Adoption and Foster Care Analysis and Reporting System (AFCARS) Final Rule

Presented By:

The Administration
for Children and Families

Agenda

- AFCARS Purpose and Background
- Public Comment
- Scope, Reporting Population, and Data Reporting Requirements
- Out-of-Home Data File
- Adoption and Guardianship Assistance Data File

AFCARS

Purpose and Background

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- AFCARS provides national information on children in foster care and children who were adopted.

- The existing regulations for AFCARS were published in December 1993 and needed to be updated.

Purpose and Background

The purposes of the revised AFCARS rule are, among other things, to:

- Collect information that is up to date with revisions to the statute;
- Enhance the type and quality of information reported to include historical data and new data elements on children in out-of-home care;
- Incorporate information related to ICWA to include more comprehensive national data on the status of AI/AN children to whom ICWA applies; and
- Hold agencies accountable for quality data through implementation of the statutory mandate to assess penalties for noncompliance.

Purpose and Background

ACF uses AFCARS data for a number of purposes, including:

- Gain an understanding of children's experiences in foster care and inform national policies and guide practice.
- Calculate payments for the Adoption and Guardianship Incentive Payments program;
- the Child Welfare Outcomes Annual Report;
- Develop budgets; and
- Provide samples for CB monitoring and reviews.

Public Comment

Notices of Proposed Rulemaking (NPRM):

2015 NPRM
2016 SNPRM (Supplemental NPRM)

2015 NPRM

Published on February 9, 2015

90 day comment period closed April 10, 2015.

- Received 126 comments from states (32), Indian tribes, organizations representing tribal interests, national advocacy/public interest groups, universities, and private citizens.

2016 SNPRM

Published on April 7, 2016

30 day comment period closed on May 09, 2016.

- Received 91 comments from states (18), Indian tribes, organizations representing tribal interests, national advocacy/public interest groups, and private citizens, school districts.

AFCARS Final Rule

§ 1355.41 Scope
§ 1355.42 Reporting Population
§ 1355.43 Data Reporting Requirements
§ 1355.44(a) through (h) – Out-of-Home
§ 1355.45 – Assistance File
§ 1355.46 Compliance
§1355.47 Penalties

§ 1355.41 Scope

- Final rule is effective 30 days after publication in the Federal Register.
- State and tribal title IV-E agencies must collect and report AFCARS data.
  - ICWA-related elements are reported by state title IV-E agencies only.
- Title IV-E agencies must submit the data to ACF on a semi-annual basis as required in section 1355.43 in a format according to ACF's specifications.

§ 1355.41 Scope Implementation Timeframe

- Title IV-E agencies must continue to report AFCARS data in the same manner they do currently.
- The implementation date for the new AFCARS data collection is October 1, 2019.
- This means that the first submission of data files that must be compliant with the final rule is due no later than May 15, 2020, for the reporting period of October 1, 2019 to March 31, 2020.

§ 1355.42 Reporting Populations

AFCARS will have two reporting populations:

(1) Out-of-home care reporting population

- Includes a child of any age who:
  - is in foster care under the placement and care responsibility of the title IV-E agency;
  - is receiving title IV-E foster care maintenance payments under a title IV-E agreement; or
  - has run away or whose whereabouts are unknown at the time the title IV-E agency becomes responsible for the child.
- Once the child enters the reporting population, he or she remains in the out-of-home reporting population until the title IV-E agency's responsibility for the child ends or the child's title IV-E foster care maintenance payment pursuant to a title IV-E agreement ends.

(2) The adoption and guardianship assistance reporting population

- Includes a child whose adoption or guardianship was finalized during the report period, and the child's adoptive parents or guardians have a title IV-E adoption or guardianship assistance agreement with the reporting title IV-E agency.

§ 1355.43 Data Reporting Requirements

- There are two six-month report periods based on the federal fiscal year, October 1 to March 31 and April 1 to September 30. Title IV-E agencies have up to 45 days after the end of the report period to transmit the AFCARS data files (i.e., by May 15 and November 14).

- The rule specifies how the title IV-E agency must report missing information.

- Title IV-E agencies must submit data files to ACF electronically, in a format according to ACF's specifications.

- Title IV-E agencies must retain all records necessary to comply with the data requirements in sections 1355.41 through 1355.45. This means the title IV–E agency must keep applicable records until the child is no longer of an age to be in the reporting populations.

Out-of-Home Care Data File

§ 1355.44(a) through (h)

§ 1355.44(a) General Information

Title IV-E agencies must report general information such as the title IV-E agency, report date, and encrypted record number of the child in the out-of-home care reporting population.

§ 1355.44(b) Child Information

This section reflects information on the child's characteristics.

- Health assessment during current out-of-home care episode, date and whether timely.
- Whether the child has an Individualized Education Program (IEP) plan or Individualized Family Service Program (IFSP) plan, educational enrollment status, grade level, and whether the child is enrolled or is in the process of enrolling in a new school prompted by an initial placement into foster care or a placement change.
- Whether the child is pregnant or ever fathered/bore children.
- Whether the child experienced a prior intercountry adoption.
- Whether the child experienced a prior guardianship and if yes, most recent date.
- Total number of siblings, number of siblings in foster care and placed with child in current living arrangement.
- Child's sexual orientation (for 14 year olds and older).
- For states only, ICWA-related data elements: reason to know a child is an Indian child as defined in ICWA, court determine ICWA applies, notification of child custody proceedings, transfers to tribal court.

§ 1355.44(c) Parent or legal guardian information

This section reflects information on the child's parent or legal guardian , including parental rights.

- Tribal membership for mother and father.
- Whether a termination/modification of parental rights is voluntary or involuntary.
- Termination/modification of parental rights petition date.
- For states only, data elements on involuntary and voluntary termination/modifications under ICWA (e.g., whether the state court found beyond a reasonable doubt that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(f)).

§ 1355.44(d) Removal Information

The removal section reflects information about each of the child's removal episodes instead of information on just the current removal episode.

- Environment at removal – household or a facility.
- Whether a child is a victim of sex trafficking prior to entering foster care or while in foster care and if yes, whether the agency reported it to law enforcement and date.
- For states only, ICWA related data elements on removals under ICWA (e.g., whether the court order for foster care placement was made as a result of clear and convincing evidence that continued custody of the Indian child by the parent or Indian custodian was likely to result in serious emotional or physical damage to the Indian child in accordance with 25 U.S.C. 1912(e) and 25 CFR 121(a)).

§ 1355.44(e) Living Arrangement and Provider Information

This section reflects information about each of the child's living arrangements and the foster parents instead of information on the current living arrangement as of the end of the report period.

- Information on foster parents: child's relationship, tribal membership, sex, and sexual orientation.
- For states only, ICWA-related data elements on foster care and pre-adoptive placement preferences that were available and with whom the child is currently placed, and for the child whose current placement is not an ICWA preference, whether there was good cause to not follow placement preferences.

§ 1355.44(f) Permanency Planning

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The section reflects information on permanency planning for the child and family and is a combination of ongoing (historical) and point-in-time information.

- The date of each periodic review and permanency hearing.
- The date and location of each caseworker visit.
- Whether the child was found to be adjudicated delinquent or a status offender during the report period.
- Whether the child has a transition plan and the plan date.
- For states only, ICWA-related data elements on all of the active efforts that apply once the child enters (and prior to) foster care through the child's exit from foster care.

§ 1355.44(g) General Exit Information

This section reflects exit information for each of the child's out-of-home care episodes

- Date of exit from out-of-home care.
- Outcome (discharge reason).
- If the child's exit reason is a transfer to another agency, the type of agency.

§ 1355.44(h) Exit to Adoption and Guardianship Information

This section reflects exit information when the exit reason is either a finalized adoption or legal guardianship. Adoption information is now collected as part of the out-of-home care data file instead of a separate adoption file.

- Information on legal guardians when a child exits to a legal guardianship.
- Information on the adoptive parents when a child exits to an adoption.
- Adoptive parent/guardian tribal membership, sex, and sexual orientation.
- The name of the state, tribal service area, Indian reservation, or country where the child was placed if not within the jurisdiction of the reporting title IV-E agency.
- The assistance agreement type (state/tribal or federal, adoption or guardianship).
- The number of siblings in the same adoptive or guardianship home as the child.
- For states only, ICWA-related data elements on adoptive placements that were available and with whom the child is currently placed, and for the child's current placement, if it is not an ICWA preferred placement, whether there was good cause to not follow placement preferences.

Adoption and Guardianship Assistance Data File

§ 1355.45

Adoption and Guardianship Assistance Data File

The title IV-E agency must report the following:

- Section 1355.45(a). General information on the name of the title IV-E agency, report date, and encrypted child record number.
- Section 1355.45(b). Basic demographic information on the child's date of birth, sex, race, and ethnicity.
- Section 1355.45(c). Type of assistance agreement (title IV-E adoption or title IV-E guardianship) and the amount of the subsidy paid on behalf of the child.
- Section 1355.45(d). Adoption finalization or guardianship legalization date.
- Section 1355.45(e). Assistance agreement termination date.

AFCARS Compliance

§ 1355.46 Compliance
§1355.47 Penalties

§ 1355.46 Compliance
§ 1355.47 Penalties

- The final rule holds title IV-E agencies accountable for submitting quality data.
- A title IV-E agency must meet basic file standards, such as timely data file submissions and more specific data quality standards.
- For each report period, a title IV-E agency that does not meet the standards will have six months to correct and submit a corrected data file.
- We will exempt records from a compliance determination and thus the penalty for a child in either data file whose 18th birthday occurred in a prior report period and a child in the adoption and guardianship assistance data file who is in a title IV-E guardianship.
- If a title IV–E agency does not meet the standards after corrective action, ACF will apply the penalties required in statute (section 474(f) of the Act), which is 1/6 of 1% of the agency's title IV-E foster care administrative funds.

Resources

- The Children's Bureau Website at the What's New in Laws & Policies page provides:
  - A link to the final rule published in the Federal Register,
  - Talking points,
  - Questions and answers,
  - ACYF-CB-IM-17-01 informing title IV-E agencies about the publication of the AFCARS final rule,
  - Press release about publication,
  - Blog post about the final rule, and
  - This PowerPoint presentation.