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<b>ACF</b>  Administration for Children and Families	<b>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b> <b>Administration for Children, Youth and Families</b>	
	<b>1. Log No:</b> ACYF-IM-87-28	<b>2. Issuance Date:</b> 01/25/85
	<b>3. Originating Office:</b> Children's Bureau	
	<b>4. Key Words:</b> Title IV-E Nunc Pro Tunc Orders, Judicial Determination Requirements (Nunc Pro Tunc)	

### **INFORMATION MEMORANDUM**

**TO:** State Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act (the Act)

**SUBJECT:** Use of Nunc Pro Tunc Orders to Satisfy the Judicial Determination Requirements of Section 472(a)(l) of the Act

**LEGAL AND RELATED REFERENCES:** Sections 471(a)(15) and 472(a)(l) of the Act

**PURPOSE:** The purpose of this Information Memorandum is to clarify the Department's procedure in considering nunc pro tunc orders to meet the judicial determination requirements set forth in section 472(a)(l) of the Act.

**BACKGROUND:** Courts have the authority to enter an order nunc pro tunc to supply, for the record, something that has actually occurred, but was omitted from the record through inadvertence or mistake. A nunc pro tunc order, however, may not be used to predate the actual performance of an act that had not taken place. Thus, where a nunc pro tunc order does not simply correct errors or omissions, but actually modifies the substance of a prior ruling or constitutes a ruling not previously made, it cannot be given retrospective effect.

**INFORMATION:** This issuance clarifies the Department's procedure for title IV-E financial reviews when a nunc pro tunc order has been issued to satisfy the requirements for judicial determinations as set forth in section 472(a)(l) of the Act.

In title IV-E financial reviews, for every child for which there is a nunc pro tunc order that is used to meet the statutory requirements in section 472(a)(l), States are required to submit documentation to verify that these findings were in fact omissions from the record through inadvertence or mistake. Requested documentation may include the transcript of court proceedings and/or the agency's report to the court, or any other documentation that would

confirm that the information was actually presented to the court at the previous hearing and that the court made the determination(s) at that time.

**INQUIRIES TO:** Regional Administrators, Regions I - X

/s/

Dodie Livingston  
Commissioner