

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	<b>1. Log No:</b> ACYF-CB-IM-18-03	<b>2. Issuance Date:</b> August 21, 2018
	<b>3. Originating Office:</b> Children's Bureau	
	<b>4. Key Words:</b> Title IV-E of the Social Security Act, Adoption and Foster Care Analysis and Reporting System (AFCARS)	

## INFORMATION MEMORANDUM

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

**SUBJECT:** Adoption and Foster Care Analysis and Reporting System (AFCARS) Final Rule to revise the implementation dates in 45 CFR section 1355.40 and Intent to issue a Notice of Proposed Rulemaking (NPRM) on revised AFCARS data points

**LEGAL AND RELATED:** Title IV-E of the Social Security Act; 45 CFR 1355

**PURPOSE:** The purpose of this Information Memorandum (IM) is to inform title IV-E agencies of the Children’s Bureau’s intent to publish a NPRM to revise the AFCARS data points. This IM also informs title IV-E agencies of the final rule regarding implementation of the December 2016 AFCARS final rule and briefly summarizes public comments received in response to the Advanced Notice of Proposed Rulemaking (ANPRM), published in the *Federal Register* on March 15, 2018 ([83 FR 11449](#)).

**BACKGROUND:**

- On December 14, 2016, the Children’s Bureau published a final rule promulgating revised AFCARS requirements ([81 FR 90524](#)) with an implementation date of October 1, 2019. Until that time, title IV-E agencies must continue to report data under the original AFCARS requirements at 45 CFR 1355.40 and the appendices to part 1355.
- The U.S. Department of Health and Human Service’s Regulatory Reform Task Force (created per [Executive Order 13777](#) issued February 24, 2017) identified the AFCARS 2016 final rule as one in which the reporting burden may impose costs that exceed benefits.
- Based on this determination, the Children’s Bureau issued in the Federal Register on March 15, 2018 two notices:
  - NPRM ([83 FR 11450](#)) that proposed to delay the implementation of the first AFCARS report period under the December 2016 AFCARS final rule (45 CFR 1355.41-.47) by two years until October 1, 2021.
  - ANPRM ([83 FR 11449](#)) soliciting specific feedback on the AFCARS data points, costs to implement, and burden hours to complete the work required to comply with the

AFCARS requirements in the 2016 final rule and listed questions specifically asking for a response.

## **INFORMATION:**

Notice of Intent to Issue a NPRM to Revise the AFCARS Data Points: The *Unified Agenda of Federal Regulatory and Deregulatory Actions* is a semiannual compilation of information about regulations under development by federal agencies, published in the spring and fall. The [spring 2018 Unified Agenda](#) lists a NPRM on AFCARS with an anticipated publication date of May 2019. This IM, along with the Unified Agenda, serves as a notice that the Children's Bureau will move forward with a new NPRM to revise the AFCARS data points.

Brief summary of ANPRM comments: In response to the ANPRM, we received 237 comments, which comprised of 38 states, 38 Indian tribes or consortiums, 64 organizations representing state or tribal interests, national public advocacy groups, professional associations, universities, and 97 private citizens. All but two states (36) supported making revisions to streamline the AFCARS regulation, which was based on each state's detailed self-assessment (provided via comments) of the cost and burden/work hours needed at various levels to complete the work required to comply with the AFCARS 2016 final rule. States shared similar concerns for implementing the requirements of the 2016 final rule such as the additional work needed to comply would pull valuable resources away from the field, decrease the amount of time caseworkers have to work with families, and that many new data points would be more accurately gathered and evaluated through a case review or other monitoring efforts. Most other advocacy and trade organizations, Indian tribes and organizations representing tribal interests, universities, private individuals, and other groups primarily focused their comments on which data points from the 2016 final rule to remove or retain. The majority of these commenters opposed streamlining for reasons such as, underscoring the importance of certain casework activities, showing national trends, and without any uniform, national data regarding certain aspects of the collection, policymakers do not understand the scope of issues to inform policy changes.

A more thorough analysis of the ANPRM comments will be included in the NPRM proposing to revise the AFCARS data points.

Implementation of the December 2016 Final Rule: The comment period for the NPRM on implementation delay ended on April 16, 2018. In response to the NPRM, we received 43 comments, which comprised of 12 states, six Indian tribes or consortiums, three organizations representing tribal interests, and 22 organizations and anonymous entities.

The Children's Bureau published in the Federal Register on August 21, 2018 a final rule to delay implementation of the December 2016 AFCARS final rule until October 1, 2020 ([83 FR 42225](#)).

/s/

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Jerry Milner  
Acting Commissioner  
Administration on Children, Youth and Families

Attachments:

[AFCARS final rule on implementation delay](#)

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