

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families	
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	3. Originating Office: National Center on Child Abuse and Neglect	
	4. Key Word: Child Abuse and Neglect State Grants Availability of Funds (42 U.S.C. 5101 et seq.)	

PROGRAM INSTRUCTION

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

SUBJECT: Availability of Fiscal Year (FY) 1997 State Grant Funds Under the Child Abuse Prevention and Treatment Act

LEGAL REFERENCES: Sections 106(a), (b), (c) and (d) 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 guidance and instructions on the FY 1997 CAPTA State plan and application requirements for the Child Abuse and Neglect State Grant (or Basic State Grant) Program.

OVERVIEW:

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 a State plan every five years and meet certain other eligibility requirements.

This Program Instruction is divided into four parts:

- Part I is an introductory section and contains background information and information on the new legislation.
- Part II includes a discussion on implementation of the CAPTA State plan.
- Part III contains allocation and expenditure of funds information.
- Part IV contains instructions for applying for a FY 1997 Child Abuse and Neglect Basic State Grant (BSG).

PART I – INTRODUCTION

A. Background

Prior to the enactment of the CAPTA Amendments of 1996, Section 107 of CAPTA authorized the award of funds for two State grant programs: (1) Part I funds were awarded to States that met specified eligibility requirements for the purpose of assisting States to develop, strengthen and carry out child abuse and neglect prevention and treatment programs; and (2) Part II funds were awarded to States for the purpose of assisting States in responding to reports of medical neglect (including the withholding of medically indicated treatment from disabled infants with life-threatening conditions), and improving the provision of services to disabled infants with life-threatening conditions and their families.

B. New Legislation

Subsection (a) of Section 106 (formerly 107) was amended to authorize the Secretary to award development and operation grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for the purposes of assisting the States in improving the child protective service system of each such State in one or more of the following nine areas:

1. the intake, assessment, screening, and investigation of reports of abuse and neglect;
2. (a) creating and improving the use of multidisciplinary and interagency protocols to enhance investigations; and (b) improving legal preparation and representation, including--
 - i. procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and
 - ii. provisions for the appointment of an individual appointed to represent a child in judicial proceedings;
3. case management and delivery of services provided to children and their families;
4. enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;
5. developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;
6. developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

7. developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;
8. developing, implementing, or operating--
 - a. information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for--
 - i. professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and
 - ii. the parents of such infants; and
 - b. programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including--
 - i. existing social and health services;
 - ii. financial assistance; and
 - iii. services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or
9. developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

Subsection (b) of Section 106 requires the submission of a State program plan every five years which specifies the area or areas of the State CPS system to be improved and indicates how the funds will be used to make such improvements. This subsection further requires assurance in the form of certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes:

1. provisions or procedures for the reporting of known or suspected instances of child abuse and neglect;
2. procedures for the immediate screening, safety assessment, and prompt investigation of such reports;
3. procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;
4. provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

5. methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to-
 - a. individuals who are the subject of the report;
 - b. Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;
 - c. child abuse citizen review panels;
 - d. child fatality review panels;
 - e. a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and
 - f. other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;
6. provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;
7. the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation assessment, prosecution, and treatment of child abuse or neglect;
8. provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;
9. provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings--
 - a. to obtain first-hand, a clear understanding of the situation and needs of the child; and
 - b. to make recommendations to the court concerning the best interests of the child;
10. the establishment of citizen review panels in accordance with Subsection 106(c)¹;

¹ Section 106(c) sets forth the requirements for establishment of Citizen Review Panels. States that receive the minimum allotment of \$175,000 under a Community-Based Family Resource and Support (CBFRS) grant are required to establish a minimum of one Citizen Review Panel. All other States are required to establish a minimum of three such panels. The Department will notify States in writing regarding the minimum number of panels required in each State once the CBFRS awards have been made later this fiscal year. Back

11. provisions, procedures, and mechanisms to be effective not later than two years after the date of the enactment of this section (by 10/3/98)--
 - a. for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and
 - b. by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;
12. provisions, procedures, and mechanisms to be effective not later than two years after the date of the enactment of this section (by 10/3/98) that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction--
 - a. to have committed a murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;
 - b. to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;
 - c. to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or
 - d. to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent;
13. an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under number 12 above, conviction of any one of the felonies listed in number 12 above constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State); and
14. an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for--
 - a. coordination and consultation with individuals designated by and within appropriate health care facilities;
 - b. prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and
 - c. authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically

indicated treatment from disabled infants with life-threatening conditions; and

15. an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) of section 106 and this paragraph.
16. an assurance that the State has in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatments from disabled infants with life threatening conditions as required by the Rule of Construction under Section 113(b)².

(Note: Only numbers 4, 13, 14(c), and 16 above require that such provisions be in State law.)

In addition, Section 106(b)(2)(C) requires that the CAPTA plan include a description of—

1. services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;
2. training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and
3. training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect.

There is no authority in the CAPTA Amendments of 1996 for a separate Part II Medical Neglect/Disabled Infants program, although States may use their BSG funds for that purpose. A compilation of the Act, as amended by Public Law 104-235 is included at Attachment 8.

PART II - CAPTA STATE PLAN DEVELOPMENT

A. Consolidation with the Title IV-B Comprehensive Child and Family Services Plan

While CAPTA mandates that the CAPTA State plan be coordinated to the maximum extent practicable" with the Title IV-B plan, the recently published regulation on the comprehensive Child and Family Services Plan (CFSP) requires that the consolidated planning and reporting requirements for the title IV-B programs include information on the CAPTA BSG program. This regulation pledges that the Department will work to ensure that there will not be any duplicative information requirements for the CFSP and the CAPTA Plans. (**Federal Register** dated November 18, 1996; pp. 58633, 58634, 58656 and 58658, sections 1357.15(a)(2)(ii) and

² Except with respect to the withholding of medically indicated treatment from disabled infants with life-threatening conditions, case-by-case determinations concerning the exercise of authority of this section are within the sole discretion of the State. Nothing in the Child Abuse Prevention and Treatment Act shall be construed (1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and (2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

(n)(3)(iv)). Accordingly, the State Plan application and approval process under CAPTA will be consolidated into the comprehensive CFSP application and approval process under title IV-B of the Social Security Act.

The rationale for this consolidation is to encourage comprehensive planning for a State's full complement of child welfare services from prevention and protection through permanency. Consolidation of the CAPTA requirements into the title IV-B CFSP planning process will assure that the programmatic elements for an effective and efficient child protective service system are in place without placing an undue administrative burden on the States. This consolidation addresses feedback the Department obtained from focus groups and will reduce multiple application processes for the States, as well.

The CFSP regulation noted that "a consolidated CFSP does not necessarily allow for pooled funding among the programs. . . inasmuch as separate funding streams and accountability are still required by statute." (**Federal Register** dated November 18, 1996, p. 58643). Accordingly, although the title IV-B and CAPTA plans will be consolidated, eligibility and funding for the individual programs will remain separate and funding will not be delayed for one program due to potential eligibility issues in the other program. To the extent there are overlapping requirements, they will be satisfied for both the title IV-B and CAPTA programs by one submission, and to the extent that the requirements do not overlap, they are to be submitted in the same document, but only the requirements pertinent to a particular program will affect eligibility for that program. Annual Program Instructions will be developed by the Department to announce the availability of funds and provide the distinct programmatic requirements.

Since 1997 will be the third year for the comprehensive CFSP, an interim three-year CAPTA Plan should be developed in order to synchronize the planning cycles. Because States may face challenges with this new vision, technical assistance will be provided to States, as needed, during this interim period.

B. Guidelines for Development of the CAPTA State Plan

The CAPTA State plan provides an opportunity for States to review, evaluate and plan improvements to their CPS programs. Through the planning process, a State can assess the level of development of its CPS practice in relation to the state-of-the-art and propose refinements to its current program.

The completed CAPTA State plan must address all of the program areas selected for improvement, as well as the services and training to be provided under the grant, and include the required assurances. While States are urged to make the necessary changes in statute, regulation or policy as soon as possible to comply with the CAPTA requirements, States will have the three-year interim planning period to make the needed changes. Accordingly, these changes must be achieved by June 30, 1999 in order to assure continued eligibility. This timeframe should accommodate those States that have biennial legislative sessions. **The exceptions to the three-year timeline are the assurances noted under numbers 11 and 12 above for which a completion date of October 3, 1998 is mandated by statute.**

To be eligible for a FY 1997 award, States are required to certify eligibility for those requirements with which they already comply. For the requirements that will require amendment to State law, regulation or policy, the assurance must certify that the provision will be met within

the noted timeframe. Progress by the State in achieving these requirements must be included in the State's Annual Progress and Services Report (APSR) required for their comprehensive CFSP. These annual updates are discussed in Part IV-C of this Program Instruction.

States are encouraged to contact their Regional Offices regarding provisions they are finding troublesome to implement. Technical assistance will be provided in the areas noted as problematic for a State. This will assist the Department in the development of guidelines for the program, as well. Guidance on the new provisions will be developed based upon input from States and advocacy groups.

Submission of the interim three-year CAPTA plan can serve as the State's application for both its FY 1997 and 1998 awards by including a description of the activities to be funded and the estimates needed for both years on the CFS-101 which is included in the State's APSR for the comprehensive CFSP. This will synchronize the award of funds for both the BSG and title IV-B programs and allow funds to be awarded to the States early in the fiscal year, beginning in FY 1998. Subsequently, the APSRs submitted by June 30th of each year will activate the following year's funds. Once the Program Instruction on the ASPR requirements for FY 1997 is available, it will be sent under separate mailing to the recipients of this Instruction.

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the successor entity to the Trust Territory of the Pacific Islands (the Republic of Palau).

Since the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau may submit consolidated grant applications in accordance with 45 CFR Part 97, these jurisdictions need not submit an application under this Program Instruction if they choose to have their allotment included in a consolidated grant. **NOTE:** Palau is limited to 50% of its FY 1995 appropriated funds in accordance with the Compact of Free Association.

C. Submission and Review of Changes in State Eligibility Documentation

Section 106(b)(1)(B) of the CAPTA Amendments of 1996 requires that, after submission of the initial State plan/grant application, a State must provide notice to the Secretary regarding any substantive changes in State law that may affect its eligibility for a Basic State Grant. Accordingly, notification of substantive changes in State law that the State believes could affect its eligibility, along with an explanation from the State Attorney General regarding why the change would or would not affect eligibility, must be included in the State's annual updates (see Part IV-C). The material will then be reviewed by the Department to determine whether and how the changes affect a State's eligibility. The State will be notified in writing of the results of that review. If a change in State law does not meet the CAPTA requirements, the State will be required to take corrective action within a timeframe established by the State and its Federal Regional Office. Funds will not be withheld unless the State fails to make the necessary changes.

D. Relationship to Children's Justice Act Grants

Compliance with the eligibility requirements for a Basic State Grant is a prerequisite for establishing eligibility for funds under the Children's Justice Act State Grant Program authorized

by Section 107(a) (formerly 109(a)) of CAPTA.

PART III - ALLOCATION AND EXPENDITURE OF FUNDS

A. Availability and Allocation of Funds

The FY 1997 appropriation for the grants awarded under Section 106(a) provides \$21,026,000 to be made available to States meeting the eligibility requirements of Section 106(b) of the Act. Funds to eligible States for the BSG will be allocated as follows: A base amount of \$50,000 will be awarded to each State, after which each State will be awarded an additional amount bearing the same ratio to the total funds made available (reduced by the base amounts awarded to each State) as the number of children under the age of 18 in each State bears to the total number of children under 18 in all States.

Attachment 1 provides the tentative allocation for each State. The tentative allocations are based on the premise that all States will apply for and receive the funds available to them. In the event that not all States apply for or receive their tentative allocation, those funds will be redistributed among eligible States. States receiving additional funds as a result of such a redistribution should submit information on the proposed use of such additional funds to the appropriate Regional Office of the Administration for Children and Families, no later than November 30, 1997. (See Attachment 3 for the list of ACF Regional HUB Directors and Administrators.)

B. Obligation and Expenditure of Funds

States have five years from the date of the grant award to obligate and liquidate their BSG funds. Under the CAPTA Amendments of 1996, there is no longer a penalty for States that do not obligate funds within 18 months from the date of the grant award.

PART IV - APPLICATION INSTRUCTIONS

A. CAPTA Plan Content

As stated under Part II-A above, since the CAPTA plan will be consolidated into the comprehensive CFSP under title IV-B and FY 1997 will be the third year for the CFSP, States are requested to submit an interim three-year plan in order to synchronize the planning cycles. States may choose from among the nine program areas identified in CAPTA as appropriate for funding under the BSG. The completed CAPTA State plan must:

- address those program areas selected from the nine areas in Section 106(a)(1) through (9) of CAPTA and noted in Part I-B of this Program Instruction;
- include a description of the services and training to be provided under the grant as required by Section 106(b)(2)(C) of CAPTA and noted in Part I-B of this Program Instruction; and
- include the required assurances set forth in Sections 106(2)(A), (B) and (D) of CAPTA and noted in Part I-B of this Program Instruction. (The assurances form at Attachment 2 must be completed and signed by the Chief Executive Officer of the State and included with the plan submission.)

States also must comply with the following:

- **Anti-Lobbying Certification and Disclosure Form (Attachment 4)**

Pursuant to 45 CFR Part 93, the certification must be signed and submitted with the application. If applicable, a Standard Form LLL, which discloses lobbying payments, must be submitted.

- **Certification Regarding Drug-Free Workplace (Attachment 5)**

Signature on the State plan by an authorized individual attests to the applicant's intent to comply with Drug-Free Workplace requirements. A separate signed form does not have to accompany the application.

- **Debarment Certification (Attachment 6)**

Signature on the application by an authorized individual attests to the applicant's compliance with the Debarment requirements. A separate signed form does not have to accompany the application.

- **Certification Regarding Environmental Tobacco Smoke (Attachment 7)**

Signature on the application by an authorized individual attests to the applicant's compliance with the Environmental Tobacco Smoke requirements. A separate signed form does not have to accompany the application.

B. Submission of the CAPTA Plan

To be eligible for FY 1997 and FY 1998 funds under the Basic State Grant Program, a State is required to submit the CAPTA State plan information with its comprehensive CFSP Annual Progress and Service Report to the appropriate Federal Regional Office (see Attachment 3) **by June 30, 1997** for approval. The assurances form (Attachment 2), signed by the Chief Executive Officer of the State, must be included.

Note: This submittal is consistent with the timing of the comprehensive CFSP Annual Updates and Progress Reports required under title IV-B.

C. Annual Progress and Services Reports

States are required to submit annual updates on the accomplishments and progress made in the previous fiscal year, including the progress made in meeting the CAPTA eligibility requirements. Since the CAPTA State plan is being consolidated with the comprehensive CFSP plan under title IV-B, the submission of the Annual Progress and Services Report required under 45 CFR 1357.16, when it includes the CAPTA information, will satisfy the CAPTA requirement.

In addition, CAPTA requires that States work with the Secretary to provide, **to the maximum extent practicable**, an annual data report that includes:

1. The number of children who were reported to the State during the year as abused or neglected.
2. Of the number of children described in paragraph (1), the number with respect to whom such reports were--
 - a. substantiated;
 - b. unsubstantiated; or
 - c. determined to be false.
3. Of the number of children described in paragraph (2)--
 1. the number that did not receive services during the year under the State program funded under this section or an equivalent State program;
 2. the number that received services during the year under the State program funded under this section or an equivalent State program; and
 3. the number that were removed from their families during the year by disposition of the cases.
 4. The number of families that received preventive services from the State during the year.
 5. The number of deaths in the State during the year resulting from child abuse or neglect.
 6. Of the number of children described in paragraph (5), the number of such children who were in foster care.
 7. The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.
 8. The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
 9. The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.
 10. The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.
 11. The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of a child.
 12. The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of

court contacts between such individuals and children.

Further instructions will be provided to the States on these annual data reporting requirements at a later date.

Note: Instructions regarding program and fiscal reporting set forth in Program Instruction ACF-PI-91-06 issued on April 22, 1991 no longer apply to grants under this program beginning with the award of the 1997 grants. However, all grant awards made before FY 1997 continue to be subject to the reporting requirements set forth in that Program Instruction.

D. Fiscal Reports

States are required to submit fiscal reports at the end of each 12 months of the grant period. Fiscal reports covering the first 12 months of a grant period are interim reports and the report covering the entire grant period is the final report. Funds under the BSG must be expended within five years from the date of award. Expenditures under the BSG program are to be reported by the State, using a Standard Form 269, Financial Status Report, and submitted directly to the appropriate Regional HUB Director or Administrator (see Attachment 3) no later than 30 days from the end of each 12-month period covered by the interim report and no later than 90 days after the end of the grant period for the final report.

PAPERWORK REDUCTION ACT:

Under the Paperwork Reduction Act of 1995 (Pub. L. 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The valid OMB Control Number assigned to this information collection is 0980-0047.

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS (EXECUTIVE ORDER 12372):

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," for State plan consolidation and simplification only (see 45 CFR 100.12). The review and comment provisions of the Executive Order and Part 100 do not apply.

INQUIRIES TO:

Regional HUB Directors and Administrators
Administration for Children and Families

EFFECTIVE DATE: Upon Issuance.

/s/

James A. Harrell
Acting Commissioner
Administration on Children, Youth and Families

Attachments:

Attachment 1 - Tentative Allocation Table

Attachment 2 - CAPTA Assurances Certification

Attachment 3 - Regional HUB Directors and Administrators, ACF

Attachment 4 - Certification Regarding Lobbying

Attachment 5 - Drug-Free Workplace Certification

Attachment 6 - Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Attachment 7 - Certification Regarding Environmental Tobacco Smoke

Attachment 8 - CAPTA Compilation

NOTE: *The above attachments are not available in electronic format.*