



May 23, 2014

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RE: 45 CFR Part 1355
Statewide Data Indicators and National Standards for Child and Family Services Reviews

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Subject Line: Comments on the *Federal Register* Notice/Vol. 79, No. 78/ Wednesday, April 23, 2014 / Proposed Rules

Dear Mrs. Thomas:

The American Public Human Services Association (APHSA) and its affiliate, the National Association of Public Child Welfare Administrators (NAPCWA), on behalf of the state public child welfare executives it represents, respectfully submit these comments in response to the "Statewide Data Indicators and National Standards for Child and Family Services Reviews" Federal Register Notice issued by the Administration for Children and Families (ACF) on April 23, 2014. Our response is framed around several key elements outlined in our *Pathway's* initiative. Pathway's lays out our members' vision for a transformed human services system: one that's holistic, person-centered, modern, and integrated. The policy and practice reforms we propose to transform the human service delivery system are:

- Focused on four major broad impact areas: sustained well-being for children and youth, gainful employment and independence, healthier families, adults and communities, and stronger families, adults and communities;
- Aligned across a continuum of care including prevention, early intervention, bridge supports, capacity building, and sustainability; and

- Underpinned by a basic set of foundational elements to allow us to bring our members' innovations and achievements to scale (flexible financing, technology, a prepared workforce, accountability, and client engagement).

Approach to Response

Accountability has always been a central component of human services. Our public child welfare leaders believe the federal child welfare accountability system must be methodologically sound and it should incentivize and support states as they develop the highest quality services and monitoring systems possible to continuously improve outcomes for children, youth and families. The Children's Bureau (CB) process for the Child and Family Services Reviews Round III is a positive move to a more balanced federal oversight process that is focused on outcomes for the children and families served.

The CFSRs should mirror the way in which child welfare systems can best interact with families, with an eye towards building on what works. The process should be holistic, strength-based and consultative to create opportunities for skill development, innovative thinking and dialogue, and promote continuous quality improvement. Additional information and details on APHSA / NAPCWA recommendations to streamline the current structure, reduce redundancies in documentation and reporting, eliminate duplication of effort, and create an efficient, collaborative continuous improvement cycle were published in our *2011 States' Child and Family Services Review (CFSR) and Program Improvement Plan (PIP) Redesign Recommendations*, <http://www.napcwa.org/content/NAPCWA/en/home.html>. This is the lens through which we have structured our response.

Response to Specific Proposals

Existing Statewide Data Indicators and Composite Measures and Planned Improvements To Address Feedback

APHSA and its NAPCWA members applaud the CB's consideration of the comments and feedback received following CFSR Round II. We believe the majority of revisions indicate improvements to previous measures and processes and provide a clearer link to the CQI framework. Our 2011 report recommended the CB develop refined measures that are accurate, valid and reliable.

These measures are most important so that states can examine their own performance and set improvement goals against their own baseline over time. Equally important are measures that child welfare stakeholders and staff can easily understand. The basics of good performance indicators are ones that are:

- Clear and comprehensible;
- Fully longitudinal;
- Risk-adjusted; and
- Balance across inter-related goals, such as expeditious exits and re-entry rates.

We support the CB's plan to calculate several statewide data indicators using entry cohorts. We also appreciate the plan to use individual indicators versus composite measures to establish national

standards. Additionally, retaining indicators that are critically important to evaluating the effectiveness of child welfare services, but revising them to be clearer and easier to interpret is a huge benefit. **APHSA recommends** the CB provide clarification on which data indicators will use the entry cohort and which indicators will be based on an exit cohort (or point-in-time sampling).

New Proposed Statewide Data Indicators and Methods

APHSA appreciates the CB's proposal to establish a new set of data indicators. States must be provided a clear understanding of the intent for each measure. Our members stress that data must have a purpose, be properly analyzed and be user friendly. Every data element collected should help tell us something that will lead to better outcomes for the children, youth and families served. Additionally, valid, reliable data and measures are essential for analyzing the effectiveness of child welfare interventions and critical to informing decisions about targeting resources.

Proposed Safety Performance Area 1: Maltreatment in Foster Care

Some public child welfare agencies have expressed concern with this measure. While the proposed measure may be an improvement over the current measure, agencies are unclear whether the AFCARS / NCANDS data collected are readily adaptable for measuring performance on this indicator. The federal government should consider providing fiscal support and appropriate policy changes to enhance agencies' capacity to update their information technology systems. Additionally, public agencies are concerned that the proposed measure will penalize states twice: For example, first from an incidence of parental abuse when a child may be visiting the home and a second time due to the manner in which the abuse is referred for investigation. State variation in the use of terms such as substantiated or indicated may render skewed findings on this indicator. **APHSA requests** the CB clearly define substantiated or indicated maltreatment as well as "others" under the any perpetrator category. Additionally, **APHSA suggests** that the victimization rate be stratified by where it occurred - on a home visit or in the foster home or elsewhere (i.e. school, child care, a recreational activity); and whether the perpetrator may have victimized another child.

Proposed Safety Performance Area 2: Re-Report of Maltreatment

This measure is a significant change from the CFSR Round II measure of a 6 month substantiated threshold and will be problematic for public child welfare agencies. Defining recurrence as re-reporting does not adequately measure whether the agency prevented maltreatment for children previously screened in. Further, screened-in reports do not capture maltreatment and thus re-reporting does not translate to the child being unsafe. Such a measure may have unintended consequences given state campaign efforts around reporting abuse and neglect. The same referent may make repeated reports on the same child for reasons other than maltreatment. In some instances, a child/case may have several "reports" taken from just one incident, which could result in poor performance on this indicator.

Under the current proposed measure, the CB intends to capture the effectiveness of the state's intervention regarding a report of maltreatment. In some instances, states may have dispositions that reflect cases where they have been unable to intervene (i.e. Unable to Contact). This is a not a widely-

used type of closure but based on variability of response type, level of dispositional findings, **APHSA recommends** in these instances, states are allowed to exclude these cases from the count.

Public child welfare agencies make diligent efforts to coordinate with sister systems. Under this proposed method states are concerned that the same incidence could be counted multiple times. Good community relationships also may mean increased reporting of maltreatment as well as multiple reporting of the same incident. We understand that differential response is a factor in this measure, but suggest there is less confusing and better parameters to measure this factor. In short, many factors impact re-reporting and any calculation needs to take into account the response to the allegation – differential response, investigation, case opening for protection, case opening for services only, and if there was a finding of maltreatment.

APHSA recommends the CB change this indicator to count referrals that are screened-in for assessment or change the provision to the previous Round II measure which tracks the actual recurrence of substantiated maltreatment. **APHSA also recommends** the following as alternatives to the proposed re-report measure:

- Excluding reports of maltreatment where the incident date of the second and subsequent reports occurred on or before the referral date of the first report, if a jurisdiction provides incident dates. This will appropriately exclude reports that occurred prior to the agency's knowledge of the alleged maltreatment.
- Excluding subsequent reports that occur within 7-14 days of the referral date of the first report because the investigation is still in the early process and the agency has not necessarily had the opportunity to intervene. This excludes reports of the same issue, where the incident date cannot be determined. For example, it is difficult to determine the incident date of neglect, but neglect is often reported by multiple referents within a short period of time and before the agency has been able to intervene to address the issue. If an agency determines that a child is not at risk for abuse, the agency does not trigger an immediate response, yet a re-referral within a short-time frame may be of the same incident. The initial screen- in assessment prompts the appropriate safety-threshold and this exclusion would only apply to cases where the child's safety is not compromised.

CFSR Permanency Outcome 1: Children Have Permanency and Stability in Their Living Situations

Public child welfare agencies main goal is preserve families and keep children safe in their homes when possible and when not possible, place children in temporary settings until reunification or permanency is secured. In 2011, our key recommendations related to this CFSR outcome measured how often and how quickly children exit to permanency.

Proposed Permanency Performance Area 1: Permanency in 12 Months for Children Entering Foster Care

APHSA supports the CB plan to use the entry cohort to measure performance on permanency. However, our members do not believe the proposed timeframe (12 months) provides an adequate period to

observe and measure impact on this outcome. It's worth noting that court proceedings, schedules and other factors outside of the child welfare systems control link to timeliness of permanency. Making efforts to reunify and, if this is not possible, to terminate parental rights and finalize an adoption within a year is a major challenge. Similarly, if the state determines neither reunification nor adoption is possible, the state may then begin the process to secure guardianship. Under the current Guardianship Assistance program, a child must be placed in a caregiver's home for a minimum of six consecutive months. In addition to this requirement, the length of time it takes to rule out reunification and adoption, and extreme lag times beyond their control between mandatory court hearings extending the timeframe for an agency to secure permanency allows for these conditions. **APHSA strongly recommends** the CB adjust this measure to expand the observation period to 24-36 months to evaluate a state's performance over time and to recognize that families may be better served by additional time to reunify prior to the state choosing an alternate permanency goal.

Proposed Permanency Performance Area 2: Permanency in 12 Months for Children in Foster Care for 2 Years or More

The public child welfare system continues to address the length of stay for children in foster care. As stated above, paramount to the sustained well-being of children and youth is the ability to grow and thrive in a permanent loving family. We are concerned that this measure includes youth who turn 18 while in foster care and as currently structured, could disadvantage states that have extended foster care. There is an incentive for older youth to choose to remain in care beyond their 18th birthday and most research suggests that remaining in care increases the likelihood for improved outcomes. **APHSA recommends** adjusting this measure to account for youth who have remained in care to take advantage of extended foster care programs.

Proposed Permanency Performance Area 3: Re-Entry to Foster Care

APHSA proposed an indicator to measure whether an agency was effective in efforts to reunify children and families or secure permanency. **APHSA supports** this indicator to measure the number of children re-entering care within 12 months of exit/number children exiting care to reunification, guardian, and placement with relatives.

Proposed Permanency Performance Area 4: Placement Stability

APHSA commends the CB for developing a measure that accounts for the number of care days in considering moves. Fewer moves does correlate to stability and well-being for children placed in foster care. **APHSA supports** measuring this indicator with an entry cohort. Additionally, **APHSA requests clarification** on the proposed calculation – will the CB use the number of placement days per episode or the total number of days across all episodes. The calculation should be based on the number of moves per child and account for the timeframe of the move.

National Standards

APHSA believes the proposal to establish national standards based on measuring state performance are an improvement from the CFSR Round II. We understand the national standards are statutorily required but urge that these measures be used to allow states to measure against their own performance rather than for national comparison. Data analysis and analytics should promote national dialogue versus applying the “one size fits all” national standard. Using different populations for national standards has been a long-standing problem. National standards should be restricted to the analysis of groups with common characteristics. States do not have a common way of doing business for there to be a common definition for the data elements. Inconsistent data are used politically to compare states and this can negatively impact the state and/or agency’s credibility with funding streams and impede program development.

In addition, we recommend the federal government support the collection, analysis and application of longitudinal data. Longitudinal studies track the same people over time; therefore the observed changes are distinguished from short and long-term trends. This is a growing preferred platform versus using “point-in-time” data. Agencies with longitudinal data files can assess the median duration of lengths of stay (across spells and episodes), movement / placement frequency and other individual and case-level dynamics.

Our members have noted concern about the CB’s proposal to utilize a federal review instrument as part of this process. Our members believe the case review instrument should be selected by the states and reviewed by the federal government as part of the quality assurance systemic factor. The state tools incorporate state policies and protocols and take into account the population served; which provides a more accurate reflection of state practice. Some states have made significant investments in technology solutions and therefore the case review instrument and method are not as critical as the linkage between the findings and practice outcomes. Other states have more limited funds for developing systems. For states that do not have their own system developed, we propose the federal government provide its software for a state’s online review instrument.

Methodology:

The context of child welfare practice varies among states and shifts over time. Any methodology must take into account the variability of State demographics and rules and definitions should be clear and simple to promote the collection of accurate data. The quality of information collected is diminished by a complex set of rules and definitions that produce inconsistent interpretations across states. The data collected must be clearly identified and standardized across the nation and analyzed to have meaning to all interested in the improvement of child welfare service –from direct service workers to administrators, legislators, etc.

Risk Adjustment:

The CB has proposed to *incorporate some risk adjustment on select child – and state-level characteristics to assess state performance* on each statewide data indicator. We believe variations among states and

the scope of the state child welfare agency's authority to accomplish change should be taken into account when measuring conformity related to outcomes. These variations are due to a variety of factors, including states' decisions regarding how child maltreatment is defined statutorily; how they implement child maltreatment screening protocols; their success in diverting maltreated children from out-of-home care through alternative service provision; and the degree to which states serve mental health and juvenile justice populations and adolescents with behavior problems in their child welfare system.

There are several critical elements missing from this proposal that would help states develop a position regarding the risk adjustment. First, **APHSA requests clarification** on whether the CB plans to modify the risk adjustment variables. States welcome an opportunity to provide additional feedback on the initial set of risk adjustments the CB accepts. **APHSA recommends** the CB include the following variables as part of the risk adjustment analysis: age group for all indicators (at report, at entry, or on first day of year as appropriate); foster care entry rate for the entry rate permanency and the reentry indicators; a dichotomous variable that distinguishes states that include juvenile justice youth in AFCARS from those who do not; and cases where mental health services are provided. For effective national dialogue to take place, data must be gathered and analyzed in a way that captures the differences across these populations. Risk adjustment of foster care outcome measures may be affected by layers within layers of a state's demographics such as age, poverty, State laws, and subsets of case opening rates, which can be addressed in the State Plan.

Assessing State Performance

Data Profiles

APHSA believes that the proposed refined data indicators are clearer than those previously used in CFSR Rounds I and II. It is critical that individual state-constructed data profiles and those provided by federal government from the AFCARS and NCANDS data provide a clear picture of the quality of interventions and the level of outcomes achieved. We also believe that semi-annual data profiles will be useful for tracking improvements against the historical baselines.

Data Quality

We applaud the CB's recognition that the quality of data is critical to accurately set national standards and assess performance on statewide data indicators. Our members acknowledge the AFCARS data structure limitations, which, at times, are problematic for appropriate measurement in a continuous quality improvement framework. We hope the CB will support movement toward a national longitudinal database to address many of the concerns related to the current AFCARS and NCANDS systems.

Data Quality: Excluding States From National Standards or State Performance

From our initial review and analysis of this proposal and a basic understanding of the process, we believe the exclusion of invalid/suspect data in establishing the national standards is reasonable. However, some agencies find the proposed 5 percent data threshold problematic, with a potential

negative impact in the national observed performance and risk adjustment methodology. If the 5 percent threshold removes some states from the national observed performance, the measure becomes skewed and thus does not provide an accurate national sample. APHSA recommends that the Children's Bureau set a 10 percent data threshold and a process for allowing states to gradually move toward data integrity.

Program Improvement Plans

We are pleased to see the CB propose a different approach to the complex, activity-driven PIP. Our members support an outcome-focused, more strategic approach to planning improvements under the PIP. We believe a higher level of accountability would be achieved if the PIP was developed in a more participatory manner [e.g., having federal staff participate in the state's routine assessment, planning, implementation and monitoring processes] with the flexibility to adjust strategies as needed.

Companion Measures:

In the interest of transparency and open government, states suggest that all measures be understandable and user friendly to all levels of staff. For data to be gathered accurately and result in meaningful measurement, it is critical that the field, which must be relied upon for accurate data entry, understand the reason for the data and understand how it can be useful to them in their day to day work. **APHSA requests clarification** on the empirical evidence used to determine the current proposal to consider performance for program improvement purposes in concert with another indicator.

Methods for Setting State Performance Baselines, Goals, and Thresholds:

APHSA believes the CB's approach to establish goals based on a state's past performance is a better threshold to measure progress towards the indicators and national standards. Our 2011 recommendations suggested a better threshold would be for states to measure improvements over time, and against their own baseline. However, the proposed rule does not provide a clear description of the methodology that will be used for setting goals and thresholds. This lack of clarity and vagueness is concerning to our members. **APHSA requests** further clarification on how the CB will apply the "bootstrapping" technique. **APHSA also requests** an update on how other statistical techniques (some listed below) are applicable given the current set of data provided to the CB.

- The proposal indicates that a state will be expected to achieve a specified level of improvement. The CB will then set a threshold under which a state's performance should not drop, and also set a threshold below which a decline in performance cannot be said to be the result of chance. Yet, there are no specific consequences outlined for an instance where a state may slip below the threshold for deterioration in performance.
- It is unusual to use four standard deviations as the distance required for improvement. Some members are concerned that the proposal to set the minimum level of improvement will hold states to an unrealistic and perhaps an unreasonable goal. Is it accurate for the states to assume the CB may overestimate or underestimate various states' actual performance? By requiring an

improvement factor that is four standard deviations from the state's grand mean, the minimum level of improvement may lead to both financial penalties and significant political consequences to the states, particularly for those states whose actual performance is below the grand mean.

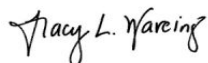
- The CB indicates that the minimum level of improvement "will be more than what is likely, in a statistical sense, to occur by chance alone." However, this level of improvement would be two standard deviations from the state's actual performance. If the CB continues to assume that a state's performance is equal to the grand mean, then states should have a minimum level of required improvement that is statistically significant but not unrealistic.
- Additionally, the CB does not indicate whether the same multi-level modeling and risk adjustment will be utilized in assessing a state's performance over time. Changes in a state's demographics over time can impact the state's ability to achieve a minimum level of improvement. **APHSA recommends** that risk adjustment take place as states carry out their PIPs, not just at the time of initial measurement.

We understand that the proposed methodology is complex and more easily understood by ACF's expert panel. However, many of our agencies employ statisticians, information technology managers and other experts who believe the details regarding the methodology should be made available to help translate the process to the agency's stakeholders and other non-experts.

Conclusion

Thank you for the opportunity to provide comments on this federal register notice. The use of data and information—to inform practice and policies and to provide feedback to child welfare agency' staff and critical partners and stakeholders at all levels —are critical. Our members welcome the opportunity to provide input for an effective, balanced monitoring and accountability system of monitoring. A system that encourages continuous improvement, allows for variations among states, defines essential areas for review, uncovers root causes and develops strength-based plans.

Sincerely,



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