



SUPREME COURT OF TEXAS PERMANENT JUDICIAL  
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

Justice Eva Guzman, Chair

Tina Amberboy, Executive Director

Federal Monitoring of Child and Family Service Programs

Request for Public Comments to 45 CFR Parts 1355, 1356 and 1357

### **Comments from the Texas Court Improvement Program and the Supreme Court Permanent Judicial Commission for Children, Youth and Families**

#### **Purpose**

The Child and Family Services Review (CFSR) is aimed at ensuring that state activities conform with federal child welfare requirements, determining what is actually happening to children and families involved in the child welfare system within a state, and assisting states to enhance their capacity to serve children and families in order to achieve positive outcomes as they exit the child welfare system.

#### **The Review Process**

Each CFSR is a two-stage process consisting of a Statewide Assessment and an onsite review of child and family service outcomes and program systems. For the Statewide Assessment, each state compares its aggregate data regarding its foster care and in-home services population against national standards of safety and permanency.

An onsite review of the State child welfare program is also conducted, and includes: case record reviews, interviews with children and families engaged in services and interviews with community stakeholders, including courts, community agencies, foster families, caseworkers, and service providers.

States determined not to have achieved substantial conformity in all the areas assessed are required to develop and implement Program Improvement Plans (PIPs) addressing the areas of nonconformity. The Children's Bureau supports the States with technical assistance and monitors implementation of their plans.

States that do not achieve their required improvements in the time established by the PIP sustain penalties as prescribed in the Federal regulations. All 50 States, the District of Columbia, and Puerto Rico have completed two reviews. No state has been found in substantial conformity with all seven outcome measures.

#### ***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?***

ACF should consider evaluating states on how well they improve outcomes from a baseline established by, and individual to, the state. States should not be measured against a national standard that does not take into account the various factors affecting a state's ability to handle child protection cases. Additionally, because there are many variables, including demographics and population size, state law, child welfare regulations, funding, court structure, availability of resources, legal representation for

children and parents – all of which affect outcomes of safety, permanency, and well-being, states should not be measured against other states.

ACF requires that the child welfare agency maintain strict integrity with the IV-B and IV-E requirements and there are penalties and disincentives associated with failure to comply. The child welfare agency must cooperate and collaborate with courts and other stakeholders to ensure compliance, which in-turn ensures IV-E reimbursement for qualifying cases. However, no other system, such as courts, with responsibilities for case integrity benefit directly from IV-E dollars.

The on-site, 3-county case review process for a large state like Texas seems inadequate. Stakeholder interviews can be very subjective, and yet the results have a significant impact on the program improvement plan. ACF needs to develop a more objective tool to assess “customer satisfaction” and compliance with the letter and spirit of the law of a particular state, especially one with a large population such as Texas.

***2. To what extent should data or measures from the national child welfare databases be used in a Federal monitoring process and what measures are important for State/Tribal/local accountability?***

The most important measures for accountability are those that measure or identify how a child exits the foster care or dependency system and how long it takes for the child to do so, which are short-term outcomes. A more long-term outcome measurement is return to care. Important, but less controllable is well-being while in care. CFSR measures are very complex and difficult to explain to stakeholders who do not work for the child welfare agency, such as judges. The measures used need to be simplified and should examine how many children (and their race) enter and exit the system, how long until they exit and how they exit (what type of permanent arrangement).

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

It is an important tool and for those states with a robust SACWIS, the information can be valuable to other stakeholders. Unfortunately, the quality of the information is suspect because it is maintained by an overworked, stressed child welfare agency employee.

Many states do not have the ability to also uniformly collect child welfare data within the court system so the SACWIS system (and the quality of the information) is critical because state policy decisions are driven by the information entered. Without the SACWIS system, there is no coherent method of obtaining the data.

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

Because courts are gatekeepers to the foster care system, it is critical that courts be consulted in establishing targets for improvement and monitoring performance. Courts are charged with oversight of dependency cases, and children do not usually enter or exit care without a court order. More and more, courts are being asked to monitor and oversee the due process of parties, provision of services,

and timeliness of case handling. Other stakeholders should be consulted as well since the care and custody of children in foster care is more often than not a collaborative and community endeavor.

ACF should consider letting states decide (with guidance from ACF), which measures should be tracked. These should be developed with input from each state's child welfare stakeholder community. This would instill a sense of investment in what is being measured and allow a state to tailor training and outreach that is specifically applicable to the state.

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

Federal reviews are intensive and require hundreds of man-hours and stakeholder time. ACF should consider whether the reviews can be consolidated and streamlined. If, in the future, state child welfare programs must show annual improvement in order to receive discretionary federal funding, undergoing such rigorous review on a yearly basis would ensure little other direct work would occur.

***6. What specific strategies, support, 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 law?***

Penalties imposed on a state child welfare system that is mostly likely already underfunded and under-resourced seems ill-advised and likely to result in poorer, not better, outcomes for children and families. ACF should develop incentives to reward states for improving their performance year over year or some period of time – something similar to the adoption bonus.

Child welfare agencies should be required to involve the judicial branch in its state plan and policy development in the same way that the Court Improvement Program is required to collaborate with Child Welfare to maintain its funding.

***7. In light of the ability of Tribes to directly operate title IV-E programs through recent changes to the statute, in what ways, if any, should the Federal review process focus on services delivered to Indian Children?***

Any ACF focus on how services are delivered to Indian children should take into account the cultural diversity and customs of Native Americans specific to the tribe to which the child and family belongs.

***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?***

No comment