

HOW AND WHY TO INVOLVE THE COURTS IN YOUR CHILD AND FAMILY SERVICES REVIEW (CFSR):¹

SUGGESTIONS FOR AGENCY ADMINISTRATORS

By now most child welfare agency administrators are familiar with Child and Family Services Reviews (CFSRs).² But perhaps you haven't yet thought through the courts' role in a CFSR. Just as state and local child welfare agencies played a key role in most state court self-assessments several years ago,³ the legal system has an important role in federal Child and Family Service Reviews.

This paper will explain why involving the courts in systemic reforms is not just an extra thing the agency can do, but rather an essential part of the process. It is impossible to have a complete CFSR and successful Program Improvement Plan (PIP) without court involvement.

The first part of this paper explains why actively involving courts and attorneys in the CFSR can improve the CFSR's quality. The second part discusses how to involve the courts. The third presents an outline, illustrating the range of legal and judicial issues

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¹Views expressed in this paper have not been endorsed by the ABA Board of Governors or House of Delegates and therefore do not necessarily reflect official policies of the American Bar Association. In addition, they do not necessarily represent the views of the U.S. Department of Health and Human Services, Children's Bureau.

²Readers who are not informed about CFSRs can find a brief summary in Laver, "Compliance Review Process" in *Making Sense of the ASFA Regulations: A Roadmap to Effective Implementation* 163-169 (ABA 2001). A detailed and comprehensive federal manual on CFSRs, is available on the web at <http://www.childwelfare.gov/cw-manual.htm>. A companion paper for courts, *Child and Family Services Reviews (CFSRs): How Judges, Court Administrators, And Attorneys Should Be Involved* (ABA 2002), briefly describes the CFSR process.

³Subpart 2 of Title IV-B, enacted in 1993, provided grants to the highest courts of each state to improve their handling of abuse and neglect cases. As a condition of receiving these grants, each state court system conducted a self-assessment. Most state child welfare agencies played an important role in these assessments in most states and also became an important part of courts' subsequent plans for improvement.

that can be relevant and important to the CFSR. The final part discusses how legal system representatives should be involved during the different specific stages of the CFSR.

WHY IT IS NECESSARY FOR COURTS TO BE INVOLVED IN CFSRs

Legal and Judicial Performance Are Integral to CFSRs

CFSRs hold states accountable not only for the performance of the state child welfare agency itself in child abuse and neglect cases, but also for the performance of the state as a whole. A CFSR analyzes the state's success in achieving safety, permanency, and well being of abused and neglected children. It also studies which factors affect performance, including those external to the agency.

Judicial performance is a critical factor in achieving safety, permanency, and well being of children. When courts make sound decisions concerning the safety of abused and neglected children, children are in fact safer. When courts make timely decisions in child welfare cases, foster children achieve earlier permanent placements. In most states, to make significant and measurable improvements concerning child safety and permanency, legal system performance must improve. CFSRs therefore need to take court performance fully into account.

What are the CFSR's fundamental legal dimensions? One is caseworkers' performance in court – such as in their court reports, testimony, precision of documentation, compliance with legal requirements, timeliness in acting on court directives, and knowledge of cases. Other legal dimensions include how well the courts themselves function in child welfare cases, the appropriateness of laws governing child welfare interventions, and the quality of the agency's (and others') legal representation.

For a CFSR to be incisive and accurate, it must consider the performance of the legal system as a whole and identify key factors that make the legal system work well or poorly. If the CFSR is to develop a Program Improvement Plan (PIP) that will help improve legal system performance, the CFSR needs to address legal and judicial issues from the beginning. That is, to develop a well focused and successful PIP, it is important that the earlier stages of the CFSR accurately identify legal system strengths and barriers.

Involving legal system representatives in the CFSR can provide the following benefits to the agency:

- Help identify subtle legal and judicial issues related to CFSRs.
- Ease the burden of CFSRs by doing some of the actual work, such as logistics and report writing on legal system issues.
- Provide political support for agency goals that will also improve the legal process.
- Develop and implement a cooperative strategy for the courts and the bar to help achieve the goals of CFSRs.
- Help the agency be more effective when working with courts on Program Improvement Plan implementation.
- Persuade the court system to support the PIP strategy.

WHAT STATE AGENCIES SHOULD DO TO INVOLVE COURTS IN CFSRs

Incentives for Legal System Participation

Realizing the benefits of legal participation in the CFSR requires careful thought and planning. Before contacting the courts, think about what would make judges and court administrators *want* to work with you on the CFSR. The general answer is: (a) because doing so ultimately will help courts handle their cases, and (b) it will make a major difference to the children they serve. Therefore, you need to explain how and why their involvement will, in fact, ultimately help courts. You need to explain how their involvement will help the children that come before the court.

What exactly should you explain? First, explain that the CFSR will set the agency's reform agenda for the near future. Second, emphasize that courts can help shape this agenda. Third, point out types of improvements that courts might get onto the agency's agenda through the CFSR – and how these improvements can help the courts.

Here are some types of agency improvements that would help courts make better decisions for children:

- Improving agency court reports and testimony.
- Upgrading legal representation of the agency.
- Assisting judges to implement the Adoption and Safe Families Act (ASFA) and its regulations.
- Helping courts get better performance data or providing them with helpful data.
- Getting caseworkers to more consistently attend court hearings (possibly in connection with judicial calendar changes).
- Working together to improve court resources.
- Improving state law to ensure better and more timely services for families (making it easier for judges to make timely judicial decisions).

Each of these improvements will eliminate barriers that make it difficult for courts to make the best decisions for children. They can help ease courts' frustrations about having enough information for good decisions, the length of time needed to resolve permanency issues, slow progress in cases, and barriers to timely termination of parental rights. Each will help courts perform their role in achieving better outcomes for children and families.

In short, explain to the courts that by participating in the CFSR, they enable the agency to work with them and to help them help children and families. Why is this true? First, administrators of your agency will be absorbed in the CFSR and its Program Improvement Plan (PIP) for a long period of time. Second, by working with you on the CFSR, courts can help ensure that their concerns will be addressed in the PIP. This will help keep legal and judicial issues at the center of the agency's agenda.

Finally, you should be aware that your state Court Improvement Program (CIP) is now *expected* to help achieve your state's PIP. A recent amendment in federal law not only requires state courts hearing dependency cases to focus on the safety, permanency,

and well-being of children, but also to help implement the state's PIP.⁴ Realistically, however, to get the CIP to help in implementation of the PIP, you must actively involve them much earlier in the process.

Involving the Right Legal Representatives in the CFSR

Of course, it is important to involve the right judges, court staff, and others in the CFSR process. Deciding whom to involve in CFSR committees and meetings requires careful thought. The least effective way to work with courts and lawyers is to casually decide whom to involve, based mostly on the personalities of the people under consideration.

A better approach is to get good advice on whom to involve. It isn't necessarily wise to involve the same court staff, lawyers, and judges the agency already works with. But you probably should at least contact some of them for advice on whom to invite to participate.

When asking for this advice, briefly explain the CFSR process and the kinds of help the agency will need. Explain how your needs will change during the different stages of the CFSR.

The following are some categories of people who may be helpful regarding legal system issues in the CFSR process:

- Chief Justice of the state's highest court (or a designated representative).
- State Court Administrator (or a designated representative).
- Director or representative of state Court Improvement Project (CIP).
- Representatives of local organizations of court administrators and court clerks (depending on state).
- Local presiding judges.
- Leaders or representatives of the State Council of Juvenile and Family Court Judges (or equivalent).
- Other selected judges (based on expertise, administrative authority, supportiveness, *etc.*).
- President of State Bar Association and leader of section of bar dealing with child welfare (or designated representatives).
- Representatives of attorneys representing the government (*e.g.*, office of the attorney general, child welfare agency legal counsel, prosecutors' association).

⁴Public Law 107-133, §§106 and 107, creates new sections 436-438 of the Social Security Act, governing the Court Improvement Program (CIP). State CIP projects are now called upon to work "to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105-89); and "... to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act." The use of the term "corrective action plan" is an error in drafting and actually is meant to refer to "a program improvement plan." Section 1123A of the Social Security Act –cross referenced in Social Security Act §438(a)(2)(B) quoted above – governs CFSRs and Title IV-E eligibility reviews, both of which use the term "program improvement plan." The term "corrective action plan" is properly used only to refer to the enforcement of 42 U.S.C. §671(a)(18), barring illegal discrimination in the placement of children in foster care and adoptive homes.

- Representatives of attorneys representing parents, such as employees of public defender or legal services offices, firms representing parents, or persons handling court appointments.
- Representative of the state or local GAL or CASA program and, if applicable of other attorneys representing children.
- Director of state or local Foster Care Review program (or representative).

An important consideration in choosing whom to invite is who has what power in the state courts and state bar. Before choosing the invitees, it is important to understand the judicial power structure.

State Agency Attorneys Might Provide Crucial Help

If skilled attorneys are available to represent the state agency, they can play a major role in engaging the courts and involving them in the CFSR. Agency attorneys can, for example:

- Help the agency decide whom to invite to participate in the CFSR.
- Contact key judges and court employees and explain the CFSR.
- Help the agency identify legal and judicial issues that are key to achieving good outcomes for children.
- Translate legal terms and concepts to help the agency communicate with judges, court administrators, and attorneys.
- In the course of the CFSR, help identify legal and judicial barriers to strong agency performance.
- Apply their knowledge of good legal practice in developing an effective Program Improvement Plan (PIP).
- Help map out strategies to implement aspects of the PIP.

Structures for Legal System Participation

One approach to involving the legal system in the CFSR is to involve different people to participate in different parts of the process. For example, one group might help prepare written legal descriptions in the statewide assessment at the beginning of the CFSR. Other people might help the agency pick legal representatives for stakeholder interviews. Additional sets of people may be interviewed. Still other people can help the agency develop strategies for implementation.

Another approach is to invite selected judges, court administrators, and attorneys to participate in the agency's CFSR planning committees. Given the scale of CFSRs, most states have several such committees.

Finally, consider creating a special CFSR legal-judicial subcommittee to assist in the CFSR. The subcommittee might identify important state legal and judicial issues closely related to the CFSR, help plan legal system involvement in the CFSR, and assist in all phases of the CFSR.

Possible advantages of a legal-judicial subcommittee are that members of the subcommittee will become very knowledgeable about CFSRs, contribute to the process,

and ultimately support the CFSR Program Improvement Plan (PIP). Possible disadvantages are that you will “lock in” inappropriate people and lose the involvement of a potentially wider group. Of course, you might choose to invite some legal system representatives to serve on a special subcommittee *and* invite other legal representatives to serve on different planning committees.

The role of legal system representatives in CFSRs will inevitably depend, in part, on the relationship between courts, attorneys, and the child welfare agency. While some legal participation is required in CFSRs, child welfare agencies have significant control over the depth and extent of such participation. The more trust between the agency and the courts, the more likely the agency will be open and the courts willing to collaborate. In addition, an agency that is sophisticated in working with courts is in the best position to arrange for helpful legal system involvement.⁵

AREAS OF PERFORMANCE MEASURED IN CFSRs

Agencies, together with legal representatives, need to thoroughly consider what legal and judicial issues might be relevant to their CFSR. Many important legal issues are involved that probably will not be identified by agency staff. Appendix A illustrates the breadth of legal and judicial issues to consider in a CFSR.

Specifically, Appendix A sets forth the 45 federal indicators accompanying the CFSR safety, permanency, and well-being outcomes and the systemic factors. These 45 indicators appear as “items” 1 through 45 in the federal CFSR Final Report. In Appendix A, following each of the 45 federally identified performance areas, is a list of some relevant legal and judicial issues.

LEGAL AND JUDICIAL INVOLVEMENT AT KEY STAGES OF CFSRs⁶

Advance Planning with Courts (Before the CFSR)

The state agency should contact the state courts well before the statewide assessment begins. Meet repeatedly at this stage with key legal system representatives. Describe the CFSR process to them and explain why the CFSR is important to courts. Give them brief written materials that describe the CFSR process and explain how courts may be involved. Make available the CFSR materials developed by the federal government.

At all points in the CFSR, make sure that legal system representatives understand that neither the state agency nor the federal government is bound to accept their views. At the same time, make it clear that you will take their views very seriously, especially regarding issues on which people working in the legal system agree.

Legal System Involvement in Statewide Assessment

Legal system representatives (*i.e.*, judges, court administrators, and attorneys) can assist with the statewide assessment by helping to prepare the judicial and legal pieces of

⁵See *How to Work with Your Court: A Guide for Child Welfare Agency Administrators* (ABA 1992).

⁶This paper assumes that the reader already knows about CFSRs, and understands their implications for the state agency. Therefore, this section does not describe the CFSR process. Footnote two lists some available materials about CFSRs.

the narrative description. They can help identify and analyze legal and judicial issues related to the CFSR – including legal system strengths and weaknesses that affect outcomes for children and families. Appendix B lists some types of legal and judicial information to include in the narrative description.

Consider carefully which judges, attorneys, or others should help with the legal portion of the narrative description. Make sure that whoever helps has strong legal research and writing skills. Of course the writer or writers also should have good practical and legal knowledge about the child welfare system. Likely places to look for these abilities are:

- The chief justice of the highest state court, who can name an employee or knowledgeable person.
- The state CIP project, which might appoint an employee or consultant.
- Agency attorneys or the state office of the attorney general.
- Attorneys for children and parents.

A wider legal group should review and comment on the legal portion of the narrative description before it is final. This group might include, for example, judges and court administrators.

Onsite Review

It is essential to plan well in advance for the involvement of legal system representatives in the onsite review. As in other stages of the CFSR, it is important to meet with them about the onsite review and provide specific explanatory materials. These materials should at least include:

- A brief written summary of the CFSR process, including information about the onsite review process.
- A copy of the completed statewide assessment.
- The instrument to be used in stakeholder interviews.
- The instrument to be used in the review of individual cases.

Legal system representatives can be involved in the onsite review in two basic ways. First, they can participate in interviews of legal “stakeholders” – both by helping to arrange and set up the interviews and by serving as stakeholders to be interviewed. Second, legal system representatives can serve on teams to review individual cases.

Send out copies of the interview instrument well before the “stakeholder interviews” of legal representatives. This will help the interviewees to understand the purpose of the interview. It will help them think about the issues in advance and present their most thoughtful comments. It will help keep the interview focused and will suppress individuals’ desires to “sound off” or raise individual grievances.

Make sure that your interviewers decide in advance which questions to emphasize when interviewing legal system stakeholders. There are far more interview questions on the federal Stakeholder Interview Guide than interviewers will have time to ask.

Legal system representatives can make a major contribution to your CFSR by serving on teams to review individual cases. Their participation not only can add to the accuracy and depth of the onsite review, but also can help identify the right issues and strategies for the Program Improvement Plan (PIP) later. Consider inviting judges, attorneys, CIP directors, or court staff to serve as case reviewers.

Final Report

The federal government prepares the final report, based on the statewide assessment and onsite review. The federal government sends the state agency a courtesy copy of the final report prior to releasing the report officially.

Program Improvement Plan (PIP)

As explained above, states need to include important legal system issues in a CFSR. Further, federal regulations require it. For example, the regulations require the CFSR to address judicial processes such as permanency hearings, semiannual reviews, procedural protections for parents, and the involvement of foster parents and others in court.

Legal representatives should be involved in developing the PIP action strategy, especially where legal issues are important. For many outcomes and systemic factors, achieving substantial conformity may not be possible without legal system improvements. This is why it is essential to involve legal system representatives in the process of developing the PIP – or at least those portions relating to the legal system.

Similarly, statewide aggregate data (in connection with national standards) may be impossible to improve without legal system cooperation. For example, favorable permanency results require timely court decisions. Legal system representatives might help identify specific types of court delays slowing permanency for children. They might pinpoint exactly what is causing such court delays. Later, they might identify and work toward concrete steps in addressing such delays.

Where PIP issues have legal dimensions, the agency should talk to the courts about technical assistance that might help to improve state performance. The state CIP director, along with the agency, can request technical assistance from the National Resource Centers (NRCs).

CONCLUSION

Involving the legal system issues may add to your agency's time and trouble in conducting the CFSR. But legal system involvement is essential for the CFSR and the PIP to succeed in making dramatic improvements in children's safety, permanency, and well being. The CFSR process is not meant to be easy.

Appendix A: Legal and Judicial Issues Suggested By the CFSR Performance Indicators

To help states consider the legal dimensions of the seven safety, permanency, and well-being outcomes and the seven systemic factors (including the 45 related specific performance indicators identified by the federal government), this appendix annotates the 45 performance indicators. That is, the 45 federal performance indicators are listed verbatim and boldface below, while legal and judicial aspects of each performance area are provided as bullets. *Note:* These bullets are meant to illustrate the kinds of legal practice and policy issues that may require attention to comply with each performance area.

I. SAFETY:

1. Timeliness in initiating child abuse and neglect investigations.

- Effective legal help is available to overcome barriers to investigations.
- Legal advice is provided to the agency that supports the filing of actions in dependency court whenever abused and neglected children need state intervention.
- Legislation and court rules provide legal remedies allowing agencies to complete investigations when family members or other people familiar with the child refuse to cooperate.
- Statutes, regulations, and procedures provide clear and appropriate guidance for investigators and caseworkers to obtain otherwise confidential information from substance abuse treatment providers, criminal justice agencies, schools, mental health providers, doctors, and other professionals.

2. Recurrence of abuse or neglect by parents.

- Courts remove children from home and enforce comprehensive judicial protective supervision.
- Courts carefully consider safety factors when deciding whether to return a child home.
- Courts exercise caution when deciding whether to terminate court jurisdiction (dismiss case).
- Judges and attorneys take time to carefully review documents and ask challenging questions concerning safety issues in the home.
- Adequate evidence demonstrating danger to the child is offered in court proceedings.
- Judges carefully consider evidence about the child and caretakers to ensure the child will be safe.
- Domestic violence policies are well defined.

3. Services to protect children at home and prevent removal.

- In appropriate circumstances judges order parents to participate in services to protect the child instead of ordering the child removed from home.

- Adequate evidence demonstrating whether services will alleviate danger to the child is offered in court proceedings.
- Laws and regulations define an array of services for abused and neglected children and their families, to be delivered immediately in emergency situations.
- Domestic violence policies are well defined.

4. Risk of harm to child including abuse or neglect of child while in foster care.

- Courts order removal of children from their foster homes when the agency appropriately requests it to avoid potential abuse or neglect. (Note that courts do not have the power in all states to block removal of a child from a foster home.)
- Courts monitor foster placements by insisting caseworkers and children's legal representatives visit and evaluate the foster home.
- Safety clearances are done on every adult in the foster parents' or adoptive parents' homes.

Note: Many organizational problems may affect the factors listed below. Important examples are excessive workloads, insufficient training, poor hiring practices and management, and weak case management skills. These are common problems facing caseworkers, attorneys, foster parents, child advocates, judges and court staff and can weaken the legal system.

II. PERMANENCY:

5. Foster care reentry.

- Adequate time and resources are allocated for meaningful case review before sending the child home.
- Courts require evidence that the home is safe before authorizing the child's return home.
- When courts allow children to remain home following adjudication of child abuse or neglect, they require that the case be brought back to court if the agency decides to place the child in foster care. Due process protections regarding subsequent removal of the child are in place.
- Courts order specific services and refer parents to community supports to make the return successful and require that parents and children complete the services.
- Courts gather enough information about the parent and child before return.
- Courts ensure visitation plans are designed to foster healthy parent-child relationships and work toward successful reunification to avoid foster care reentry (e.g., efforts are made to ensure visits are meaningful, progressively longer visits are imposed).
- Courts and agencies closely monitor cases.
- Courts carefully and thoroughly consider the evidence when deciding whether to return children home.

6. Stability of foster placement – too many moves of foster children into different foster homes.

- Judges monitor moves while children are in foster care.
- Laws, regulations, and state policies discourage moving children between foster homes.
- Policies and practices support training for foster parents of special needs children.
- Judges understand bonding and attachment issues and factor them into decision making.
- Courts thoroughly review children's needs.
- Children's counsel effectively represents children by:
 - reviewing case plans;
 - participating in case planning;
 - preserving placements;
 - advocating for reunification services;
 - advocating for independent living services; and
 - visiting and interacting with the child to independently assess whether moves are necessary.

7. Permanency goal for child.

- Attorneys, judges, and court personnel are adequately trained in permanency planning practices.
- Permanency hearings are conducted in a timely manner and sufficient time is allotted for hearings.
- Judges and attorneys understand concurrent planning and support it when appropriate.
- State laws provide appropriate grounds for legal guardianship, clear and efficient procedures for establishing legal guardianships, and adequate legal protections and financial supports for legal guardians.
- State laws provide appropriate grounds for termination of parental rights and clear and efficient procedures for termination of parental rights.
- State laws and policies provide appropriate exceptions for mandatory petitions for termination of parental rights, based on federal requirements.
- State laws and policies provide workable procedures for determining whether to file or join petitions for the termination of parental rights.

8. Reunification, guardianship, or permanent placement with relatives.

- Courts consistently follow or enforce time limits for hearings and judicial decisions. Courts have a comprehensive system of time limits governing all stages of the court process.
- Adequate judicial case tracking systems are in place.
- Judges fully explore all possible placement resources.
- Judges routinely establish or approve specific permanency plans for foster children.

- Courts minimize delays by notifying appropriate parties, denying adjournments, ensuring diligent efforts to locate missing parents' at start of case, determining paternity early in case, and addressing other procedural problems.
- Multi-court involvement in different stages of child protection cases is discouraged to avoid delays, loss of information, and other inefficiencies.
- Court practices are efficient to minimize time to achieve reunification.
- Clear, efficient procedures exist to indefinitely transfer custody to a non-custodial parent or relative in child protection proceedings.
- State laws provide appropriate grounds for legal guardianship, clear and efficient procedures for establishing legal guardianships, and adequate legal protections and financial supports for legal guardians.
- Courts consistently and thoroughly review reasonable efforts to achieve a new permanent home for the child.

9. Achievement of adoption.

- Courts adequately track case progress toward adoption.
- Courts thoroughly consider the appropriateness of prospective adoptive caretakers.
- Judges fully explore all possible placement resources.
- Courts understand when TPR petitions are required and the exceptions to such requirements.
- Courts take steps to encourage or require TPR petitions, when appropriate.
- State laws provide appropriate grounds for termination of parental rights and clear and efficient procedures for termination of parental rights.
- Sufficient resources and court time are available to promote timely TPRs.
- The appellate process is streamlined to avoid TPR delays.
- Courts and attorneys inform agencies of available steps to speed appeals.
- Courts actively oversee cases between TPR and finalization of adoption
- Courts minimize scheduling delays and prioritize cases when needed.
- Courts minimize delays by notifying appropriate parties, denying adjournments, ensuring diligent efforts to locate missing parents at start of case, determining paternity early in case, and addressing other procedural problems.
- Multi-court involvement in different stages of child protection cases is discouraged to avoid delays, loss of information, and other inefficiencies.

10. Permanency goal of other planned permanent living arrangement.

- “Another planned permanent living arrangement” is clearly defined to avoid misapplication.
- Courts carefully use this permanency option, ensuring compelling reasons exist and giving thought to long-term permanency planning.
- Courts order or recommend services that might allow the child to move into a more permanent placement.
- Courts review case plans to determine agency compliance with services and visitation for other planned permanent living arrangements.

- Courts operate with the understanding that independent living (foster children “aging out”) is not a permanency plan, but foster children are entitled to independent living services.
- Courts are familiar with available independent living services for children in the community and refer children to appropriate services.
- Courts are familiar with federal legislation supporting independent living services.
- Courts ask about independent living services in most cases involving older teens in foster care.
- State laws authorize extending court jurisdiction for children who have turned 18 and specify appropriately.

11. Proximity of foster care placement.

- Courts request information about the proximity of the foster care placement.
- Courts do not order children placed outside their communities or counties if appropriate placement resources are located in close proximity.
- Courts routinely request information based on agency visits with children placed out of state.
- Statutes, court rules, and policies provide appropriate guidance concerning the proximity of foster care placement.

12. Placement with siblings.

- Courts consistently ask agencies to present specific reasons for failing to place siblings together.
- State statutes, court rules, and policies address the priority of placement with siblings.
- Attorneys and judges are adequately trained on the importance of maintaining sibling ties as well as on reasons why this might not be appropriate.

13. Visits with parents and siblings.

- Courts request information about the nature and quality of foster children’s visits, contacts, and relationships with parents and siblings.
- Courts address visiting, when appropriate, in court orders.
- Attorneys request evaluations of the quality of visits with parents and siblings.
- Statutes, court rules, and policies provide clear guidance regarding visitation.
- Attorneys and judges are adequately trained on visitation issues.

14. Preserving connections.

- Attorneys request evaluations of relatives.
- Statutes, court rules, and policies provide clear guidance regarding maintaining relative ties.
- Attorneys are adequately trained on the importance and pitfalls of maintaining relative ties.
- Courts ask whether children are Native American and, if so, whether tribes have been notified.

- Courts support collaboration with tribal courts on transfers of cases of Native American children where appropriate.
- Courts enforce placement preferences for Native American children under ICWA, including placement with the child's extended family and with tribes.

15. Relative placement.

- Courts ask about possible placement with maternal and paternal relatives early and often.
- Courts ask agencies to present specific reasons for not placing children with relatives.
- Attorneys and judges are adequately trained on relative placement issues.

16. Relationship of child in care with parents.

- Courts consistently ask about child's relationship with parents while in care, including nature and quality of visits and other contact.
- Courts monitor visiting arrangements and their frequency where specified in court orders.
- Attorneys are adequately trained regarding maintaining parent-child relationships during foster placements.

III. CHILD AND FAMILY WELL-BEING:

17. Needs and services of child, parents, foster parents.

- Courts ensure that agencies conduct thorough assessments and provide services to meet the needs of the child, parents, and foster parents.
- Courts review case plans submitted to the courts by the child protection agency to see if needs are being met through the provision of services.
- Courts address barriers to service provision and delivery.
- Attorneys and advocates identify and address their clients' needs and advocate appropriate services.
- Attorneys, advocates and judges have sufficient training, experiences, and resources to advocate effectively for children's service needs (e.g., special education, medical, and mental health needs).
- Judges and attorneys are sufficiently knowledgeable about confidentiality laws to help assure that information on children's and family's needs to be available to the court and agency.

18. Child and family involvement in case planning.

- Attorneys and advocates participate in and encourage child and family involvement in case planning.
- Statutes, court rules and policies provide appropriate guidance to encourage child and family involvement in case planning.

19. Worker visits with the child.

- Statutes, court rules and policies provide appropriate guidance on worker visits with parents and children.
- Attorneys and advocates request information about, and, when appropriate, advocate for worker visits with the child.

20. Worker visits with parents.

- Courts consistently review and note worker visits with parents and children.
- Statutes, court rules and policies provide appropriate guidance on, and, when appropriate, advocate for worker visits with parents.

21. Educational needs of the child.

- Courts request information about foster children's education from teachers, guidance counselors, caseworkers, and others.
- Court forms request education information including school records addressing the child's academic performance, behavior and adjustment to school, and special educational needs.
- Judges, attorneys, and advocates consistently determine whether foster children's education needs are being met.
- Policies offer guidance on minimizing disruptions in foster children's education due to frequent moves.
- State laws appropriately address confidentiality issues surrounding access to education records of foster children and children under protective supervision.
- Judges, attorneys, and advocates have sufficient knowledge about the education system to intervene effectively to ensure a good education for foster children.

22. Physical health of the child.

- Courts obtain information about foster children's medical needs.
- Court forms request physical health information, including any known medical problems, needed treatments, medication, and physical symptoms of abuse or neglect.
- Judges, attorneys and advocates consistently determine whether foster children's physical health needs are being met.
- Courts are aware of state requirements regarding foster children's physical health, such as those concerning medical examinations and immunizations.
- Courts inquire, when appropriate, whether health records have been reviewed, updated, and supplied to the foster care provider.
- State laws appropriately address confidentiality issues governing access to medical information about abused and neglected children.

23. Mental health of the child.

- Judges, attorneys and advocates request information from children's therapists about foster children's mental health issues.
- Court forms request mental health information.

- Courts are aware of state requirements for diagnosis and treatment regarding foster children's mental health.
- Judges, attorneys, and advocates consistently determine whether foster children's mental health needs are being met.
- State laws appropriately address confidentiality issues governing access to mental health information.

IV. STATEWIDE INFORMATION SYSTEM:

24. State operates information system that readily can identify the status, demographic characteristics, location, and goals for the placement of every child who is (or within the preceding year was) in foster care.

- Courts have created a statewide information system or good local information systems.
- Case tracking responsibilities are clearly assigned to appropriate court staff.
- Courts and agencies have automated systems that use computers and tickler systems to manage cases.
- Computer data is used to measure judicial performance.
- Agency information systems include information about critical court events to help evaluate judicial performance in child protection cases.
- Data is shared between judicial and agency computers.
- Sophisticated procedures exist to collect and report data.

V. CASE REVIEW SYSTEM:

25. Written case plan developed jointly with parents.

- Parents' attorneys participate in the case planning process.
- Parents' attorneys are trained on non-adversarial models for resolving conflict (i.e. FGC and mediation).
- Parents' attorneys advocate for meaningful case planning for their clients.
- Judges ask about parental involvement in case planning.

26. Process for periodic review at least once every six months, by court or by administrative review.

- Court procedures and forms ask hard questions and ensure thoroughness.
- Courts and/or agencies schedule six month reviews in a timely manner.
- Reviews thoroughly consider whether reasonable efforts have been made to achieve permanency – especially after the case goal is no longer is reunification.
- Courts set aside enough time to hold review hearings that thoroughly consider the individual circumstances of each child and family and that address each issue specified by state and federal law.
- If administrative reviews are held in lieu of judicial reviews, the courts take time to review the reports from the reviews and address them in court proceedings.

- 27. Permanency hearings within 12 months after a child is considered to have entered foster care and at least once every 12 months thereafter.**
- Adequate scheduling procedures for reviews are in place.
 - Courts devote enough time to conduct thorough permanency hearings that address each issue specified in state and federal statutes and to determine an appropriate permanency plan for each child.
 - State laws, court rules, court forms, and court procedures create a structure for permanency hearings that encourages timely decisions by the court and agency, even in challenging cases.
 - Permanency hearings thoroughly consider whether reasonable efforts have been made to achieve permanency – especially after the case goal is no longer is reunification.
- 28. Process for termination of parental rights proceedings in accordance with ASFA.**
- Attorneys and judges are aware of state and federal statutory requirements to file petitions for termination of parental rights and of the exceptions.
 - Courts routinely review agency documentation of exceptions to state and federal requirements to file petitions for the termination of parental rights.
 - Procedures for termination of parental rights fully protect parents’ rights without being needlessly inefficient.
 - State laws do not require parties to reprove facts established in earlier stages of the court process in order to terminate parental rights.
 - Grounds for termination of parental rights are complete, focused, and consistent.
 - Agency procedures and policies for deciding whether to file are timely and balanced.
- 29. Process for foster parents, preadoptive parents, and relative caregivers of children in foster care to be notified of, and have an opportunity to be heard in, any review or hearing held with respect to the child.**
- Courts consistently encourage active participation of foster parents, preadoptive parents, and relative caregivers in court proceedings.
 - Foster parents, preadoptive parents, and relative caregivers consistently receive notice of court proceedings.
 - The wording of notice forms encourages the attendance of foster parents, preadoptive parents, and relative caregivers in court.
 - State laws and procedures specify an effective notification method for foster parents, preadoptive parents, and relative caregivers and define what is meant by “opportunity to be heard.”
 - Courts have forms and procedures for review and permanency hearings that call for statements by and questioning of foster parents, preadoptive parents, and relative caregivers.
 - State laws and procedures clearly define an effective notification method for foster parents, preadoptive parents, and relative caregivers and define what is meant by “opportunity to be heard.”

- State laws, court rules and policies clarify and reinforce the role of foster parents, preadoptive parents, and relative caretakers in court.

VI. QUALITY ASSURANCE SYSTEM:

- 30. Implementation of standards for services to children in foster care, to protect their health and safety.**
- The agency has comprehensive standards for services to children in child protection cases and courts are aware of these standards.
 - Agencies and courts work together to exchange information on services to children.
- 31. Quality assurance system in place to evaluate the quality of services, identify strengths and needs of service delivery system, provide relevant reports, and evaluate implementation of program improvement measures.**
- Agencies enlist courts to help evaluate caseworkers' performance in court.
 - Courts have systematic quality assurance systems to evaluate their own performance.

VII. TRAINING:

- 32. Staff development and training program for all staff, including training on objectives of Title IV-B plan and services under Title IV-B and IV-E. To include initial training for all staff.**
- The state agency provides copies of its Title IV-B and IV-E plans to all judges.
 - The state agency provides to all judges and attorneys copies of lists of the services provided under Titles IV-B and IV-E.
 - Training is provided for all new judges and attorneys concerning Title IV-B and IV-E and participation is mandatory.
 - Comprehensive training is provided for all new judges and attorneys concerning child welfare law and basic social work principles and participation is mandatory.
- 33. Staff development and training to address ongoing skills needed to implement Title IV-B plan.**
- Periodic training on child protection cases is provided for experienced judges and attorneys and participation is mandatory.
 - Judicial and attorney training requirements for child protection cases are rigorous.
 - Training on permanency planning concepts and procedures is provided to ensure timely permanence.
 - Courts and agencies use appropriate cross training – addressing issues of mutual concern – and avoid inappropriate use of cross training in lieu of training in core legal skills and knowledge.

34. Training for prospective foster parents, adoptive parents, and staff of facilities with children receiving foster care or adoption assistance under Title IV-E.

- Prospective foster parents receive training on the legal aspects of permanency planning, including the stages and purposes of the legal process.
- Foster parents receive training and materials on their rights and responsibilities in child welfare proceedings, including the right to be heard and to participate in the case.
- Prospective adoptive parents receive training concerning their legal responsibilities and about the legal process of adoption.
- Foster parents, prospective adoptive parents and agency staff receive training concerning legal protections (e.g. procedural rights, entitlements, contractual rights) regarding adoption assistance.

VIII. SERVICE ARRAY:

35. State has array of services. The array of services assesses strengths and needs of children and families, determines other service needs, addresses needs of individual children and of families to create a safe home environment, enables children to remain at home when reasonable, and helps children in foster and adoptive placements achieve permanency.

- Child protection agencies inform courts of available services, who is eligible for different services, and usual waiting periods for services.
- State laws, regulations, and budgets provide for a core of services that are consistently available to abused and neglected children and their families.

36. The services in the array (listed in response to the above item) are accessible to families and children in all political jurisdictions covered in the state's Title IV-E plan.

- Contracts for services are well written and ensure availability of needed services.
- Agencies have master plans for contracts to ensure consistent availability of key services.
- State laws require other agencies to give priority to and ensure availability of services to clients served by the child protection agency and under court jurisdiction.

37. The services in the array can be individualized to meet the unique needs of children and families served by the agency.

- State laws and policies budget for child protection services based on documented need for such services.
- Agencies' contracts for services provide flexible services to meet material and special needs of children and families.

IX. AGENCY RESPONSIVENESS TO THE COMMUNITY:

- 38. Ongoing consultation with tribal representatives, consumers, service providers, foster care providers, the juvenile courts, and other public and private child and family serving agencies and includes the major concerns of these representatives in the goals and objectives of the Title IV-B plan.**
- Courts regularly meet with the agency and meet with all of the child protection professionals listed above to work on mutual problems and improve working relationships.
 - Judicial ethics clarify and encourage judicial outreach to the agency and community regarding child protection cases.
- 39. The agency develops, in consultation with these representatives, annual reports of progress and services delivered under the Title IV-B plan.**
- The agency consults with legal system representatives concerning its annual reports, including allowing them to review draft reports in advance. Among other things, the agency asks for comments concerning service delivery.
- 40. The state's services under the Title IV-B plan are coordinated with services or benefits of other federal or federally assisted programs serving the same population.**
- The agency consults with legal system representatives specifically concerning the delivery of federally assisted services provided by agencies and entities not funded by the child protection agency.

X. FOSTER AND ADOPTIVE PARENT LICENSING, RECRUITMENT, AND RETENTION:

- 41. Implementation of standards for foster family homes and child care institutions, reasonably in accord with national standards.**
- Courts have information about standards for foster and adoptive parents and concerning child care institutions.
- 42. Standards applied to all foster family homes and child caring institutions receiving title IV-E or IV-B funds.**
- Courts are informed when foster family homes and child caring institutions no longer meet agency standards.
- 43. State complies with federal requirements for criminal background checks and has a case planning process that addresses the safety of foster and adoptive placements.**
- State law requires criminal record checks of parents found to have abused or neglected their children and of other people living in the households of abused and neglected children.
 - State law requires criminal record checks of all adults in foster and adoptive homes.

- Courts or court forms ask about the criminal record of parents found to have abused or neglected their children and of other people living in the households of abused and neglected children.
 - Attorneys and judges are aware of state and federal statutory restrictions concerning the licensing of specific categories of convicted criminals as foster and adoptive parents.
- 44. State has process for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed.**
- Courts and attorneys are well informed about the process of recruiting, matching, screening and evaluating foster and adoptive families.
 - In case reviews in which the permanency plan is adoption and the child is not yet placed in a preadoptive home, judges and advocates ask about state efforts to recruit and arrange such a home.
 - When evaluating whether the state made reasonable efforts to finalize a child's permanency plan, judges and advocates consider, if relevant, the state's efforts to recruit, evaluate, and select adoptive parents for the child.
- 45. State has a process for effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.**
- Courts receive technical assistance, materials, and training on interstate placements (and overcoming barriers to such placements), including implementation of the ICPC.
 - Judges and attorneys are familiar with the ICPC, interstate adoption assistance benefits, ICAMA and other interstate placement benefits and requirements.
 - Judges, attorneys and advocates consistently ask informed and penetrating questions when interstate placement or services are being considered.

Appendix B: Some Legal and Judicial Issues to Include in the Narrative Description

The following is some information that states should consider including in the narrative description portion of their statewide summaries. Attorneys, judges, and court administrators can help prepare this information.

A general description of courts and judges (and other judicial officers) handling child protection cases.

- The organizational structure of the courts hearing child protection cases and juvenile justice cases.
- Key organizational factors regarding judicial performance such as specialization, rotation (and length of assignments), workload information (and/or length of hearings), training and written materials on child welfare, performance measurement, timeliness of judicial decisions and delays.
- Judicial infrastructure as it affects performance – workloads, judicial staff support, etc.
- Key statutes, rules, forms, and case law relevant to each of the above.
- Strengths and barriers regarding court organization, judicial infrastructure, and laws, as they reinforce or weaken state performance in child protection cases.

Steps in the judicial process specifically relevant to Title IV-B and IV-E requirements.

- Laws and procedures concerning “contrary to the welfare” and “reasonable efforts” findings.
- Laws and procedures concerning reviews, permanency hearings, filing of TPR petitions, foster parent participation, and approving and reviewing the case plan.
- The role of courts in reviews, permanency hearings, filing of TPR petitions, foster parent participation, and approving and reviewing the case plan.
- A description of termination of parental rights proceedings.
- Legal representation of the government and other parties in child protection cases.
- A general description of the organizational structure of public and non-profit law offices, where applicable, and the numbers of attorneys.
- Key organizational factors regarding attorney performance such as who attorneys represent, specialization, rotation (and length of assignments), workloads, training and written materials, compensation, procedures to resolve disagreements with the

- agency, experience levels, methods of hiring, supports, model of child representation, duties of attorneys, services provided to the agency, performance measurement.
- Role of attorneys in different stages of the legal process, including counseling of caseworkers, preparation, presence in court.
 - Training for attorneys.
 - Statutes, rules, and case law relevant to legal representation.
 - Strengths and barriers regarding laws and procedures, judicial infrastructure, legal representation, and legal training, as they reinforce or weaken judicial implementation of Titles IV-B and IV-E.

Statutes, rules, forms and case law governing agency operations and governing the delivery of services to children and families.

- Agency liaison with the courts and legal system.
- Legal structure of the service array – preventive, reunification, and permanency services.
- Training for other participants in the legal system, such non attorney GALs, caseworkers (legal skills training), court liaison.
- Legal framework for licensing and recruitment of foster and adoptive homes.
- Strengths and weaknesses of laws and policies governing agency operations and service delivery -- as they reinforce or weaken judicial performance in child protection cases.

Appendix C: Sample Item from Onsite Review Case Review Instrument

Note: Printed below is one of 23 “Items” which is part of the instrument (form) used to review individual cases during the onsite review phase of a CFSR. Note that the form calls for both a rating of the item (measuring state performance) and for a written explanation of the rating.

Outcome P1: Children have permanency and stability in their living situations.			
Item 9. Adoption – Complete only for children with a current or most recent permanency goal of adoption (Case Record, Interviews With Caseworker)			
Core Questions	Yes	No	Not Applicable
A. Was the child’s adoption finalized within 24 months of the most recent entry into foster care? Reviewers need to identify whether the most recent permanency goal has been achieved. If steps have been taken toward the goal of adoption (for example, termination of parental rights, child placement in a preadoptive home) but the adoption is not finalized, then the goal has not been achieved. Reviewers should check not applicable if the child has not been in foster care for 24 months and has not been adopted.			
<p>A1. If the response to question A is no, what were the barriers to the child’s adoption being finalized within 24 months of his/her most recent entry into foster care?</p> <p>Since this item measures achievement of the permanency goal within 24 months of the child’s most recent entry into foster care, reviewers should consider barriers outside the period under review if the child was already in foster care at the onset of the period under review.</p>			
B. If the child has been in foster care less than 24 months since the most recent entry into foster care, are steps in place to finalize the adoption within the 24-month timeframe?			
B1. If the response to question B is yes, describe the steps.			
B2. If the response to question B is no, what are the barriers to finalizing the adoption?			
Exploratory Issues			
<ul style="list-style-type: none"> • What length of time has (or was, if the case is closed) the child been in foster care since the most recent entry into foster care? • What is/was the status of planning/efforts to finalize the child’s adoption? • Is the child legally free for adoption? • What are/were the efforts to identify an adoptive family or to legally free the child for adoption? • What are/were the barriers to placing the child for adoption? • What are/were the barriers to freeing the child for adoption? 			
Rating for this indicator: (Check one)		Strength	
		Area Needing Improvement	
			Not Applicable

Instruction for Item 9: Adoption

This item focuses on the achievement of a child's goal of adoption.

Reviewers should note the reasons for delays in the adoption process and the agency's efforts to address the delays.

If the response to question A is no, reviewers must provide substantial documentation of agency efforts to finalize the adoption within 24 months in order to rate this item a strength.

Provide documentation that supports the rating for item 9

(Reviewers may use the additional documentation space on the next page)