UNIVERSITY OF CALIFORNIA, BERKELEY

CENTER FOR SOCIAL SERVICES RESEARCH

SCHOOL OF SOCIAL WELFARE
120 HAVILAND HALL # 7400
BERKELEY, CALIFORNIA 94720-7400
(510) 642-1899
(510) 642-1895 (FAX)

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Kathleen McHugh, Director
Division of Policy
Children's Bureau/ACF
Administration on Children, Youth and Families
1250 Maryland Avenue, SW, Suite 800
Washington, DC 20024

Dear Ms. McHugh:

We are pleased that we have the opportunity to submit comments in response to the January 11, 2008 *Federal Register* notice regarding proposed changes in the Adoption and Foster Care Analysis and Reporting System (AFCARS). The researchers who have signed this letter have considerable experience working with California's SACWIS system and other administrative data.

45 CFR Part 1355
Adoption and Foster Care Analysis and Reporting System; Proposed Rule

The Administration for Children and Families (ACF) is to be commended for proposing a data collection system that is intended to facilitate longitudinal analysis of data regarding children in out of home care. While the following comments highlight areas of the regulations that we believe require further work, they should not be interpreted to overshadow the great benefit that a longitudinal data base will bring to our nation's most vulnerable children. Now that ACF is moving toward the use of a more accurate means of examining child welfare outcomes it becomes even more important to ensure that the data elements being collected are valid and reliable (consistent across states). There are many areas that could benefit from federal guidance in opening the discussion for consistent definitions across the states. These will be discussed in more detail in the specific responses to the regulations.

There are several issues that the proposed regulations have yet to address. Among these are the implementation schedule and the file structure. Implementation of these changes will require extensive modification of each state's Statewide Automated Child Welfare Information System (SACWIS). These changes can be expected to take several years because of the time required for system design, modification and implication, as well as Federal and other funding agency approval. Our experience in California is that data accuracy and completeness improves

over time. It is not unreasonable to expect that it will take several years after modified data collection systems have been placed in service before data quality reaches desired levels. The file structure will need to be different from that of the current Adoption and Foster Care Analysis and Reporting System (AFCARS) file. A longitudinal data system must include all the placements experienced by a child. There are a number of ways that this can be done, but all require multiple rows of data for children who have experienced more than one placement in a time period. The proposed changes suggest either a relational data structure requiring multiple data tables connected by a series of unique identifiers or a nested data structure. The proposed changes include: (1) listing the possible multiple removal episodes for a child; (2) listing the various placement settings for a child (to possibly include non-placement living arrangements such as trial-home visits, hospital visits, runaways); (3) listing the permanency plan options that can change at any time during the removal episode (with a way to identify concurrent planning activities); and (4) listing any changes to placement home structure. The Center for Social Services Research (CSSR) at the University of California, Berkeley has developed one way of formatting data to achieve this end and there are others, such as the format used by the State Data Center for Foster Care and Adoption at Chapin Hall, and the process used by the North Carolina Child Welfare Program at the University of North Carolina at Chapel Hill. We hope that ACF will be open to discussing file structure issues and options with experts in the field who have been doing this for years. We strongly recommend that ACF convene a working group consisting of child welfare data experts to assist in the development of the AFCARS data structure.

The following comments address specific provisions of the proposed regulations. These comments are not exhaustive. Rather, they address those issues that we believe to be most problematic.

§ 1355.41(a)(i) and (iii): It is not clear whether, by requiring reporting of placements in non-traditional facilities, these regulations are expanding the reporting population to include all children placed in non-foster care facilities (e.g., juvenile halls) by juvenile justice agencies having agreements described in § 1355.41(a)(i), even when the child's only placement was in a non-foster care facility. If this is the case, then AFCARS would become a juvenile justice data collection system as well as a child welfare data collection system. In similar fashion, in states where there are agreements with mental health agencies or developmental disabilities agencies, AFCARS could become a reporting system for all children in the care of those agencies. We doubt that such system expansions would facilitate retaining a focus on the core responsibility of child welfare agencies for the care of abused and neglected children. Since not all state agencies have agreements between the child welfare agencies and either mental health, substance abuse, or juvenile justice systems this expansion could end up causing unintended differences across states in system performance. Clarifications need to be in place regarding how these placements, if included, will be affect federal performance outcomes.

§ 1355.41(a)(i) and (iii): Currently, there is an exclusion for children removed from their family at birth, but who remain in a hospital and never enter formal out of home care. Will these exclusions continue to exist or should these cases be reported? Clarification will need to be made regarding how some placements not requiring IV-B or IV-E dollars such as hospital visits, trial home visits, and brief detentions should be reported and others such as the example above and informal kinship care should not be reported.

§ 1355.42(a): The proposed requirement that data be submitted 15 days after the end of the reporting period sacrifices data quality for timeliness. Our experience is that there is a lag between many events and their entry into the state data system. The data extracts created for CSSR are run 60 days after the end of each quarter. Even with this schedule, each quarterly extract results in modifications to data from earlier quarters. Because of the premium placed on accuracy, we would not want a data system that discouraged such data correction. We encourage ACF to reconsider the timeline for data reporting to recognize the importance of data quality and the desire for states to provide accurate and meaningful data to ACF. This is especially important in light of the penalties that ACF is required to assess on states who are not in compliance with reporting procedures..

§ 1355.43(a)(5): Although the concept of a family record number is attractive, implementation is difficult. "Family" is not defined anywhere in the regulations and family structure is not a stable mechanism. In its traditional, stereo-typical, form, family is a mother, father and their mutual children. In this circumstance the assignment of a family number is not difficult. However, many children receiving child welfare services come from more complex situations. They may live in multi-generational homes, or with stepsiblings and cousins. A non-resident parent may have children from other relationships. Furthermore, these relationships may not be stable. The child may move from one parent's home, and the stepsiblings in that home, to another parent's home, and the stepsiblings in that home. Thus, identifying a family number that will remain constant over time, barring adoption, is not a straightforward request. Any solution to this problem involves compromise. Currently, the definition of sibling groups and family differs from state to state, so this is an area that can benefit from some national discussion and guidance. One solution, but one with obvious problems, is to use the mother's identifier as the family identifier, i.e., to identify family as a mother, her children and, if one exists, her current partner.

§ 1355.43(b) (3): In California, where the largest ethnic group of children is Hispanic, identification of race is difficult. Many Hispanics identify their race as neither White, Native American nor Black, but as Hispanic. In the schema proposed by the regulations, this will result in a high level of "race-unknown" and "race-declined" responses.

§ 1355.43(b)(5): This item is unnecessarily complex. We note that the American Community Survey collects language data only on children who are over 5. We believe that a similar threshold would be appropriate. We are perplexed at the languages selected (English, Spanish, Chinese, French, German, Tagalog, Sign Language). While English and Spanish are common languages in California, French, German and Tagalog are rare. In California, English is identified as the primary language of about 86% of children in care and Spanish the primary language of another 11%. Tagalog is identified as a primary or secondary language for 1 of a 1,000 children; French for 1.5 in 10,000; German at a yet lower level. On the other hand, Southeast Asian Languages, primarily Vietnamese, are reported as primary or secondary languages for 0.4% of children in care. Sign language, primarily American Sign Language, is reported as a primary or secondary language for 0.1% of children.   While these data are useful for planning at the state level, their relevance at the national level is unclear. If language data would have to be collected, a 4-way classification of English, Spanish, Other, and No Language would be more than adequate.

§ 1355.43(b)(6)(i) and (ix): Mental retardation is a type of developmental disability. To avoid double counting of children, either the mental retardation category should be dropped or

the developmental disability category should be revised to "developmental disability other than mental retardation."

§ 1355.43(b)(6)(xi): the definition of "Other diagnosed conditions" should clearly indicate that only conditions that have a long-term effect on the child's functioning are to be reported.

§ 1355.43(b)(8)(i) and (ii): Children repeat grades for many reasons, some academic and some social. Having repeated a grade is not necessarily an indication of poor long-term academic performance. We see little, if any, value of collecting this information at a national level.

§ 1355.43(b)(8)(iii): Information about special education would be more accurately determined by asking whether the child has a current Individualized Education Plan (IEP).

§ 1355.43(b)(10)(ii): Data on children who reenter the foster care system after having been adopted from the foster care system are important. Thus the separation of these adoptions from others is important. However, because adoption statute and terminology vary from state to state the terminology used to describe these non-foster care, non-inter-country adoptions varies. To avoid confusion, the term "other private or independent adoption" should simply be "other adoption." This would include any non-foster children who were domestically adopted. At a national level, further classification is not meaningful. Especially with infant adoptions, the lines between types of adoption have become increasingly blurred. What is an independent adoption in one state is a private agency adoption in another and a public agency adoption in yet another. The collection of the date of the prior adoption in § 1355.43(10)(i) will allow separation of infant from other non-foster care adoptions.

§ 1355.43(b)(12): While data regarding the status of foster children as minor parents is potentially useful, it is important to recognize that while this data can be collected from girls with some accuracy, information about the number of children that boys in care have fathered is problematic at best. In addition, the item does not specify how to report situations where the minor parent(s) have placed the child for adoption.

§ 1355.43(b)(13): Supplemental Security Income benefits, which are based on a child's income and disability, and Social Security benefits, which are based on the death, disability or retirement of a parent, should be reported separately.

§ 1355.43(c): The equating of legal guardians and parents is confusing. In almost all cases, a child who has a legal guardian also has legal parents, although the court has delegated some of the parents' responsibilities to the guardian. Thus, to collect information about the guardian as though the guardian were a parent is not appropriate. It may be appropriate to have a separate item that asks whether the child was living with a legal guardian at the time of removal.

§ 1355.43(c)(3): The mother's marital status at the time of the child's birth is of limited interest and utility for the broader population of children reported to AFCARS. This item does not report whether the mother was living with the person she was married to, whether the person the mother was married to was the father or whether the relationship was healthy. Additionally, the usefulness of this metric for children who are entering care from an adoptive homes would be of questionable value. The purpose of this question should be considered carefully, and if it does not have utility within the context of the federal child welfare outcomes system, it should be dropped from the requirements. At the very least it should be focused on the population where this could be most useful, children entering care in the first year of life.

§ 1355.43(c)(4) through (7): In many states, including California, parents may voluntarily relinquish their parental rights to an adoption agency. In such circumstances, there is

no termination or parental rights petition nor is there a court termination of parental rights. Thus, these items should include that possibility.

The proposed regulations do not address the, not uncommon, situation where the potential rights of more than two persons must be dealt with. Most often these are situations where there are two or more men who may be the child's father.

§ 1355.43(d)(4): It is common for a child to be removed at birth. In such situations, should the household composition be that of the household that the mother would have returned to with the child had the child left the hospital with the mother?

§ 1355.43(d)(5): The marital status of the biological family at time of removal is not relevant to many of the children in the child welfare system. In the case of an abandoned child or an adopted child (either nationally or internationally adopted) how should this be reported and what is the value? If the intent is to determine if the child was removed from a home where the adults were married then the question should ask whether the primary caretaker at the time of removal was married.   This question is in conjunction with the answers to a reformatted § 1355.43(d)(4) where the primary caretaker at removal is categorically identified and the numbers relate to other adults in the home.

§ 1355.43(e): The regulation needs to be clear as to how successive living arrangements are to be reported.

The array of placement facility types is much more complicated than necessary for data at the national level. It is only necessary to know if the child is cared for by relatives, by non-relatives in a family setting, or in an institutional or quasi-institutional setting. Thus it would be adequate to use five classes: Relative foster home, Non-relative foster family home, Staffed child care facility, Medical facility, and Juvenile justice detention facility. Because states vary widely as to how the various staffed child care facilities are licensed, the fine distinctions in the proposed regulations would not allow meaningful comparisons between states.

§ 1355.43(e)(10): The proposed regulations do not appear to allow for situations where there are two foster parents who are neither an married nor unmarried couple, for example, an adult woman and her mother.

§ 1355.43(e)(13), (15), (17) and (19): See earlier comments regarding child's race and language, which also apply to these items.

§ 1355.43(f)(7): The purpose of the annual circumstances is not clear. Many of these circumstances are ones that would have existed at the time of the child's initial removal, but would have been rendered irrelevant by the removal. Furthermore, whether a 'circumstance' is still relevant at the time of permanency planning is a metric that would be near impossible to get consistent information across the various practice, procedural, and data-entry methods currently in existence across the nation.

§ 1355.43(g)(1): While relatively rare, there are situations where only one person in a married couple adopts. The most common instance is when a biological grandparent adopts but the spouse, who is not related to the child, does not adopt.

§ 1355.43(g)(4) and (7): See earlier comments regarding child's race, which also apply to these items.

§ 1355.44(b)(2): See earlier comments regarding child's race, which also apply to this item.

§ 1355.45(d): Requiring 100% error-free data for 7 demographic variables is unrealistic and frankly, absurd. What about children who have been abandoned? Do we make up a DOB for these cases – do we look at them and decide that they look like they belong in a certain

racial/ethnic category? It is not uncommon for hospital records to call for 99.8% accuracy. There is always something. As for the 10% error-rate requirement of the rest of the data, this should initially only be applied to items that are already being collected but now being transitioned to a longitudinal format. New items should be considered experimental and optional until ACF and the states have a chance to assess the ability co collect new information and the usefulness of it. Although we would prefer incentives, if penalties are to be assessed, they should only be assessed on the data that has transitioned to a longitudinal format after states have enough time to make this change. New "well being" items should not be subject to penalties for the time being.

Finally, we wish to reiterate our support for the development of a true longitudinal database at the federal level. It will be a great benefit to our nation's children and their families.

Thank you for giving us the opportunity to respond to the NPRM. We are excited about the potential of AFCARS improvements that will yield better foster care data and more useful performance measures.

Barbara Needell, MSW, PhD
Principal Investigator, California Performance Indicators Project

Joseph Magruder, MSW
Graduate Student Researcher

Emily Putnam-Hornstein, MSW
Graduate Student Researcher

Daniel Webster, MSW, PhD
Project Director, California Performance Indicators Project

Terry V. Shaw, Ph.D., MSW, MPH
School of Social Work, University of Maryland, Baltimore (formerly at CSSR)