

Adoption and Foster Care Analysis and Reporting System (AFCARS) Notice of Proposed Rulemaking (NPRM): An Overview



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AFCARS NPRM

AFCARS: Background



AFCARS: BACKGROUND

Current AFCARS

- AFCARS collects case level information on all children in foster care and children adopted with the involvement of the state/tribal title IV-E agency. AFCARS also includes information on foster and adoptive parents.
- Title IV-E agencies report data to AFCARS two times per year, in May and November.
- The data reflects the child's experience as of the end of the report period.
- Includes: demographics, when and why the child entered foster care, characteristics on foster care and adoptive placements, the reason the child exits foster care, and whether the adopted child has special needs.



AFCARS: BACKGROUND

Statutory Requirements

- HHS is statutorily required to have a regulated national data collection system that provides comprehensive demographic and case-specific information on all children who are in foster care and adopted with title IV-E agency involvement. (Section 479 of the Social Security Act)



AFCARS: BACKGROUND

How is the data that is reported to AFCARS used?

- AFCARS data allows us to:
 - Draw national statistics and trends about the foster care and adoption populations.
 - Complete the annual Child Welfare Outcomes Report to Congress.
 - Develop our budgets.
 - Calculate payments for the Adoption and Guardianship Incentive Payments program.
 - Monitor title IV-E agency compliance with title IV-B and IV-E requirements, including drawing the population sample for title IV-E reviews.



AFCARS NPRM

NPRM Purpose and Background



AFCARS NPRM: PURPOSE

Why do we need to revise AFCARS?

- The regulations no longer fully support our current data needs to understand a child's entire experience in foster care; and
- They need to be updated to incorporate requirements from the *Fostering Connections to Success and Increasing Adoptions Act of 2008* and the *Preventing Sex Trafficking and Strengthening Families Act*.



AFCARS NPRM: BACKGROUND

Prior Regulatory Activity

- Issued NPRM to update the regulation in 2008; no final rule issued.
- In 2010, we consulted with the field (including tribes) to gather feedback on a new proposal to revise AFCARS.
- This proposal reflects commenter input from both 2008 and 2010.



AFCARS NPRM: BACKGROUND

Which agencies will have to comply with this NPRM?

- State title IV-E agencies and Indian tribes, tribal organizations and consortium that operate a direct title IV-E program (tribal title IV-E agencies) must submit AFCARS data as required in statute and regulation.



AFCARS NPRM

Overview of Proposal

AFCARS NPRM: Overview of Proposal

- **Reporting Populations**

- Out-of-Home Care Reporting Population: Each child in out-of-home care until the title IV-E agency's placement and care responsibility ends.
- Adoption and Guardianship Assistance Reporting Population: Each child in a finalized adoption or legal guardianship under a title IV-E assistance agreement until the agreement ends.

- **Data Reporting Requirements**

- Submit AFCARS data electronically twice a year covering six-month report periods (April 30 and October 30) according to ACF specifications.
- For children in foster care: Collect both information that does not change over time (e.g., demographics) and information that does change, such as placements and permanency plan goals.
- For children with a title IV-E adoption or guardianship assistance agreement: Collect information that is unlikely to change over time, such as child demographics, adoption/guardianship finalization date, placing agency, number of siblings, etc.



AFCARS NPRM: Overview of Proposal

- **Historical Data for Longitudinal Analysis**
 - For the Out-of-Home Care Reporting Population only.
 - A combination of information that does not change over time (e.g., demographics) and information that does change (e.g., placements, permanency plan goals).
 - Together, this data will provide historical information on a child's entire experience in foster care, not just what occurred over the last 6 months.
 - Can conduct longitudinal data analysis to further evaluate child outcomes, placement stability, and reentry rates, and enhance our assessment of the agency's performance in meeting statutory requirements.



AFCARS NPRM: Overview of Proposal

Out-of-Home Care Data File Data Elements

The title IV-E agency must report the following:

- General information such as the name of the title IV-E agency and record number of the child in the out-of-home care reporting population.
- Child demographic information such as health assessment information, diagnosed health, behavioral or mental health conditions, educational well-being, prior adoption or guardianship, and any types of financial and medical assistance the child received during the report period.
- Parent or legal guardian demographic information such as the year of birth, termination of parental rights (TPR) petition date, TPR date, and the date of the first judicial finding of child abuse or neglect.

AFCARS NPRM: Overview of Proposal

Out-of-Home Care Data File Data Elements, Historical Information

- Each of the child's removals, such as:
 - the type of household or facility the child lived in at the time of removal,
 - whether the removal is court ordered or a voluntary placement (if known), and
 - the circumstances occurring in the child's life at the time the child entered foster care (not just the "primary" reason for entering foster care). These include abuse/neglect, abandonment, domestic violence, inadequate housing, caretaker alcohol/drug abuse, inadequate access to medical or mental health services, and child behavior problem.
- Each of the child's living arrangements/providers such as:
 - the date the child began living in each placement, the type of the placement (foster family home, group home, child care institution, runaway, etc.), the number of siblings living with child, and the federal funding sources that support the child's room and board.
 - For each placement that is a foster family home, basic demographics on each foster parent.



AFCARS NPRM: Overview of Proposal

Out-of-Home Care Data File Data Elements, Historical Information

- Permanency planning information for the child, such as:
 - the date and goal of each permanency plan, whether the permanency plan changed during the report period (and if so, all of the reasons why it changed),
 - if the child has a concurrent permanency plan (and if so, the date and goal of each),
 - the date of each periodic review and permanency hearing,
 - the date, location, and purpose for each caseworker visit, and
 - if the child has a transition plan (and if so, the date of and which provisions are included in the plan).
- Each of the child's exits from out-of-home care, such as:
 - exit date and exit reason, and
 - if the child was transferred to another agency, report the type of agency where the child was transferred (e.g., state or tribal IV-E agency, tribal agency, juvenile justice agency, etc.).



AFCARS NPRM: Overview of Proposal

Out-of-Home Care Data File Data Elements, Historical Information

- Each of the child's exits to a finalized adoption or legal guardianship, such as:
 - demographics and other characteristics (including relationship to child) for each adoptive parent or legal guardian,
 - the location of where the child was placed for adoption or guardianship (intercountry, interjurisdictional, or intrajurisdictional),
 - 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.



AFCARS NPRM: Overview of Proposal

Adoption and Guardianship Assistance Data File Data Elements

The title IV-E agency must report the following:

- General information such as the name of the title IV-E agency and record number of the child in the out-of-home care reporting population.
- Child demographic information such as date of birth, whether child was born in the United States, gender, race, and ethnicity.
- Information on title IV-E adoption or guardianship assistance agreement, such as:
 - date of adoption finalization or legalized guardianship,
 - the amount of the subsidy paid on behalf of the child,
 - information on nonrecurring costs,
 - the total number of siblings the child has in foster care or who have a finalized adoption or legal guardianship under a title IV-E agreement, and
 - the agency that placed the child for adoption or legal guardianship, including agency type and location.
- No historical information collected since this information doesn't change over time.

AFCARS NPRM: Overview of Proposal

Out-of-Home Care Data File Data Elements and P.L. 113-183

- The *Preventing Sex Trafficking and Strengthening Families Act* added requirements to AFCARS. We addressed these in the NPRM:
 - Added pregnant to list of conditions of a child in foster care so that this data may be included in the annual Child Welfare Outcomes Report. See preamble pages 7148-7149, regulatory text page 7208, and Attachment A.
 - Added whether a child in foster care was a victim of sex trafficking prior to entering foster care, whether the child became a victim of sex trafficking while in foster care, whether the title IV-E agency reported this to law enforcement for entry into the National Crime Information Center (NCIC) database, and the date the agency made the report. See preamble on page 7154, regulatory text page 7211, and Attachment A.
 - Added the type of services a child is receiving if placed in a living arrangement other than a foster family home. See preamble page 7171, regulatory text pages 7216, and Attachment A.
 - Ask for the date, type, and jurisdiction name for each, if any, of a child's prior adoption(s). See preamble page 7152-7153, regulatory text page 7209-7210, and Attachment A.

AFCARS NPRM: Overview of Proposal

Data Elements and P.L. 110-351

- The *Fostering Connections to Success and Increasing Adoptions Act of 2008* substantially revised the title IV-E program. We addressed these changes in the NPRM:
 - Information about title IV-E guardianships will be collected in the Adoption and Guardianship Assistance Data File such as number and ages of children supported through the title IV-E guardianship, subsidy amount, and length of time the agreement is in effect.
 - Out-of-Home Care Reporting Population includes a youth of any age, so youth age 18 and older in foster care must be reported.
 - Health Oversight and Coordination Plan information such as date of most recent health assessment and health, behavioral or mental health conditions – Sec. 1355.43(b)(5) – (7)
 - Educational status of youth such as school enrollment, educational level, special education, reasons for school changes – Sec. 1355.43(b)(8) – (12)
 - Siblings placed together or apart in foster care, adoption or guardianship placements – Sec. 1355.43(e)(8) – (13) and 1355.44(c)(9) – (11)
 - Transition Plan information such as date and whether it includes statutorily mandated elements – Sec. 1355.43(f)(12) – (13)

AFCARS NPRM: Overview of Proposal

Compliance and Penalties

- We propose for the title IV-E agency to meet certain data file standards (e.g., timely submission, proper format) and data quality standards (e.g., internally consistent, no missing data, valid responses).
- If the data is non-compliant, title IV-E agencies will have a 6 month opportunity to correct and resubmit its AFCARS data.
- We propose to implement the penalty structure specified in statute.
 - If the resubmitted data does not meet the regulatory standards, then we will apply a penalty amount of $\frac{1}{6}$ of 1% of the agency's title IV-E foster care administrative funds.
 - A penalty of $\frac{1}{4}$ of 1% is assessed for each subsequent report period the data is out of compliance.
- We will exempt from the compliance requirements: records in both data files of youth over age 18; and children in a legal guardianship under a title IV-E agreement from the adoption and guardianship assistance data file.



AFCARS NPRM

Final Rule and Implementation

AFCARS NPRM: Final Rule and Implementation



- Implementation of changes to AFCARS described in this NPRM will be dependent on the issuance of a final rule.
- Final rule: provisions effective no sooner than the start of the second Federal fiscal year following the publication of the final rule.
- Precise effective date dependent on publication date of final rule.
- Want to provide title IV-E agencies with at least one full year, and possibly longer, before we require them to collect and report new AFCARS data.
- We welcome public comments on specific provisions included in this proposed rule that may warrant a longer implementation period.



AFCARS NPRM

Next Steps and Resources



AFCARS NPRM: Next Steps

- The AFCARS NPRM was published in the Federal Register on **February 9, 2015.**
- There is a **60 day** comment period. Comments are due **on or before April 10, 2015.**
- Please submit comments to: <http://www.regulations.gov/>
- Link to NPRM: <http://www.gpo.gov/fdsys/pkg/FR-2015-02-09/pdf/2015-02354.pdf>



RESOURCES

- Federal Register: <https://www.federalregister.gov/>
- CB Website: <http://www.acf.hhs.gov/programs/cb>
- CB Website, Laws and Policies:
<http://www.acf.hhs.gov/programs/cb/laws-policies>
- CB Website, Info on current AFCARS:
<http://www.acf.hhs.gov/programs/cb/research-data-technology/reporting-systems/afcars>
- CB Website, Statistics and Research:
<http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research>