



Office of Child Support Enforcement
Administration for Children and Families
370 L'Enfant Promenade, SW
4th Floor
Washington, DC 20447
Attn: Division of Policy
Mail Stop: ACF/OCSE/DP

August 6, 2010

To Whom It May Concern:

I am writing on behalf of the Center for Law and Social Policy in response to the proposed rules published in the Federal Register on June 7, 2010 (Vol. 75, No. 108). We appreciate the opportunity to provide comments. Our comments focus only on changes proposed for 45 CFR Parts 302, 303 and 307 as related to information sharing with child welfare agencies.

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.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) included a number of critical improvements for children in the child welfare system. Among these were the following requirements:

- Child welfare agencies must make reasonable efforts to place siblings together and help children in foster care or permanent placements stay connected with their siblings;
- Child welfare agencies must exercise due diligence to identify and provide notice to all adult grandparents and other relatives of each child within 30 days of the child's removal from the custody of his or her parent(s).

As you know, even prior to Fostering Connections state child support agencies were able to share ² information in the Federal Parent Locator Service (FPLS) with child welfare agencies for limited purposes, namely to identify parents. Prior to the new law sharing of information contained in the FPLS with Temporary Assistance to Needy Families (TANF) agencies for the broad purpose of assisting states in carrying out their responsibilities under the TANF program was permitted. We are pleased that the proposed regulations make clear that Fostering Connections extends this same sort of information sharing for broader purposes to child welfare agencies to assist states in carrying out their responsibilities under Title IV-B and IV-E (§453(j)(3); P.L. 110-351 §105) including new requirements under Fostering Connections such as those outlined above. We are also pleased that the proposed regulations make clear that state child support agencies may share information in their State Parent Locator Services with state child welfare agencies.

While we are largely supportive of the proposed regulations, there are a few areas where we have recommendations that we think will be helpful in ensuring that information shared with child welfare agencies is done in ways that are most helpful to children and families.

Authorized information returned for information requests for child welfare purposes

For child welfare purposes – including identifying and providing notice to relatives and placing siblings together – noncustodial parents must themselves be notified and should be considered as potential placements. If they are not able to provide an appropriate placement, they may be able to provide critical information to aid in making prompt and appropriate arrangements for children. While finding noncustodial parents may be as straightforward as asking the custodial parent in some cases, in others noncustodial parents may be harder to find and the FPLS and SPLS may be important tools to assist in locating them. Similarly, for grandparents and other relatives of children being removed from the custody of their parents, some will be easily located through information provided by the parents or other individuals such as a neighbor. However, in some cases identifying and locating these relatives may prove challenging and the FPLS and SPLS may be a critical resource.

It is not entirely clear in the proposed regulations what information OCSE envisions being shared about noncustodial parents and relatives for child welfare purposes. While a broad range of information on individuals may be appropriate when accessing the FPLS and SPLS for other authorized purposes – such as establishing a child support order – child welfare agencies do not need extensive information if their intent is to locate noncustodial parents or to identify and/or locate grandparents or other relatives. In our view, the “six elements” – the person’s name, social security number, address, employer’s name, employer’s address and employer identification number – provide important information to assist with locating noncustodial parents and identifying and/or locating grandparents and other relatives. In addition we would encourage the sharing of any other contact information such as phone numbers, e-mail addresses or the like if this information is maintained in either the FPLS or SPLS. Finally, in cases in which there is a Family Violence Indicator (FVI) flag, information about the nature of the family violence should be shared, to the extent it is available.

Sharing information when Family Violence Indicator (FVI) is present

The FVI is used to flag when family violence is in some way present in the life of the individual for whom a FVI flag exists. Therefore it is important to share this information with child welfare agencies so they are aware of the presence of family violence and can inquire appropriately as to whether the family violence is still an issue that would affect the appropriateness of placement. However, it is our understanding that the FVI is used in different ways across the country. It is not clear whether the FVI is flagged for alleged perpetrators, alleged victims, or both. We also understand that there is considerable variability across states in terms of when the FVI is flagged and what level of proof that family violence occurred is needed. Based on this variability in practice, the presence of a FVI flag should only be the beginning of an inquiry and should not be determinative regarding the appropriateness of placement. Further inquiry may reveal that individuals with a FVI flag may be safe and appropriate resources for children and even if they are not these individuals may be able to provide important information that will help in locating other relatives.

With this in mind, we encourage OCSE to make clear that when a child welfare agency makes a request for FPLS or SPLS information for child welfare purposes via the title IV-D agency, information should be provided on all individuals in the databases, including those with a FVI flag. However, it is critical that child welfare agencies are equipped with information to help ensure that they are able to respond appropriately. Specifically, child welfare agencies should be made aware of what an FVI flag means. It is also critical that child welfare workers who will be provided with SPLS and FPLS information receive appropriate training about how to proceed with individuals who have FVI flags.

We recommend that the final regulations make clear that either through interagency agreement or a memorandum of understanding (MOU), states will provide assurances that their title IV-D and IV-E agencies will collaborate to ensure that child welfare agencies safely and appropriately handle cases with FVI flags. Specifically the interagency agreement or MOU should provide assurances that:

- When information is shared with child welfare agencies for child welfare purposes and the FVI is present, the information will be accompanied by a statement detailing what the FVI is and the different ways in which it is used.
- The IV-D and IV-E agencies will coordinate to ensure that child welfare staff who will be provided with FPLS and SPLS information receive appropriate training on interacting with individuals who have been impacted by family violence. Training should cover, at a minimum, confidentiality, the impacts of family violence including post-traumatic stress disorder and cultural competency.

It may also be useful for OCSE and the Children's Bureau (CB) to consider issuing joint guidance to assist states in crafting their interagency agreements or MOUs.

We believe that this information will help ensure that child welfare agencies are able to respond appropriately when they receive information on an individual with a FVI flag. 4

CLASP appreciates your consideration of our comments and would be happy to meet with you to discuss them in further detail. We hope that the final regulations more clearly identify what information can be shared to help child welfare agencies carry out their responsibilities under Titles IV-B and IV-E and that, in particular, they clarify how information regarding family violence can be shared in a safe and appropriate manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Rutledge Q. Hutson". The signature is written in a cursive style with a long horizontal flourish at the end.

Rutledge Q. Hutson
Director of Child Welfare Policy