

CHILD AND FAMILY SERVICES REVIEWS (CFSRs):

HOW JUDGES, COURT ADMINISTRATORS, AND ATTORNEYS SHOULD BE INVOLVED¹

Federal Child and Family Services Reviews (CFSRs) are a new form of federal oversight of state performance in cases involving children and families. CFSRs evaluate state performance in cases involving child abuse, neglect, state supervised foster care, and the adoption of foster children.

As for state supervised foster care, CFSRs evaluate cases in which children enter foster care for the following reasons: abuse or neglect, voluntary placement, and – in certain cases – status offenses or delinquency.² For simplicity of expression – and because the CFSR process is essentially the same for all of these case types – this paper will collectively refer to all of the cases as “child protection cases.”³

The first part of this paper explains the basics of CFSRs. The second part explains why CFSRs are important to maintaining the momentum of court improvement efforts. The third makes specific suggestions about how courts can become involved in CFSRs.

*Claire Sandt revised Appendix A and edited a prior draft of this paper. Cecilia Fiermonte, Eva Klain, Mimi Laver, and Jennifer Renne each thoroughly reviewed and edited prior drafts, making numerous essential suggestions. Jerry Milner and the Policy Division of the Children’s Bureau, U.S. Department of Health and Human Services, thoroughly and incisively reviewed the final draft, resulting in many helpful revisions and corrections.

¹Views expressed in this paper have not been endorsed by the ABA Board of Governors or House of Delegates and therefore do not necessarily reflect official policies of the American Bar Association. In addition, they do not necessarily represent the views of the U.S. Department of Health and Human Services, Children’s Bureau.

²More specifically, CFSRs evaluate the state’s handling of cases involving status offenders and delinquents in foster care only when eligible for federal foster care matching funds under Title IV-E of the Social Security Act. Among other requirements, a delinquent or status offender is not considered to be in foster care when placed in a detention facility, forestry camp, training school, or other facility primarily used for the detention of delinquents. 42 U.S.C. §672(c).

³Among the other eligibility requirements for Title IV-E foster care payments is that the court must find that continuation of the child in the home would be contrary to the child’s welfare. Since CFSRs only evaluate cases of delinquents and status offenders in foster care who are eligible for Title IV-E, they only evaluate those delinquency and status offence cases where courts have found, in effect, that the children needed to be placed for their own benefit. Therefore, the author feels justified in including such cases within the broad category of “child protection” cases.

I. AN INTRODUCTION TO CFSRs

A. Overview of CFSRs

The federal government, in close consultation with states, spent many years designing and testing CFSRs. The ultimate CFSR design was based, in part, on formal pilot tests and numerous written comments from throughout the United States.

CFSRs are federal reviews that analyze how well each state is performing in child welfare cases. CFSRs examine the performance of public child protection agencies (agencies serving abused and neglected children and children in state supervised foster care), including how well the child protection agencies are working with courts and other agencies.⁴ CFSRs also examine the effects of courts and other public agencies on the children and families served by child protection agencies.⁵ The federal government does not, as in the past, simply examine whether agency and court forms meet technical federal requirements. Rather, it broadly evaluates whether states actually are protecting and meeting the needs of children.

Between October 1, 2000 (FY 2001) and early in fiscal year 2004, which begins on October 1, 2004, there will have been an initial CFSR in every state, the District of Columbia, and Puerto Rico. There will be subsequent CFSRs in each State at two and five-year intervals, depending on whether or not the State was in “substantial conformity” or not in the initial review.

B. Basic Purposes and Methods of CFSRs

CFSRs study and evaluate states’ overall performance in child protection cases. They focus on the following fundamental questions: (1) whether the state is adequately keeping abused and neglected children safe, (2) whether the state is achieving timely permanency for foster children, and (3) whether the state is maintaining the well being of children in foster care.

CFSRs measure the achievements of states through a combination of quantitative (statistical) and qualitative (descriptive) measures. CFSR methods include statistical analysis, case file review, individual and group interviews, and the examination of state policies. Large federal-state teams conduct CFSRs, requiring close cooperation between federal and state governments.

CFSRs examine seven general outcomes related to children’s safety, permanency and well being:

Safety

1. Children are, first and foremost, protected from abuse and neglect.
2. Children are safely maintained in their homes whenever possible and appropriate.

Permanency

3. Children have permanency and stability in their living situations.
4. The continuity of family relationships is preserved for children.

⁴Other agencies that child welfare agencies work closely with include, among others, those that provide education, medical care, mental health treatment, treatment for substance abuse, services for developmental disabilities, juvenile justice intervention and services, and assistance for indigent families.

⁵More precisely, CFSRs review the impact of courts and others on the safety, permanency, and well being of abused and neglected children and of children in state supervised foster care. In addition, as explained below, they review the impact of the courts and others on keys “systemic factors” in child and family service cases. By January 2002, a third of all states had completed an initial CFSR.

Well-Being

5. Families have enhanced capacity to provide for their children's needs.
6. Children receive appropriate services to meet their educational needs.
7. Children receive adequate services to meet their physical and mental health needs.

Each of these general outcomes is linked to more specific indicators to measure their achievement. That is, the CFSR includes more specific measures to determine how well the state is achieving each general outcome.

CFSRs also focus on states' performance with regard to seven identified "systemic factors" that address how the state child protection system operates. They include the following:

1. Statewide information system (computerized collection and analysis of data).
2. Case review system (case plans, case reviews, permanency hearings, and termination of parental rights petitions).
3. Quality assurance system (systematic review of performance).
4. Staff training (including, where applicable, legal staff).
5. Service array (services to support child safety, permanency, and well being).
6. Agency responsiveness to the community (collaboration and coordination of services).
7. Foster and adoptive parent, licensing, recruitment, and retention.

The CFSR is organized into a number of discrete stages or events:

- (a) the statewide assessment;
- (b) onsite review;
- (c) the final report; and
- (d) the program improvement plan (PIP).

Below is a brief overview of each.⁶

C. Statewide Assessment

The Statewide Assessment begins the CFRS process. The state provides to the federal government a preliminary early overview of the entire state's performance in child protection cases. The Statewide Assessment analyzes and explains data regarding state performance in child protection cases. It describes how the state child protection system operates, particularly with regard to federal requirements. It also addresses legal and other dimensions of the state child protection systems. The Statewide Assessment must be completed with the consultation and participation of representatives who are not staff of the state child welfare agency. For example, this includes representatives of the courts, other key public and private agencies, and Native American tribes.

⁶For a more complete summary of CFSRs, see Laver, "Compliance Review Process" in *Making Sense of the ASFA Regulations: A Roadmap to Effective Implementation* 163-169 (ABA 2001). For a detailed and comprehensive federal manual on CFSRs, see <http://www.childwelfare.com/cw-manual.htm>.

1. Discussion of Systemic Factors

To begin the Statewide Assessment, the state prepares a discussion of how the seven systemic factors, listed above, are actually working in the state. For each systemic factor, there are from one to five sets of questions, for a total of 23 in all. Many of these questions have judicial or legal dimensions.

For example, the following is one of the sets of federal questions regarding the systemic factor “case review system.”

Citing any data available to the state, discuss how effectively the State is meeting the requirement that permanency hearings for children in foster care occur within prescribed timeframes. Discuss the effectiveness of these hearings in promoting the timely and appropriate achievement of permanency goals for children.”

As this example shows, answers to some of the systemic factor questions must include discussions of court proceedings and laws.

The discussion of systemic factors must be based, in part, on the “state plan” for services under Title IV-B of the federal Social Security Act. Every state, in order to receive federal funds for child welfare services, has a written state plan setting forth how the state will meet a list of federal requirements.⁷

The Statewide Assessment’s analysis of systemic factors must examine, describe, and evaluate how the state child welfare system currently operates. That is, the Statewide Assessment describes how each of the systemic factors works in accordance with the state’s Title IV-B plan and then discusses how well the systemic factor functions and why. For each systemic factor (and the various questions relating to it), there should be an analysis of the state’s strengths, areas needing improvement, and barriers to improvement.

2. Quantitative Analysis

While the state prepares its discussion of systemic factors, the federal government and the state also work together to prepare a “quantitative analysis” (statistical description) of state performance. This analysis involves assembling and analyzing data on a number of specific measures of child safety and permanency. The data cover a specified period of time, depending on the date of the CFSR.

3. Narrative Assessment of Child and Family Outcomes

When the quantitative analysis has been done, the state prepares a “narrative assessment” of the safety, permanency and well-being outcomes, listed above. There are a total of 24 questions (or sets of questions) related to the above seven general safety, permanency and well-being outcomes.

⁷The requirements for these plans are set forth in federal statutes and regulations. 42 U.S.C. §§622, 629b; 45 CFR §§1355.21, 1355.30.

Several questions focus on whether and why the state achieved national standards⁸ for performance. A “national standard” defines specific indicators of performance that states must achieve in order to be operating at “substantial conformity” with federal requirements. In other words, a national standard is a statistical performance measure by which each state is measured in its CFSR.

There are a total of six national standards for performance. Each of the national standards is a statistical measure, based on the 75th percentile of nationwide performance. Each sets a mandatory statistical performance level in achieving safety or permanency for children.⁹

Two of the statistical national standards are related to the first safety outcome, “Children are, first and foremost, protected from abuse and neglect.” These two national standards address repeated maltreatment and the maltreatment of children in foster care.

The other four national standards deal with the first permanency outcome “Children have permanency and stability in their living situations.” The national standards concerning permanency address the rate of foster care re-entries, the stability of foster placements, the length of time to achieve reunification, and the length of time to achieve adoption.

While many other questions in the Statewide Assessment refer to statistical measures of state performance, they refer to no national standard. Whether or not there is an applicable national standard, the narrative assessment must discuss how well the state performs. For each question related to state outcomes, the narrative must discuss both strengths and needed improvements.

For some outcome related questions the state will have no data. In those cases, answers should describe relevant state procedures and practice and should describe relevant state strengths and needed improvements related to the outcome, so far as they are known.

D. Onsite Review

Following the statewide assessment there is an onsite review. The onsite review takes place in three political subdivisions in the state, one of which include the city with the largest population.¹⁰ The onsite review seeks an in depth understanding of the state’s performance regarding the federally specified outcomes and systemic factors.

1. Case Reviews

In each site, teams of two people each, a federal representative and a state representative, perform detailed reviews of a limited number of individual cases. A typical case review includes a thorough examination of the written case file as well as interviews with key people who were involved in the case, including the child, the child’s parents and foster parents, caseworker, and service providers.

The reviewers use a federally designed form to determine how well each of the general safety, permanency, and well-being outcomes were achieved. This form subdivides the seven outcomes into 23 “items” (sets of more specific questions). The reviewers decide whether or not

⁸National standards are described in federal Information Memorandum IM-07-01. To view IM-07-01 online, go to <http://www.acf.dhhs.gov/programs/cb/laws/im/index.htm#2001>.

⁹The following is an example of a national standard: “Of all children who have been in foster care in the state for less than 12 months, 89% have had no more than two placement settings.” It is one of the four national standards addressing the permanency goal of permanency and stability in children’s living situations.

¹⁰One of the three sites covered in the onsite review will be the county with the largest city in the state or, if the largest city is in more than one county, the entire city.

each item is operating as an area of strength or an area needing improvement in that case. To accompany each set of questions (items), the form includes a space to explain the rating. Next to this space are “exploratory issues” reviewers use to guide their interviews and case reviews and to consider in providing the explanation.

Appendix C includes item nine from the case review form. Item nine is an example of a set of questions for the onsite review that may require reviewers to consider legal system performance. Complete and accurate answers to item nine may need to take into account the performance of caseworkers, service providers, lawyers, and courts. Of course, while some of the 23 items call for consideration of legal system performance, others do not.

2. Stakeholder Interviews

In each site, the onsite review also includes “stakeholder” interviews. These are general interviews, as opposed to the interviews described above that are about individual cases. Stakeholder interviews are individual or group interviews with key people who have general knowledge of how child protection operates in their area. These interviews are the primary source of information used in rating the seven systemic factors in the reviews.

In addition to the local stakeholder interviews in each of the three review sites in the state, there are individual or group interviews of people with statewide responsibilities or experience in child welfare. These interviews may occur in the state capitol.

Among the stakeholders the team must interview are state court system representative(s) and state representative(s) of administrative review bodies, *e.g.*, statewide directors of foster care review boards. The state agency may also interview additional stakeholders it consulted in the development of its Title IV-B plan. Often, these additional stakeholders include representatives of CASA organizations, tribal courts, and the state’s own legal division.

At the local level, stakeholder interviews must include, among others:

- A juvenile court judge or the judge’s designated court representative;
- Guardian(s) ad litem, individually or in a group;
- Agency attorneys, individually or in a group; and
- Administrative review bodies, *e.g.*, foster care review boards, if they exist.

E. Final Report

The federal government prepares a final report, using information provided from the statewide assessment and onsite review. Based on statistical and qualitative data gathered in the statewide assessment and the onsite review, the final report specifies whether the state is or is not in “substantial conformity” with each of the seven general safety, permanency, and well-being outcomes and the seven systemic measures. Note that most of the outcomes and systemic measures are broken down into more specific “indicators,” which reflect federal statutory or regulatory requirements regarding the systemic factors under review. There are 45 indicators in all.

The final report not only says whether or not there is substantial conformity regarding each outcome and systemic factor, but also discusses the strengths and weaknesses related to each.

F. Program Improvement Plan

Following the final report, the state and federal government negotiate and jointly develop a “Program Improvement Plan” (PIP). The PIP addresses each of the performance areas for which the state is not in “substantial conformity.” Thus, the PIP is designed to correct weaknesses identified in the final report.

The PIP may last up to two years and, in exceptional cases, the federal government may allow an extension for a third year. There will be an evaluation to determine whether the state’s PIP has been successful, according to the time frames specified in the PIP. If the PIP fails to meet its goals according to the time frames specified in the PIP, the federal government will impose financial penalties. In some circumstances, the state and federal government may re-negotiate the terms of the PIP before its completion, while remaining within the time frames noted above.

II. WHY COURT INVOLVEMENT IN CFSRs IS IMPORTANT TO IMPROVING COURT PERFORMANCE

A. Legal System Performance is Integral to the CFSR

For legal representatives seeking to become involved in the CFSR, it helps to understand why legal and judicial issues actually are integral parts of the CFSR. First, CFSRs hold states accountable not only for the performance of the state child protection agency itself, but also for the performance of the state as a whole. Second, court performance is a major factor in overall state performance. Therefore, the CFSR needs to address legal system issues.

Fundamentally, a CFSR examines the state’s success in achieving safety, permanency, and well being of abused and neglected children. Because the achievement of these outcomes depends in part on the performance of the legal system, how a state comes out in its CFSR also depends on how well its legal system performs. Thus, if courts make sound decisions concerning the safety of abused and neglected children, the CFSR will reflect the fact that children are safer. Similarly, if courts make timely decisions in child welfare cases, the CFSR will reflect that foster children achieve earlier permanent placements. Where courts help agencies focus on the well being of the children and their families, the children are better off and the parents are better equipped to care for their children.

While the CFSR is not principally a study of the legal system, it must take the legal system enough into account to analyze its influence on state performance in child welfare cases. For example, the CFSR should consider the agency’s performance in court. It should take into account how courts operate, the appropriateness of laws governing child protection interventions, and the quality of advocacy on behalf of children and parents.

Finally, the state Court Improvement Program (CIP) should help with the CFSR. A recent amendment in federal law not directs the CIP to focus on achieving the safety, permanency, and well being of children, but also to help implement the state’s PIP.¹¹ If courts are to help *implement* the PIP, it makes sense for them to actively participate in its development.

¹¹Public Law 107-133, §§106-107, enacted new §§436-438 of the Social Security Act, governing the federal Court Improvement Program (CIP). State CIP projects are now called upon to work “to provide for the safety, well-being, and permanence of children in foster care, as set forth in the Adoption and Safe Families Act of 1997 (Public Law 105-89); and “... to implement a corrective action plan, as necessary, resulting from reviews of child and family service programs under section 1123A of this Act.” The use of the term “corrective action plan” is a drafting

B. CFSRs Impel Agencies to Address Court Performance Issues

CFSRs require measurable improvements for children and families, and this requires planning and strategies that extend beyond the child welfare agency's boundaries. Outside agencies and organizations – especially the courts – profoundly affect children's safety and well being. They also substantially determine whether children achieve permanency in a timely manner.

It follows that agency reform efforts must be systemic and that they must involve the courts. Agencies must encourage courts to take steps that will enhance child safety and permanency. Agencies and courts must have consistent long-range goals for improvement and must develop collaborative strategies to achieve their mutual goals.

C. The Agency's Reform Efforts Can Be Invaluable to Court Reform Efforts

Child protection agencies are increasingly aware that the performance of the legal system in child abuse and neglect cases is important to the achievement of child safety, permanency, and well being. Most state agencies are involved in state Court Improvement Programs. Many state and local agencies are also involved in a variety of other efforts to improve court proceedings in child protection cases.

State child protection agencies have provided invaluable help to court reform efforts in a variety of ways. State agencies have helped courts plan and conduct their self-assessments, provided financial and logistical help for judicial and attorney training, invited judges and lawyers to help with agency training, provided important political support for court improvement, and offered many other kinds of assistance.

In some states, agencies exercise great influence over child welfare legislation and funding, having far more staff available to work with the legislature in comparison with courts. In many states, child protection agencies worked with courts to achieve common legislative goals for child protection litigation. Agencies have provided this help because they have understood how better and more efficient court proceedings in child abuse and neglect cases helps the agency serve children.

D. CFSRs Can Either Maintain The Agency's Focus on Court Improvement or Deflect Its Focus to Other Issues

If the CFSR does not address legal reform issues, this will reduce the ability and willingness of the agency to function as an important ally in court improvement efforts. If key agency leaders are diverted to work on a CFSR (including the PIP) that does not address legal system improvement, they will have much less time and ability to focus on legal system improvement.

error and actually is meant to refer to “a program improvement plan.” Section 1123A of the Social Security Act – cross referenced in Social Security Act §438(a)(2)(B) quoted above – governs CFSRs and Title IV-E eligibility reviews, both of which use the term “program improvement plan” rather than “corrective action plan.” The term “corrective action plan” is properly used only to refer to the enforcement of 42 U.S.C. §671(a)(18), barring illegal discrimination in the placement of children in foster care and adoptive homes.

Thus, assuming that the state child welfare agency will be heavily absorbed in implementing its PIP, the courts should try to assure that the PIP includes court improvement tasks and goals.

E. CFSRs Will Represent A Large Portion of State Child Welfare Agencies' Overall Reform Agendas

As explained above, CFSRs are designed to promote challenging systemic reforms, not simple procedural changes. Further, many PIPs will call for achievement of measurably improved outcomes for children and families. Systemic changes and better outcomes require major, prolonged efforts from state child welfare agencies.

Because agencies will need to put tremendous effort into achieving their PIP goals, the PIP may constitute most of the state agency's total reform agenda. Failure to successfully implement a state's PIP can result in federal penalties. Failure may also lead to publicity harmful to the agency. All of this makes it important to courts that agencies properly address legal and judicial issues in their CFSRs. If CFSRs fail to focus on key legal and judicial issues, courts can lose the help of one of their most critical allies in achieving court improvement.

F. Court Involvement is Needed for CFSRs to Address the Most Important Legal and Judicial Issues

To thoroughly evaluate a state's child protection system, CFSRs must get information from a broad perspective and not only from within the state agency. Further, major problems mostly involve multiple players and seldom are located entirely within the state agency.

In order to fully understand the issues facing the state child protection system, and thus to develop PIPs that correctly target the problem areas, CFSRs require multiple perspectives. Likewise, CFSRs need to note strengths that are both internal and external to child protection agencies. They need not only to consider external barriers to successful outcomes, but also external strengths upon which further improvements can be built.

Legal system representatives, specifically, need to be involved with CFSRs in order to ensure that CFSRs address the most critical legal and judicial issues. The CFSR should expose subtle legal barriers underlying the achievement of children's safety, permanency, and well being. They should indicate where good legal practices may improve the overall child protection system.

Too often, the state child protection agency does not fully recognize legal and judicial dimensions of the child protection system. The following are two examples of legal barriers that agencies often do not fully understand.

First, child safety sometimes is undermined by the failure to collect complete information about abused and neglected children and their families. While generally aware of difficulties in gathering complete information, agencies may not realize how to overcome or mitigate restrictive federal and state confidentiality requirements. For example, many agencies lack effective strategies to obtain information concerning parents' past substance abuse treatment, mental health histories, and criminal justice records.

Second, the early stages of the court process must set the stage for later phases of the case. The failure to keep long-term strategies in mind during early hearings ultimately delays permanent placements. The agency may not realize, for example, that when courts make inadequate or incomplete findings during early hearings it may be more difficult later to bring

and sustain timely proceedings for guardianship, termination of parental rights, and adoption. Similarly, the agency may not understand that when non-custodial parents are not brought into the court process early, decisions to free the child for adoption often are delayed.

While such problems vary from state to state, all states encounter subtle legal problems and barriers that interfere with sound child welfare casework and planning. State agencies, courts, and attorneys need to work together to ferret out and correct these problems. Correcting such problems is essential to the success of the state's PIP and ultimately, of course, to the success of the children and the child protection system.

G. State Agencies and Courts Must Work Closely Together to Address Judicial and Legal Barriers in CFSRs

To be effective in working with agencies, legal system representatives need to understand the agency culture. They have to sit in on many meetings with the agency. They need to get training on the CFSR process. In short, working with agencies requires effort. This is as true in regard to CFSRs as in other contexts.

C. WHAT COURTS SHOULD DO TO BECOME INVOLVED IN CFSRs

A. Courts and Attorneys May Need to Make the Case for Their Involvement in the CFSR

The federal government actively encourages state child protection agencies to involve the courts in preparing for and implementing their CFSRs. It also encourages the agencies to involve Court Improvement Program staff. Still, many state agencies also need encouragement from legal system representatives.

When planning to approach the state child protection agency, think first about why legal system involvement would benefit the agency. Develop talking points showing how legal system representatives will help the agency do a better job on the CFSR and ultimately help it succeed in achieving helpful reforms for children. For example, point out the fact that legal system representatives can:

- Help the agency identify legal and judicial reforms that are keys to achieving good outcomes for children;
- Translate legal terms and concepts, if necessary, to make them readily understandable;
- In the course of the CFSR, help identify specific legal and judicial barriers to strong agency performance;
- Apply their knowledge of good legal practice in developing an effective Program Improvement Plan (PIP);
- Work with the agency to map out strategies to help implement legal system aspects of the PIP; and
- Work to achieve buy-in throughout the bar and judiciary.

B. Involving the Right Legal Representatives in the CFSR

Of course, it is essential to persuade the agency to involve the right legal system people in the CFSR process. Think carefully about who can and will be most helpful in improving the quality

of the CFSR and ultimately in helping to implement the PIP. Think about which legal system representatives can be most helpful during different phases of the CFSR.

In some states, it will be necessary to educate the agency on the basics of how the bench and bar are organized. You may need to persuade the agency to invite people with whom they are not familiar but who wield power in the bench and bar.

The following are some categories of legal system people who can be helpful in the CFSR process:

- Chief justice of the state's highest court (or a designated representative).
- State court administrator (or a designated representative).
- Director or representative of state Court Improvement Project (CIP).
- Representatives of organizations of local court administrators and court clerks (depending on the state).
- Leaders or representatives of the State Council of Juvenile and Family Court Judges (or equivalent).
- Other selected judges (based on expertise, administrative authority, supportiveness, *etc.*).
- President of State Bar Association (or designated representative).
- Chair of the juvenile law division of the State Bar Association (or designate).
- Director of state or local Foster Care Review program (or representative).
- Representatives of attorneys representing the government, including persons with current practice experience (*e.g.*, office of the attorney general, legal counsel of the child protection agency, and the prosecutors' association).
- Representatives of attorneys representing parents, such as employees of public defender or legal services offices, firms representing parents, or persons handling court appointments.
- Representative of the state or local GAL or CASA program and, if applicable of other attorneys representing children.

An important consideration in choosing whom to recommend, of course, is who has what power in the state courts and state bar. Another consideration is who has current practice experience, understands thoroughly the current system, and can imagine different ways of doing things.

It also helps to think about some of the more critical court reform issues that may come up. For example, if improved workloads (or time set aside for hearings) appear to be a key to improving court performance in child protection cases, think about recommending the state court administrator, representatives of the local presiding judges, and representatives of local court administrators.

It may be important to involve the state bar because of its role in developing court rules and court forms. In some states the Bar is important because of its role in developing or approving training for attorneys. There also may be a specific bar committee or judicial committees with these responsibilities.

C. Areas of Performance That Should Be Measured In CFSRs

Child protection agencies, with your help, need to recognize legal and judicial issues relevant to their CFSR. Many important legal issues are involved that probably will not be identified by

agency staff. Appendix A illustrates the breadth of legal and judicial issues to consider in a CFSR.

Specifically, Appendix A sets forth the 45 federal performance indicators accompanying the CFSR outcomes and systemic factors. These 45 performance indicators appear as “items” one through 45 in the federal CFSR Final Report. In Appendix A, following each of the 45 federally identified performance areas, there is a bulleted list of some legal and judicial issues that may be relevant.

D. Legal and Judicial Involvement at Key Stages of CFSRs

1. Advance Planning with Agency (Before the CFSR)

Contact the state agency well before the statewide assessment begins. Key legal system representatives should repeatedly meet in person with agency administrators to be briefed on the CFSR and to discuss their role in the CFSR. (For a schedule of state CFSRs, go to <http://www.childwelfare.gov/review/state/>).

Keep in mind at all times that neither the state agency nor the federal government is bound to accept the views of legal system representatives. On the other hand, they will take your views seriously, especially regarding issues on which people working in the legal system agree.

2. Legal System Involvement in Statewide Assessment

Most states are assembling teams of staff and external representatives to analyze data and prepare the statewide assessment. Legal system representatives (*i.e.*, judges, court administrators, and attorneys) can help with the statewide assessment by seeking to be a part of such teams. Examples of some of the work they may perform includes helping to prepare the judicial and legal pieces of the narrative description, reviewing and commenting on information prepared by the state agency, or participating in focus groups designed to elicit information from informed stakeholders about the State’s child welfare system. They can also help identify legal and judicial factors related to the entire CFSR.

Appendix B lists some types of legal and judicial information to include in the narrative description. This includes, along with a description of the current judicial process and law, a discussion of their strengths and weaknesses.

An important question is which judges, attorneys, or other court personnel, if any, should help with the narrative description. Among other things, it is important to find someone with strong legal research and writing skills to prepare the legal part of the description. Of course the writer also should have good practical and legal knowledge concerning the child protection system specifically.

3. Onsite Review

Legal system representatives should work with the agency well in advance to plan for their participation in the onsite review. As in other stages of the CFSR, it is important to be fully briefed. Legal system representatives helping to plan for on site review should obtain and review the following materials before the onsite review:

- A brief written summary of the CFSR process, including information about the onsite review process. Two fact sheets are available at <http://www.childwelfarereview.com>.
- A copy of the completed statewide assessment.
- The instrument to be used in legal system “stakeholder interviews.” It is available at <http://www.childwelfarereview.com/stakehol.pdf>.
- The instrument for onsite case review. It is available at <http://www.childwelfarereview.com/onsite.pdf>.

Legal system representatives might be involved in the onsite review in two basic ways. First, they can participate in interviews of legal “stakeholders” either by helping to arrange and set up the interviews or by serving as stakeholders who are interviewed. Second, legal system representatives can serve on teams to review individual cases. Note that the state agency selects half of the onsite review team members and the federal government requires the agency to choose some persons who are not staff of the state child protection agency.

It helps for legal system interviewees to get copies of the interview instrument well before the “stakeholder interviews.” This will help them understand the purpose of the interview. It will help them think about the issues in advance and present their most thoughtful comments. It will help keep the interview focused and will help suppress individuals’ desires to “sound off” or raise individual grievances.

To keep the issue of legal system involvement in perspective, it is important to keep in mind that the number of *all* stakeholder interviews is small. There is a maximum of 6-10 statewide level interviews. The interviews last only about an hour each. Similarly, there is a maximum of 8-10 interviews for each of the three local sites. There are, of course, many other important people to interview besides legal system representatives.

Legal system representatives can make a major contribution to the onsite review by serving on teams to review individual cases. Information from such reviewers not only adds to the accuracy and depth of the onsite review, but also helps identify the right issues and strategies for the Program Improvement Plan (PIP) later. Agencies may ask judges, attorneys, CIP directors, or court staff to serve as case reviewers.

Participating on review teams takes a week, including some night work, and requires a day of training in advance. But the payoff is great: This can be an invaluable learning process, in which the reviewer gains insight into agency operations and problems faced by caseworkers.

For a judge or CIP director, such insights can lead to concrete improvements in the court process that take into account the realities within the agency. The ultimate result of such improvements may be, among other things, better prepared agency caseworkers who function and cooperate more effectively in the court process. The legal system reviewer also has a special opportunity to help agency administrators understand and respond to the legal dimensions of their cases.

4. Final Report

The federal government prepares the final report, based on the statewide assessment and onsite review. The federal government sends the state agency a courtesy copy of the final report prior to releasing the report officially.

5. Program Improvement Plan (PIP)

It makes sense for states to include important legal system issues in a CFSR, and federal regulations require it. Federal regulations require CFSRs to address judicial processes such as permanency hearings, semiannual reviews, procedural protections for parents, and the involvement of foster parents and others in the judicial process.¹²

Legal representatives should help develop the PIP “action strategy” for those outcomes and systemic factors with important legal and judicial dimensions. For many outcomes and systemic factors, achieving substantial conformity is difficult or impossible without legal system improvements.

Similarly, statewide aggregate data (in connection with national standards) may be impossible to improve without legal system cooperation and improvement. For example, favorable permanency results require timely court decisions. Legal system representatives can identify specific types of court delays slowing permanency for children. They can help pinpoint exactly what is causing such court delays. They can identify and work toward concrete steps in addressing such delays.

Legal system representatives should frequently meet and discuss the PIP with the agency as the PIP is being developed and negotiated. In addition, for each outcome or systemic issue with legal dimensions, the agency should talk to the courts about what technical assistance might help to improve state performance. The state CIP director, as well as the agency, can request technical assistance from the federally funded National Resource Centers (NRCs).

IV. CONCLUSION

Participating in the CFSR process – like other serious activities to improve courts and the welfare of children – is a challenge. Becoming involved in the CFSR will inconvenience judges, court administrators, and attorneys. It will take time away from other important priorities. But it is essential to the ultimate improvement of courts and to achieving substantial improvements in the safety, permanency, and well being of children.

¹²Regulations governing CFSRs may be found at 45 C.F.R. §§1355.31-1355.39 and in definitions in 45 C.F.R. §1355.20.

Appendix A: Legal and Judicial Issues Suggested By the CFSR Performance Indicators

To help states consider the legal dimensions of the seven safety, permanency, and well-being outcomes and the seven systemic factors (including the 45 related specific performance indicators identified by the federal government), this appendix annotates the 45 performance indicators. That is, the 45 federal performance indicators are listed verbatim and boldface below, while legal and judicial aspects of each performance area are provided as bullets. *Note:* These bullets are meant to illustrate the kinds of legal practice and policy issues that may require attention to comply with each performance area.

I. SAFETY:

1. Timeliness in initiating child abuse and neglect investigations.

- Effective legal help is available to overcome barriers to investigations.
- Legal advice is provided to the agency that supports the filing of actions in dependency court whenever abused and neglected children need state intervention.
- Legislation and court rules provide legal remedies allowing agencies to complete investigations when family members or other people familiar with the child refuse to cooperate.
- Statutes, regulations, and procedures provide clear and appropriate guidance for investigators and caseworkers to obtain otherwise confidential information from substance abuse treatment providers, criminal justice agencies, schools, mental health providers, doctors, and other professionals.

2. Recurrence of abuse or neglect by parents.

- Courts remove children from home and enforce comprehensive judicial protective supervision.
- Courts carefully consider safety factors when deciding whether to return a child home.
- Courts exercise caution when deciding whether to terminate court jurisdiction (dismiss case).
- Judges and attorneys take time to carefully review documents and ask challenging questions concerning safety issues in the home.
- Adequate evidence demonstrating danger to the child is offered in court proceedings.
- Judges carefully consider evidence about the child and caretakers to ensure the child will be safe.
- Domestic violence policies are well defined.

3. Services to protect children at home and prevent removal.

- In appropriate circumstances judges order parents to participate in services to protect the child instead of ordering the child removed from home.

- Adequate evidence demonstrating whether services will alleviate danger to the child is offered in court proceedings.
- Laws and regulations define an array of services for abused and neglected children and their families, to be delivered immediately in emergency situations.
- Domestic violence policies are well defined.

4. Risk of harm to child including abuse or neglect of child while in foster care.

- Courts order removal of children from their foster homes when the agency appropriately requests it to avoid potential abuse or neglect. (Note that courts do not have the power in all states to block removal of a child from a foster home.)
- Courts monitor foster placements by insisting caseworkers and children's legal representatives visit and evaluate the foster home.
- Safety clearances are done on every adult in the foster parents' or adoptive parents' homes.

Note: Many organizational problems may affect the factors listed below. Important examples are excessive workloads, insufficient training, poor hiring practices and management, and weak case management skills. These are common problems facing caseworkers, attorneys, foster parents, child advocates, judges and court staff and can weaken the legal system.

II. PERMANENCY:

5. Foster care reentry.

- Adequate time and resources are allocated for meaningful case review before sending the child home.
- Courts require evidence that the home is safe before authorizing the child's return home.
- When courts allow children to remain home following adjudication of child abuse or neglect, they require that the case be brought back to court if the agency decides to place the child in foster care. Due process protections regarding subsequent removal of the child are in place.
- Courts order specific services and refer parents to community supports to make the return successful and require that parents and children complete the services.
- Courts gather enough information about the parent and child before return.
- Courts ensure visitation plans are designed to foster healthy parent-child relationships and work toward successful reunification to avoid foster care reentry (e.g., efforts are made to ensure visits are meaningful, progressively longer visits are imposed).
- Courts and agencies closely monitor cases.
- Courts carefully and thoroughly consider the evidence when deciding whether to return children home.

6. Stability of foster placement – too many moves of foster children into different foster homes.

- Judges monitor moves while children are in foster care.
- Laws, regulations, and state policies discourage moving children between foster homes.
- Policies and practices support training for foster parents of special needs children.
- Judges understand bonding and attachment issues and factor them into decision making.
- Courts thoroughly review children's needs.
- Children's counsel effectively represents children by:
 - reviewing case plans;
 - participating in case planning;
 - preserving placements;
 - advocating for reunification services;
 - advocating for independent living services; and
 - visiting and interacting with the child to independently assess whether moves are necessary.

7. Permanency goal for child.

- Attorneys, judges, and court personnel are adequately trained in permanency planning practices.
- Permanency hearings are conducted in a timely manner and sufficient time is allotted for hearings.
- Judges and attorneys understand concurrent planning and support it when appropriate.
- State laws provide appropriate grounds for legal guardianship, clear and efficient procedures for establishing legal guardianships, and adequate legal protections and financial supports for legal guardians.
- State laws provide appropriate grounds for termination of parental rights and clear and efficient procedures for termination of parental rights.
- State laws and policies provide appropriate exceptions for mandatory petitions for termination of parental rights, based on federal requirements.
- State laws and policies provide workable procedures for determining whether to file or join petitions for the termination of parental rights.

8. Reunification, guardianship, or permanent placement with relatives.

- Courts consistently follow or enforce time limits for hearings and judicial decisions. Courts have a comprehensive system of time limits governing all stages of the court process.
- Adequate judicial case tracking systems are in place.
- Judges fully explore all possible placement resources.
- Judges routinely establish or approve specific permanency plans for foster children.

- Courts minimize delays by notifying appropriate parties, denying adjournments, ensuring diligent efforts to locate missing parents' at start of case, determining paternity early in case, and addressing other procedural problems.
- Multi-court involvement in different stages of child protection cases is discouraged to avoid delays, loss of information, and other inefficiencies.
- Court practices are efficient to minimize time to achieve reunification.
- Clear, efficient procedures exist to indefinitely transfer custody to a non-custodial parent or relative in child protection proceedings.
- State laws provide appropriate grounds for legal guardianship, clear and efficient procedures for establishing legal guardianships, and adequate legal protections and financial supports for legal guardians.
- Courts consistently and thoroughly review reasonable efforts to achieve a new permanent home for the child.

9. Achievement of adoption.

- Courts adequately track case progress toward adoption.
- Courts thoroughly consider the appropriateness of prospective adoptive caretakers.
- Judges fully explore all possible placement resources.
- Courts understand when TPR petitions are required and the exceptions to such requirements.
- Courts take steps to encourage or require TPR petitions, when appropriate.
- State laws provide appropriate grounds for termination of parental rights and clear and efficient procedures for termination of parental rights.
- Sufficient resources and court time are available to promote timely TPRs.
- The appellate process is streamlined to avoid TPR delays.
- Courts and attorneys inform agencies of available steps to speed appeals.
- Courts actively oversee cases between TPR and finalization of adoption
- Courts minimize scheduling delays and prioritize cases when needed.
- Courts minimize delays by notifying appropriate parties, denying adjournments, ensuring diligent efforts to locate missing parents at start of case, determining paternity early in case, and addressing other procedural problems.
- Multi-court involvement in different stages of child protection cases is discouraged to avoid delays, loss of information, and other inefficiencies.

10. Permanency goal of other planned permanent living arrangement.

- “Another planned permanent living arrangement” is clearly defined to avoid misapplication.
- Courts carefully use this permanency option, ensuring compelling reasons exist and giving thought to long-term permanency planning.
- Courts order or recommend services that might allow the child to move into a more permanent placement.
- Courts review case plans to determine agency compliance with services and visitation for other planned permanent living arrangements.

- Courts operate with the understanding that independent living (foster children “aging out”) is not a permanency plan, but foster children are entitled to independent living services.
- Courts are familiar with available independent living services for children in the community and refer children to appropriate services.
- Courts are familiar with federal legislation supporting independent living services.
- Courts ask about independent living services in most cases involving older teens in foster care.
- State laws authorize extending court jurisdiction for children who have turned 18 and specify appropriately.

11. Proximity of foster care placement.

- Courts request information about the proximity of the foster care placement.
- Courts do not order children placed outside their communities or counties if appropriate placement resources are located in close proximity.
- Courts routinely request information based on agency visits with children placed out of state.
- Statutes, court rules, and policies provide appropriate guidance concerning the proximity of foster care placement.

12. Placement with siblings.

- Courts consistently ask agencies to present specific reasons for failing to place siblings together.
- State statutes, court rules, and policies address the priority of placement with siblings.
- Attorneys and judges are adequately trained on the importance of maintaining sibling ties as well as on reasons why this might not be appropriate.

13. Visits with parents and siblings.

- Courts request information about the nature and quality of foster children’s visits, contacts, and relationships with parents and siblings.
- Courts address visiting, when appropriate, in court orders.
- Attorneys request evaluations of the quality of visits with parents and siblings.
- Statutes, court rules, and policies provide clear guidance regarding visitation.
- Attorneys and judges are adequately trained on visitation issues.

14. Preserving connections.

- Attorneys request evaluations of relatives.
- Statutes, court rules, and policies provide clear guidance regarding maintaining relative ties.
- Attorneys are adequately trained on the importance and pitfalls of maintaining relative ties.
- Courts ask whether children are Native American and, if so, whether tribes have been notified.

- Courts support collaboration with tribal courts on transfers of cases of Native American children where appropriate.
- Courts enforce placement preferences for Native American children under ICWA, including placement with the child's extended family and with tribes.

15. Relative placement.

- Courts ask about possible placement with maternal and paternal relatives early and often.
- Courts ask agencies to present specific reasons for not placing children with relatives.
- Attorneys and judges are adequately trained on relative placement issues.

16. Relationship of child in care with parents.

- Courts consistently ask about child's relationship with parents while in care, including nature and quality of visits and other contact.
- Courts monitor visiting arrangements and their frequency where specified in court orders.
- Attorneys are adequately trained regarding maintaining parent-child relationships during foster placements.

III. CHILD AND FAMILY WELL-BEING:

17. Needs and services of child, parents, foster parents.

- Courts ensure that agencies conduct thorough assessments and provide services to meet the needs of the child, parents, and foster parents.
- Courts review case plans submitted to the courts by the child protection agency to see if needs are being met through the provision of services.
- Courts address barriers to service provision and delivery.
- Attorneys and advocates identify and address their clients' needs and advocate appropriate services.
- Attorneys, advocates and judges have sufficient training, experiences, and resources to advocate effectively for children's service needs (e.g., special education, medical, and mental health needs).
- Judges and attorneys are sufficiently knowledgeable about confidentiality laws to help assure that information on children's and family's needs to be available to the court and agency.

18. Child and family involvement in case planning.

- Attorneys and advocates participate in and encourage child and family involvement in case planning.
- Statutes, court rules and policies provide appropriate guidance to encourage child and family involvement in case planning.

19. Worker visits with the child.

- Statutes, court rules and policies provide appropriate guidance on worker visits with parents and children.
- Attorneys and advocates request information about, and, when appropriate, advocate for worker visits with the child.

20. Worker visits with parents.

- Courts consistently review and note worker visits with parents and children.
- Statutes, court rules and policies provide appropriate guidance on, and, when appropriate, advocate for worker visits with parents.

21. Educational needs of the child.

- Courts request information about foster children's education from teachers, guidance counselors, caseworkers, and others.
- Court forms request education information including school records addressing the child's academic performance, behavior and adjustment to school, and special educational needs.
- Judges, attorneys, and advocates consistently determine whether foster children's education needs are being met.
- Policies offer guidance on minimizing disruptions in foster children's education due to frequent moves.
- State laws appropriately address confidentiality issues surrounding access to education records of foster children and children under protective supervision.
- Judges, attorneys, and advocates have sufficient knowledge about the education system to intervene effectively to ensure a good education for foster children.

22. Physical health of the child.

- Courts obtain information about foster children's medical needs.
- Court forms request physical health information, including any known medical problems, needed treatments, medication, and physical symptoms of abuse or neglect.
- Judges, attorneys and advocates consistently determine whether foster children's physical health needs are being met.
- Courts are aware of state requirements regarding foster children's physical health, such as those concerning medical examinations and immunizations.
- Courts inquire, when appropriate, whether health records have been reviewed, updated, and supplied to the foster care provider.
- State laws appropriately address confidentiality issues governing access to medical information about abused and neglected children.

23. Mental health of the child.

- Judges, attorneys and advocates request information from children's therapists about foster children's mental health issues.
- Court forms request mental health information.

- Courts are aware of state requirements for diagnosis and treatment regarding foster children's mental health.
- Judges, attorneys, and advocates consistently determine whether foster children's mental health needs are being met.
- State laws appropriately address confidentiality issues governing access to mental health information.

IV. STATEWIDE INFORMATION SYSTEM:

24. State operates information system that readily can identify the status, demographic characteristics, location, and goals for the placement of every child who is (or within the preceding year was) in foster care.

- Courts have created a statewide information system or good local information systems.
- Case tracking responsibilities are clearly assigned to appropriate court staff.
- Courts and agencies have automated systems that use computers and tickler systems to manage cases.
- Computer data is used to measure judicial performance.
- Agency information systems include information about critical court events to help evaluate judicial performance in child protection cases.
- Data is shared between judicial and agency computers.
- Sophisticated procedures exist to collect and report data.

V. CASE REVIEW SYSTEM:

25. Written case plan developed jointly with parents.

- Parents' attorneys participate in the case planning process.
- Parents' attorneys are trained on non-adversarial models for resolving conflict (i.e. FGC and mediation).
- Parents' attorneys advocate for meaningful case planning for their clients.
- Judges ask about parental involvement in case planning.

26. Process for periodic review at least once every six months, by court or by administrative review.

- Court procedures and forms ask hard questions and ensure thoroughness.
- Courts and/or agencies schedule six month reviews in a timely manner.
- Reviews thoroughly consider whether reasonable efforts have been made to achieve permanency – especially after the case goal is no longer is reunification.
- Courts set aside enough time to hold review hearings that thoroughly consider the individual circumstances of each child and family and that address each issue specified by state and federal law.
- If administrative reviews are held in lieu of judicial reviews, the courts take time to review the reports from the reviews and address them in court proceedings.

- 27. Permanency hearings within 12 months after a child is considered to have entered foster care and at least once every 12 months thereafter.**
- Adequate scheduling procedures for reviews are in place.
 - Courts devote enough time to conduct thorough permanency hearings that address each issue specified in state and federal statutes and to determine an appropriate permanency plan for each child.
 - State laws, court rules, court forms, and court procedures create a structure for permanency hearings that encourages timely decisions by the court and agency, even in challenging cases.
 - Permanency hearings thoroughly consider whether reasonable efforts have been made to achieve permanency – especially after the case goal is no longer is reunification.
- 28. Process for termination of parental rights proceedings in accordance with ASFA.**
- Attorneys and judges are aware of state and federal statutory requirements to file petitions for termination of parental rights and of the exceptions.
 - Courts routinely review agency documentation of exceptions to state and federal requirements to file petitions for the termination of parental rights.
 - Procedures for termination of parental rights fully protect parents’ rights without being needlessly inefficient.
 - State laws do not require parties to reprove facts established in earlier stages of the court process in order to terminate parental rights.
 - Grounds for termination of parental rights are complete, focused, and consistent.
 - Agency procedures and policies for deciding whether to file are timely and balanced.
- 29. Process for foster parents, preadoptive parents, and relative caregivers of children in foster care to be notified of, and have an opportunity to be heard in, any review or hearing held with respect to the child.**
- Courts consistently encourage active participation of foster parents, preadoptive parents, and relative caregivers in court proceedings.
 - Foster parents, preadoptive parents, and relative caregivers consistently receive notice of court proceedings.
 - The wording of notice forms encourages the attendance of foster parents, preadoptive parents, and relative caregivers in court.
 - State laws and procedures specify an effective notification method for foster parents, preadoptive parents, and relative caregivers and define what is meant by “opportunity to be heard.”
 - Courts have forms and procedures for review and permanency hearings that call for statements by and questioning of foster parents, preadoptive parents, and relative caregivers.
 - State laws and procedures clearly define an effective notification method for foster parents, preadoptive parents, and relative caregivers and define what is meant by “opportunity to be heard.”

- State laws, court rules and policies clarify and reinforce the role of foster parents, preadoptive parents, and relative caretakers in court.

VI. QUALITY ASSURANCE SYSTEM:

30. Implementation of standards for services to children in foster care, to protect their health and safety.

- The agency has comprehensive standards for services to children in child protection cases and courts are aware of these standards.
- Agencies and courts work together to exchange information on services to children.

31. Quality assurance system in place to evaluate the quality of services, identify strengths and needs of service delivery system, provide relevant reports, and evaluate implementation of program improvement measures.

- Agencies enlist courts to help evaluate caseworkers' performance in court.
- Courts have systematic quality assurance systems to evaluate their own performance.

VII. TRAINING:

32. Staff development and training program for all staff, including training on objectives of Title IV-B plan and services under Title IV-B and IV-E. To include initial training for all staff.

- The state agency provides copies of its Title IV-B and IV-E plans to all judges.
- The state agency provides to all judges and attorneys copies of lists of the services provided under Titles IV-B and IV-E.
- Training is provided for all new judges and attorneys concerning Title IV-B and IV-E and participation is mandatory.
- Comprehensive training is provided for all new judges and attorneys concerning child welfare law and basic social work principles and participation is mandatory.

33. Staff development and training to address ongoing skills needed to implement Title IV-B plan.

- Periodic training on child protection cases is provided for experienced judges and attorneys and participation is mandatory.
- Judicial and attorney training requirements for child protection cases are rigorous.
- Training on permanency planning concepts and procedures is provided to ensure timely permanence.
- Courts and agencies use appropriate cross training – addressing issues of mutual concern – and avoid inappropriate use of cross training in lieu of training in core legal skills and knowledge.

34. Training for prospective foster parents, adoptive parents, and staff of facilities with children receiving foster care or adoption assistance under Title IV-E.

- Prospective foster parents receive training on the legal aspects of permanency planning, including the stages and purposes of the legal process.
- Foster parents receive training and materials on their rights and responsibilities in child welfare proceedings, including the right to be heard and to participate in the case.
- Prospective adoptive parents receive training concerning their legal responsibilities and about the legal process of adoption.
- Foster parents, prospective adoptive parents and agency staff receive training concerning legal protections (e.g. procedural rights, entitlements, contractual rights) regarding adoption assistance.

VIII. SERVICE ARRAY:

35. State has array of services. The array of services assesses strengths and needs of children and families, determines other service needs, addresses needs of individual children and of families to create a safe home environment, enables children to remain at home when reasonable, and helps children in foster and adoptive placements achieve permanency.

- Child protection agencies inform courts of available services, who is eligible for different services, and usual waiting periods for services.
- State laws, regulations, and budgets provide for a core of services that are consistently available to abused and neglected children and their families.

36. The services in the array (listed in response to the above item) are accessible to families and children in all political jurisdictions covered in the state's Title IV-E plan.

- Contracts for services are well written and ensure availability of needed services.
- Agencies have master plans for contracts to ensure consistent availability of key services.
- State laws require other agencies to give priority to and ensure availability of services to clients served by the child protection agency and under court jurisdiction.

37. The services in the array can be individualized to meet the unique needs of children and families served by the agency.

- State laws and policies budget for child protection services based on documented need for such services.
- Agencies' contracts for services provide flexible services to meet material and special needs of children and families.

IX. AGENCY RESPONSIVENESS TO THE COMMUNITY:

- 38. Ongoing consultation with tribal representatives, consumers, service providers, foster care providers, the juvenile courts, and other public and private child and family serving agencies and includes the major concerns of these representatives in the goals and objectives of the Title IV-B plan.**
- Courts regularly meet with the agency and meet with all of the child protection professionals listed above to work on mutual problems and improve working relationships.
 - Judicial ethics clarify and encourage judicial outreach to the agency and community regarding child protection cases.
- 39. The agency develops, in consultation with these representatives, annual reports of progress and services delivered under the Title IV-B plan.**
- The agency consults with legal system representatives concerning its annual reports, including allowing them to review draft reports in advance. Among other things, the agency asks for comments concerning service delivery.
- 40. The state's services under the Title IV-B plan are coordinated with services or benefits of other federal or federally assisted programs serving the same population.**
- The agency consults with legal system representatives specifically concerning the delivery of federally assisted services provided by agencies and entities not funded by the child protection agency.

X. FOSTER AND ADOPTIVE PARENT LICENSING, RECRUITMENT, AND RETENTION:

- 41. Implementation of standards for foster family homes and child care institutions, reasonably in accord with national standards.**
- Courts have information about standards for foster and adoptive parents and concerning child care institutions.
- 42. Standards applied to all foster family homes and child caring institutions receiving title IV-E or IV-B funds.**
- Courts are informed when foster family homes and child caring institutions no longer meet agency standards.
- 43. State complies with federal requirements for criminal background checks and has a case planning process that addresses the safety of foster and adoptive placements.**
- State law requires criminal record checks of parents found to have abused or neglected their children and of other people living in the households of abused and neglected children.
 - State law requires criminal record checks of all adults in foster and adoptive homes.

- Courts or court forms ask about the criminal record of parents found to have abused or neglected their children and of other people living in the households of abused and neglected children.
 - Attorneys and judges are aware of state and federal statutory restrictions concerning the licensing of specific categories of convicted criminals as foster and adoptive parents.
- 44. State has process for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed.**
- Courts and attorneys are well informed about the process of recruiting, matching, screening and evaluating foster and adoptive families.
 - In case reviews in which the permanency plan is adoption and the child is not yet placed in a preadoptive home, judges and advocates ask about state efforts to recruit and arrange such a home.
 - When evaluating whether the state made reasonable efforts to finalize a child's permanency plan, judges and advocates consider, if relevant, the state's efforts to recruit, evaluate, and select adoptive parents for the child.
- 45. State has a process for effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.**
- Courts receive technical assistance, materials, and training on interstate placements (and overcoming barriers to such placements), including implementation of the ICPC.
 - Judges and attorneys are familiar with the ICPC, interstate adoption assistance benefits, ICAMA and other interstate placement benefits and requirements.
 - Judges, attorneys and advocates consistently ask informed and penetrating questions when interstate placement or services are being considered.

Appendix B: Some Legal and Judicial Issues to Include in the Narrative Description

The following is some information that states should consider including in the narrative description portion of their statewide summaries. Attorneys, judges, and court administrators can help prepare this information.

A general description of courts and judges (and other judicial officers) handling child protection cases.

- The organizational structure of the courts hearing child protection cases and juvenile justice cases.
- Key organizational factors regarding judicial performance such as specialization, rotation (and length of assignments), workload information (and/or length of hearings), training and written materials on child welfare, performance measurement, timeliness of judicial decisions and delays.
- Judicial infrastructure as it affects performance – workloads, judicial staff support, etc.
- Key statutes, rules, forms, and case law relevant to each of the above.
- Strengths and barriers regarding court organization, judicial infrastructure, and laws, as they reinforce or weaken state performance in child protection cases.

Steps in the judicial process specifically relevant to Title IV-B and IV-E requirements.

- Laws and procedures concerning “contrary to the welfare” and “reasonable efforts” findings.
- Laws and procedures concerning reviews, permanency hearings, filing of TPR petitions, foster parent participation, and approving and reviewing the case plan.
- The role of courts in reviews, permanency hearings, filing of TPR petitions, foster parent participation, and approving and reviewing the case plan.
- A description of termination of parental rights proceedings.
- Legal representation of the government and other parties in child protection cases.
- A general description of the organizational structure of public and non-profit law offices, where applicable, and the numbers of attorneys.
- Key organizational factors regarding attorney performance such as who attorneys represent, specialization, rotation (and length of assignments), workloads, training and written materials, compensation, procedures to resolve disagreements with the

- agency, experience levels, methods of hiring, supports, model of child representation, duties of attorneys, services provided to the agency, performance measurement.
- Role of attorneys in different stages of the legal process, including counseling of caseworkers, preparation, presence in court.
 - Training for attorneys.
 - Statutes, rules, and case law relevant to legal representation.
 - Strengths and barriers regarding laws and procedures, judicial infrastructure, legal representation, and legal training, as they reinforce or weaken judicial implementation of Titles IV-B and IV-E.

Statutes, rules, forms and case law governing agency operations and governing the delivery of services to children and families.

- Agency liaison with the courts and legal system.
- Legal structure of the service array – preventive, reunification, and permanency services.
- Training for other participants in the legal system, such non attorney GALs, caseworkers (legal skills training), court liaison.
- Legal framework for licensing and recruitment of foster and adoptive homes.
- Strengths and weaknesses of laws and policies governing agency operations and service delivery -- as they reinforce or weaken judicial performance in child protection cases.

Appendix C: Sample Item from Onsite Review Case Review Instrument

Note: Printed below is one of 23 “Items” which is part of the instrument (form) used to review individual cases during the onsite review phase of a CFSR. Note that the form calls for both a rating of the item (measuring state performance) and for a written explanation of the rating.

Outcome P1: Children have permanency and stability in their living situations.			
Item 9. Adoption – Complete only for children with a current or most recent permanency goal of adoption (Case Record, Interviews With Caseworker)			
Core Questions	Yes	No	Not Appl icabl e
A. Was the child’s adoption finalized within 24 months of the most recent entry into foster care? Reviewers need to identify whether the most recent permanency goal has been achieved. If steps have been taken toward the goal of adoption (for example, termination of parental rights, child placement in a preadoptive home) but the adoption is not finalized, then the goal has not been achieved. Reviewers should check not applicable if the child has not been in foster care for 24 months and has not been adopted.			
<p>A1. If the response to question A is no, what were the barriers to the child’s adoption being finalized within 24 months of his/her most recent entry into foster care?</p> <p>Since this item measures achievement of the permanency goal within 24 months of the child’s most recent entry into foster care, reviewers should consider barriers outside the period under review if the child was already in foster care at the onset of the period under review.</p>			
B. If the child has been in foster care less than 24 months since the most recent entry into foster care, are steps in place to finalize the adoption within the 24-month timeframe?			
B1. If the response to question B is yes, describe the steps.			
B2. If the response to question B is no, what are the barriers to finalizing the adoption?			
Exploratory Issues			
<ul style="list-style-type: none"> • What length of time has (or was, if the case is closed) the child been in foster care since the most recent entry into foster care? • What is/was the status of planning/efforts to finalize the child’s adoption? • Is the child legally free for adoption? • What are/were the efforts to identify an adoptive family or to legally free the child for adoption? • What are/were the barriers to placing the child for adoption? • What are/were the barriers to freeing the child for adoption? 			
Rating for this indicator: (Check one)		Strength	
		Area Needing Improvement	
			Not Applicab le

Instruction for Item 9: Adoption

This item focuses on the achievement of a child's goal of adoption.

Reviewers should note the reasons for delays in the adoption process and the agency's efforts to address the delays.

If the response to question A is no, reviewers must provide substantial documentation of agency efforts to finalize the adoption within 24 months in order to rate this item a strength.

Provide documentation that supports the rating for item 9

(Reviewers may use the additional documentation space on the next page)