Reg. 11450), National Center for Youth Law submits these comments expressing support of the education elements of the AFCARS Final Rule issued in 2016.

In response to Question 1, the new education data elements in the 2016 Final Rule are **basic, critically important, and not overly burdensome**. The release of the Final Rule in December 2016 was the culmination of many years, and no fewer than 3 public comment periods, including opportunities for agencies and the public to comment on the burdens and benefits of updating the AFCARS regulation.

Maintaining key educational data is essential to monitoring states' compliance with the education requirements of the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections) and most importantly, to ensuring that the well-being needs of children in foster care are being met. Having this limited data in AFCARS is necessary to inform and improve states' practice and policies and enable them to measure and track the education progress of children in care. As such, National Center for Youth Law enthusiastically supports retaining the four basic education-related data elements included in the 2016 Final Rule.

Although educational information was not part of AFCARS prior to the 2016 Final Rule, several of these data elements are already being collected by states pursuant to the requirements of Fostering Connections and should not create an unnecessary burden for child welfare professionals. Where these data elements are not already being collected, data sharing between child welfare and education entities can minimize the burden of collecting this data. The educational data elements included in the Final Rule are unambiguous and straight-forward – qualitative review or case study is not required for accurate reporting. Furthermore, research available on the educational performance of students in foster care overwhelmingly indicates that increased attention to educational issues is critical. The following data elements are included in the 2016 Final Rule and should be retained:

1. School Enrollment: We support the inclusion of basic information to track a child's enrollment in school. This change also aligns AFCARS with the requirements of the Fostering Connections Act. The issue of variations in the definitions of "elementary," "secondary," "post-secondary education or training," "college," "not school-aged," and "not enrolled," across states and jurisdictions is minimal, as the data element is based on the statutory requirement in section 471(a)(30) of the Social Security Act.
2. Educational Level: Requiring states to report on the highest educational level achieved as of the last day of the reporting period will allow for better tracking of educational trends, such as retention rates and college attendance.
3. Educational Stability: The data element relating to educational stability should be retained as it is consistent with and supported by both federal child welfare and education law. Fostering Connections mandates educational stability. Child welfare agencies must take steps to place children close to the schools they have been attending and to plan for and collaborate with education agencies to ensure that children remain in the same school when their living situation changes unless a school change is in the child's best interest. Since the adoption of Fostering Connections in 2008, most state and county agencies have changed policy and practice to encourage school stability, which has been further supported by the Every Student Succeeds Act (ESSA). However, without data it is difficult to measure progress and trends. Collecting this data will allow longitudinal information about children to be tracked and maintained over time. This will be critical to determining the overall school stability of children during their entire stay in care.
4. Special Education: We strongly support the need for this data element. Studies indicate that anywhere from 35% to 47% of children and youth in out-of-home care receive special education services at some point in their schooling (compared to the national average of under 13% of school aged children). However, we currently have no reliable national data on the exact number of students in care who qualify for services under the IDEA. Retention of this data element would fill this gap. This data is important to both child welfare and education agencies and it would focus state and local agencies' attention on effectively delivering services to these children. Furthermore, there will be little variability across states and jurisdictions, as the definitions for Individual Education Programs and Individual Family Service Plans are outlined within the Individuals with Disabilities Education Act (IDEA).

For the education data elements, questions 3, 4, and 5 are interconnected. As reflected above, **the education data elements have already been open for extensive public comment and debate. The Final Rule is the end result of identifying a finite number of basic education data elements that will yield critically important national level data.**


As described previously, each of the four data elements directly links with the federal requirement to support the safety, permanency, and well-being of children in foster care. To that end, basic knowledge of the level of school a child has completed, and whether that child is receiving special education services is essential. This data is not only easy to collect and report on, but more importantly, is information that child welfare agencies already can and should have. Reporting this information for AFCARS will only provide a national picture and identify trends.

The two elements of school enrollment and school stability are also directly related to federal requirements under Fostering Connections. Child welfare agencies are already required to ensure that all children in foster care receiving Title IV-E funding are enrolled in school; documentation of this does not create a burden and in fact most already do so. Similarly, documenting whether children have moved school placements and for what reasons is also required under the Fostering Connections Act as part of the child's case plan. As such, reporting should not create an unnecessary burden, and will allow for better analysis about the challenges of students in foster care related to education stability.

The resulting Final Rule and new data collection requirements were thoughtfully considered and seek to ensure child welfare agencies are gathering data on all the critical child and family-related outcomes to ensure safety, permanency, and well-being. The Final Rule brings child welfare data collection in line with statutory changes and requirements enacted since 1993. These changes were long overdue and will support agencies to provide accurate and consistent data across states on key outcome areas. Furthermore, the updated requirements in the 2016 Final Rule represent a shift away from "point-in-time" data toward a more longitudinal data approach which will help agencies address children and families' needs more effectively. Finally, all states have, and will continue to, update their data systems to meet the increasing demands of serving children and families and to stay current with the latest technology and data exchange advances. Any claims of cost burdens by states are overstated, as all states will expend these costs to update their systems regardless. AFCARS allows these updates to have a finite number of data elements that are universal across states, necessary to identify trends and to continue to improve our child welfare system responses.

In conclusion, National Center for Youth Law continues to support the new data requirements related to education as they are set out in the Final Rule. These updates are long-awaited and the result of robust and thoughtful discussion over many years. The limited education elements are tailored to address current areas of weakness in data collection and reporting and must be retained to ensure the safety, permanency, and especially the well-being of all children in foster care.

Sincerely,

A handwritten signature in black ink that reads "Jesse E. Hahnel". The signature is written in a cursive, slightly stylized font.

Jesse Hahnel
Executive Director
National Center for Youth Law