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Dear Director Watt and Ms. Rothstein,

We are writing on behalf of the Center for Law and Social Policy (CLASP) in response to the Request for Public Comment and Consultation Meetings on the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the Request for Public Comment Concerning the Redesign of Statewide Automated Child Welfare Information System (SACWIS) Requirements published in the Federal Register on July 23, 2010 (Vol. 75, No. 141). CLASP is a non-profit organization that develops and advocates for policies at the federal, state, and local levels to improve the lives of low-income people. We focus on policies that strengthen families and create pathways to education and work. We appreciate the opportunity to provide comments on AFCARS, SACWIS and important changes that should be incorporated into the forthcoming Notice of Proposed Rule Making (NPRM) to modify the data collected in these systems.

Quality, timely and accurate child welfare data is critical for a number of reasons. First, data is an essential part of the accountability system for ensuring that children are receiving the services and protections they are guaranteed under title IV-E of the Social Security Act (Title IV-E), including those recently added through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections). Second, with quality, timely and accurate data, child welfare agencies can identify evidence of particularly effective practices or problematic trends that can help them shape practice in ways that better meet the needs of children involved with the child welfare system and their families. Finally, the data can help provide important information to policymakers and advocates to help better understand how well existing policies are working and ways in which they may be improved.

CLASP believes that the need for comprehensive data must be balanced with the realities of child welfare work on the ground. If data collection mechanisms are not well designed, they can interfere with, rather than promote, good casework with children and families. On the other hand, well designed data systems can provide useful information to front line workers, supervisors and administrators that help them effectively carry out their daily work at the same time that they provide policy makers and federal officials with the information they need for effective oversight. Particularly in the current economic climate, when states are struggling with budget cuts and workers are struggling with high caseloads, it is essential to think carefully about each new data reporting requirement to ensure that it provides useful information and doesn't create unnecessary burdens on those doing the challenging work of helping children and families in crisis.

### **Characteristics of an Effective Child Welfare Data System**

Effective data systems can be constructed in many different ways. The key is that the data be able to provide useful information to all who need it. CLASP believes that for the data to be useful – both in terms of monitoring the on-going progress of a case and in terms of assessing the overall performance of a child welfare system – the data must be longitudinal.

The current data reporting does not provide a representative picture of the population of children in out-of-home care. Instead, it provides point in time data which is likely to reflect information on only certain subgroups of children rather than the child welfare population as a whole. Longitudinal data is also necessary if we are to understand, comprehensively, the experiences of children in care. Such information is important for numerous reasons, as mentioned before, including allowing for assessment at the national level of how policy changes are impacting the safety, permanence and well-being of children in care and, at the state level, for identifying trends that can inform practice improvements. Decisions informed by limited, non-representative data run the risk of being too narrow. Comprehensive data is needed for comprehensive solutions.

CLASP does not purport to be an expert at structuring databases or designing the appropriate software to run useful analyses. Rather, we will devote our comments to describing what information the system needs to provide and what questions it needs to answer. We leave to others the question of whether the most effective way to accomplish this end is to create a large database with many unique elements or to create a relational database that links critical information in various files so that data can be analyzed to produce needed information without requiring multiple inputs to specific questions. The latter approach seems more user-friendly and less burdensome, but we defer to those with expertise in designing and utilizing such systems.

As we think about what sort of information is needed, it is important to keep in mind that AFCARS and SACWIS are just parts of the broader child welfare accountability system that also includes the

National Child Abuse and Neglect Data System (NCANDS) and the National Youth in Transition Database (NYTD). In addition to these data systems, accountability on the part of states is maintained through the Child and Family Services Review (CFSR) process and Title IV-E eligibility reviews. Additional accountability, at the individual case level, is maintained through the case review system required in Section 475 of the Social Security Act as courts ensure that children are receiving the services and supports to which they're entitled and, more broadly, that the state is in compliance with federal and state program requirements. Given the interrelated nature of the various components of the accountability system, it is a challenge to think about any one piece independently of the others. We therefore appreciate that ACF is soliciting comments on both AFCARS and SACWIS. However, especially in light of changes that are needed in response to Fostering Connections, it is critical to also think about the CFSR process. In fact, we believe the starting point is to determine what outcomes will be assessed in the CFSR process before deciding what data elements will be needed to measure those outcomes and before deciding how those data elements will be collected and reported. CLASP looks forward to opportunities to offer feedback on the broader system and how the CFSR process can be improved to allow for more efficient and useful accountability.

In the meantime, we focus our comments on the questions that any child welfare data system should be able to answer. We particularly focus on new information that will be needed in light of the provisions of Fostering Connections.

### **Information Needed to Assess the Impact of Fostering Connections**

Fostering Connections was the most significant child welfare legislation in over a decade and includes a number of critical provisions designed to improve outcomes for children and families. In order to track the impact of these provisions and to provide states with the information they need to best manage their programs, it is important that data relevant to the Fostering Connections provisions be captured. Consistent with our comments on the characteristics of an effective child welfare data system we are not proposing specific data elements at this time but, instead, identifying information that is needed. Our comments will focus on the additional information we believe is needed in the following areas: kinship/guardianship; siblings; older youth; education; and, tribes.

#### **Kinship/guardianship**

Fostering Connections included a number of provisions related to children being raised by relatives in foster care including requiring that relatives be identified and receive notice when a child is removed from his or her parents, clarifying that states may waive non-safety related licensing standards for relatives on a case-by-case basis and giving states the option to operate a subsidized guardianship program using Title IV-E dollars. It is important to gather information on each of these. Specifically, CLASP recommends that the following information be made available:

### *Identification and notice of relatives*

- Which relatives were identified?
- Which relatives were notified?
- When were relatives notified?

In addition to these pieces of data, important information contained in a child's case file can help provide a picture of how the identification and notice provisions are being implemented and ways in which they could be improved. For example, case plans should contain information on the means by which relatives were notified and, where applicable, the ways in which the relatives play an ongoing role in the child's life. This information can help states and ACF, if examined as part of the CFSR process, identify effective means of providing notice and opportunities for better engaging relatives. This information will also be important in the context of the case review system, allowing judges to verify that reasonable efforts were made to both identify and provide notice to all adult relatives. If such efforts were not made, the judge can ensure that the appropriate steps are taken.

### *Licensing status*

- For children in family foster care, is the caregiver a licensed foster parent?

Fostering Connections reiterated that states have the flexibility in licensing relatives to waive non-safety related standards on a case-by-case basis. We recommend gathering information that identifies the extent to which foster parents are being licensed. This information may be particularly important in relation to children being raised by relatives since being licensed is an essential component of eligibility for the federal Guardianship Assistance Program (GAP) in states that take the option. It is also important for children in foster care with non-relatives because licensure is an eligibility requirement for title IV-E foster care maintenance payments for both relatives and non-relatives.

Additional information on licensing should be captured in the child's case file. For example, consistent with recent (ACYF-CB-PI-10-11) and pre-existing guidance, states are required to document in the licensing/approval record, the reason for any waiver that is provided and its applicability only to the specific relative child. This information may be extremely useful as a program management tool for states thinking about how they may want to change their approach to licensing in response to the licensing waiver option codified in Fostering Connections. Courts can also put such case plan information to good use by asking questions about the extent to which a waiver has been explored or may be appropriate for an unlicensed relative foster parent.

### *Guardianship*

We believe that the subsidized guardianship data elements proposed in the 2008 NPRM (1355.44(d))

are too limited. In general, we believe that the information currently captured by the adoption data elements (Appendix B to Part 1355) is very much the same information that is needed for children who exit foster care to guardianship. There are some exceptions, for example, there is currently an adoption data element regarding special needs. This is important in the context of adoption due to requirements in Section 473 of the Social Security Act but irrelevant to guardianship. Additionally, some of the information captured by the existing adoption data elements would have to be augmented somewhat to reflect guardianship arrangements rather than adoption – for example, demographic information on “guardians” rather than “adoptive parents”.

In addition to information that parallels the information presently available for children in adoptive homes, it is important to have the following information for children in relative guardianships:

- When was the guardianship finalized?
- How long had the child lived with the relative before the guardianship was finalized?

This information could be obtained through the inclusion of a series of data elements or it may be more easily obtained with fewer elements in the context of a relational database that provides longitudinal data.

### Siblings

There are not currently data elements that identify siblings or when they have been jointly placed. The 2008 NPRM proposed to give each child in out of home care a family-record number (1355.43(a)(5)). This would allow for identification of siblings and, if data is structured and analyzed in the ways discussed above, to identify when they are jointly placed in foster care, adoptive homes or with relative guardians. The 2008 NPRM also included the following sibling data elements that would provide important information: number of siblings living with the child at removal (1355.43(b)(11)) and number of sibling placed together (1355.43(e)(8)).

Regardless of whether the information is obtained via specific data elements or through data analysis, it is important to have the following information related to siblings:

- Number of siblings the child was living with at removal
- Number of siblings that were removed with the child and the number of siblings who were subsequently removed from the home
- When each sibling was removed
- Number of siblings the child was placed together with in foster care and through adoption and guardianship

- If not placed together because it was determined that joint placement would be contrary to the safety or well-being of the children, the dates on which the child visited with and had contact with his/her siblings

Additional, more qualitative information on sibling connections should be documented in each child's case file. For example, 42 U.S.C. 475(1)(F) requires that, for children not jointly placed with their siblings, the reason such joint placement was contrary to the safety or well-being of any of the children be documented in the child's case plan. The court has an important role in reviewing such information and can help ensure that the provision is being fully implemented. Children's case files could also include more detailed information on the setting, content and duration of visits between siblings who could not be safely placed together. Such information may be considered in the case review part of the CFSR process to help states identify and build upon particularly useful strategies for supporting quality sibling connections.

### Older youth

The data and information collected on older youth in foster care and adoptive and guardianship homes should be the same as it is for children under age 18. Importantly, this means that data should be collected on all older youth including those who are not IV-E eligible, just as is the case for children under 18.

There are a couple of existing foster care data elements that should be updated to ensure accurate data reporting for older youth. These include the following:

- Youth who are on "trial independence" should be included in the reporting population just as those children who are on "trial home visit" currently are. Related to this, the existing data element related to Current Placement Setting should be revised to include "trial independence". Again, this is consistent with the approach to "trial home visit" which is currently included as a distinct placement setting.
- It should be clarified that foster care settings include "supervised independent living" (45 CFR Pt. 1355, Appendix A, Section II).
- "Emancipation" and "Long Term Foster Care" are not permissible case plan goals under Title IV-E as suggested by existing data elements (Appendix A to part 1355, Section I, element VI) nor is "independent living" as suggested by the 2008 NPRM (1355.43(f)). In the existing data element, "another planned permanent living arrangement" should replace "emancipation" and "Long Term Foster Care" in order to be consistent with 42 U.S.C. Sec. 475(1)(E). This would not preclude reporting on children and youth who remain in foster care for extended periods of time nor would it preclude reporting that a youth ultimately was discharged to emancipation. Such a change would simply reflect federal policy regarding permissible case plan goals.

Beyond this, there is additional information unique to older youth and the requirements under Fostering Connections that should be gathered including the following:

- What activities is the young adult engaged in? Specifically, which, if any, of the Title IV-E eligibility activities specified in Fostering Connections is the youth participating in (completing secondary education or in a program leading to an equivalent credential; enrolled in an institution that provides post-secondary or vocation education; participating in a program or activity designed to promote, or remove barriers to, employment; employed for at least 80 hours per month; and, unable to do any of these activities due to a documented medical condition)?
- For those youth who emancipate, the date upon which their transition plan was begun and when it was completed

Additional detail included in the youth's case file will provide critical information on how older youth are faring and how practice can be improved to best meet their unique needs. For example, in states that take the option to extend foster care beyond age 18, otherwise eligible youth are entitled to receive a title IV-E foster care maintenance payment if they are unable to participate in educational or vocational activities due to a documented medical condition. For such youth, information verifying their incapacity must be regularly updated in their case plan. This information provides courts with the opportunity to ensure that such youth are being provided with services and supports they need to address their medical conditions. This information will also be important to review in the context of Title IV-E eligibility reviews and in the case review portion of the CFSR. States could also benefit from further assessment of the information perhaps by identifying particularly prevalent medical conditions and, in turn, enhancing the availability of relevant services and treatments.

### Education

A child's educational experience while in care is an essential component of his or her well-being and stability. Existing foster care and adoption data elements do not address educational stability or attendance. However, particularly in light of the educational requirements under Fostering Connections, it is important to start gathering information on children's educational experiences. Specifically, the following information is needed:

- Was the foster care placement in the same school attendance area as the one the child was removed from?
- If not, did the child remain in his or her original school?
- If the child did not remain in his or her original school was he or she quickly enrolled in the new school?
- What was the date of enrollment for each school the child attended?



These pieces of information really point to the need for longitudinal data. We know that, unfortunately, children with lengthier stays in foster care often experience multiple placements and consequent school changes. By tracking their experiences longitudinally, we can get a picture of children's educational stability over time.

The information needed on education also highlights the possibilities of more efficient data analysis. Using encrypted geographic location data for the child's original home and school and any subsequent schools they attend would allow for much needed information through data analysis rather than the addition of multiple new data elements.

### Tribes

Fostering Connections extended important opportunities to tribes for the first time. For tribes operating Title IV-B/IV-E programs, the data collected should be largely the same both in AFCARS and NCANDS. There are additional pieces of information, unique to American Indian children, which will be important to incorporate for both states and tribes. For example, data that helps determine the extent of compliance with the Indian Child Welfare Act is critical and should be incorporated into the child welfare accountability system. Tribal representatives and those they work closely with should be actively engaged in developing the specifics of such information but, at a minimum, the following is needed:

- Is the child Native American or Alaskan Native?
- Does the Indian Child Welfare Act apply to the child?
- What is the child's tribal membership or eligibility?
- Date of notice to tribes or other relevant parties of report of child abuse or neglect or other state intervention
- Upon report of child abuse or neglect, who was notified?
- Did the tribe intervene?
- Was the case transferred to tribal court?

### Funding sources

Information on the sources of funding for foster care, adoption and guardianship payments as well as the sources of funding for services provided to children and families in such settings is relevant not only in the context of Fostering Connections but also more broadly. Currently the adoption data elements only address whether or not a monthly financial subsidy is being paid, the monthly amount of any such payment and whether or not the subsidy is paid under Title IV-E adoption assistance. The foster care data elements take a slightly broader look by gathering information on the source(s) of federal financial support for the child (including IV-E, TANF, Medicaid and so on) and the amount of



the monthly foster care payment regardless of the source of the payment (Appendix A to part 1355, Section I, Elements XI and XII).

CLASP believes that it's important to have a more complete picture of the sources of financial support both in terms of program management and ensuring that children and families are receiving the support they need. In addition to the amount of any monthly payment being made on the child's behalf, for foster care, adoption and guardianship, we think it's important to gather information on the sources of financial support – local, state and federal – for that payment. We also think it's important to gather information on the local, state and federal funding streams used to provide services to the child and family. This information should be reported for children in foster care and also for those children placed with relative guardians or in adoptive homes for as long as such children are receiving a guardianship or adoption subsidy. Under current regulations AFCARS elements are only collected for adoptions finalized in the previous reporting period. While this makes sense in regards to the majority of the adoption data elements, continued reporting on just the funding source elements for those children and youth receiving a subsidy would be appropriate and provide important information.

### **Federal oversight and penalties**

Ultimately the data collected for AFCARS, NCANDS and NYTD should be informed by the outcomes that states are held accountable for through the CFSR process and Title IV-E eligibility reviews. Fostering Connections necessitates some changes but also presents an opportunity to take a step back and think about what child welfare outcomes states should be held accountable for, what information should be made available but not tied to national standards and how case file level data can be assessed to better shape practice and evaluate compliance with Title IV-E requirements. CLASP believes that these overarching conversations are needed to inform more specific changes to any one component of the child welfare accountability system. The role and structure of penalties and incentives should be part of these overarching conversations.

In thinking about penalties and incentives, we would encourage ACF to consider incorporating an element of reinvestment. While it is critical to hold states accountable for reporting high-quality and timely data, fiscal penalties may have the unintended consequence of negatively impacting children by pulling funding out of an already underfunded system. A better strategy in the context an oversight structure that includes penalties, from our view, would be to require that the fiscal penalties be reinvested into the state system for the specific purpose of improving the quality of the data. This approach is similar to that taken in the Supplemental Nutrition Assistance Program.

Finally, in addition to federal oversight, HHS plays a vital role in making child welfare data and information available to the public through the Child Maltreatment and Child Welfare Outcomes reports as well as through other means. As part of the broader conversations around the child welfare accountability system, we urge HHS to consider how this public reporting may need to be changed to

reflect the information gathered in response to Fostering Connections. There may be other opportunities for making child welfare information more readily available to consumers in an appropriate way. We would welcome the opportunity to be a part of any such conversations.

CLASP appreciates your consideration of our comments and would be happy to meet with you to discuss them in further detail. We hope that as you develop any regulations related to AFCARS or SACWIS that you think about the child welfare accountability system as a whole. We believe that a comprehensive approach is needed and will yield a system that will: ensure that children are receiving the services and protections they are guaranteed under title IV-E; allow child welfare agencies to identify evidence of particularly effective practices or problematic trends that can help them shape practice; and, provide important information to policymakers and advocates to help better understand how well existing policies are working and ways in which they may be improved.

Sincerely,



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