

Foster Care and Adoption Continued

ENCLOSURES FILED OVERSIZE ATTACHMENTS

15411

NARA 12884

This has filed 3/22/2000

Child
welfare
NPRM

Child Welfare
~~St~~ Rulemaking
background
finders



**Executive Office of the President of the United States
Office of Management and Budget**

*Office of Information and Regulatory Affairs
Human Resources and Housing Branch
New Executive Office Building
Room 10235
Washington, DC 20503*

FAX TRANSMITTAL

FAX: 202-395-6974
DATE: 9/10/98
TO: NICOLE RASNER
FROM: DAN CHENOW

Total number of pages (Including Transmittal Sheet):

14

Recipient's Fax Number:

628 78

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Comments:

CHILD WELFARE ID PGS. (ET'S DISCUSS)

FRIDAY AM.



ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of Legislative Affairs and Budget (OLAB)

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TO: Don Check DATE: 9/10/98
FAX: () 395 - 6974
SUBJECT: Child Welfare Mandatory Reg.

☐ AS REQUESTED ☒ COMMENT ☐ CLEARANCE ☐ FYI

Approved as revised page
to the CW Mandatory Reg.
based on our conference call
this afternoon

Thank -

Bladdy

P.S. we also deleted Laura's
name from the preamble -- is this
approach OK?

432), the Multiethnic Placement Act (MEPA) as amended by Public Law 104-188, and certain provisions of the Adoption and Safe Families Act (ASFA) of 1997 (Public Law 105-99).

In addition, this NPRM proposes to set forth regulations that clarify certain eligibility criteria that govern the title IV-E foster care eligibility reviews which the Administration on Children, Youth and Families conducts to ensure a State agency's compliance with statutory requirements under the Act.

The publication of a Notice of Proposed Rulemaking often engenders confusion in the field regarding its applicability to existing policy. The existing regulations and policy remain in full force and effect. Regulations published in the final rule will be effective prospectively from the date of publication and have no bearing on the application of policy that was in effect prior to the publication of the final rule.

DATES

✓ AS [In order to be considered, written comments on this proposed rule must be received on or before [insert date 90 days from date of publication in the FEDERAL REGISTER].

court documentation, but for the actual services provided to prevent removals, facilitate reunification, or, in conformance with the ASFA, to make and finalize alternate permanent placements. This State plan requirement clearly supports two of the outcomes proposed for review: 1)

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Comment

children are, first and foremost, protected from abuse and neglect, and are safely maintained in their homes whenever possible; and 2) children have permanency and stability in their living situations.

In paragraph (b) (3), we propose that in order for a State to be determined to be in substantial conformity, each outcome to be examined must be rated as "substantially achieved" in at least 90 percent of the cases reviewed on-site in the initial review and 95 percent in subsequent reviews. For example, if 40 cases are reviewed as part of an initial on-site review, each outcome must have been "substantially achieved" for at least 36 (90%) of these cases as determined by the review team. The rationale for the phased-in standard of outcome achievement is that States will need time to focus their resources on program improvements and the new approach to the reviews and may not be able to conform to a 95 percent standard initially. However, given the goal of the proposed review process to support practice improvements over time, we believe a 95 percent standard

better reflects the ongoing quality of outcomes we are promoting.

The on-site review instruments are designed to guide reviewers in determining the degree of outcome achievement. Specific items in the on-site review instruments are indexed to each outcome. These items will be examined collectively from a case-specific qualitative level in determining if each outcome has been or is being achieved at a satisfactory level, that is, "substantially achieved." We have published the items indexed to the outcomes at Attachment A, at the end of this preamble, in order to give States a more specific idea of what is reviewed during the on-site

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comment

process. We do intend to publish the self-assessment and on-site review instruments in meeting Paperwork Reduction Act requirements. These documents provide detail regarding the information to be collected and reviewed. We want to be clear, however, that the items will not be published as part of the final rule because they are subject to change as we learn more about how particular issues affect outcomes for children and families.

In the pilot reviews, we invested considerable effort in preparing reviewers to collect and consider the information needed to make decisions about outcome achievement. In addition, we assembled a cross-section of representatives

the plan for approval. If the State does not re-submit the plan, or if the re-submitted plan continues to fail to meet the requirements and cannot be approved, we propose in paragraph (c)(4) to initiate withholding of funds in accordance with the provisions of §1355.36 of this part. We believe that reasonable time frames must govern the submission of approvable program improvement plans, and would appreciate comments as to whether the time frame for the joint development of the program improvement plan is adequate as proposed.

21 In paragraph (d), we are proposing that program improvement plans be approved for time periods of up to two years, depending upon the level of nonconformity. We do not expect all program improvements to take two years to implement and expect States to address areas of nonconformity expeditiously. States will be required to prioritize areas needing improvement that pose risks to child safety and complete the appropriate action steps within a time frame to be determined in consideration with the level of risk. We do recognize, however, that, in some circumstances, it will be impossible for the State to address the areas needing improvement within the two year time frame, even with technical assistance. In such situations we are, thus, proposing a three-year period of time as the maximum

In paragraph (e)(4), we propose the penalty structure for States that fail to participate in the development of a program improvement plan, or in the implementation of a plan, as required by ACF.

§1355.37 Opportunity for Public Inspection of Review Reports and Materials

#4 { In this section, consistent with the requirements for State plans at 45 CFR 1355.21(c), we propose that the State make reports and materials related to the child and family services reviews available for public inspection. We think it is critical that States obtain the broadest public involvement in the implementation of child welfare programs. We are particularly interested in comments regarding the method of dissemination of these materials in order to accomplish these goals.

§1355.38 Enforcement of section 471(a)(18) of the Act regarding the removal of barriers to interethnic adoption.

In this section, we implement the provisions of sections 474(d)(1) and (2) of the Act. Section 474(d) contains enforcement provisions applicable to section 471(a)(18) of the Act, which requires the removal of barriers to interethnic adoption. We have chosen to codify the section

In paragraph (i)(2)(iii), we follow the statute in proposing that the State need not apply section 475(5)(E) when the services identified in the case plan have not been provided.

#2 [We think it is critical that we assess States' implementation of this new provision for terminating parental rights, particularly the extent to which States make use of the exceptions discussed above. In the self-assessment completed for the child and family services reviews, States will be asked to document the extent to which they make use of the exceptions provided at section 475(5)(E) of the Act.

During the consultation process we learned of confusion regarding the requirements for the court with respect to the compelling reason. We are not interpreting the statutory language which requires that the documentation of the compelling reason be "... available for court review..." as a requirement that the court make a determination with respect to the compelling reason. To interpret this language as requiring a court determination with respect to the compelling reason not to file a TPR would place an unnecessary additional burden on the State agency and the courts. We do anticipate, however, that the court will have the opportunity to review the compelling reason not to file for TPR as part of its ongoing oversight.

1355.33(b) - State Agency Self Assessment	17 - State Agencies Administering the Title IV-B & E Programs	1	240	4,080
1355.33(c) - On-Site Review	17 - State Agencies Administering the Title IV-B & E Programs	35	8	4,760
1355.35(a) - Program Improvement Plan	17 - State Agencies Administering the Titles IV-B & IV-E Programs	1	80	1,360
1355.37(b) and (c) - Corrective Action Plan	5 - State Agencies Administering Titles IV-B and IV-E	1	80	400
1356.21(g) - Case Plan OMB No.: 0989-0140, Expiration Date: 2/28/00	468,000	1	4	1,872,000
1356.71(i) - Program Improvement Plan	17 - State Agencies Administering the Title IV-E Program	1	63	1,071

#3 When the Department publishes its pre-clearance Notice requesting approval of this information collection under the Paperwork Reduction Act, we will publish, in their entirety, the self-assessment and the on-site review instruments.

between 30 and 60 days after publication of this document in the FEDERAL REGISTER. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Desk Officer.

See
PS.

List of Subjects

45 CFR Part 1355

Adoption and foster care, child welfare, grant programs - social service programs.

45 CFR Part 1356

Adoption and foster care, administrative costs, fiscal requirements (title IV-E).

(3) aggregate data in the State self-assessment used to examine each outcome and performance indicator which corroborates the findings of the on-site component of the review, and;

(4) the determination of conformity by the ACF Regional Office based on the criteria described in paragraphs (a) - (c) of this section.

(b) Criteria related to outcomes.

(1) A State's substantial conformity will be determined by its ability to substantially achieve the following child and family service outcomes:

(i) In the area of child safety:

- (A) Children are, first and foremost, protected from abuse and neglect, and are safely maintained in their homes whenever possible; and
- (B) The risk of harm to children is minimized;

(ii) In the area of permanency for children:

pg. 176
comment

State will have 30 calendar days from the date it receives notice from ACF that the plan has not been approved to revise and resubmit the plan for approval.

- (4) If the State does not submit a revised program improvement plan according to the provisions of paragraph (c)(3) of this section, or if the plan does not meet the provisions of paragraph (a) of this section, withholding of funds pursuant to the provisions of §1355.36 this part will apply.

(d) Duration of program improvement plans. A State will have two years to successfully complete the provisions in its program improvement plan. However, a State must complete provisions in its program improvement plan that address child safety in less than two years. The level of risk to child safety will be considered by the State and ACF in determining such time frames. The ACF may grant a one-year extension, for a maximum of three years, when the provisions in the program improvement plan are too extensive for the State to successfully complete within the two-year period.

- (e) Evaluating program improvement plans. Program improvement plans will be evaluated jointly by the

improvement plan, as required by ACF, will be subject to the maximum withholding of fourteen percent of its title IV-B and title IV-E funds, as described in paragraph (b) (5) of this section, for each year or portion thereof to which the withholding of funds applies.

- (5) Interest on withheld funds. The State agency will be liable for interest on the amount of funds withheld by the Department, in accordance with the provisions of 45 CFR 30.13.

#4

§1355.37 Opportunity for Public Inspection of Review Reports and Materials

The State agency must make available for public review and inspection all self-assessments (1355.33(b)), report of findings (1355.33(e)), and program improvement plans (1355.35(a)) developed as a result of a full or partial child and family services review.

- §1355.38 Enforcement of section 471(a)(18) of the Act regarding the removal of barriers to interethnic adoption.

(implementation period for the plans, consistent with the time frame for the ongoing full reviews.

In paragraph (e), we propose procedures for evaluating the implementation of program improvement plans. We propose that the State members of the review team and the ACF Regional Office determine the appropriate intervals for evaluating the plans, since the contents of each plan and the needs of individual States will vary significantly. Our proposal that the evaluations occur no less frequently than annually is an effort to: 1) assure that delays in evaluation do not prevent the State from correcting the areas of nonconformity in a timely manner; 2) integrate the implementation of the plans with the joint planning process between the State and ACF; and 3) reduce the burden on States by using the existing annual CFSP progress review and update as the vehicle for evaluating the plans, rather than creating an additional process.

In paragraph (e)(3), we address evaluation of individual components of the program improvement plans. We are proposing that the areas of nonconformity be addressed individually when evaluating the plans, so that once they are determined to be complete they will not require further evaluation.

ps 46
comment

In paragraph (b), we describe the proposed State self-assessment process which is based on data, provided by ACF to the States in report format, from their own most recent submissions to the AFCARS and NCANDS systems. State review team members will review and analyze the data to evaluate the strengths and needs of the child and family services systems in the State. ACF will conduct an independent analysis of the AFCARS and NCANDS data and provide consultation to the State during the development of the self assessment to ensure that it is complete and accurate. In promoting the principles of State flexibility and program improvement through the reviews, the analysis of the self-assessment will provide the focus for the on-site review by identifying particular aspects of State programs that need further review. This approach is proposed as an alternative to conducting standard reviews on similar populations in every State, absent any recognition of individual State needs. State self-assessments were used successfully to structure the on-site reviews around specific outcome areas, service areas, and systemic issues. We think this approach will promote a more efficient use of State and Federal resources.

In paragraph (c), we describe the proposed on-site review process. The proposal that the on-site review be focused in specified geographic locations in the State, including the

On-site:

talk w/ fam, children, --- community stakeholders.

conclusion about compliance
based on outcomes.

For states in compl. -

5 y. later another

For states not in compl.:

Program improve plan - needed -

to penalty not triggered until

MEPA (no delay or denial)

'96: specific graduated penalty

specific IV-E penalty

ACF + not experts

see - when violation taken place

IV-E penalty

Any time - cones.

OCR - referral for investigation
findings to ACF

one of review

□ haven't fine tuned that. - how it will work.

→ one of many review factors - new

notice of substantial compliance
→

Stricter enforcement - MEPA
- corrective action required

def. substantial - 90% of cases - outcomes sub. achieved

ASFA P
Reasonable Eff
Criminal
Changes to Case Review
Perm hearing
TPR

IV-E Elig. Review Process

- basically same
- checklist -

data system - change.

diff. state folks part of review team.

157% - 8 cases - threshold - first 3 yr.

if # of kids below - none for 3 yr

10-90 or 10 cases - next 3

1/6 # cas above - PIP

disallowance for negligible cases

assess pattern - of size & # of cases.

Regional Offices - lead on all these reviews.

Outcome Measure, 152

Review -

metro area reg

randomized sample based on self assessment.
30-50 case

self assess based on AFARS
and review of assessment
invest.

sep AFARS penalty / review process.

3 yr int of compliance

off 3 yrs - retroactive penal if still out of compliance

Review Team: 2 reg. 4 fed
2 central / state reviewers

IV-B req.
state final assessment plan req.

ASFA

① Reasonable ~~eff~~
req under IV-E eligibility req.
built in under the review process - IV-E
Amended to include the exception &
clarify - speak clearly -

② Criminal B/G cas.
• opt-out ability
if opt-out - prov - case plan - give some
much - safety of children.

③ Perm hearing req.
18 - 12 months -
focus of review strengthened -
name change
premise - context

④ TPR req.
filing 15/22 months 15 mo. - 1 yr till T
starting to start
exemption -
rel. placement
compelling reason - child's best interest.

To Com
- Fam Pres. alt. - interim guidance
- Adm. + As program changes

• Adoption fee schedule

Don Christie

- all going up
- 20 cat. of fees for services
[appl for naturalization 195-]

work & time assessment of each fm 100
1st has to pay for - try
fee study teams
of all appl. - most time intensive
• of concerns of applicants.

80% numerous

20% appl. delivered in person.

lt. writing campaign.

over classes - user fee
policy / equity persp.

wave fee: anyone / refugees.

Admin. - admin adoption
streamline...

\$,000 deduction → income.

→ Rule: cleared final cc rate - → 3 wks
→ proposed rule → final

implements welfare refu

combines 4 funding streams

immigration req.

collect & disseminate

state optm / health & safety

parents

cc conf - admin - July 27th

• Laura Oliver
• Matthew M.
• Mattie 401-9223

Conf call 9/2
9am

Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plans

GENERAL:

- 1) Comment period – 60 days. Do we think 60 days is adequate for a regulation of this significance? 60 days ✓
- 2) Please provide examples of reports from the test reviews. sending ☐
- 3) Please provide estimates of ACF resources (by HQ and RO) necessary to perform reviews for FYs 1999-2003. #s came ☐

PREAMBLE: (additional tonal changes will come at a later date)

(data will drive the focus of reviews)

we look at 4/ p. 11/12 AFCARS offers a rich source of individual case level data at the Federal level that we sometimes use as states - work out what areas ... partnership
could use as an informational, oversight and monitoring tool. Please describe your plan to use this and other data in the development of the monitoring strategy going into each State. ☐ will change pages to make clearer 5 qts.

- 5) p. 12 "The proposed regulations include various provisions for flexibility and individualizing the reviews to States." How do we guarantee consistency and fairness across States in light of the individual nature of each of State reviews due to self-assessment? AFCARS data - consistent ✓

- 6) p. 15 refers to a 1994 OIG report. Please provide a copy. ☐

- 7) p. 24 Discusses reviewing a sub-sample on non-IV-E cases during the reviews, which increases *lessons learned not done in past reviews* "the potential for States to receive Federal funding to which they are entitled." Please provide estimates of the additional costs. Would these costs be netted against ineligible payments? ✓

- 8) p. 26 -27 Please provide information on historical state-by-state error rates for IV-E eligibility determination. ☐

- 9) p. 27 "Reviewing for outcomes, as opposed to procedural indicators alone, is more likely to lead to improvements in State programs." Is there evidence from the test reviews that could support and strengthen this claim? ☐

- 10) p. 29 notes, "we have followed the statutory requirements closely when the statute has provided specific parameters for review." Please provide a table comparing the proposed regulation and the statute. ☐

- 11) p. 30 ~~edit~~ We have purposely crafted the regulation so that penalties will only be imposed when States fail to encourage States to make necessary program improvements. will ☐

- 12) p. 31-32 What are the "outcomes" and "systemic" factors reviewed?

pgs. 152-154.
listed here

13) p. 43 We recommend deleting the sentence "We believe this requirement provides the State the opportunity for self-evaluation and an opportunity to make any needed adjustments in policy or practice prior to another full review."

will Δ

14) p. 44 Please illustrate the differences (in chart format, if possible) between "detailed inquiries," "reviews" and "partial reviews." Are States notified that detailed inquiries are being undertaken?

formal request
f

15) p. 48 Please explain the following sentence: "In those pilot States where both the old and the proposed review methods were deployed simultaneously, there was an over-reliance on the proposed method to reach conclusions about the status of outcomes in the States."

Δ

16) p. 49 [1355.34] "... we have limited the State plan requirements subject to review to those requirements related specifically to outcomes and the delivery of improved services." What elements in the State plan will not be reviewed? Which of these items were reviewed in the prior system?

□

17) p. 53 Please provide a copy of the self-assessment and the on-site instruments.

□

18) p. 54 edit We believe that **the proposed review of outcomes is necessary if we are to achieve the goal of improved service.** ~~reviewing for outcomes in the manner we are proposing is necessary~~

Δ

19) p. 60 edit "1) assure that delays in evaluation do no ~~prevent place~~ the State ~~at risk of not from~~ correcting the areas of nonconformity **in a timely manner?**"

Δ

20) p. 61/62 The lack of requirements for review reports raises concerns. The potential inconsistency among State reports makes it difficult to analyze reviews across States to develop and refine both the review and improvement processes.

✓

21) p. 86 What are the implications of the change in focus for parents' requirements for complying with case plans? Has ACF estimated the effect of this on the number of TPRs?

*no change
shorter timeframes, more accountability - quicker*

22) pg. 109 Please delete ~~█~~ Ideally, all children who are removed from their homes will be reunited with the families, but reunification is not a possibility for some. ~~█~~ -this appears contrary to the spirit of ASFA, which said that permanence and safety are paramount, not reunification.

Δ

23) p. 148 Why are States required to do a self assessment only once every 3 years? What is the basis for ACFs estimate that a self-assessment will require 240 hours?

1. burdensome problem
2. RIP ongoing
3. other ways to uncover problems

RULE:

Section 1355.32

24) 1355.32(a); p. 167 initial reviews.

Why not require all States to do a self-assessment the first year? This could serve as the basis for selecting which States would be subject to initial reviews.

requires self-assessment
has to be linked to directly to ensure monitoring
have enough to know which states first
voluntary

25) 1355.32(c); p. 169

Reinstatement of reviews. What is an inquiry? Does ACF have an estimate of how many of these will be necessary each year? Are these reflected in the burden tables on page 148/149?

Don't have

Section 1355.33

26) 1355.33(a)(2)(I); p. 171

Why is there joint Federal/State approval for the service areas for on-site reviews?

27) 1355.33(b); p. 171

Who are the external members of the review team? Who is responsible for selecting them?

28) 1355.33(b); p. 171 Self Assessment

How will the accuracy of the States' self-assessments be judged? What sort of monitoring mechanisms are in place for this process?

29) 1355.33(c)(2); p. 173

On-site reviews. Given that many States have county-based systems how meaningful will State reviews be if they are concentrated in several specific political subdivisions within a State?

30) 1355.33(c)(3); p. 173

How will the interviews of children, parents and families be conducted? Will these be confidential? How will the collection of sensitive material be handled? What sort of burden is expected for individuals?

pilot - flex - home office

Section 1355.34

31) (Preamble notes sections that don't exist in rule --pg 50 of preamble refers to (a) (1) (iii) -- does not exist in rule) --

32) Is the State plan data (from AFCARS) double-checked by the feds?

33) 1355.34(b); p. 176

Are each of these outcomes equally weighted? Does it make sense to stress the protection from abuse and neglect/safety outcome -- (b)(1) (A) ?

too diff. ✓

34) 1355.34(b)(iii); p. 177

Children have educational achievements appropriate to their abilities. Is this within the scope of the responsibilities of the child welfare systems? How would reviewers be in a position to determine this? The rule states that ASFA states unequivocally that our national goals for children in the child welfare system are safety, permanency, and well-being. ASFA never mentions well-being as an outcome goal, although the bill reauthorizes family preservation.

new focus

□ of case

△

← p 33 of preamble

35) 1355.34(b)(2); p. 177.

■ A state's level of achievement with regard to each outcome reflects the extent to which a State has implemented the following CFSP requirements or assurances. ■ Is this how ACF is translating the outcomes in (b)(1) into a working review? Does this mean that the State just has to make the assurance, or do they actually look behind it? 

36) How will the reviewer determine ■ substantial compliance ■ in 95% of the cases? Is there a way to put a percentage within each outcome standard? For example, in (b)(1)(iii) if all the children in a sample are in school, but not necessarily in needed remedial education programs, is this substantial compliance? Or, if 80% of the children have stays of at least 8 months in the same foster care home, but 20% have stays less than 8 months, is this substantial compliance? *check* 
Is this a qualitative or quantitative evaluation?

 37) 1355.34(b) (2); p. 177

add to with sub compliance Is MEPA compliance a factor looked for to determine compliance? Or is it only addressed in relation to a reported violation? Does it make sense to proactively look for compliance with respect to policies and casework? 

38) 1355.34(c); p. 179/p. 57

Should the review elements be made part of the State plan? *derived* ✓

39) 1355.34 (c) (2) (iii); p. 181

Section citation at bottom --isn't the permanency hearing in section 475 of ASFA? ✓

40) 1355.34 (4); p. 183

Staff training requirements -is this new? Are these requirements in the law? ✓

41) 1355.35(b); p. 190

What is the purpose of the voluntary PIP? It requires ACF involvement, yet ACF approval is not required and there are no consequences if the State fails to achieve the goals of the VIP. Would ACF resources be better focused on States with mandatory PIPs? If program improvements are in fact needed shouldn't this be more than a voluntary improvement plan? How will voluntary improvement plans be enforced? ✓

42) 1355.35(d); p. 192/p. 58

Please provide a chart of the continuum in the IV-E eligibility and children and family reviews including: time frames for reviews, compliance thresholds, program improvement plan (PIP) process and time frames; penalty process and time frames, and disallowance of funds from date of initial review through calculation. 

 43) 1355.35(d) p. 192/p. 59

How will the time periods for PIPs be determined? Why will States be granted up to three years to address problems identified in reviews? (A total of six years for States which are in the last year of

high risk systems - no tolerance (message)

the initial -year cycle). Three years appears to be a considerable amount of time for improvement. Perhaps it would also be advisable to implement a risk-based time frame with maximum or minimum time frames for States with high risk child welfare systems. (Interestingly ACF does put a six month time cap on violations relating to denial to become an adoptive or foster parent on the basis of race, color or national origin (p.203)).

risk
□ Δ
preamble

statutory reg.

44) 1355.35(d); p. 192/p. 59-60

What are the implications of State consultations on differences in reviews among States? Why is State consultation critical for determining the time frames for evaluating PIPs?

✓

45) 1355.35(e); p. 192/p. 60

What are the procedures for evaluating a PIP? What are the evaluation criteria used?

indirect
regional/stake

Section 1355.36

46) 1355.36(a); p. 194/p. 63

Please provide a more complete description of the pool of funds for penalties. Why only 10% of IV-E?

□

47) 1355.36(b) (2); p. 195

What does this mean --funds will not be withheld if the determination of nonconformity was caused by the State's correct use of formal written statements of Federal law or policy provided the State by DHHS --is this an appeals provision?

statute 1127A SSA for review process

✓

48) 1355.36(b)(4); p. 195/p. 9

"shift focus to program improvement and away from financial penalties." Please provide an analysis of penalties imposed and collected under the current and proposed systems.

□

49) 1355.36(b)(4); p. 196/p. 65

Please provide a schedule of State penalties based on their level on non-conformity.

□

50) 1356.71(I); Reg language on p. 246 seems to be inconsistent with the preamble on p. 140. Program improvement plans. The program improvement plan is composed of action steps. Each action step is to have a projected completion date that will not extend beyond 12 months beyond when the PIP is approved? Why should the PIP then be for three years?

2 diff reviews

✓

Section 1355.37

Q51) Overall question: why is OCR not more fully involved in the MEPA violation correction process? Why does OCR finish its investigation, hand its file to ACF and step out of the process altogether? Why does OCR not make a recommendation to ACF about whether a violation occurred? Why is OCR not involved in approving a state's corrective plan or in evaluating that corrective plan? Can ACF make these determinations in consultation with OCR? Should we

□

blg to come

IV-E penalty
ACF makes diff.

Title 41 OCR -
assessment
auth

direct compl.
process

to be no.
violation of an ind-
immediate penalty

create a risk assessment to the MEPA corrective action timeframe?

52) 1355.37(c) (1); p.203

Is 6 months too long for correction if there is an egregious violation in state statute or regulation that should immediately be repealed? *allows* ✓

53) 1355.37(e); p.205

Is the evaluation of corrective action plans federal or team? If federal, in Washington or in regions?

federal - reg offices w/ 1/2 central

Section 1356.21

54) 1356.21(b); p. 213 reasonable efforts

How much is this a change from current law? Please provide before/after scenarios. ☐

55) 1356.21(b)(1); p. 213/p. 92 REASONABLE EFFORTS

What are the implications of requiring judicial determinations of reasonable efforts? Will it place additional burdens on State courts? Does the capacity exist? What will be the increased needs for services? What are the implications for the average amount of time children spend in foster care? Has ACF done any outreach with the judicial community? *statutory ASFA* *yes* ☐ *timeframe - not in statute*

56) 1356.21(b)(3); p. 215/p. 95

children become ineligible for IV-E if the judicial determination regarding reasonable efforts is not made. Are States eligible for retroactive claims if a judicial determination is made subsequent to 12 months? What does ACF estimate will be the effect of this provision? *no* ✓

57) 1356.21(b)(4) p. 216/p. 96

ACF proposes judicial determinations every 12 months after an initial determination is made. Why not propose 6 months and ask for comments? *hard to cover in cts anyway* *perman hearing 12 mo.* ✓

58) 1356.21(d); p. 220/p. 102/103

Will reviews become the mechanism for enforcing reasonable efforts/contrary to the welfare provisions? (i.e. if a State finds that 25% of cases reviewed did not have a judicial reasonable efforts determination within 12 months of entering foster care, would ACF use this as a basis to project for the entire State caseload?) *IV E review - one way* ✓

59) 1356.21 (I); p. 226/p. 11 Termination of parental rights

Please provide a time line with examples of when the section 475(5)(E) 15/22 months provision would require TPR. Why are runaway episodes not counted in the 15/22 calculation? ☐

60) 1356.21(I) (2); p. 226

Is there judicial oversight of the state's election not to file for TPR? *not* ✓

(118 in preamble) *State files pet. - resp.* *perman hearing - plan review* *CF review.*

61) 1356.21(I)(2)(I); p. 228/p. 116 exceptions to 475(5)(E).

Gives States the option not to apply the 15/22 requirement when a child is placed with a relative. Why? Given the large and growing number of children being cared for by relatives, what are the implications of this proposal? What proportion of the foster care caseload does ACF estimate will be affected by this provision?

62) 1356.21(I)(2)(iii); p. 229/p. 117 exceptions to 475(5)(E).

The provision does not apply when services identified in the case plan have not been provided. Has ACF estimated the number of cases that will be exempted from the TPR requirements because services have not been provided?

loophole - opting out - substitute / how will we know?

63) 1356.21(k); p. 229/p. 119

Please provide additional explanation of the 6 month "living with" exception in the case of a child living with a relative.

substantive / not just for loophole

✓
substantive

64) 1356.21(k); p. 230

Is the six month time period for IV-E eligibility unfair (if grandma calls within 6 months, child is eligible for assistance; if call is made 6 months and 1 day, child is ineligible)?

✓

Section 1356.30

65) National versus state criminal records check --should we leave that to the state's discretion; even though ASFA wasn't specific, wasn't the spirit that it should be a national check?

no - states don't know.

66) 1356.30(e); p. 237/p. 130 criminal background checks.

Does ACF estimate that a significant number of children will be ineligible for federal maintenance payments because a criminal background check has not been completed? Will payments be made retroactively once background checks are completed?

no
not until completion.

SAMPLING QUESTIONS:

67) p. 31 Selection of sample. "small discovery sample" of cases selected randomly and stratified by type of cases, based on the findings of the self assessment. Please provide examples of how the self assessment will guide sample selection. How will cases be selected randomly from among the wide range of services offered (cps, out-of-home, in-home, etc.)? How will this be generalizable to the State as a whole?

AFCCARS data

not statistically valid / ind. where we find picks.

Section 1355.33

68) 1355.33(c)(4); p. 174/p. 48

are the sample sizes discussed based on each geographic area reviewed or are they for the entire State? Please provide information on the number of cases that would be subject to on-site reviews on a State-by-State basis.

✓

Section 1356.71

69) 1356.71(c); p. 238/p. 134

1/3 for initial reviews

Sampling guidance and conduct of the review. ACF is proposing a three year transition period for case error threshold rates to revert to 10%. This would allow States in the third year of the review cycle 6 years to reduce their error rate. Given that these error rates may reflect a State failing to provide adequate services to children, are there ways to reduce the time period for States in the second and third year of initial reviews?

4th yr -
10%
Threshold

from off date of rev.

1356.71(c)(2); p.239 Sampling guidance

70) 80 cases appears to be rather low for a representative sample, particularly for large States.

How did ACF arrive at this number?

stage 1 - 80 cases

2 - 150 cases

prev. 50 cases.
preamble

71) 1356.71(c)(4); p.240

Are the error rates too high --15 percent?

not too
high ✓

End of sampling questions

72) 1356.71(c)(6); p. 241/p. 135

What is the rationale for requiring that both the dollar and the case level error rates exceed 10% in order to extrapolate a disallowance? Under what circumstances would the dollar and the caseload rates vary significantly?

carry over from past reviews

73) 1356.71(e); p. 242/p. 136 Review Instrument.

Please provide a copy of the draft instrument. Should the State plan be modified to reflect the content of the review instrument?

74) 1356.71(I); p. 245/p. 140 Program improvement plans.

ACF states that previous review systems, which allowed for recovery of funds, did not lead to correcting deficiencies identified by reviewers. Why? How much in claims did ACF access annually? How much was collected? How will the new system lead to more successful correction of deficiencies?

defer

75) 1356.71(I); p. 245/p. 140

What are examples of State law changes that would be necessary to bring a State into substantial compliance? Shouldn't State laws be consistent with titles IV-B and IV-E, as most recently amended by the date of publication of this final rule?

ASFA
state law
changes -
1.

by: IV-E elig - disallowance

- now - on-site tech assistance
part of parcel - for it.

Comments to Child Welfare NPRM
Nicole Rabner, DPC/OFL

Note: these are my preliminary comments; more will be forthcoming, particularly tonal edits and comments to the preamble. Also, I did not note similar comments to Oliven/McKernan: length of review process/time frame questions/ educational outcome question/ interest in seeing a chart of time frames, scenarios.

Section 1355.34

(Preamble notes sections that don't exist in rule -- pg 50 of preamble refers to (a) (1) (iii) -- does not exist in rule) --

question: Is the State plan data (from AFCARS) double-checked by the feds?

(b)

question: are each of these outcomes equally weighted; does it make sense to stress the protection from abuse and neglect/safety outcome -- (1) (A) ?

(b) (2)

question: is MEPA compliance a factor looked for to determine compliance? Or is it only addressed in relation to a reported violation? Does it make sense to proactively look for compliance with respect to policies and casework?

(b) (3)

question: why 90 percent compliance in the state's initial review? If we suspect many states may be found out of compliance and therefore need to do a PIP, why not set the bar higher, i.e. 95 percent?

(c) (2) (iii)

question re: section citation at bottom -- isn't the permanency hearing in section 475 of ASFA?

Section 1355.35

Overall question about the amount of time a state has to implement its PIP without another review, particularly if a significant safety violation were found. (Is it enough that the feds can initiate another review at any time (noted in early section)?)

Section 1355.36

(b) (2)

question: what does this mean -- funds will not be withheld "if the determination of nonconformity was caused the correct use of formal written statements of Federal law or policy provided the State by DHHS" -- is this an appeals provision?

Section 1355.37 (MEPA)

Overall question: why is OCR not more fully involved in the MEPA violation correction process? Why does OCR finish its investigation, hand its file to ACF and step out of the process altogether? Why does OCR not make a recommendation to ACF about whether a violation occurred? Why is OCR not involved in approving a state's corrective plan or in evaluating that corrective plan? Can ACF make these determinations in consultation with OCR?

(c) (1)

Is 6 months too long for correction if there is an egregious violation in state statute or regulation that should immediately be repealed?

(c) (5)

Doesn't this provide an incentive for states to overestimate the amount of time required to complete its corrective action plan?

(e)

Is the evaluation of corrective action plans federal or regional ACF staff?

Section 1356.21

(b) reasonable efforts

question: how much is this a change from current law? Please provide before/after scenarios.

Meg: Just noticed - I'm missing page 216, could you please fax to 456-9412? Thanks.

(l) (2)

Is there judicial oversight of the state's election not to file for TPR?

(k)

Is the six month time period for IV-E eligibility unfair (if grandma calls within 6 months, child is eligible for assistance; if call is made 6 months and 1 day, child is ineligible)?

Section 1356.30

National versus state criminal records check -- should we leave that to the state's discretion; even though ASFA wasn't specific, wasn't the spirit that it should be a national check?

Section 1356.71

Are the error rates too high -- 15 percent?

Further preamble tonal comments to follow; below are some:

pg. 35

States that ASFA states "unequivocally that our national goals for children in the child welfare system are safety, permanency, and well-being." ASFA never mentions well-being as an outcome goal, although the bill reauthorizes family preservation.

pg. 109

strike sentence "Ideally, all children who are removed from their homes will be reunited with the families, but reunification is not a possibility for some." -- this flies in the face of the spirit of ASFA, which said that permanence and safety are paramount, not reunification.

Q's

State self assessment 3 yrs after on-site review
of full review ... but before full review?

P+76 Criteria related to outcomes

① Child safety

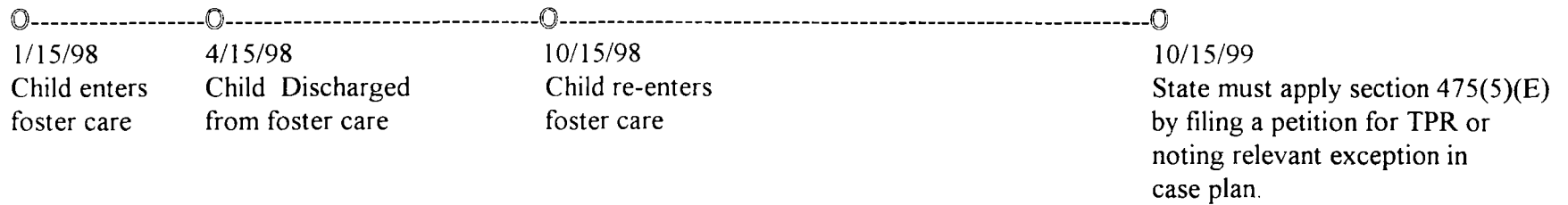
(A) Children are protected from abuse and
neglect

(B) Children are safely maintained in
their homes (wherever possible), and are
expeditiously removed from their homes

(when necessary)

(C) The risk of harm to children is minimized

Illustration of Example for Calculating the "15 out 22 months" Requirement on Page 110 of the NPRM



Child Welfare Notice of Proposed Rulemaking

General Areas Covered:

- (I) Title IV-E Foster Care Eligibility Reviews
- (II) Child and Family Services State Plan Reviews
- (III) MEPA as amended by the Small Business Job Protection Act
- (IV) Adoption and Safe Families Act provisions

I. Title IV-E Eligibility Reviews

The NPRM reforms the IV-E Eligibility Review, which are federal reviews mandated by statute to oversee and verify the accuracy of federal adoption and foster care maintenance payments. While past review processes have focused on standard completion of case files, the NPRM changes the reviews to emphasize federal collaboration with and technical assistance to states (recommended by a 1994 HHS OIG Report). The IV-E Eligibility Review will now be done by a federal/State joint team and give States the opportunity to correct errors before penalties are exacted. Reviews are conducted at three year intervals, with "substantial compliance" defined as an error rate of less than 15% in the first review, and 10% thereafter. The sample of at least 80 cases (up from at least 50 cases in prior reviews) are drawn from AFCARS (the Adoption and Foster Care Assistance Reporting System).

II. Child and Family Services Reviews

The NPRM presents an entirely new review of State child welfare systems -- the Child and Family Services Review (CFSR) -- to replace prior "427 reviews." The 427 Review focused on accuracy and completion of case files, with bonus dollars awarded to fully completed files. The new CFSR instead focuses on child and family outcomes in the areas of safety, permanence, and child and family well-being.

The CFSR is a 2 stage review: (1) a State undergoes a self-assessment in consultation with ACF; and (2) on the basis of that self-assessment and an independent analysis by ACF, areas for an on-site review (substantive and geographic) are selected and the on-site review is undertaken by a joint federal/state team (with involvement as appropriate by outside experts). The review involves intense evaluation (on the basis of case reviews and interviews) of randomly selected cases and focuses on outcomes for children (see attached), as well as requirements related to delivering child welfare services which lead to improved outcomes. "Substantial Conformity" is defined as 90% of outcomes achieved in the first review, and 95% of outcomes achieved in subsequent reviews.

Under the NPRM, States must undergo a first review within three years. If a State is found to be in substantial conformity, another review is not required for five years. If a State is determined not to be substantial conformity, another full CFSR is required in three years, and the State must submit a Program Improvement Plan within six months to address areas of noncompliance. ACF must approve the Program Improvement Plan. The NPRM gives the States up to three years to complete its Program Improvement Plan, with interim ACF evaluations annually.

III. MEPA as amended by the 1996 Small Business Job Protection Act

The NPRM proposes a separate process for addressing violations, once identified, of the MEPA as amended by the 1996 Small Business Job Protection Act. HHS determined that proper enforcement requires collaboration with the Office of Civil Rights (OCR) because a State's noncompliance constitutes a violation of title IV-E as well as of Title VI of the Civil Rights Act of 1964, and because OCR has significant expertise in investigating alleged civil rights violations.

Under the NPRM, ACF will refer all cases involving potential violations to OCR for investigation (cases may come to ACF's attention during the course of the CFSR, by letter, through media, etc.). (Violations based on a court finding will not be referred to OCR for investigation; rather, ACF will invoke penalty and corrective action procedures directly.) OCR will conduct an investigation of the potential violation, and hand its completed file to ACF, which will make a determination, based on OCR's file and in consultation with OCR, whether there has been a violation (which could be a violation to a person or a violation based on the state's maintenance of any statute, regulation, policy, procedure or practice). If ACF finds that no violation has occurred, no further action is taken.

If ACF determines that a violation has occurred, it will invoke a specified enforcement process, which includes possible penalties assessed and a corrective action plan required. By statute, an immediate penalty will be levied against a state found to be in violation of the statute with respect to a person or as the result of a court finding (although a state may appeal and engage in a corrective action plan during the judicial appeals process if it so chooses). In other circumstances, also by statute, a State will have up to six months from the date it receives notification of its violation from ACF to implement (HHS interprets as "begin") a corrective action plan (after which the State will be assessed a penalty). Approval of the plans are at the sole discretion of ACF (no timetable for approval, but state must "begin" an approved plan before six months lapses). Evaluation of a State's corrective action plan will be completed solely by HHS within 30 days of projected completion date. Penalties levied are consistent with statute.

Summary of MEPA Enforcement: (1) potential violation is brought to ACF's attention; (2) ACF refers case to OCR for investigation; (3) OCR conducts investigation and hands file to ACF; (4) ACF evaluates file and, in consultation with OCR, makes determination -- (a) if ACF finds no violation, inquiry ends; (b) if ACF finds a violation with respect to a person or as the result of a court finding, penalties are immediately assessed; or (c) if ACF finds a relevant violation, ACF notifies the State in writing; if (c), then (5) the State must begin implementing an ACF-approved corrective action plan within six months; and (6) ACF must evaluate and approve the completed corrective action plan within 30 days of projected completion.

IV. 1997 Adoption and Safe Families Act Provisions

HHS has decided to regulate the provisions of the 1997 Adoption and Safe Families Act (ASFA) and other recent statutory amendments through two NPRM's. This rule addresses those provisions related to the foster care maintenance program; the second rule will address the remaining ASFA amendments to the SSA. Provisions regulated in the NPRM are:

(1) *Permanency Hearing.* The NPRM recognizes the statutory changes in terminology, timing (18-12 months), and purpose.

(2) *Reasonable Efforts.* The NPRM implements the ASFA requirement that the State hold the child's health and safety as its paramount concern when making reasonable efforts. It does not provide a regulatory definition, in order neither to limit the courts' ability to make determinations on a case-by-case nor to be so broad as to be ineffective; the NPRM does provide questions and guidelines (such as the statutory descriptions of circumstances in which Reasonable Efforts are not required, and a preamble discussion of possible cases). The NPRM also follows the statute closely -- it proposes that in order to satisfy IV-eligibility requirements, there must be a judicial determination that: (1) reasonable efforts were made to prevent a child from being removed from home; (2) reasonable efforts were made to reunify the child with his/her family if the removal could not be prevented; (3) if reasonable efforts were not made to prevent the child's removal from home or to reunify the child with his/her family, that reasonable efforts are/were not required; and (4) if the permanent plan for the child is adoption, guardianship, or some other permanent living arrangement other than reunification, that reasonable efforts were made to make and finalize that alternate placement. The NPRM requires that a judicial determination of reasonable efforts must be made within 12 months, in order to encourage this assessment during the Permanency Hearing.

(3) *Termination of Parental Rights.* The NPRM follows the statutory requirement for States to file for Termination of Parent Rights (TPR) when a child has been in foster care for 15 of the most recent 22 months. By statute, a state may elect not to file for TPR if a child is placed with a relative; if there is a "compelling reason" that TPR is not in the child's best interests; or if adequate services identified in the case have not been provided.

(4) *Criminal Records Check Requirement.* The NPRM follows the statutory requirement that the State conduct criminal records checks for prospective foster and adoptive parents unless the State "opts out" of this provision through a Governor's letter to the Secretary of HHS. The NPRM leaves to state discretion whether the criminal background checks are national or state-wide (ASFA was not specific, and HHS claims that FBI checks are too burdensome, time- and dollar-wise, to be required).

reviews. We learned from our pilot reviews that approximately six months is required to prepare for and conduct a review that examines the quality of services and outcomes.

In paragraph (b), we describe the timetable for reviews following the initial review, in accord with the statutory requirement for less frequent reviews of States that are determined to be in substantial conformity. We propose that full reviews be conducted at five-year intervals in States found to be in substantial conformity. We also propose that the State self-assessment portion of the review be completed three years after a review in which a State is found to be in substantial conformity.

#13
delete
section

In addition, we propose that reviews for States determined not to be in substantial conformity occur at three-year intervals. This proposal is based on the recognition that many States have technical assistance needs that will extend beyond a year or two in order for them to implement program improvement plans designed to correct the areas of nonconformity in their child and family services program.

In paragraph (c), we implement the provision at section 1123A(b) (1) (C) of the Act regarding the reinstatement of more frequent reviews of States and also provide examples of

In paragraph (b), we describe the proposed State self-assessment process which is based on data, provided by ACF to the States in report format, from their own most recent submissions to the AFCARS and NCANDS systems. State review team members will review and analyze the data to evaluate the strengths and needs of the child and family services systems in the State. ACF will provide consultation and an independent analysis of the self-assessment to ensure that it is complete and accurate. In promoting the principles of State flexibility and program improvement through the reviews, the analysis of the self-assessment will provide the focus for the on-site review by identifying particular aspects of State programs that need further review. This approach is proposed as an alternative to conducting standard reviews on similar populations in every State, absent any recognition of individual State needs. State self-assessments were used successfully to structure the on-site reviews around specific outcome areas, service areas, and systemic issues. We think this approach will promote a more efficient use of State and Federal resources.

In paragraph (c), we describe the proposed on-site review process. The proposal that the on-site review be focused in specified geographic locations in the State, including the State's largest city, reflects an approach used in all of the pilots. It provided members of the review team with

opportunities to speak to local stakeholders and conduct face-to-face interviews with children and families, service providers, foster families and staff from various localities. Because the nation's large metropolitan areas are often characterized by complex social and organizational issues that affect large numbers of children and families, we propose that each State's largest metropolitan area be one of the locations selected for an on-site review.

#26 [In paragraph (c)(3), we propose that ACF has final approval if consensus cannot be reached regarding the selection of programmatic areas of emphasis for the on-site reviews and the geographic locations in which the on-site review will occur. However, our experience from the pilot reviews suggests that, in most cases, the State and ACF will reach consensus.

The proposed approach of using various sources of information to determine substantial conformity with the outcomes and systemic factors is also based on the pilot reviews. The comparative experiences in the pilots revealed that the reviews yield findings of greater quality and higher accuracy when they include case reviews and interviews rather than rely solely on the case records.

?

0

on-site 
will include

→ ck. ref.

requirement to make effective use of cross-jurisdictional resources to place children in adoptive homes.

#37
✓
While the requirement at section 471(a)(18) of the Act has a direct impact on permanency for the children affected, we have proposed only to use the child and family services review as a mechanism for identifying potential section 471(a)(18) compliance issues rather than as a mechanism to determine compliance with this provision, hence its exclusion from this paragraph. The statutory requirements for enforcing section 471(a)(18) necessitate a different approach from that taken in the child and family services review. However, [the self-assessment and the instruments for the on-site portion of the review will include questions designed to probe for potential section 471(a)(18) compliance issues. Once identified through a child and family services review, or otherwise, potential noncompliance with section 471(a)(18) will be addressed through the process proposed at section 1355.37.]

In paragraph (b)(2)(vii), the proposed review of the title IV-E requirement regarding reasonable efforts is not a duplication of the review of reasonable efforts determinations performed in the title IV-E foster care eligibility reviews. We are not proposing to review for reasonable efforts determinations in court orders or other

would appreciate comments as to whether the time frame for the joint development of the program improvement plan is adequate as proposed.

In paragraph (d), we are proposing to link the time frames for implementing the plans to the time frames for the ongoing full reviews. Specifically, our proposal is that program improvement plans be approved for time periods of up to three years, depending upon the level of nonconformity, to conform to the proposed three year cycles of full reviews for States determined not to be in substantial conformity.

#43 [We recognize that some areas needing improvement will not be easily ameliorated, even with technical assistance, and are, thus, proposing a three-year period of time as the maximum implementation period for the plans. We do not expect all program improvements to take three years to implement and expect States to address areas of nonconformity expeditiously. States will be expected to prioritize areas needing improvement which pose risks to child safety and complete the appropriate action steps in a time frame consistent with the level of risk.

In paragraph (e), we propose procedures for evaluating the implementation of program improvement plans. We propose that the State members of the review team and the ACF Regional Office determine the appropriate intervals for

the Act, which requires the removal of barriers to interethnic adoption. We have chosen to codify the section 1808 enforcement procedures in regulations in conjunction with the 1123A review process because the statute specifically identifies the 1123A review process as a mechanism for assuring State compliance with section 471(a)(18) of the Act. While the 1123A review process is an appropriate mechanism for detecting possible violations of section 471(a)(18) of the Act, the corrective action and penalty structure required by section 474(d) of the Act does not fit within the "substantial conformity" standard by which other title IV-B and title IV-E State plan requirements are measured in the 1123A review process. Therefore, ACF has developed a separate process for addressing violations of section 471(a)(18), once identified.

#51 After considering a number of options, we determined that implementing section 474(d) of the Act requires collaboration with OCR because it has significant expertise in investigating alleged civil rights violations. Moreover, a State's noncompliance with section 471(a)(18) of the Act is also a violation of title VI of the Civil Rights Act of 1964. OCR and ACF will collaborate throughout the process of bringing the State into compliance with section 471(a)(18) of the Act which includes consultation during the

development, approval, implementation, and evaluation of corrective action plans.

In paragraph (a)(1), we propose that ACF refer all cases involving potential violations of section 471(a)(18) of the Act to OCR for investigation. Such cases may come to our attention during the course of a child and family services review or by other means, such as a letter of complaint. Violations based on a court finding will not be referred to OCR for investigation. Rather, ACF will invoke the appropriate penalty and corrective action procedures described in the regulation.

In paragraph (a)(2), we propose that after OCR completes its investigative procedure, it will make its file available to ACF, which will then make a determination, based on the OCR file, whether there has been a violation of section 471(a)(18). In paragraphs (a)(2)(i) and (a)(2)(ii), consistent with statutory language, we propose that a violation of section 471(a)(18) occurs with respect to a person if the agency delays or denies placement based on race, color, or national origin. In paragraph (a)(2)(iii), we have included as a violation of section 471(a)(18) of the Act a State's maintenance of any statute, regulation, policy, procedure, or practice that would result in the delay or denial of placement based on race, color, or

or are deficient, an alternative sampling frame will be selected in conjunction with the State agency for the period of time comparable to the most recent AFCARS reporting period.

#10 [In determining the sample size for this new review system, we elected not to rely on or replicate that used in the prior review system, 50 cases. We originally planned to use a "discovery" sampling methodology with respect to the initial review. However, by definition, this would have resulted in a State being in non-compliance if one or more cases were found to be ineligible by the review team. Therefore, after deliberating over various combinations of sample sizes and critical numbers of ineligible cases, a more reasonable "acceptance" sampling methodology requiring a sample size of 80 (plus a 10 percent oversample of eight cases) with a critical number of eight (ineligible cases) is proposed based on the following information.

According to Appendix D: Table for Determining Minimum Sample Size and for Evaluating Attributes Sample Results in Practical Statistical Sampling for Auditors (A copy is reprinted at Attachment B at the end of this Preamble with permission of the publisher) by Arthur J. Wilburn, there is an 88 percent probability that the population ineligibility case error rate (case error rate) in a universe size that

- (1) Consist of a two-phase process that includes a State self-assessment and an on-site review; and
- (2) Be conducted by a team of Federal and State reviewers that includes:

#27 ↓
Detailed
Reference
to Partnership
Approach

- (i) Staff of the State child and family services agency, including the State and local offices who represent the service areas that are the focus of any particular review;

- (ii) Representatives selected by the State, in collaboration with the ACF Regional Office, from those with whom State was required to consult in developing its CFSP, as described and required in 45 CFR part 1357.15(1);

- (iii) Federal staff of HHS; and

- (iv) Other individuals, as deemed appropriate and agreed upon by the State and ACF.

- (b) State self-assessment. The first phase of the full review will be a State self-assessment conducted by the internal and external State members of the review team. The self-assessment must assess:

State, provided the State's largest metropolitan subdivision is one of the locations selected for the on-site review.

#28 [(3) ACF has final approval of the selection of specific areas of the State's child and family services continuum described in (c) (1) and selection of the political subdivisions referenced in (c) (2).

(4) Sources of information collected during the on-site review to determine substantial conformity must include, but are not limited to:

(i) Case records on children and families served by the agency;

(ii) Interviews with children and families whose case records have been reviewed and who are, or have been, recipients of services of the agency;

(iii) Social workers, foster parents, and service providers for the cases selected for the on-site review; and



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SUBJECT: Child Welfare Mandatory Report

☒ **AS REQUESTED**

☐ **COMMENT**

☐ **CLEARANCE**

☐ **FYI**

Attached are the State
Plan requirements as we
discussed.

Talk to you soon.

Maddy

Federal matching of any payments that are made.

Foster family home means the home of an individual or family licensed or approved by the State licensing or approval authority(ies) (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that provides 24-hour out-of-home care for children. The term may include group homes, agency operated boarding homes or other facilities licensed or approved for the purpose of providing foster care by the State agency responsible for approval or licensing of such facilities.

Independent Living Program (ILP) means the programs and activities established and implemented by the State to assist youth, as defined in section 477(a)(2) of the Act, to prepare to live independently upon leaving foster care. Programs and activities that may be provided are found in section 477(d) of the Act.

State means, for title IV-B, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa. For title IV-E, the term "State" means the 50 States and the District of Columbia.

State agency means the State agency administering or supervising the administration of the title IV-B and title IV-E State plans and the title XX social services block grant program. An exception to this requirement is permitted by section 103(d) of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). Section 103(d) provides that, if on December 1, 1974, the title IV-B program (in a State or local agency) and the social services program under section 402(a)(3) of the Act (the predecessor program to title XX) were administered by separate agencies, that separate administration of the programs could continue at State option.

(b) Unless otherwise specified, the definitions contained in section 475 of the Act apply to all programs under titles IV-E and IV-B of the Act.

[48 FR 23114, May 23, 1983, as amended at 57 FR 30429, July 9, 1992; 58 FR 67924, Dec. 22, 1993; 61 FR 58653, Nov. 18, 1996]

§ 1355.21 State plan requirements for titles IV-E and IV-B.

(a) The State plans for titles IV-E and IV-B must provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

(b) The State plans for titles IV-E and IV-B must provide for compliance with the Department's regulations listed in 45 CFR 1355.30.

(c) The State agency and the Indian Tribe must make available for public review and inspection the Child and Family Services Plan (CFSP) and the Annual Progress and Services Reports. (See 45 CFR 1357.15 and 1357.18.) The State agency also must make available for public review and inspection the title IV-E State Plan.

[48 FR 23114, May 23, 1983, as amended at 61 FR 58654, Nov. 18, 1996]

§ 1355.25 Principles of child and family services.

The following principles, most often identified by practitioners and others as helping to assure effective services for children, youth, and families, should guide the States and Indian Tribes in developing, operating, and improving the continuum of child and family services.

(a) The safety and well-being of children and of all family members is paramount. When safety can be assured, strengthening and preserving families is seen as the best way to promote the healthy development of children. One important way to keep children safe is to stop violence in the family including violence against their mothers.

(b) Services are focused on the family as a whole; service providers work with families as partners in identifying and meeting individual and family needs; family strengths are identified, enhanced, respected, and mobilized to help families solve the problems which compromise their functioning and well-being.

(c) Services promote the healthy development of children and youth, promote permanency for all children and help prepare youth emancipating from the foster care system for self-sufficiency and independent living.

(d) Services may focus on prevention, protection, or other short or long-

interventions to meet the needs of the family and the best interests and need of the individual(s) who may be placed in out-of-home care.

(e) Services are timely, flexible, coordinated, and accessible to families and individuals, principally delivered in the home or the community, and are delivered in a manner that is respectful of and builds on the strengths of the community and cultural groups.

(f) Services are organized as a continuum, designed to achieve measurable outcomes, and are linked to a wide variety of supports and services which can be crucial to meeting families' and children's needs, for example, housing, substance abuse treatment, mental health, health, education, job training, child care, and informal support networks.

(g) Most child and family services are community-based, involve community organizations, parents and residents in their design and delivery, and are accountable to the community and the client's needs.

(h) Services are intensive enough and of sufficient duration to keep children safe and meet family needs. The actual level of intensity and length of time needed to ensure safety and assist the family may vary greatly between preventive (family support) and crisis intervention services (family preservation), based on the changing needs of children and families at various times in their lives. A family or an individual does not need to be in crisis in order to receive services.

[61 FR 58654, Nov. 18, 1996]

§ 1355.30 Other applicable regulations.

Except as specified, the following regulations are applicable to all programs funded under titles IV-B and IV-E of the Act.

(a) 45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.

(b) 45 CFR Part 30—Claims Collection.

(c) 45 CFR Part 74—Administration of Grants (Applicable only to title IV-E foster care and adoption assistance, except that: (1) Section 74.23 Cost Sharing or Matching, and (2) section 74.52 Financial Reporting Requirements, will not apply.)

(d) 45 CFR Part 76—Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

(e) 45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

(f) 45 CFR Part 81—Practice and Procedure for Hearings Under Part 80 of This Title.

(g) 45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance.

(h) 45 CFR Part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance.

(i) 45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Applicable only to the title IV-B programs and the Independent Living Program under Section 477 of the Act).

(j) 45 CFR Part 93—New Restrictions on Lobbying.

(k) 45 CFR Part 95—General Administration—Grant Programs (Public Assistance and Medical Assistance). (Applicable to title IV-B and title IV-E except that, notwithstanding 45 CFR 95.1(a), Subpart A, Time Limits for States to File Claims, does not apply to title IV-B (subparts 1 and 2) and the Independent Living Program.)

(l) 45 CFR Part 97—Consolidation of Grants to the Insular Areas. (Applicable only to the title IV-B programs).

(m) 45 CFR Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities. (Only one section is applicable: 45 CFR 100.12, How may a State simplify, consolidate, or substitute federally required State plans?).

(n) 45 CFR Part 201—Grants to States for Public Assistance Programs. Only the following sections are applicable:

(1) § 201.5—Grants. (Applicable to title IV-E foster care and adoption assistance only.)

(2) §201.6—Withholding of payment; reduction of Federal financial participation in the costs of social services and training.

(3) §201.7—Judicial review.

(4) §201.15—Deferral of claims for Federal financial participation. (Applicable only to title IV-E foster care and adoption assistance.)

(5) §201.66—Repayment of Federal funds by installments. (Applicable only to title IV-E foster care and adoption assistance.)

(c) 45 CFR Part 204.1—Submittal of State Plans for Governor's Review.

(p) 45 CFR Part 205—General Administration—Public Assistance Programs. Only the following sections are applicable:

(1) §205.5—Plan amendments.

(2) §205.10—Hearings.

(3) §205.50—Safeguarding information for the financial assistance programs.

(4) §205.100—Single State agency.

[61 FR 58654, Nov. 18, 1996]

§1355.40 Foster care and adoption data collection.

(a) *Scope of the data collection system.*

(1) Each State which administers or supervises the administration of titles IV-B and IV-E must implement a system that begins to collect data on October 1, 1994. The first transmission must be received in ACF no later than May 15, 1995. The data reporting system must meet the requirements of §1355.40(b) and electronically report certain data regarding children in foster care and adoption. The foster care data elements are listed and defined in Appendix A to this part and the adoption data elements are listed and defined in Appendix B to this part.

(2) For the purposes of foster care reporting, each State's data transmission must include all children in foster care for whom the State title IV-B/IV-E agency has responsibility for placement, care, or supervision. This includes Native American children covered under section 427 protection on the same basis as any other children. For children in care less than 30 days, only a core set of information will be required, as noted in appendix A to this part. For children who enter foster care prior to October 1, 1995 and who are still in the system, core data ele-

ments will be required; in addition, States will also be required to report on the most recent case plan goal affecting those children. For children in out-of-State placement, the State placing the child and making the foster care payment submits and continually updates the data.

(3) For the purposes of adoption reporting, data are required to be transmitted by the State on all adopted children who were placed by the State title IV-B/IV-E agency, and on all adopted children for whom the State agency is providing adoption assistance (either ongoing or for nonrecurring expenses), care or services directly or by contract or agreement with other private or public agencies. Full adoption data as specified in appendix B to this part are required only for children adopted after the implementation date of October 1, 1994. For children adopted prior to October 1, 1994, who are continuing to receive title IV-E subsidies, aggregate data are to be reported. For a child adopted out-of-State, the State which placed the child submits the data.

(b) *Foster care and adoption reporting requirements.* (1) The State agency shall transmit semi-annually, within 45 days of the end of the reporting period (i.e., by May 15 and November 14), information on each child in foster care and each child adopted during the reporting period. The information to be reported consists of the data elements found in appendices A and B to this part. The data must be extracted from the data system as of the last day of the reporting period and must be submitted in electronic form as described in appendix C to this part and in record layouts as delineated in appendix D to this part.

(2) For foster care information, the child-specific data to be transmitted must reflect the data in the information system when the data are extracted. Dates of removal from the home and discharge from foster care must be entered in accordance with paragraph (d)(1) of this section. The date of the most recent periodic review (either administrative or court) must be entered for children who have been in foster care for more than nine months. Entry of this date constitutes

State certification that the data on the child have been reviewed and are current.

(3) Adoption data are to be reported during the reporting period in which the adoption is legalized or, at the State's option, in the following reporting period if the adoption is legalized within the last 60 days of the reporting period. For a semi-annual period in which no adoptions have been legalized, States must report such an occurrence.

(4) A summary file of the semi-annual data transmission must be submitted and will be used to verify the completeness of the State's detailed submission for the reporting period.

(5) A variety of internal data consistency checks will be used to judge the internal consistency of the semi-annual detailed data submission. These are specified in Appendix E to this part.

(c) *Missing data standards.* (1) The term "missing data" refers to instances where no data have been entered, if applicable, for a particular data element. In addition, all data elements which fail a consistency check for a particular case will be converted to missing data. All data which are "out of range" (i.e., the response is beyond the parameters allowed for that particular data element) will also be converted to missing data. Details of the circumstances under which data will be converted to missing data are specified in appendix E to this part. Data elements with responses of "cannot be determined" or "not yet determined" are not considered as having missing data.

(2) For missing data in excess of 10 percent for any one data element, the penalty will be applied.

(3) The penalties for missing data are specified in paragraph (e) of this section.

(d) *Timeliness of foster care data reports.* (1) For each child, a computer generated transaction date must reflect the actual date of data entry and must accompany the date of latest removal from the home and the date of exit from foster care. Ninety percent of the subject transactions must have entered into the system within 60

days of the event (removal from home or discharge from foster care).

(2) Penalties shall be invoked as provided in paragraph (e) of this section.

(e) *Penalties.* (1) Failure by a State to meet any of the standards described in paragraphs (a) through (d) of this section is considered a substantial failure to meet the requirements of the title IV-E State plan. Penalties for substantial noncompliance will be assessed semi-annually against a State's title IV-E administrative cost reimbursement in an amount that is equal to no more than 10 percent of the State's annual share of title IV-B funds above the base appropriation of \$141 million. The amount of incentive funds, section 427 of the Act, against which a penalty can be assessed will remain the same as the amount promulgated as being available to the States as of June 30, 1993, the date of issuance of the amount of section 427 funds for fiscal year 1993 (see Appendix F to this part). The penalties will be calculated and applied regardless of any determination of compliance with the requirements of section 427, and regardless of whether any State has withdrawn its certification with respect to section 427. Years One through three (October 1, 1994 through September 30, 1997) will be three penalty-free years of operation. Year Four (October 1, 1997 through September 30, 1998) will be at half penalty and Year Five (October 1, 1998 through September 30, 1999) and thereafter will be at full penalty. The maximum annual penalty is 20 percent.

(2) Penalties will be assessed semi-annually against a State's title IV-E administrative cost reimbursement for the period in which the noncompliance occurred and any subsequent period of noncompliance. Following a decision sustaining ACYF's proposed action, funds will be recovered until the State demonstrates, by submitting an acceptable report, that it will no longer fail to comply.

(3) Half of the maximum allowable assessed penalty for a given reporting period is applicable to foster care reporting and half to adoption reporting.

(4) The penalty for foster care reporting will be applied for any semi-annual period when a State fails to meet one or more of the following criteria:

individuals and families residing therein. These services may be provided under public or private nonprofit auspices.

Families includes, but is not limited to, biological, adoptive, foster, and extended families.

Family preservation services refers to services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including—

(1) Preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible;

(2) Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

(3) Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

(4) Respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

(5) Services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition; and

(6) Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.

Family support services means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to

enhance child development. Family support services may include:

(1) Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

(2) Respite care of children to provide temporary relief for parents and other caregivers;

(3) Structured activities involving parents and children to strengthen the parent-child relationship;

(4) Drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

(5) Transportation, information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services; and

(6) Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

Joint planning means an ongoing partnership process between ACF and the State and between ACF and an Indian Tribe in the development, review, analysis, and refinement and/or revision of the State's and the Indian Tribe's child and family services plan. Joint planning involves discussions, consultation, and negotiation between ACF and the State or Indian Tribe in all areas of CFSP creation such as, but not limited to, identifying the service needs of children, youth, and families; selecting the unmet service needs that will be addressed; developing goals and objectives that will result in improving outcomes for children and families; developing a plan to meet the matching requirements; and establishing a more comprehensive, coordinated and effective child and family services delivery system. The expectation of joint planning is that both ACF and the State or Indian Tribe will reach agreement on

substantive and procedural matters related to the CFSP.

[61 FR 58655, Nov. 18, 1996]

§ 1357.15 Comprehensive child and family services plan requirements.

(a) *Scope.* (1) The CFSP provides an opportunity to lay the groundwork for a system of coordinated, integrated, culturally relevant family focused services. This section describes the requirements for the development, implementation and phase-in of the five-year comprehensive child and family services plan (CFSP). The State's CFSP must meet the requirements of both of the following programs. The Indian Tribe's CFSP must meet the requirements of one or both of the following programs depending on the Tribe's eligibility:

(i) Child welfare services under title IV-B, subpart 1; and

(ii) Family preservation and family support services under title IV-B, subpart 2.

(2) For States only, the CFSP also must contain information on the following programs:

(i) The independent living program under title IV-E, section 477 of the Act; and

(ii) The Child Abuse and Neglect State grant program (known as the Basic State Grant) under the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 et. seq.).

(3) States must meet all requirements of this section except those that apply only to Indian Tribes. Indian Tribes must meet the requirements of this section only as specified.

(4) States and eligible Indian Tribes have the option to phase-in the requirements for a consolidated CFSP. The consolidated CFSP requirements must be in place by June 30, 1997 and meet the requirements of 45 CFR 1357.16.

(b) *Eligibility for funds.* (1) In order to receive funding under title IV-B, subparts 1 and 2, each State and eligible Indian Tribe must submit and have approved a consolidated, five-year Child and Family Services Plan (CFSP) and a CFS-101, Budget Request and Estimated Expenditure Report that meets the requirements under 45 CFR 1357.16.

(2) States and Indian Tribes that are consolidating the requirements for a CFSP in FY 1995, in accordance with § 1357.15(a), must submit the CFSP and a CFS-101 for FY 1995 and 1996 by June 30, 1995.

(3) States and eligible Indian Tribes choosing to phase-in the requirements for a consolidated CFSP in FY 1996 and 1997 must submit the CFSP, the CFS-101 for FY 1995 for subpart 1 and 2, and the CFS-101 for subpart 2 for FY 1996 by June 30, 1995.

(4) The CFSP will be approved only if the plan was developed jointly by ACF and the State (or the Indian Tribe), and only after broad consultation by the State (and the Indian Tribe) with a wide range of appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and support services).

(5) By June 30, 1996, each grant must submit and have approved the first Annual Progress and Services Report and a CFS 101 for FY 1997 that meets the statutory and regulatory requirements of title IV-B, subparts 1 and 2.

(6) The Annual Progress and Services Report will be approved if it was developed jointly by ACF and the State (or the Indian Tribe) and if it meets the requirements of 45 CFR 1357.16.

(7) The five-year CFSP for FYs 1995-1999 may be submitted in the format of the State's or the Indian Tribe's choice and must be submitted no later than June 30, 1995, to the appropriate ACF Regional Office.

(c) *Assurances.* The following assurances will remain in effect on an ongoing basis and will need to be re-submitted only if a significant change in the State or the Indian Tribe's program affects an assurance:

(1) The State or Indian Tribe must assure that it will participate in any evaluations the Secretary of HHS may require.

(2) The State or Indian Tribe must assure that it will administer the CFSP in accordance with methods determined by the Secretary to be proper and efficient.

(3) The State or Indian Tribe must assure that it has a plan for the training and use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of low-income persons, as community vice aides; and a plan for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State or Tribe.

(4) The State or Indian Tribe must assure that standards and requirements imposed with respect to child care under title XX shall apply with respect to day care services, if provided under the CFSP, except insofar as eligibility for such services is involved.

(d) *The child and family services plan (CFSP): general.* The State and the Indian Tribe must base the development of the CFSP on a planning process that includes:

(1) broad involvement and consultation with a wide range of appropriate public and non-profit private agencies and community-based organizations, parents, including parents who are involved or have experience with the child welfare system, and others;

(2) coordination of the provision of services under the plan with other Federal and federally assisted programs serving children and families, including youth and adolescents; and

(3) collection of existing or available information to help determine vulnerable or at-risk populations or target areas; assess service needs and resources; identify gaps in services; select priorities for targeting funding and services; formulate goals and objectives; and develop opportunities for bringing about more effective and accessible services for children and families.

(e) *State agency administering the programs.* (1) The State's CFSP must identify the name of the State agency that will administer the title IV-B programs under the plan. Except as provided by statute, the same agency is required to administer or supervise the administration of all programs under titles IV-B and IV-E of the Act and the social services block grant program under title XX of the Act. (See the definition of "State agency" in 45 CFR 1355.20.)

(2) The CFSP must include a description of the organization and function of the State agency and organizational charts as appropriate. It also must identify the organizational unit(s) within the State agency responsible for the operation and administration of the CFSP, and include a description of the unit's organization and function and a copy of the organizational chart(s).

(f) *Indian Tribal organization administering the program(s).* (1) The Indian Tribe's CFSP must provide the name of the Indian Tribal organization (ITO) designated to administer funds under title IV-B, subpart 1, child welfare services and/or under subpart 2, family preservation and family support services. If the Indian Tribe receives funds under both subparts, the same agency or organization must administer both programs.

(2) The Indian Tribe's CFSP must include a description of the organization and function of the office responsible for the operation and administration of the CFSP, an organizational chart of that office, and a description of how that office relates to Tribal and other offices operating or administering services programs within the Indian Tribe's service area (e.g., Indian Health Service.)

(g) *Vision Statement.* The CFSP must include a vision statement which articulates the grantee's philosophy in providing child and family services and developing or improving a coordinated service delivery system. The vision should reflect the service principles at section 1355.25.

(h) *Goals.* The CFSP must specify the goals, based on the vision statement, that will be accomplished during and by the end of the five-year period of the plan. The goals must be expressed in terms of improved outcomes for and the safety, permanency and well-being of children and families, and in terms of a more comprehensive, coordinated, and effective child and family service delivery system.

(i) *Objectives.* (1) The CFSP must include the realistic, specific, quantifiable and measurable objectives that will be undertaken to achieve each goal. Each objective should focus on outcomes for children, youth, and/or

their families or on elements of service delivery (such as quality) that are linked to outcomes in important ways. Each objective should include both interim benchmarks and a long-term timetable, as appropriate, for achieving the objective.

(2) For States and Indian Tribes administering the title IV-B, subpart 1 program, the CFSP must include objectives to make progress in covering additional political subdivisions, reaching additional children in need of services, expanding and strengthening the range of existing services, and developing new types of services.

(j) *Measures of progress.* The CFSP must describe the methods to be used in measuring the results, accomplishments, and annual progress toward meeting the goals and objectives, especially the outcomes for children, youth, and families. Processes and procedures assuring the production of valid and reliable data and information must be specified. The data and information must be capable of determining whether or not the interim benchmarks and multiyear timetable for accomplishing CFSP goals and objectives are being met.

(k) *Baseline information.* (1) For FY 1995, the State and the Indian Tribe must base the development of the CFSP vision, goals, objectives, and funding and service decisions on an analysis of available baseline information and any trends over time on indicators in the following areas: the well-being of children and families; the needs of children and families; the nature, scope, and adequacy of existing child and family and related social services. Additional and updated information on service needs and organizational capacities must be obtained throughout the five-year period to measure progress in accomplishing the goals and objectives cited in the CFSP. A description of how this process will continue to be carried out must be included in the CFSP, and any revisions should be provided in the Annual Progress and Services Report.

(2) The State must collect and analyze State-wide information on family preservation and family support services currently available to families and children, including the nature and

scope of existing public and privately funded family support and family preservation services; the extent to which each service is available and being provided in different geographic areas and to different types of families; and important gaps in service, including mismatches between available services and family needs as identified through baseline data and the consultation process. Other services which impact on the ability to preserve and support families may be included in the assessment. The Indian Tribe must collect and analyze information on family preservation and family support services currently available within their service delivery area including the information in this paragraph as appropriate. An Indian Tribe may submit documentation prepared to satisfy the requirements of other Federal child welfare grants, or contracts (such as the section 838 reporting form), along with a descriptive addendum addressing specifically the family preservation and family support services available.

(3) The CFSP must include a summary of the information used in developing the plan; an explanation of how this information and analysis were used in developing the goals, objectives, and funding and service decisions, including decisions about geographic targeting and service mix; a description of how information will be used to measure progress over the five-year period; and how this information will be used to facilitate the coordination of services.

(l) *Consultation.* (1) The State's CFSP must describe the internal and external consultation process used to obtain broad and active involvement of major actors across the entire spectrum of the child and family service delivery system in the development of the plan. The description should explain how this process was coordinated with or was a part of other planning processes in the State; how it led or will lead to improved coordination of services.

(2) The Indian Tribe's CFSP must describe the consultation process appropriate to its needs and circumstances used to obtain the active involvement of major actors providing child and family services within the Tribe's area of jurisdiction.

(3) For States and Indian Tribes, the consultation process must involve:

(i) All appropriate offices and agencies within the State agency or within the Indian Tribal service delivery system (e.g., child protective services (CPS), foster care and adoption, the social services block grant, reunification services, independent living, and other services to youth;)

(ii) In a State-supervised, county-administered State, county social services and/or child welfare directors or representatives of the county social services/child welfare administrators' association;

(iii) A wide array of State, local, Tribal, and community-based agencies and organizations, both public and private nonprofit with experience in administering programs of services for infants, children, youth, adolescents, and families, including family preservation and family support services;

(iv) Parents, including birth and adoptive parents, foster parents, families with a member with a disability, children both in and outside the child welfare system, and consumers of services from diverse groups;

(v) For States, representatives of Indian Tribes within the State;

(vi) For States, representatives of local government (e.g., counties, cities, and other communities, neighborhoods, or areas where needs for services are great;)

(vii) Representatives of professional and advocacy organizations (including, for example foundations and national resource centers with expertise to assist States and Indian Tribes to design, expand, and improve the delivery of services); individual practitioners working with children and families; the courts; representatives or other States or Indian Tribes with experience in administering family preservation and family support services; and academicians, especially those assisting the child and family service agency with management information systems, training curricula, and evaluations;

(viii) Representatives of State and local agencies administering Federal and federally assisted programs which may include: Head Start; the local education agency (school-linked social services, adult education and literacy

programs, Part H programs); developmental disabilities; nutrition services (Food Stamps, Special Supplemental Food Program for Women, Infants and Children (WIC)); Title IV-A; runaway youth, youth gang, juvenile justice programs and youth residential and training institutions; child care and development block grant (CCDBG) and respite care programs; domestic and community violence prevention and services programs; housing programs; the health agency (substance abuse, Healthy Start, maternal and child health, Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), mental health, and public health nursing); law enforcement; Children's Trust Funds; Community-Based Family Resource Programs, and new Federal initiatives such as the Empowerment Zones and Enterprise Communities Program; and

(ix) Administrators, supervisors and front line workers (direct service providers) of the State child and family services agency.

(4) The CFSP must describe the ongoing consultation process that each grantee will use to ensure the continued involvement of a wide range of major actors in meeting the goals and objectives over the five-year operational period of the plan and developing the Annual Progress and Services Report.

(m) *Services coordination.* (1) States must include in the ongoing coordination process representatives of the full range of child and family services provided by the State agency as well as other service delivery systems providing social, health, education, and economic services (including mental health, substance abuse, developmental disabilities, and housing) to improve access and deliver a range of services to children and their families.

(2) The State's CFSP must describe how services under the plan will be coordinated over the five-year period with services or benefits under other Federal or federally assisted programs serving the same populations to achieve the goals and objectives in the plan. The description must include the participants in the process and examples of how the process led or will lead to additional coordination of services

(e.g., integrated service models, improved accessibility, use of a consolidated application or intake form, inter-disciplinary training, coordinated case management for several programs, pooled resources through blended financing, shared information across services providers and compatible and linked automated information systems, co-location of several services or programs.)

(3) The Indian Tribe must include in the coordination process representatives of other Federal or federally assisted child and family services or related programs. The Indian Tribe's CFSP must describe how services under the plan will be coordinated over the five-year period with services or benefits under other Federal or federally assisted programs serving the same populations to achieve the goals and objectives in the plan. The descriptions must include the participants in the process and any examples of how the process led or will lead to additional coordination of services.

(n) *Services.* (1) The State's CFSP must describe the publicly funded child and family services continuum: child welfare services (including child abuse and neglect prevention, intervention, and treatment services; and foster care); family preservation services; family support services; and services to support reunification, adoption, kinship care, independent living, or other permanent living arrangements.

(2) The Indian Tribe's CFSP must describe the child welfare services (including child abuse and neglect prevention, intervention, treatment services and foster care) and/or the family support and family preservation services to be provided.

(3) For each service described, the CFSP must include the following information, or it must be listed on the CFS-101, Part II:

(i) The population(s) to be served;

(ii) The geographic area(s) where the services will be available;

(iii) The estimated number of individuals and/or families to be served;

(iv) The estimated expenditures for these services from Federal, State, local, and donated sources, including title IV-B, subparts 1 and 2, the CAPTA program referenced in paragraph (a) of

this section, and the independent living program.

(o) *Family preservation and family support services and linkages to other social and health services.* (1) The State's CFSP must explain how the funds under title IV-B, subpart 2 of the Act, will be used to develop or expand family support and family preservation services; how the family support and family preservation services relate to existing family support and family preservation services; and how the family support and preservation services will be linked to other services in the child and family services continuum.

(2) The State's CFSP must explain whether and/or how funds under the CAPTA and independent living programs are coordinated with and integrated into the child and family services continuum described in the plan.

(3) The State's CFSP must describe the existing or current linkages and the coordination of services between the services in the child and family services continuum and the services in other public services systems (e.g., health, education, housing, substance abuse, the courts), and other Federal and non-federally funded public and nonprofit private programs (e.g., Children's Trust Funds, Community-Based Family Resource Programs, private foundations.)

(p) *Services in relation to service principles.* The CFSP must describe how the child and family services to be provided are designed to assure the safety and protection of children as well as the preservation and support of families, and how they are or will be designed to be consistent with the other service principles in 45 CFR 1355.25.

(q) *Services in relation to permanency planning.* For States administering both title IV-B programs (subparts 1 and 2), the CFSP must explain how these services will help meet the permanency provisions for children and families in sections 422(b)(9) and 471 of the Act (e.g., preplacement preventive services, reunification services, independent living services.) The CFSP must describe the arrangements, jointly developed with the Indian Tribes within its borders, made for the provision of the child welfare servl and

protections in section 422(b)(9) to Indian children under both State and Tribal jurisdiction.

(r) *Decision-making process: selection of family support programs for funding.* The State's CFSP must include an explanation of how agencies and organizations were selected for funding to provide family support services and how these agencies and organizations meet the requirement that family support services be community-based.

(s) *Significant portion of funds used for family support and family preservation services.* With each fiscal year's budget request, each State must indicate the specific percentage of family preservation and family support funds (title IV-B, subpart 2) that the State will expend for community-based family support and for family preservation services, and the rationale for the decision. The State must have an especially strong rationale if the request for either percentage is below 25 percent. It must also include an explanation of how this distribution was reached and why it meets the requirements that a "significant portion" of the service funds must be spent for each service. Examples of important considerations might include the nature of the planning efforts that led to the decision, the level of existing State effort in each area, and the existing need for new or expanded services.

(t) *Staff training, technical assistance, and evaluation.* (1) The State's CFSP must include a staff development and training plan in support of the goals and objectives in the CFSP which addresses both of the title IV-B programs covered by the plan. This training plan also must be combined with the training plan under title IV-E as required by 45 CFR 1356.60(b)(2). Training must be an on-going activity and must include content from various disciplines and knowledge bases relevant to child and family services policies, programs and practices. Training content must also support the cross-system coordination consultation basic to the development of the CFSP.

(2) The State's CFSP must describe the technical assistance activities that will be undertaken in support of the goals and objectives in the plan.

(3) The State's CFSP must describe any evaluation and research activities underway or planned with which the State agency is involved or participating and which are related to the goals and objectives in the plan.

(u) *Quality assurance.* The State must include in the CFSP a description of the quality assurance system it will use to regularly assess the quality of services under the CFSP and assure that there will be measures to address identified problems.

(v) *Distribution of the CFSP and the annual progress and services report.* The CFSP must include a description of how the State and the Indian Tribe will make available to interested parties the CFSP and the Annual Progress and Services Report. (See 45 CFR 1355.21(c) and 45 CFR 1357.16(d)). State agencies and Indian Tribal organizations within the State must exchange copies of their CFSPs and their annual services reports.

[61 FR 58656, Nov. 18, 1996]

EFFECTIVE DATE NOTE: At 61 FR 58656, Nov. 18, 1996, § 1357.15 was revised. The section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 1357.16 Annual progress and services reports.

(a) *Annual progress and services reports.* Annually, each State and each Indian Tribe must conduct an interim review of the progress made in the previous year toward accomplishing the goals and objectives in the plan, based on updated information. In developing paragraphs (a)(2) through (a)(4) of this section, the State and the Indian Tribe must involve the agencies, organizations, and individuals who are a part of the on-going CFSP-related consultation and coordination process. On the basis of this review, each State and Indian Tribe must prepare and submit to ACF, and make available to the public, an Annual Progress and Services Report which must include the following—

(1) A report on the specific accomplishments and progress made in the past fiscal year toward meeting each goal and objective, including improved outcomes for children and families, and

a more comprehensive, coordinated, effective child and family services continuum;

(2) Any revisions in the statement of goals and objectives, or to the training plan, if necessary, to reflect changed circumstances;

(3) For Indian Tribes, a description of the child welfare and/or family preservation and family support services to be provided in the upcoming fiscal year highlighting any changes in services or program design and including the information required in 45 CFR 1357.15(n);

(4) For States, a description of the child protective, child welfare, family preservation, family support, and independent living services to be provided in the upcoming fiscal year highlighting any additions or changes in services or program design and including the information required in 45 CFR 1357.15(n);

(5) Information on activities in the areas of training, technical assistance, research, evaluation, or management information systems that will be carried out in the upcoming fiscal year in support of the goals and objectives in the plan;

(6) For States only, the information required to meet the maintenance of effort (non-supplantation) requirement in section 432(a) (7) and (8) of the Act;

(7) For States and eligible Indian Tribes phasing in requirements for a consolidated CFSP, information on activities and progress directed toward a consolidated plan by June 30, 1996 or 1997. The report must include information that demonstrates States' and eligible Indian Tribes' progress toward the consolidation of a CFSP, including activities that have been accomplished and still need to be accomplished; and

(8) Any other information the State or the Indian Tribe wishes to include.

(b) *Submission of the annual progress and services report and CFS-101.* (1) The State and the Indian Tribe must send the Annual Progress and Services Report and the CFS-101 to the appropriate ACF Regional Office no later than June 30 of the year prior to the fiscal year in which the services will be provided (e.g., the report submitted and made public by June 30, 1996 will describe the services to be provided in FY 1997. The report covering FY 1998

services must be submitted by June 30, 1997.)

(2) In order for States and eligible Indian Tribes to receive title IV-B, subparts 1 and 2 allocations a CFS-101 must be submitted for each fiscal year.

(3) States and Indian Tribes which have consolidated the requirements for title IV-B, subparts 1 and 2, must submit the CFS-101 to the appropriate ACF Regional Office no later than June 30 of the year prior to the fiscal year in which the services will be provided (e.g., for FY 1997 allocations, the CFS-101 must be submitted by June 30, 1996; for FY 1998 allocations, the CFS-101 must be submitted by June 30, 1997.)

(4) States and eligible Indian Tribes choosing to phase-in the requirements for a consolidated CFSP must:

(i) Submit by June 30, 1996 a CFS-101 for title IV-B, subpart 1 for FY 1996 allocations; a CFS-101 for title IV-B, subpart 2 for FY 1997 allocations; and, if a State or eligible Indian Tribe chooses, a CFS-101 for subpart 1 FY 1997 allocations.

(ii) Submit by June 30, 1997 a CFS-101 for title IV-B, subpart 1 for FY 1997 allocations, if not previously submitted by June 30, 1996; and a CFS-101 for FY 1998 for subparts 1 and 2 allocations.

(c) *Annual progress and services reports on FY 1994 family support and family preservation services.* Each State and Indian Tribe that used FY 1994 funds under title IV-B, subpart 2, for services must describe in the CFSP what services were provided, the population(s) served, and the geographic areas where services were available. The CFSP also must include the amount of FY 1994 funds used for planning, for family preservation services, for family support services, and a brief statement on how these services met the service priorities of the State or the Indian Tribe.

(d) *Availability of the annual progress and services report.* The State and the Indian Tribe must make the Annual Progress and Services Report available to the public including the agencies, organizations, and individuals with which the State or the Indian Tribe is coordinating services or consulting and to other interested members of the public. Each State and eligible Indian Tribe within the State must exchange

copies of their Annual Progress and Services Reports.

(e) *FY 1999 Final Review.* In FY 1999, each State and eligible Indian Tribe must conduct a final review of progress toward accomplishing the goals and objectives in the plan. On the basis of the final review, it must—

(1) Prepare a final report on the progress made toward accomplishing the goals and objectives; and

(2) Send the final report to the ACF Regional Office and make it available to the public.

(f) *FY 2000 Five-Year State Plan.* Based on the FY 1999 final review and final Annual Progress and Services Report, and in consultation with a broad range of agencies, organizations, and individuals, the States and eligible Indian Tribes must develop a new five-year CFSP following the requirements of 45 CFR 1357.15.

[61 FR 58659, Nov. 18, 1996]

EFFECTIVE DATE NOTE: At 61 FR 58659, Nov. 18, 1996, §1357.16 was added. The section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§1357.20 Child abuse and neglect programs.

The State agency must assure that, with regard to any child abuse and neglect programs or projects funded under title IV-B of the Act, the requirements of section 106(b) (1) and (2) of the Child Abuse Prevention and Treatment Act, as amended, are met. These requirements relate to the State plan and assurances required for the Child Abuse and Neglect State Grant Program.

[61 FR 58660, Nov. 18, 1996]

§1357.25 Requirements for eligibility for additional payments under section 427.

(a) For any fiscal year after FY 1979 in which a sum in excess of \$141,000,000 is appropriated under Section 420 of the Act, a State is not eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to \$141,000,000 unless the State complies with the requirements of Section 427(a) of the Act.

(b) In meeting the requirements for the inventory and statewide information system in sections 427 (a)(1) and (2)(A) of the Act, the inventory and statewide information system must include those children under the placement and care responsibility of the State title IV-B or IV-E agencies. At the State's discretion, other children may be included. The six month requirement in section 427(a)(1) and the twelve month requirement in section 427(a)(2)(A) of the Act must also be met.

(The requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0138)

(c) If, for each of any two consecutive fiscal years after FY 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than \$266,000,000, a State's allotment amount for any fiscal year after two such consecutive fiscal years shall be reduced to an amount equal to what the allotment amount would have been for FY 1979 unless the State has implemented the requirements of section 427(b) of the Act.

(d) In meeting the requirements of section 427(a)(2)(B) of the Act for dispositional hearings the State agency must meet the requirements of section 475(5)(C) of the Act and 45 CFR 1356.21(e).

(e) A State may appeal a final decision by ACYF that the State has not met the requirements of this section and section 427 of the Act to the Department Grant Appeals Board under the provisions of 45 CFR part 16.

[48 FR 23118, May 23, 1983]

§1357.30 State fiscal requirements (title IV-B, subpart 1, child welfare services).

(a) *Scope.* The requirements of this section shall apply to all funds allotted or reallocated to States under title IV-B, subpart 1.

(b) *Allotments.* Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) *Payments.* Payments to States shall be made in accordance with section 423 of the Act.

(d) *Enforcement and termination.* In the event of a State's failure to comply

Office of Human Development Services, HHS

§1357.32

with the terms of the grant under title IV-B, subpart 1, the provisions of 45 CFR 92.43 and 92.44 will apply.

(e) *Matching or cost-sharing.* Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 of the Act in accordance with the grants administration requirements of 45 CFR part 92 with the following conditions—

(1) The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(2) The total of Federal funds used for the following purposes under title IV-B, subpart 1 may not exceed an amount equal to the FY 1979 Federal payment under title IV-B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living; plus;

(ii) Foster care maintenance payments; plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV-B, subpart 1 allotment may include foster care maintenance expenditures in any amount.

(f) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV-B may not be used for the purchase or construction of facilities.

(g) *Maintenance of effort.* (1) A State may not receive an amount of Federal funds under title IV-B in excess of the Federal payment made in FY 1979 under title IV-B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV-B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV-B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV-B greater than the amount of title IV-B, subpart 1 funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (g) (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (g) (1) and (2) of this section for the fiscal year for which application for funds is being made. Records verifying the required certification shall be maintained by the State and made available to the Secretary as necessary to confirm compliance with this section.

(h) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV-B, subpart 1 allotment will not be required, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does not certify by a date fixed by the Commissioner that it will be able to expend during the period stated in paragraph (i) of this section all of the funds available to it under its title IV-B, subpart 1 allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when it is determined that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) the State will be able to expend the additional funds during the period stated in paragraph (i) of this section.

(i) *Time limit on expenditures.* Funds under title IV-B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

[61 FR 58660, Nov. 18, 1996]

§1357.32 State fiscal requirements (title IV-B, subpart 2, family preservation and family support services).

(a) *Scope.* The requirements of this section apply to all funds allocated to

ON-SITE REVIEW INSTRUMENT REVISED 6-96

Face Sheet

STATE/COUNTY _____ DATE _____

RECORD TYPE Foster Care/Adoption REVIEWER _____

CHILD'S NAME _____ CHILD'S DOB _____

RACE/ETHNICITY _____

Case Data

DATE CASE OPENED _____

DATE OF CURRENT PLACEMENT _____

DATE RETURNED HOME (if applicable) _____

DATE CASE CLOSED (if applicable) _____

What was the cause of the agency's involvement with this family? (Check all that apply and asterisk the primary reason.)

- ___ Physical abuse
- ___ Sexual abuse
- ___ Emotional maltreatment
- ___ Neglect (not including medical neglect)
- ___ Medical neglect
- ___ Abandonment
- ___ Child behavior
- ___ Mental/physical health of parent(s)
- ___ Mental/physical health of child
- ___ Substance abuse by parent(s)
- ___ Substance abuse by child
- ___ Domestic violence in child's home (spouse abuse)
- ___ Delinquency of child
- ___ Other (specify) _____

SECTION I: SAFETY

Outcome S1: Children are protected from abuse and neglect in their homes whenever possible.

Item 1. Services to Family to Protect Child(ren) in Home (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS, SERVICE PROVIDER - Outcome S1)

In cases of substantiated or indicated abuse or neglect, or imminent risk of harm to children in the family, has the agency provided services to the family to protect the child(ren) in his/her own home, including family preservation, family support or other placement prevention services, within the past 12 months or the last 12 months before the child entered foster care (if applicable)? Yes ____ No ____

Exploratory issues:

- types of services provided to protect the child(ren)
- appropriateness of in-home services for the family
- reason services were not provided

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Item 2. Current Risk of Harm to Child - Complete only for children in foster care with permanency goal of reunification and for families receiving in-home/CPS services (INTERVIEWS WITH SOCIAL WORKER, PARENTS, SERVICE PROVIDER Outcomes S1 & S2)

A. Is there a current risk of harm to the child(ren) in the family that is the basis for the child(ren) remaining in foster care or for the case to be kept open for services?

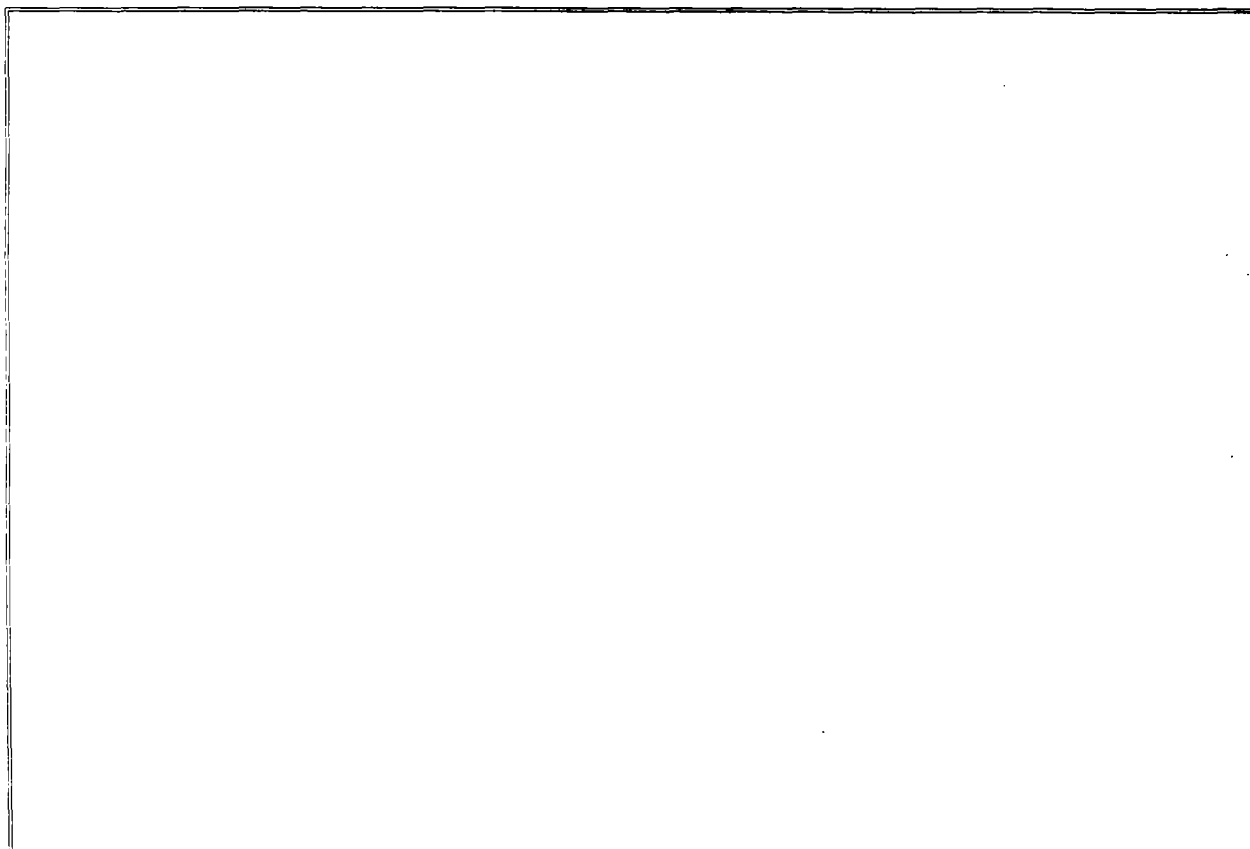
Yes ____ No ____

B. If yes, are efforts being made to reduce or remove the risk of harm through specific interventions by the agency?

Yes ____ No ____

Exploratory issues:

- nature of the current risk of harm
- what is needed to reduce or remove the risk
- how the risk is being addressed through services or other interventions

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DISCUSSION OF SAFETY OUTCOME #1

Outcome S1: Children are protected from abuse and neglect in their homes whenever possible.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 1,2

Outcome S2: The risk of harm to children will be minimized.

Item 3. Timeliness of Initiating Investigations of Reports of Child Maltreatment (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome S2)

A. How many reports of suspected abuse or neglect have been received on children in the family? ____.

B. In how many of the reports were the investigations initiated in accordance with the State's time frame and requirements, for a report of that priority? ____ Missing Information ____

C. When was face-to-face contact with the child made by the investigating worker? ____

Exploratory Issues:

- priority level assigned to each report
- agency requirements for initiating an investigation with this priority level, i.e., time frame, other requirements
- when the investigating worker initiated the investigation
- what activities actually constituted "initiating" the investigation, e.g., face to face contact with the child

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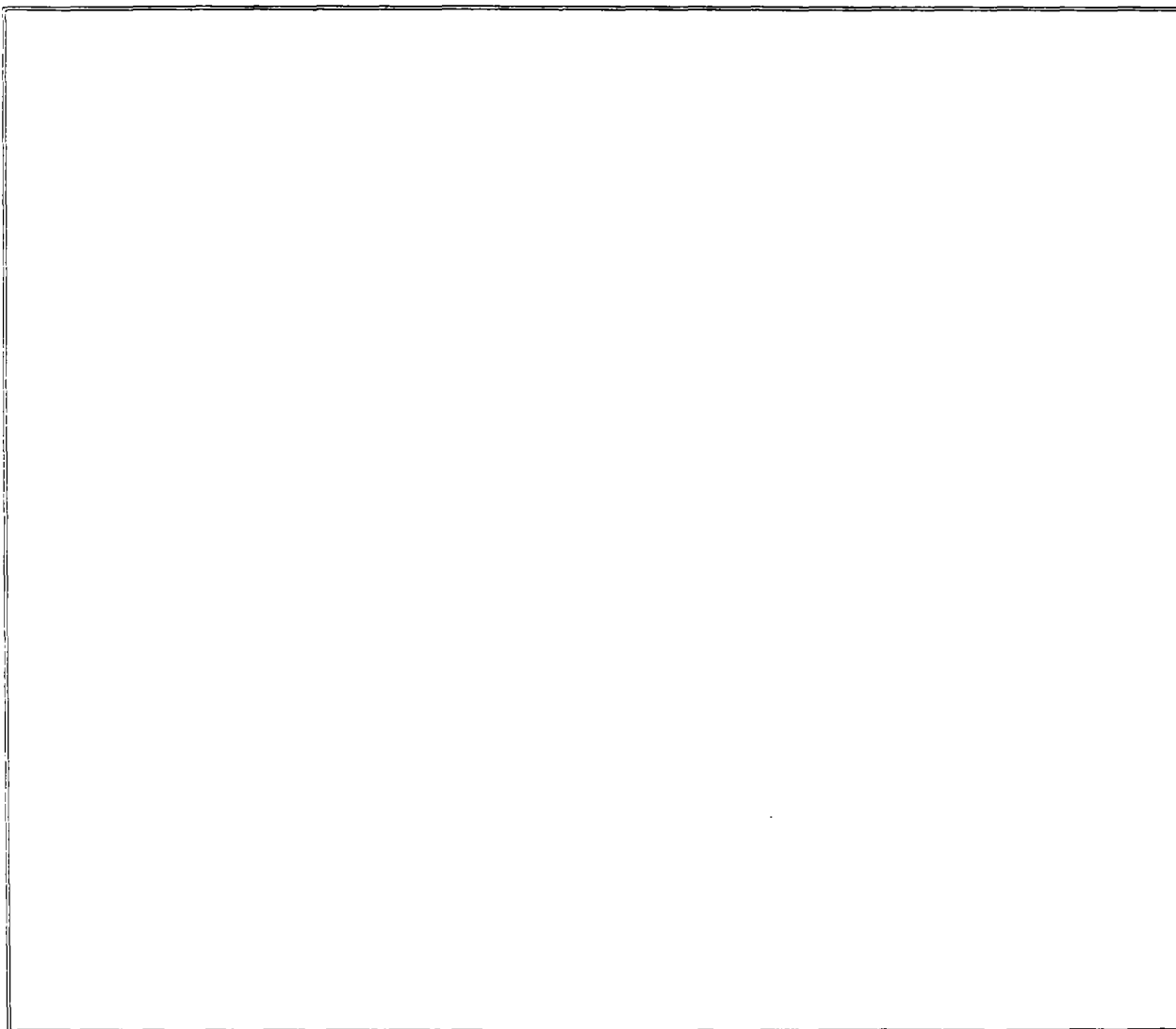
Item 4. Repeat Maltreatment (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome S2)

Where there have been multiple substantiated or indicated reports of abuse or neglect on children in this family, have any of them involved,

	Yes	No	No Multiple Reports
the same perpetrator?	_____	_____	_____
the same general complaint?	_____	_____	_____

Exploratory issues:

- the nature of each report
- relationship of the perpetrator to the child



DISCUSSION OF SAFETY OUTCOME #2

Outcome S2: The risk of harm to children will be minimized.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 2, 3 & 4

Item 6. Stability of foster care placement (CASE RECORDS/INTERVIEW WITH SOCIAL WORKER, FOSTER PARENTS - Outcome P1)

A. Has the child changed placement settings during the current episode of foster care?
Yes ____ No ____

B. Have any of the placement changes occurred for reasons not directly related to helping the child achieve the goals in his or her case plan? Yes ____ No ____ No Placement Changes ____

C. Is the current placement setting stable, i.e., no apparent threat of disruption?
Yes ____ No ____

Exploratory issues:

- reasons for moves
- efforts to prevent unnecessary moves, if applicable
- correct match of placement setting to child's needs
- how current placement is being supported by agency
- reasons for instability, if applicable

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SECTION II: PERMANENCY

Outcome P1: Children will have permanency and stability in their living situations.

Item 5. Foster Care Re-entries (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome P1)

- A. Has the child had multiple entries into foster care? Yes ☐ No ☐
B. Have any of them resulted from the same general reason? Yes ☐ No ☐

Exploratory issues:

- reason child entered foster care each time

Item 7. Permanency Goal for Child (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome P1)

- A. What is the child's current permanency goal? _____
- B. How long has the goal been in place and unachieved? _____
- C. Are the services being provided in the case consistent with the stated permanency goal?
Yes ____ No ____

Exploratory issues:

- changes/lack of changes in child's permanency goal
- reasons for changes in goals
- factors considered in decision-making about permanency goal
- barriers to achieving current goal
- how services currently being provided promote achievement of current permanency goal

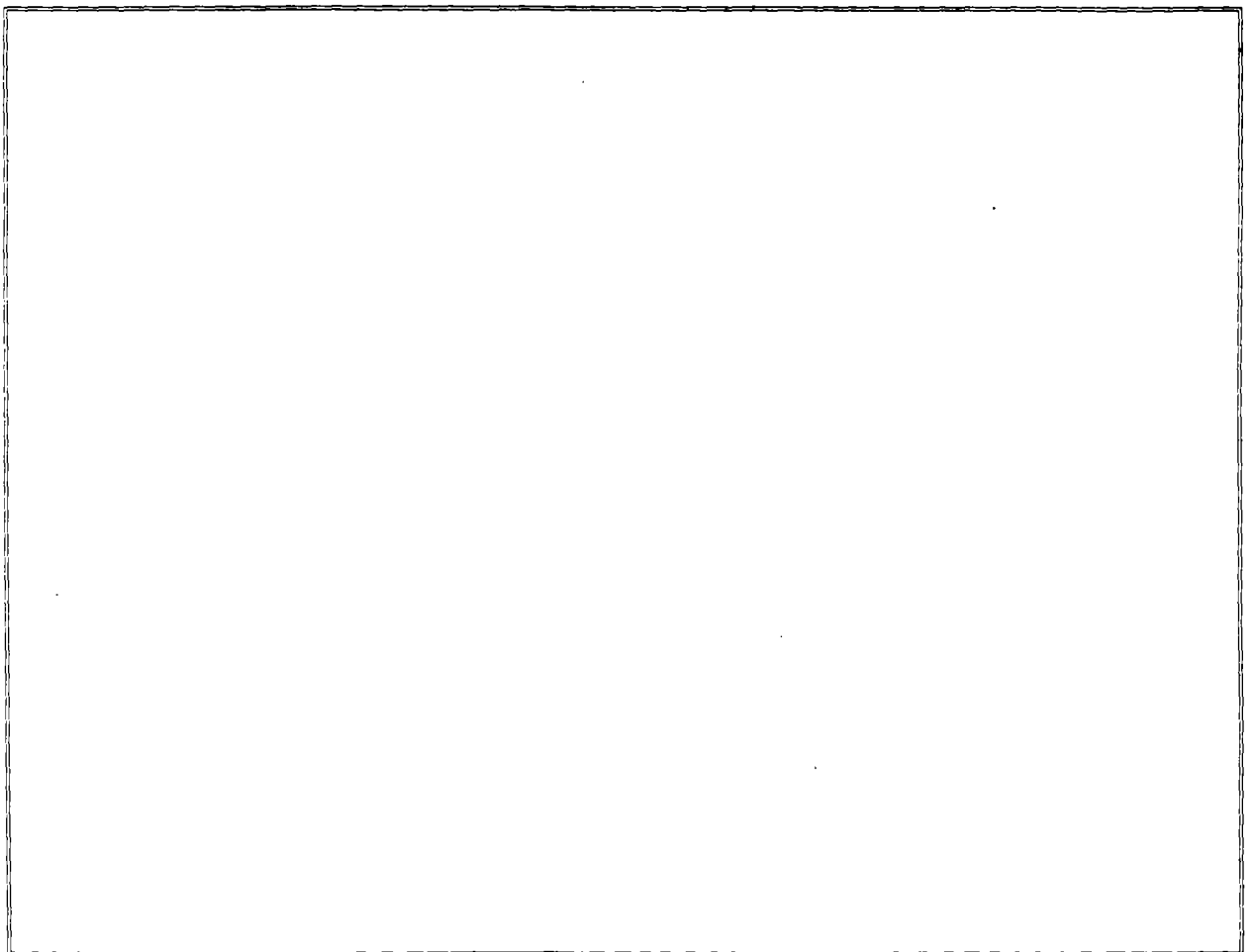
**Item 8. Independent Living Services - Complete only for children age 16 or older
(CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER
PARENT - Outcome P1)**

A. Does the child have a written independent living plan in the record? Yes ____ No ____
child not age 16 or older ____

B. Are independent living services being provided consistent with the child's needs? Yes
____ No ____ child not age 16 or older ____

Exploratory issues:

- services the youth is receiving to prepare for independent living
- extent to which services being provided match the youth's needs
- need for additional independent living services
- how well prepared the youth will be to live independently upon emancipation or achievement of his/her permanency goal



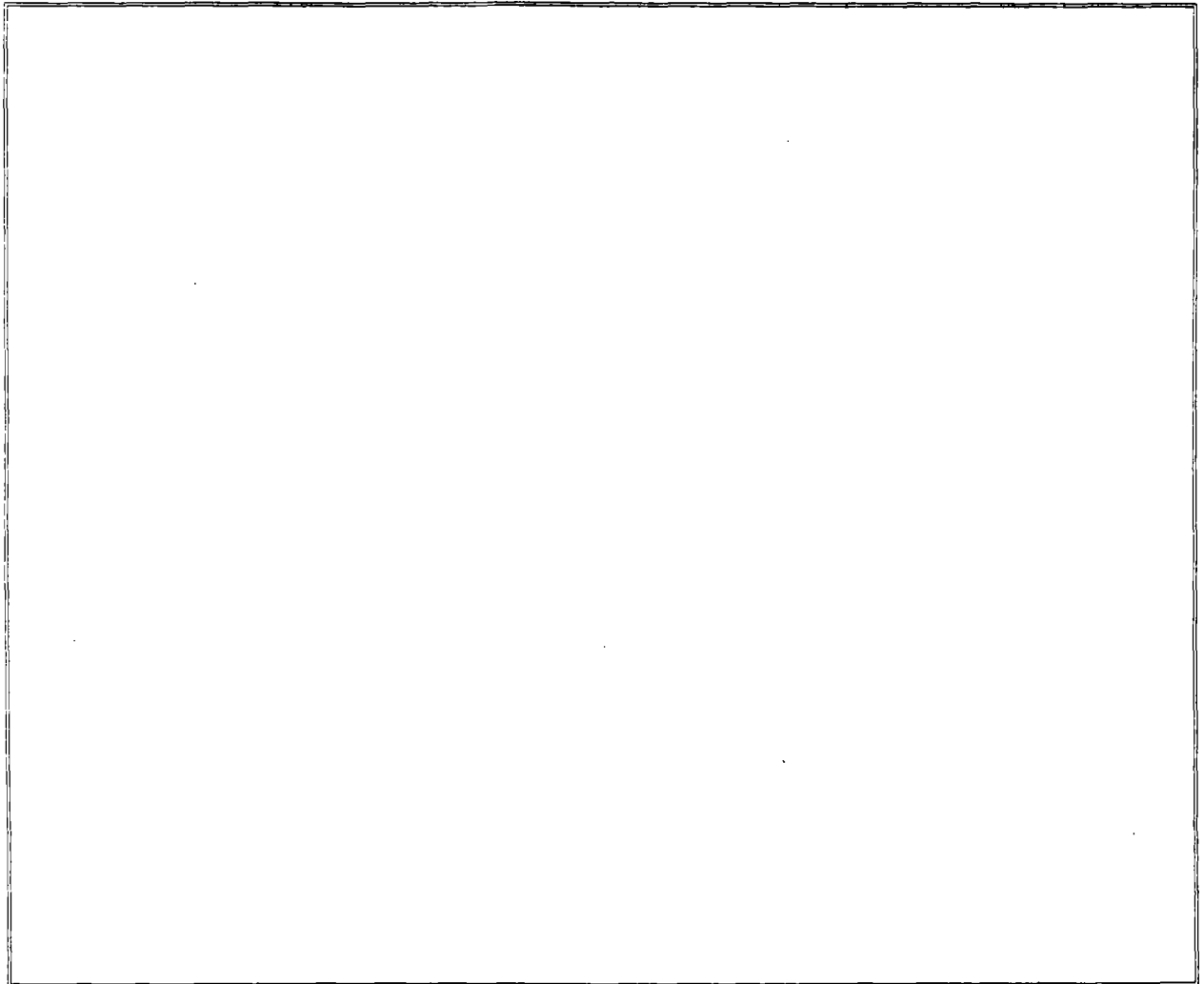
Item 9. Long-Term Foster Care - (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, FOSTER PARENT, CHILD, PARENT - Outcome P1)

****Complete only for children with permanency goals of long-term foster care or emancipation****

For children with a permanency goal of long-term foster care, have other, more permanent goals been considered and appropriately ruled out for the child? Yes ____ No ____
Child's goal is not long term foster care ____

Exploratory issues:

- factors that were considered in determining the goal of long-term foster care
- reasons long-term foster care was selected rather than legal guardianship or adoption
- reviews of the goal for continuing appropriateness since the goal was initially established



**Item 10. Adoption - Complete only for children with a permanency goal of adoption
(CASE RECORD/INTERVIEWS WITH SOCIAL WORKER - Outcome P1)**

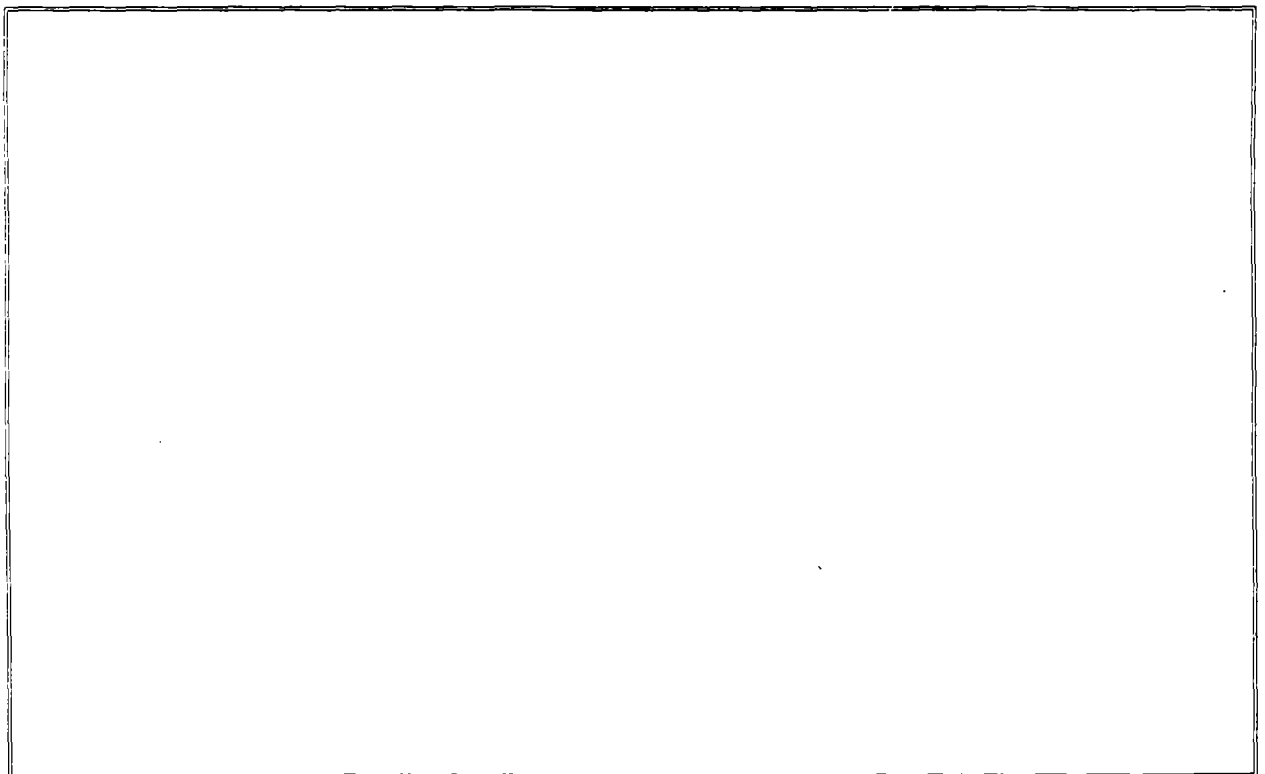
A. For children who are legally free for adoption, has an adoptive family been identified?
Yes ____ No ____ Child not free for adoption ____

B. For children who are legally free for adoption, Are there current delays (more than 60 days' duration) in placing the child in an adoptive family that are within the agency's ability to correct? Yes ____ No noted delays ____
No delays within the agency's ability to correct ____

C. For children who are not legally free for adoption, are there delays (more than 60 days' duration) in freeing the child that are within the agency's ability to correct?
Yes ____ No ____ Child is legally free for adoption ____

Exploratory issues:

- is the child legally free for adoption
- current efforts to identify an adoptive family
- barriers to placing the child for adoption
- current efforts to legally free the child for adoption
- barriers to freeing the child



DISCUSSION OF PERMANENCY OUTCOME #1

Outcome P1: Children will have permanency and stability in their living situations.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 5,6,7,8,9 & 10

Outcome P2: The continuity of family relationships and connections will be preserved for children.

Item 11. Proximity of current placement (CASE RECORDS/INTERVIEW WITH SOCIAL WORKER, PARENT - Outcome P2)

A. What is the proximity of the child's current placement to the parents?

Same community ____ Same county ____ Out of county ____ Out of State ____

B. For children placed outside the community or county of their parents' residence, is the reason for the location of the placement clearly related to helping the child achieve his or her case plan goals? Yes ____ No ____ Child not placed outside community/county of parents residence ____

C. For children placed outside the State, is the child visited at least every 12 months by a social worker of the supervising agency and a report filed to the agency holding custody? Yes ____ No ____

Exploratory issues:

- which parent is working with agency and most likely to be reunified with child
- reasons for placement settings
- how the placement location supports or inhibits achieving the child's case plan goals
- impact of placement location on maintaining important family and community connections

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Item 12. Placement With Siblings (CASE RECORD/INTERVIEWS - Outcome P2)

A. If the child has siblings who also are in foster care, are they currently placed together?

Yes ____ No ____ No siblings in foster care ____

B. If no, is there clear evidence that separation is necessary to meet the needs of the children? Yes ____ No ____ No siblings in foster care ____

Exploratory issues:

- reasons siblings are not placed together, if applicable
- efforts made to place or keep them together
- history of their placement together, including reasons for prior separations

**Item 13. Visiting with Parents and Siblings in Foster Care (CASE
RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome P2)**

A. What is the most typical pattern of visiting frequency between the child and parents?
Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. What is the most typical pattern of visiting frequency between the child and siblings
placed separately in foster care? Weekly ____ Bi-weekly ____ Monthly ____ Less than
monthly ____ No siblings placed separately ____

Exploratory issues:

- reasons for restrictions or prohibitions on visits
- barriers to visiting less frequently than weekly
- agency services/supports to encourage more frequent visiting
- custody status of child, including termination of parental rights

Item 14. Preserving Connections (INTERVIEWS WITH SOCIAL WORKER, PARENTS, FOSTER PARENTS, CHILD - Outcome P2)

A. Are the primary connections and characteristics of the child being preserved in the foster care placement?

- _____ To a large extent
_____ Partially
_____ Not at all

B. Are the interests of Native American children being addressed through,

	Yes	No	Not applicable
Placement with Native American families	_____	_____	_____ (child not Nat. Am.)
Referral to tribal court	_____	_____	_____ (child not Nat. Am.)
Other ICWA provisions (Specify) _____	_____	_____	_____ (child not Nat. Am.)

Exploratory issues:

- primary connections of the child to neighborhood, community, family, friends
- unique characteristics of the family and child, including language, religion, values and beliefs, traditions, background, and so forth
- how they are addressed in the agency's work with the family and child
- how the foster care provider supports these needs for the child in care

Item 15. Relative Placement (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD'S CARETAKER, PARENTS - Outcome P2)

For children not placed with relatives, were relatives considered for placement of the child?
Yes ____ No ____ child placed with relatives ____

Exploratory issues:

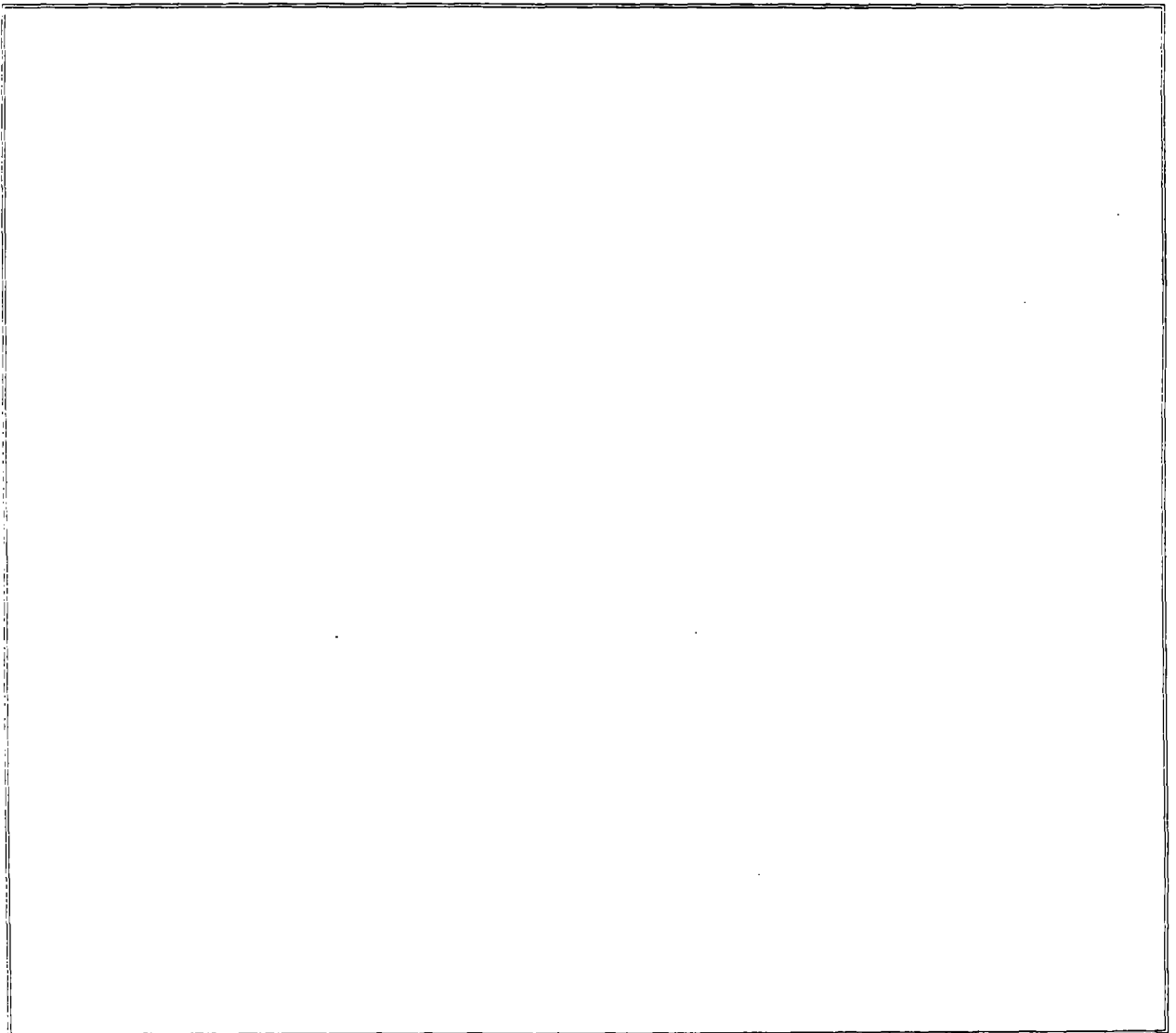
- extent to which relatives were sought out and evaluated
- reasons relatives were not evaluated, if applicable
- reasons relatives were not used for placement, if applicable

Item 16. Current Relationship of Child in Care with Parents (INTERVIEWS WITH CHILD, PARENTS, FOSTER PARENT, SERVICE PROVIDER - Outcomes P2 & WB1)

Is there evidence of a strong, emotionally supportive relationship between the child in foster care and the child's parent(s)? Yes ____ No ____

Exploratory issues:

- nature of current relationship from child's and parents' perspectives
- parental participation in activities with child, e.g., school functions, special occasions
- parental decision-making regarding child's needs and activities

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DISCUSSION OF PERMANENCY OUTCOME #2

Outcome P2: The continuity of family relationships and connections will be preserved for children..

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 11,12,13,14,15 & 16

SECTION 3: WELL-BEING

Item 17. Needs and Services of Child, Parents, Foster Parents (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, PARENTS, FOSTER PARENTS, SERVICE PROVIDERS - Outcome WB1 and others as applicable)

Are the identified needs of the child, parents and foster parents being addressed through appropriate services?

	Yes	No	N/A
A. The child in foster care	_____	_____	
B. The child's parents	_____	_____	_____ (plan does not incl. svs. to parent)
C. The child's foster parents	_____	_____	_____ (child not in foster care)

Exploratory issues:

- what services are being provided in relation to current needs?
- match of services to needs
- accessibility of services, e.g., location, schedule, cost
- availability of services
- worker accessibility to foster parents
- is child placed in setting most appropriate, most family-like and best suited the child's interests and needs?
- are services intensive enough to meet identified needs?

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Item 19. Worker Visits With Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENT - Outcome WB1 and others, as applicable)

A. What has been the most typical pattern of visiting frequency between the social worker and the child during the last six months (or the last six months before the case was closed, if applicable)?

Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. Where visits are occurring less frequently than monthly, are there other agency staff, volunteers or service providers, e.g., contract providers, who are visiting the child at least monthly? Yes ____ No ____

Exploratory issues:

- child's needs for contacts with worker
- factors impacting on frequency of visits

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Item 20. Worker Visits with Parents (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome WB1 and others as applicable)

What has been the most typical pattern of visiting frequency between the social worker and the parent(s) during the last six months (or the last six months before the case was closed, if applicable)?

Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. Where visits are occurring less frequently than monthly, are there other agency staff, volunteers or service providers, e.g., contract providers, who are visiting the parent(s) at least monthly? Yes ____ No ____

Exploratory issues:

- parents' needs for contacts with worker
- factors impacting on frequency of visits
- reasons for infrequent visiting, if applicable

DISCUSSION OF WELL-BEING OUTCOME #1

Outcome WB1: Families will have enhanced capacity to provide for their children's needs.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 16,17,18,19 & 20

Outcome WB2: School-age children will have educational achievements appropriate to their abilities.

Item 21. Educational Needs of the Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENTS, PARENTS - Outcome WB2)

A. If the child is in foster care, has the child been enrolled in multiple schools as the result of being placed in foster care? Yes ____ No ____ Child not school age ____
Child not in foster care ____

B. Are the child(ren)'s educational needs being addressed through,

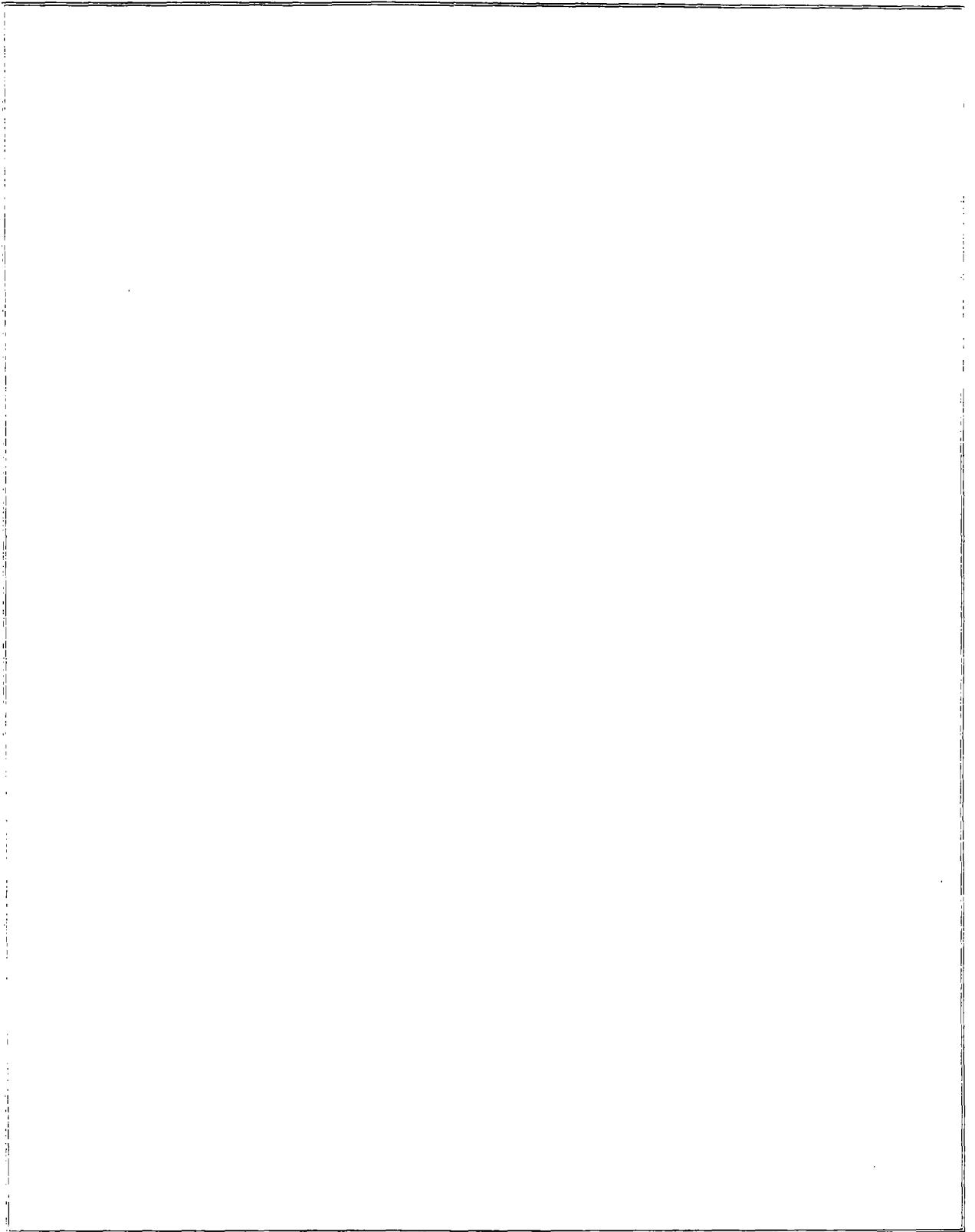
	Yes	No	N/A
Special education classes	____	____	____ (no identified special ed. needs)
Normal grade placement	____	____	____ (child not school age)
Services for identified educational needs	____	____	____ (no unusual ed. needs noted)
Early intervention for pre-school children	____	____	____ (early intervention not needed)
Inclusion of school records in case file	____	____	____ (child not school age)

C. For children who have identified educational needs, is the agency addressing the needs through,

	Yes	No	N/A
Advocacy with the education/school system	____	____	____ (no needs/not school age)
Attention to education in case planning	____	____	____ (no needs/not school age)

Exploratory issues:

- reasons for changing schools, if applicable
- testing/evaluation to determine educational needs of child
- current functioning in school
- identified needs of child related to school performance
- services provided to address educational needs
- match of services to identified needs
- worker activities to address educational needs



DISCUSSION OF WELL-BEING OUTCOME #2

Outcome WB2: School-age children will have educational achievements appropriate to their abilities.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Item 21

Outcome WB3: Children will receive adequate services to meet their physical and mental health needs.

Item 22. Physical Health of the Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENTS, PARENTS - Outcome WB3)

A. If the child is in foster care, was an initial health screening (or other comprehensive medical examination) provided within the time frame specified in the State's guidelines?

Yes ____ No ____ Child not in foster care ____

B. Are the child(ren)'s physical health needs being met through,

	Yes	No	N/A
Preventive health care	____	____	
Preventive dental care	____	____	
Immunizations	____	____	
Treatment for identified health needs	____	____	____ (no identified health needs)
Treatment for identified dental needs	____	____	____ (no identified dental needs)
Inclusion of health records in case file	____	____	
Giving health records to foster parents	____	____	

Exploratory issues:

- what are State's guidelines for timing of initial health examinations for children entering foster care
- type and timing of initial screening received by child in foster care
- recency of immunizations
- periodicity of subsequent health screenings and preventive dental care
- current identified health or dental needs
- how health and dental needs are being treated
- how the agency tracks medical needs and services
- does foster parent (provider) have copies of child's health records



Item 23. Mental Health of the Child (INTERVIEWS WITH SOCIAL WORKER, PARENT, FOSTER PARENT, SERVICE PROVIDER - Outcome WB3)

- A. If the child is in foster care, was an initial mental health screening or assessment provided upon entry into foster care (or within the time frame specified in the State's guidelines, if applicable)?**

Yes ____ No ____ Child not in foster care ____ No State guidelines ____

- B. Are the child's mental health needs being addressed through,**

	Yes	No	N/A
Assessment or screening	____	____	
Treatment for identified needs	____	____	____ (no identified health needs)

Exploratory issues:

- assessment for mental health needs at initial agency involvement or upon entering foster care
- current mental health needs
- services provided for mental health needs
- match of services to identified needs

DISCUSSION OF WELL-BEING OUTCOME #3

Outcome WB3: Children will receive adequate services to meet their physical and mental health needs.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 22,23

Child Welfare Notice of Proposed Rulemaking

General Areas Covered:

- (I) Title IV-E Foster Care Eligibility Reviews
- (II) Child and Family Services State Plan Reviews
- (III) MEPA as amended by the Small Business Job Protection Act
- (IV) Adoption and Safe Families Act provisions

I. Title IV-E Eligibility Reviews

The NPRM reforms the IV-E Eligibility Review, which are federal reviews mandated by statute to oversee and verify the accuracy of federal adoption and foster care maintenance payments. While past review processes have focused on standard completion of case files, the NPRM changes the reviews to emphasize federal collaboration with and technical assistance to states (recommended by a 1994 HHS OIG Report). The IV-E Eligibility Review will now be done by a federal/State joint team and give States the opportunity to correct errors before penalties are exacted. Reviews are conducted at three year intervals, with “substantial compliance” defined as an error rate of less than 15% in the first review, and 10% thereafter. The sample of at least 80 cases (up from at least 50 cases in prior reviews) are drawn from AFCARS (the Adoption and Foster Care Assistance Reporting System).

II. Child and Family Services Reviews

The NPRM presents an entirely new review of State child welfare systems -- the Child and Family Services Review (CFSR) -- to replace prior “427 reviews.” The 427 Review focused on accuracy and completion of case files, with bonus dollars awarded to fully completed files. The new CFSR instead focuses on child and family outcomes in the areas of safety, permanence, and child and family well-being.

The CFSR is a 2 stage review: (1) a State undergoes a self-assessment in consultation with ACF; and (2) on the basis of that self-assessment and an independent analysis by ACF, areas for an on-site review (substantive and geographic) are selected and the on-side review is undertaken by a joint federal/state team (with involvement as appropriate by outside experts). The review involves intense evaluation (on the basis of case reviews and interviews) of randomly selected cases and focuses on outcomes for children (see attached), as well as requirements related to delivering child welfare services which lead to improved outcomes. “Substantial Conformity” is defined as 90% of outcomes achieved in the first review, and 95% of outcomes achieved in subsequent reviews.

Under the NPRM, States must undergo a first review within three years. If a State is found to be in substantial conformity, another review is not required for five years. If a State is determined not to be substantial conformity, another full CFSR is required in three years, and the State must submit a Program Improvement Plan within six months to address areas of noncompliance. ACF must approve the Program Improvement Plan. The NPRM gives the States up to three years to complete its Program Improvement Plan, with interim ACF evaluations annually.

III. MEPA as amended by the 1996 Small Business Job Protection Act

The NPRM proposes a separate process for addressing violations, once identified, of the MEPA as amended by the 1996 Small Business Job Protection Act. HHS determined that proper enforcement requires collaboration with the Office of Civil Rights (OCR) because a State's noncompliance constitutes a violation of title IV-E as well as of Title VI of the Civil Rights Act of 1964, and because OCR has significant expertise in investigating alleged civil rights violations.

Under the NPRM, ACF will refer all cases involving potential violations to OCR for investigation (cases may come to ACF's attention during the course of the CFSR, by letter, through media, etc.). (Violations based on a court finding will not be referred to OCR for investigation; rather, ACF will invoke penalty and corrective action procedures directly.) OCR will conduct an investigation of the potential violation, and hand its completed file to ACF, which will make a determination, based on OCR's file and in consultation with OCR, whether there has been a violation (which could be a violation to a person or a violation based on the state's maintenance of any statute, regulation, policy, procedure or practice). If ACF finds that no violation has occurred, no further action is taken.

If ACF determines that a violation has occurred, it will invoke a specified enforcement process, which includes possible penalties assessed and a corrective action plan required. By statute, an immediate penalty will be levied against a state found to be in violation of the statute with respect to a person or as the result of a court finding (although a state may appeal and engage in a corrective action plan during the judicial appeals process if it so chooses). In other circumstances, also by statute, a State will have up to six months from the date it receives notification of its violation from ACF to implement (HHS interprets as "begin") a corrective action plan (after which the State will be assessed a penalty). Approval of the plans are at the sole discretion of ACF (no timetable for approval, but state must "begin" an approved plan before six months lapses). Evaluation of a State's corrective action plan will be completed solely by HHS within 30 days of projected completion date. Penalties levied are consistent with statute.

Summary of MEPA Enforcement: (1) potential violation is brought to ACF's attention; (2) ACF refers case to OCR for investigation; (3) OCR conducts investigation and hands file to ACF; (4) ACF evaluates file and, in consultation with OCR, makes determination -- (a) if ACF finds no violation, inquiry ends; (b) if ACF finds a violation with respect to a person or as the result of a court finding, penalties are immediately assessed; or (c) if ACF finds a relevant violation, ACF notifies the State in writing; if (c), then (5) the State must begin implementing an ACF-approved a corrective action plan within six months; and (6) ACF must evaluate and approve the completed corrective action plan within 30 days of projected completion.

IV. 1997 Adoption and Safe Families Act Provisions

HHS has decided to regulate the provisions of the 1997 Adoption and Safe Families Act (ASFA) and other recent statutory amendments through two NPRM's. This rule addresses those provisions related to the foster care maintenance program; the second rule will address the remaining ASFA amendments to the SSA. Provisions regulated in the NPRM are:

(1) *Permanency Hearing*. The NPRM recognizes the statutory changes in terminology, timing (18-12 months), and purpose.

(2) *Reasonable Efforts*. The NPRM implements the ASFA requirement that the State hold the child's health and safety as its paramount concern when making reasonable efforts. It does not provide a regulatory definition, in order neither to limit the courts' ability to make determinations on a case-by-case nor to be so broad as to be ineffective; the NPRM does provide questions and guidelines (such as the statutory descriptions of circumstances in which Reasonable Efforts are not required, and a preamble discussion of possible cases). The NPRM also follows the statute closely -- it proposes that in order to satisfy IV-eligibility requirements, there must be a judicial determination that: (1) reasonable efforts were made to prevent a child from being removed from home; (2) reasonable efforts were made to reunify the child with his/her family if the removal could not be prevented; (3) if reasonable efforts were not made to prevent the child's removal from home or to reunify the child with his/her family, that reasonable efforts are/were not required; and (4) if the permanent plan for the child is adoption, guardianship, or some other permanent living arrangement other than reunification, that reasonable efforts were made to make and finalize that alternate placement. The NPRM requires that a judicial determination of reasonable efforts must be made within 12 months, in order to encourage this assessment during the Permanency Hearing.

(3) *Termination of Parental Rights*. The NPRM follows the statutory requirement for States to file for Termination of Parent Rights (TPR) when a child has been in foster care for 15 of the most recent 22 months. By statute, a state may elect not to file for TPR if a child is placed with a relative; if there is a "compelling reason" that TPR is not in the child's best interests; or if adequate services identified in the case have not been provided.

(4) *Criminal Records Check Requirement*. The NPRM follows the statutory requirement that the State conduct criminal records checks for prospective foster and adoptive parents unless the State "opts out" of this provision through a Governor's letter to the Secretary of HHS. The NPRM leaves to state discretion whether the criminal background checks are national or state-wide (ASFA was not specific, and HHS claims that FBI checks are too burdensome, time- and dollar-wise, to be required).

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(3) aggregate data in the State self-assessment used to examine each outcome and performance indicator which corroborates the findings of the on-site component of the review, and;

(4) the determination of conformity by the ACF Regional Office based on the criteria described in paragraphs (a) - (c) of this section.

(b) Criteria related to outcomes.

(1) A State's substantial conformity will be determined by its ability to substantially achieve the following child and family service outcomes:

(i) In the area of child safety:

- (A) Children are safe from abuse and neglect; children are safely maintained in their homes (whenever possible); and
- (B) The risk of harm to children is minimized;

(ii) In the area of permanency for children:

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take from Miss. p 15f

Children are protected from abuse and neglect in their own homes whenever possible 176

(B) The risk of harm to children is minimized;

(ii) In the area of permanency for children:

(A) Children have permanency and stability in their living situations; and

(B) The continuity of family relationships and connections is preserved for children; and

(iii) In the area of child and family well-being:

(A) Families have enhanced capacity to provide for their children's needs;

(B) Children will receive appropriate services to meet their educational needs; and

(C) Children receive adequate services to meet their physical and mental health needs.

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(2) A State's level of achievement with regard to each outcome reflects the extent to which a State has implemented the following CFSP requirements or assurances: