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| <h1>ACF</h1> Administration for Children and Families | U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families | |
| | 1. Log No: ACYF-PI-CB-98-01 | 2. Issuance Date: January 7, 1998 |
| | 3. Originating Office: Children's Bureau | |
| | 4. Key Words: Child Abuse and Neglect Grants; Citizen Review Panels | |

PROGRAM INSTRUCTION

TO: The State Office, Agency, or Organization Designated by the Governor to Apply for a State Child Abuse and Neglect Grant

SUBJECT: Establishment of the Citizen Review Panel Requirement Under the Child Abuse Prevention and Treatment Act

LEGAL REFERENCES: Sections 106(b)(2)(A)(x) and (c) of the Child Abuse Prevention and Treatment Act, as amended (42 U.S.C. 5101 et seq.)

PURPOSE: The purpose of this Program Instruction is to provide instruction on the citizen review panel requirements under the Child Abuse and Neglect State Grant (or Basic State Grant) Program.

BACKGROUND: The Child Abuse Prevention and Treatment Act (CAPTA) was reauthorized and amended by "The CAPTA Amendments of 1996" (Public Law 104-235) on October 3, 1996. Section 106 (formerly 107) of CAPTA's Title I was amended to direct the focus of the State grant program to one of support and improvement of State child protective services (CPS) systems. This new legislation authorizes the annual award of funds to States that submit State plans every five years and meet certain other eligibility requirements.

One of those requirements is the establishment of citizen review panels. The purpose of these panels is to provide new opportunities for citizens to play an integral role in ensuring that States are meeting their goals of protecting children from abuse and neglect (Congressional Record - House, pp. H11148-9, September 25, 1996).

The number of panels a State must establish is statutorily linked to the amount of funds that it receives under the Community-Based Family Resource and Support (CBFRS) Program. Specifically, section 106(c)(1)(A) of CAPTA requires that recipients of a Basic State Grant establish no less than three citizen review panels. The only exception to that statutory

requirement is that States receiving the minimum allotment of \$175,000 under the CBFRS Program are required to establish no less than one citizen review panel (section 106(c)(1)(B)).

DISCUSSION: Although the concept of citizen review of State child protective services is new, citizen review panels have been around for a while. Citizen review boards originated in the 1970s as a result of State-based initiatives to review the status of children in the foster care system. In the 1980s, there was a dramatic increase in the creation of citizen review boards in response to Public Law 96-272, which required reviews of each child in foster care every six months.

Today, many States have established these review boards in State statute or through judicial appointment. These foster care review boards have evolved as a major mechanism for case specific and system accountability and have served as effective lobbyists for foster children, as well as for State agencies. These boards have resulted in increased community awareness and ownership of child abuse and neglect issues and the strengths, weaknesses and challenges facing the child welfare service delivery system.

A lesson to be learned in establishment of the citizen review panels under CAPTA is that, properly established, these panels have the capacity to promote creative problem-solving with the involvement of community members who often represent a variety of disciplines. In addition, the annual reports of these boards have the potential for recommending not only increased resources, but also better collaboration and system change.

INSTRUCTION: Number of Panels Required and Deadline for Establishment All 50 States, as well as the District of Columbia and Puerto Rico, received more than the minimum allotment of \$175,000 under the CBFRS program in their FY 1997 awards (see enclosed list). Therefore, each of the 50 States, the District of Columbia and Puerto Rico must establish no less than **three** citizen review panels in accordance with section 106(c)(1)(A) of CAPTA and their FY 1997-1999 State plans.

Since the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and Palau submit consolidated grant applications in accordance with 45 CFR Part 97, these jurisdictions are not required to comply with the instructions set forth in this issuance.

As discussed in [ACYF-PI-NCCAN-97-01](#), while States are urged to implement the CAPTA requirements as soon as possible to comply with the CAPTA amendments, States have an interim planning period to implement the changes. The Governors' certifications that accompanied the State plans submitted in FY 1997 under CAPTA included an assurance that the citizen review panels required by CAPTA either were already in place or would be in place no later than June 30, 1999.

Panel Membership

The statute directs States to establish panels that are composed of volunteer members who are broadly representative of the community in which the panel is established and include members with expertise in the prevention and treatment of child abuse and neglect. Accordingly,

Statewide panels should include membership from across the State; regional and local panels should include membership reflective of those geographic communities.

We encourage States to give special attention to the goal and purpose of the panels and duties of the members to ensure that panelists have the necessary qualifications to review the complex issues presented by child maltreatment. It is recommended that panel membership include a balance among children's attorneys, child advocates, CASA volunteers, parent/consumer representatives and health/mental health professionals who are familiar with the intricacies of the CPS system. Since States are allowed to use certain standing panels for this purpose and some of those panels may be comprised of some child welfare/child protection staff, staff of the public agency are not prohibited from serving on these panels, so long as the majority of the panel's membership is comprised of volunteer members from other disciplines.

Panel Requirements

As noted in section 106(c)(1)(B)(ii) of CAPTA, a State may designate one or more of its existing entities established under State or Federal law, such as child fatality panels or foster care review panels, to serve as citizen review panels under CAPTA, so long as those panels perform the functions set forth in section 106(1)(B)(4) of the statute. An example of another panel established by Federal law that States may consider for this purpose is the multidisciplinary task force required by the Children's Justice Act (CAPTA section 107(c)).

Pursuant to section 106(1)(B)(4) of CAPTA, **each** citizen review panel must evaluate the extent to which the State agency is effectively fulfilling its child protection responsibilities in accordance with the CAPTA State plan, as well as other criteria that the panel considers important to ensure the protection of children, including: (1) a review of the extent to which the State CPS system is coordinated with the foster care and adoption programs established under title IV-E of the Social Security Act; and (2) a review of child fatalities and near fatalities, as defined in subsection 106(b)(4).*

The citizen review panel requirement need not create unnecessary duplication at the State and local level; the statute allows States to utilize existing panels, so long as they also fulfill the CAPTA requirements. Therefore, while the statute mandates that each of the three panels established under CAPTA must perform all the functions required by the statute, it does not prescribe that each panel engage in only these functions nor does it specify the depth or breadth of review. Accordingly, States have considerable flexibility in designing their panels.

Hypothetically, a State might choose to establish its citizen review panels so that the three panels would:

1. each examine different portions of the State's policies and procedures relating to child abuse and neglect, and review of relevant cases, as determined appropriate by the panel, to determine the extent to which the agency is discharging its child protection responsibilities under its CAPTA State plan (section 106(c)(4)(A)(i));

2. each review the extent to which the CPS system is coordinated with different portions of foster care and adoption programs under title IV-E of the Social Security Act (section 106(c)(4)(A)(iii)(I)); and
3. each conduct reviews of child fatalities and near fatalities occurring in different regions of the State based on the findings and recommendations of a standing child fatality panel (section 106(c)(4)(A)(iii)(II)).

While CAPTA does not address geographic coverage by the panels, ACF encourages States to consider broad coverage. However, States have the flexibility to set up their panels in such a way that will be most appropriate for the State. For example, a State might establish one Statewide and two regional panels; or a State might establish three regional panels that do not cover the entire State but cover the areas of the State in which most child protection issues arise. Regardless of whether the panel is geographically based or statewide, it must meet the statutory requirement that **each** panel examine the policies and procedures of State and local agencies. In addition, the State should assure that the three panels combined review and input provide a holistic picture of the State's CPS system.

The statute requires that each panel meet no less frequently than every three months (section 106(c)(3)).

State Assistance

A. Panel Access to Case-Specific Information

Section 106(c)(5)(A) of CAPTA requires States to provide each citizen review panel with access to information on cases that the panel chooses to review if the information is necessary for the panel to carry out its functions under CAPTA. Report language clarifies that Congressional intent was to direct States to provide the review panels with information that **the panel determines is necessary** to carry out these functions (Congressional Record -- House, September 25, 1996, p. H11149).

B. Staff Assistance

Section 106(c)(5)(B) of CAPTA requires that States provide staff assistance to the citizen review panels for the performance of their duties, upon request of the panel. We envision that these panels may need administrative support, in particular, to assist in typing reports and facilitating the exchange of case-specific information. A State should evaluate its staff resources when establishing its citizen review panels and make clear the extent to which staff will be available to panels.

Reports

Section 106(d) of CAPTA requires that the citizen review panels develop annual reports and make them available to the public. These reports should be completed no later than 90 days after the end of the Federal fiscal year (December 31st of each year) and should, at a minimum, contain a summary of the panel's activities, as well as the recommendations of the panel based

upon its activities and findings. States are encouraged to include these reports with their Annual Progress and Services Reports that are due to the Federal Regional Office by June 30th of each year and include information on the progress States are making in implementing the recommendations of the panels.

Confidentiality

Citizen review panel members are bound by the confidentiality restrictions in section 106(c)(4)(B)(i) of CAPTA. Specifically, members and staff of a panel may not disclose identifying information about any specific child protection case to any person or government official, and may not make public other information unless authorized by State statute to do so.

Further, section 106(c)(4)(B)(ii) of CAPTA requires States to establish civil sanctions for violations of these confidentiality restrictions. States that already have civil sanctions in place for breaches of confidentiality need not enact new legislation, so long as their existing provisions encompass the CAPTA requirements.

General

Enclosed as a resource for States is the publication, "*Supporting Effective Citizen Involvement in Child Protective Services: A Guide for State and Local Officials*," which was published in 1996 by the Child and Family Policy Center in Des Moines, Iowa.

INQUIRIES Regional HUB Directors and Administrators Regions
TO: I - X
 James A. Harrell
 Deputy Commissioner
 Administration on Children, Youth, and Families

* Section 106(b)(4) defines "*near fatality*" as "an act that, as certified by a physician, places the child in serious or critical condition."

[Attachment A:](#) COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT PROGRAM
FY 1997 AWARDS

ATTACHMENT A

**COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT PROGRAM FY 1997
AWARDS**

| STATE | \$ Amount |
|----------------------|------------------|
| ALABAMA | 334,361 |
| ALASKA | 236,854 |
| AMERICAN SAMOA | 175,000 |
| ARIZONA | 441,312 |
| ARKANSAS | 186,472 |
| CALIFORNIA | 2,623,457 |
| COLORADO | 297,590 |
| CONNECTICUT | 222,685 |
| DELAWARE | 177,134 |
| DISTRICT OF COLUMBIA | 178,520 |
| FLORIDA | 1,717,779 |
| GEORGIA | 578,790 |
| GUAM | 175,000 |
| HAWAII | 444,232 |
| IDAHO | 175,895 |
| ILLINOIS | 796,285 |
| INDIANA | 463,215 |
| IOWA | 242,847 |
| KANSAS | 206,312 |
| KENTUCKY | 1,691,946 |
| LOUISIANA | 329,912 |
| MAINE | 178,702 |
| MARYLAND | 551,897 |
| MASSACHUSETTS | 399,101 |
| MICHIGAN | 671,480 |
| MINNESOTA | 1,191,802 |
| MISSISSIPPI | 198,558 |
| MISSOURI | 436,667 |
| MONTANA | 176,285 |
| NEBRASKA | 204,203 |

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|--------------------------|------------|
| NEVADA | 255,714 |
| NEW HAMPSHIRE | 177,001 |
| NEW JERSEY | 561,475 |
| NEW MEXICO | 234,342 |
| NEW YORK | 1,535,083 |
| NORTH CAROLINA | 491,469 |
| NORTH DAKOTA | 205,676 |
| NORTHERN MARIANA ISLANDS | 175,000 |
| OHIO | 982,548 |
| OKLAHOMA | 811,243 |
| OREGON | 215,854 |
| PALAU | 50,000 |
| PENNSYLVANIA | 1,001,133 |
| PUERTO RICO | 403,575 |
| RHODE ISLAND | 241,122 |
| SOUTH CAROLINA | 312,526 |
| SOUTH DAKOTA | 184,428 |
| TENNESSEE | 574,407 |
| TEXAS | 1,436,988 |
| UTAH | 273,856 |
| VERMONT | 257,265 |
| VIRGIN ISLANDS | 175,000 |
| VIRGINIA | 1,165,347 |
| WASHINGTON | 382,409 |
| WEST VIRGINIA | 179,908 |
| WISCONSIN | 394,884 |
| WYOMING | 176,271 |
| TOTAL: | 28,558,817 |