

■ BRIEF

Reducing Foster Care Placement Through Equity-Focused Implementation of Family First

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All children deserve safety, protection, and the opportunity to thrive. And all families deserve resources to support their efforts to provide a safe and stable environment for their children.

The child welfare system is vital to protecting children—in 2021, Child Protective Services (CPS) agencies received almost 4 million referrals alleging maltreatment of over 7 million children.¹ However, contact with the child welfare system, including CPS investigations and unnecessary child removal, can cause trauma to children and families.²

The child welfare system interacts with children of color at alarming rates, often with poverty misconstrued as “neglect” serving as the impetus for the investigation.³ Children of color are disproportionately likely to experience poverty^{4, 5} due to the economic impacts of racism and discrimination on people of color.⁶ As a result, children of color have a higher chance of interacting with the child welfare system simply because they are more likely to experience poverty and racial bias.^{7, 8} Fifty-three percent of all Black children—compared to 28 percent of white children—experience a CPS investigation by their 18th birthday,⁹ and approximately 11.4 percent of American Indian and Alaska Native (AIAN) children and 9.1 percent of Black children are removed from their families by their 18th birthday, compared to roughly 5 percent of white children.^{10, 11}

Child welfare services can reduce incidences of child abuse and neglect by prioritizing preventative services and programs and kinship care, increasing the safety and well-being of children and families. Since the passage of the Family First Prevention Services Act (Family First) in 2018, federal funding can be spent on services or programs to prevent children who are “a candidate for foster care” from being placed in foster care by keeping them with family or kin caregivers.¹² Family First was designed to help states and tribes finance evidence-based prevention services and programs, including mental health and substance use treatment and prevention and in-home parenting skill training.^{13, 14} Family First represented a historic step taken by policymakers toward keeping children safely with their families and out of foster care.^{i, 15}

From 2021 to 2023, the United States Department of Health and Human Services (HHS) has taken administrative actions to prioritize the implementation of Family First prevention services.¹⁶ These actions minimize traumatic deployments of CPS, reduce the use of family separations, and bolster support for families providing kinship care.

In this brief, we highlight where progress has been made—and where the Administration for Children and Families (ACF) could still take additional steps in 2024.

i Congregate care encompasses various out-of-home environments, often group homes, or other settings such as child care institutions, emergency shelters, and residential treatment centers. In these settings, children experience heightened behavioral challenges, frequent shifts between schools, and less direct adult advocacy. Payne, Chelsa. “Literature Review: Alternatives to Congregate Care.” Academy for Professional Excellence, February 2016. Available at <https://theacademy.sdsu.edu/wp-content/uploads/2016/03/alternatives-congregate-care-feb-2016.pdf>

Addressing Child Welfare Harms Through Equity-Focused Family First Implementation Will Promote Child & Family Well-Being

The child welfare system has disproportionately failed AIAN, Black, and Latinx children and families. In recent decades, advocates and policymakers have worked to reorient the child welfare system away from a harmful overreliance on removing children from their homes and towards preventive services and programs that reduce abuse and neglect and support family and child well-being.^{17, 18, 19} Despite improvements over the years, the child welfare system remains inequitably intrusive and harmful to children and families of color, particularly where CPS investigations and home removal are involved. Ongoing problems with the child welfare system, discussed in this section, include:

- The child welfare system disproportionately harms children of color and LGBTQ+ youth;
- Children and youth experience trauma when removed from parental care;
- Current preventative service spending does not sufficiently reduce family separation and foster care placement; and
- Slow approvals of evidence-based interventions have slowed the expansion of services supported by Family First.

THE CHILD WELFARE SYSTEM DISPROPORTIONATELY HARMS CHILDREN OF COLOR & LGBTQ+ YOUTH

The child welfare system disproportionately harms children of color, who enter foster care at higher rates compared to white children²⁰ and face investigations and separations at concerning high rates.²¹ Black and AIAN children and families, in particular, are more likely to be targeted for punishment, surveillance, and unnecessary removal in the child welfare system.²² Experience with foster care can leave children with trauma that can place them at an increased risk of criminal legal system involvement, substance abuse, and homelessness.^{23, 24}

Neglect is the most frequent reason for referral to child welfare and is disproportionately used to justify removing children of color from their homes.^{25, 26, 27} In Fiscal Year (FY) 2021, 63 percent of cases cited “neglect” as a circumstance associated with a child’s removal.²⁸ Neglect has no standard definition among states, but child welfare advocates assert that neglect is often utilized as a “proxy for poverty.”²⁹ This conflation can be devastating for families when decision-makers in the child welfare system misconstrue poverty as evidence of neglect.³⁰ Due to aspects of systemic racism, such as labor market discrimination and unequal access to education,³¹ Black and AIAN children are three times more likely to experience poverty than white children,³² and therefore are disproportionately harmed by this conflation of poverty and neglect.³³

The increased likelihood of experiencing poverty results in increased exposure for Black and AIAN children to social services systems and increased visibility to mandated reporters.³⁴ Systemic discrimination and bias influence outcomes at each step of the child welfare system, including initial contacts with social services systems, decisions to report to CPS, and decisions to remove a child from their parents.³⁵ For example, 53 percent of all Black children experience investigation before turning 18—compared to 28 percent of white children.³⁶ Widespread bias from mandated reporters, like teachers and medical professionals, can lead to increased interaction with social services and mandatory reporters. For example, mandated reporters are twice as likely to report children of color for abusive head trauma compared to white children with similar injuries.³⁷

Pervasive, systemic racism in the child welfare system is harmful to Black children and their parents, as it disrupts family attachments, exposes children to an increased risk of abuse within the system, and perpetuates cycles of instability.^{38, 39} Specific harms to Black children and their families are well-documented.⁴⁰ Latinx families often receive fewer child welfare system services than white families, and the effectiveness of these services is frequently worsened by language and cultural barriers.⁴¹ While Latinx children are typically underrepresented in the child welfare system,⁴² data collected in 2021 indicates Latinx children are overrepresented in foster care across 15 states.^{ii, 43}

Despite strong protections to keep AIAN children with their parents, their kin, or their tribe, as required by the Indian Child Welfare Act (ICWA), AIAN children are four times more likely to be removed from their families and placed in foster care than white children.⁴⁴ Federal law requires caseworkers to make active efforts to keep AIAN children with their parents by connecting families to substantive services and recommend continued efforts to facilitate reunification when separation is necessary.⁴⁵ Further, ICWA requires that out-of-home placements meet certain preference provisions.^{46, 47, 48} However, caseworkers have the power to avoid determining a child’s race or ethnicity during intake, which allows them to circumvent the additional documentation required for confirming ICWA eligibility.⁴⁹

LGBTQ+ youth are also overrepresented and harmed in the system—LGBTQ+ youth comprise 30 percent of all youth in foster care.^{50, 51} The child welfare system is often deeply unsafe for LGBTQ+ youth because of discrimination, violence, or harassment in foster care placements because of their identity.⁵² A 2016 survey found one in five youth in foster care who identify as lesbian, gay, or bisexual experienced a removal from their first foster care home placement at the request of the foster family, more than double the rate of heterosexual youth in foster care.⁵³ The trauma of experiencing foster care is worsened by frequent moves between placements,⁵⁴ especially if the impetus for the moves is related to their gender or sexuality.⁵⁵ LGBTQ+ youth in foster care experienced more than twice the number of foster care placements compared to all youth in foster care, who experienced an average of three placements.⁵⁶ These harms faced in foster care—on top of harassment and violence LGBTQ+ children and youth can face in their homes (prior to foster care) and in school—contribute to disproportionate representation of LGBTQ+ individuals among youth experiencing homelessness⁵⁷ and elevated rates of attempted suicide compared to LGBTQ+ individuals who have not experienced foster care.⁵⁸

REMOVING A CHILD FROM PARENTAL CARE CAUSES TRAUMA

Child welfare involvement, particularly when it leads to the removal of a child from parental care, is traumatic. Removal has immediate and long-term effects on the child’s well-being—even when that removal is necessary.^{59, 60} The emotional and physical harms that are inflicted on children by removing them from their parents may outweigh the impact of remaining in a potentially neglectful home.⁶¹ The experience of being separated from a parent can be devastating for children, who may struggle with feelings of abandonment, rejection, or guilt.⁶² The trauma of removal can also have long-term impacts, such as depression, Post-Traumatic Stress Disorder (PTSD), housing instability, and potential abuse and neglect in the foster care system.⁶³ Preventing unwarranted removals reduces the incidence of negative physical, mental, and emotional health effects associated with removal.⁶⁴

CURRENT PREVENTATIVE SERVICE SPENDING DOES NOT SUFFICIENTLY REDUCE FAMILY SEPARATION & FOSTER CARE PLACEMENT

Policies that address root causes of child welfare system involvement can reduce the trauma of foster care for children, support children’s well-being, and prevent the real and human costs associated with the child welfare system.⁶⁵ Federal spending should focus on providing financial and supportive services for families that prevent the need for foster care placements.⁶⁶ Instead, federal child welfare funding

ii In the Adoption and Foster Care Analysis and Reporting System data, children identified as Hispanic are classified based on their Hispanic ethnicity regardless of their race, meaning data on Hispanic children includes white, indigenous, and Black children, limiting the ability of researchers to track outcomes for Hispanic children disaggregated by their race.

primarily supports foster care—not prevention—for children from families with the lowest incomes.^{67, 68} The Family First law represented a historic step toward increased federal investment in prevention services and programs to support families and keep children safely with their families and out of foster care.⁶⁹ However, federal child welfare financing still prioritizes out-of-home placement in foster care over support for services that could assist struggling families before removal becomes necessary.

Federal prevention funding outside Family First for child welfare programs is limited; open-ended Family First funding represents a landmark opportunity to scale up support for struggling families at risk of child removal.^{iii, 70, 71}

Federal funding for preventative services and programs can provide parents with the resources to meet their material needs and ensure their children's well-being. State child welfare agencies spent less than 50 percent of their 2020 prevention funding on economic supports such as housing, child care, transportation, substance use prevention and treatment, and mental health services.⁷² Alleviating financial burdens and material hardship through providing economic and concrete support can reduce cases of child maltreatment and neglect.⁷³ For example, the temporary expansion of the Child Tax Credit (CTC) drove the child poverty rate down to a record low of 5.2 percent in 2021 and was associated with a reduction in child abuse and neglect cases.^{74, 75, 76}

SLOW APPROVALS OF EVIDENCE-BASED INTERVENTIONS HAVE SLOWED THE EXPANSION OF SERVICES SUPPORTED BY FAMILY FIRST

The Family First Prevention Services Act authorized open-ended federal funding for approved evidence-based preventative services and programs to support families whose children were at risk of entering foster care for states and tribes; however slow approval of preventative interventions has limited the ability of states and tribes to provide these programs.^{iv, v} Family First funding can be spent on evidence-based prevention services including mental health and substance use treatment and prevention and in-home parenting skill training.^{77, 78} Only interventions that meet specific evidence-based criteria and are rated by the Title IV-E Prevention Services Clearinghouse (the Clearinghouse) are reimbursable.⁷⁹

States and tribes have been delayed in implementing Family First-appropriate prevention services to keep families together due to bureaucratic obstacles to Family First funds.⁸⁰ For example, states and tribes with approved Title IV-E Prevention Program Five-Year Plans have been hampered in deploying Family First funding due to the Clearinghouse's slow pace of rating interventions and lags in approval of cost-allocation plans^{81, 82}—plans for attributing their administrative costs to the various funding streams in order to tap into multiple federal funding streams to begin receiving and disbursing funds.

These obstacles have limited the ability of states and tribes to draw down federal funds for Family First implementation⁸³ and slowed the pace of the Clearinghouse to approve models, which limited states' and tribes' ability to provide Family First services.

Providing more significant economic support and additional preventative supports to families involved in the child welfare system can reduce child removals and placement into foster care and reduce the stark racial disparities in the child welfare system. However, current interpretation of the Family First law

iii These programs include the Chafee Foster Care Independence Program, which provides assistance to foster youth transitioning out of foster care with accessing employment, education, and housing; and the Promoting Safe and Stable Families program, which provide prevention, intervention, and support services for children and their families. "John H. Chafee Foster Care Program for Successful Transition to Adulthood." Administration for Children and Families, current as of 3 July 2023. Available at <https://www.acf.hhs.gov/cb/grant-funding/john-h-chafee-foster-care-independence-program>; "Promoting Safe and Stable Families (PSSF) Program." Administration for Children and Families, retrieved 11 October 2023. Available at <https://www.acf.hhs.gov/cb/fact-sheet/promoting-safe-and-stable-families-pssf-program>

iv States bear the primary responsibility to provide child welfare services and federal involvement is predominately structured as partial financial assistance to states and tribes; "Child Welfare: An Overview of Federal Programs and Their Current Funding." Congressional Research Service, 2 January 2018. Available at <https://crsreports.congress.gov/product/pdf/R/R43458>

v By the end of 2020, the Clearinghouse had found only 13 interventions qualified as "supported" or "well-supported" by evidence. "Find a Program or Service Title IV-E Prevention Services Clearinghouse." Title IV-E Prevention Services Clearinghouse, retrieved 30 June 2023. Available at <https://preventionservices.acf.hhs.gov/about>

has led to very rigid standards instituted by the Clearinghouse, leading to slow approval of programs. These rigid standards often prevent culturally-specific programs built by and for communities of color from being approved, and fidelity requirements are preventing cultural adaptations of approved programs.^{vi, 84, 85, 86} Equity-focused Family First implementation necessitates the approval of culturally-specific interventions for communities of color; otherwise, Family First will exacerbate inequities.⁸⁷

Progress to Date

The Biden-Harris Administration has pushed to facilitate equity in child welfare, protect children’s health and well-being more effectively, facilitate family reunification and kinship care placements, and support parents in preventing unnecessary child removal. Implementing Family First has been central to these goals.

ACF IS SUPPORTING FAMILY FIRST IMPLEMENTATION

ACF issued sub-regulatory guidance and sought input from child welfare system stakeholders to support the implementation of Family First’s Title IV-E prevention program.⁸⁸ As of October 2023, 42 states, four tribes, and D.C. had approved Family First Five-Year plans, and only four states (Alabama, Alaska, South Dakota, and Texas) and the U.S. Virgin Islands had yet to submit a plan.⁸⁹

In March 2020, the Assistant Secretary for Planning and Evaluation at HHS posted a toolkit for planning the use of Family First prevention services.⁹⁰ It includes tools for identifying and engaging partners, assessing service needs, and determining priorities. In addition, ACF’s Child Welfare Capacity Building Collaborative hosts a Family First “Prevention Plan Leaders peer group” for state child welfare leaders and county teams responsible for prevention plans under Family First to foster discussion and support as they implement changes in their state’s child welfare systems.⁹¹

THE CHILDREN’S BUREAU IS INVESTING RESOURCES TO IMPROVE EQUITY IN THE CHILD WELFARE SYSTEM

The Children’s Bureau within ACF has aimed to reduce racially disparate harms in the child welfare system by prioritizing data-driven solutions to prevent children from entering foster care, supporting kin caregivers, supporting youth leaving foster care, and strengthening the child welfare workforce.⁹² These actions support equity-focused implementation of Family First. The Children’s Bureau announced plans in 2022 to prioritize understanding and eliminating disparities within child welfare, acknowledging the over-surveillance and separation that the child welfare system inflicts on Black families, in particular.^{93, 94, 95}

The Children’s Bureau’s Capacity Building Center for States provides resources for state agencies, tribes, courts, and other child welfare system stakeholders to achieve better and more equitable outcomes for children, youth, and their families, including in the implementation of Family First.^{96, 97, 98, 99, 100} The Capacity Building Center’s work to develop and utilize state- and agency-specific data to illustrate disproportionality and inequity at key points of the child welfare experience—such as intake and screening decisions, report dispositions, child removals, and children in care—could help drive long-term change. Increased data disaggregated by race and ethnicity can shine a light on the points in the system where reforms are needed to achieve more equitable outcomes.¹⁰¹

The Children’s Bureau is increasing stakeholder awareness of and access to Children’s Bureau funding—through expanded dissemination of their Notice of Funding Opportunities (NOFOs)—to better facilitate research, capacity building, and program improvement efforts in service of racial equity.^{102, 103} For example, in 2023, ACF encouraged state agencies, tribes, and private organizations to apply for grants

vi While ACF acknowledged the need for culturally relevant programs in some tribes operating Title IV-E plans independently, other groups like Black or LGBTQ+ youth, or many other AIAN youth under state agreements have not been extended similar flexibility. “Allowable Flexibilities Related to Adaptations of Evidence-Based Programs in the Title IV-E Prevention Services Program for Tribal Communities.” Administration for Children and Families, 13 January 2021. Available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2104.pdf>

to address racial disparities in the child welfare system. ACF has set aside \$4 million to fund community-based projects that identify sources of racial bias and explore alternative, community-based approaches that reduce family exposure to the child welfare system.^{104, 105}

ACF IS PRIORITIZING INCREASED FLEXIBILITY & SUPPORT FOR KINSHIP CARE TO REDUCE FOSTER CARE PLACEMENT

Facilitating kinship care is critical to supporting child well-being. For children with extended families, kinship care provides a nurturing environment, helps preserve cultural identities and connection to community,¹⁰⁶ minimizes the trauma children experience through family separation, and promotes well-being through stability.¹⁰⁷ Given the harms that LGBTQ+ children and youth are disproportionately likely to experience in traditional foster care placement,¹⁰⁸ kinship care can provide a safer and more supportive home than traditional foster care placement.^{109, 110}

To encourage kinship care and address racial inequities in access to kinship care, ACF issued a regulation in 2023 to increase flexibility for kinship care when licensing foster families.^{111, 112, 113} This policy change is designed to facilitate a more straightforward licensing process for more relatives to become licensed foster parents—qualifying them to receive greater financial support from child welfare agencies.^{114, 115} ACF has provided support to ensure child welfare agencies successfully adopt these proposed licensing standards for kinship caregivers.¹¹⁶

Facilitating kinship care advances racial equity in the child welfare system. Kinship care reduces the number of children of color in non-relative foster care, and families of color utilize kinship care at higher rates than their share of the U.S. population.^{117, 118, 119} Black children make up nearly a quarter of all children in households where a grandparent is responsible for the needs of the child.¹²⁰ In the last decade, even as states have increased the use of placement in kinship care, child welfare agencies have been less likely to place Black children with kin compared to children of other racial and ethnic identities.¹²¹ This regulation will help ensure a more culturally appropriate child welfare system that relies less on unnecessary and traumatic removal.

HHS IS MAKING THE CHILD WELFARE SYSTEM SAFER FOR LGBTQ+ CHILDREN

ACF's Children's Bureau has made changes to help ensure LGBTQ+ children and youth involved with the child welfare system are protected from harm and have their identities affirmed and supported, including:¹²²

- Encouraging child welfare agencies to use federal funds to improve state and tribal services so that the child welfare system is more equitable for LGBTQ+ children and youth and their families.¹²³
- Strengthening regulations to clarify for child welfare agencies the mandatory steps they must take to ensure LGBTQ+ youth well-being through appropriate foster case placements.^{124, 125}
- Developing guidance for child welfare agencies to navigate statutory provisions to guarantee that children and youth experiencing foster care have access to developmentally appropriate, identity-affirming services.^{126, 127}
- Providing guidance and encouragement for agencies to identify sources of federal funding to train their workers, foster parents, and adoptive parents on how to support LGBTQ+ children.^{128, 129}
- Sharing information with kinship caregivers about funding streams available to provide identity-affirming care to children and youth.^{130, 131}

- Supporting efforts of community organizations to support LGBTQ+ youth during their time in foster care by changing the Children’s Bureau’s mandatory and discretionary funding announcements to more clearly direct organizations to funds available to them.¹³²

HHS IS INVESTING IN MENTAL HEALTH SERVICES FOR CHILDREN, YOUTH, & FAMILIES

Family First includes funding for mental health services for struggling parents and children to reduce cases of child maltreatment and foster care placements.¹³³ However, many states struggle with providing comprehensive mental health services for children and families in foster care and adoption.^{vii, 134, 135, 136, 137} In 2023, HHS invested \$20 million in the establishment of the National Center for Child Welfare Component Mental Health Services (The Center).¹³⁸ The Center was developed to collaborate with state child welfare systems to strengthen mental health care offerings for children, youth, and their families by educating practitioners about key issues such as separation, loss, grief, and trauma.¹³⁹ Through this collaboration, The Center was established to produce strategies to implement culturally responsive and linguistically appropriate mental health services in each state.¹⁴⁰

An estimated 80 percent of children in foster care experience significant mental health struggles, yet there is limited availability of specialized practitioners who can respond to issues of trauma, separation, loss, and grief.¹⁴¹ The Center is expected to increase access and improve services provided in each state, with a distinct focus on race equity in implementation, expanding accessibility to evidence- and trauma-informed care.¹⁴² The Center has the potential to support states and tribes as they work to implement the evidence-based mental health interventions approved by the Clearinghouse for Family First funding.

ACF IS SUPPORTING REUNIFICATION TO REDUCE THE USE & LONGEVITY OF FOSTER CARE PLACEMENT

ACF has prioritized implementation of policy changes that support family reunification, including limiting the practice of requiring foster care reimbursement payments for parents with low incomes and increasing access to legal representation for parents with children at risk of entering the foster care system.

Child welfare agencies can collect child support from parents who were forcibly separated from their children to reimburse states for the costs of foster care spending, but in 2022, ACF provided guidance to child welfare agencies to limit this practice to very rare circumstances.¹⁴³ Advocates and researchers have demonstrated that the practice of charging parents “child support” reduces the incomes of parents already navigating complicated requirements for reunification (such as parenting courses or supervised family time), creating an additional barrier to reunification.^{144, 145} ACF advised child support agencies that they could access Title IV-E administrative funds to offset the costs of implementing that change.¹⁴⁶

Access to legal representation for child welfare proceedings and civil legal issues can prevent unnecessary separations, improve the rate of reunification for families who have been separated, halve the time needed for finding legal guardianship or adoption, and lead to more stable outcomes for children and families in the foster care system—particularly for children and families of color.^{147, 148, 149, 150} In September 2023, HHS proposed a regulation to empower state and tribal child welfare agencies to use federal funds to provide legal representation for children in foster care, parents, and kinship caregivers when it supports a child’s needs.¹⁵¹ For example, under the proposed regulation, legal representation could be used to secure stable housing or participation in public benefits programs.

vii For example, the state of Georgia has struggled to provide mental health services to its most vulnerable youth. Broce, Candice L. “Procurement of Medicaid Managed Care Services.” Georgia Department of Community Health, 12 August 2022. Available at <https://s3.documentcloud.org/documents/23577647/broceletter202208.pdf>

Priorities for Further Administrative Action

From 2021 to 2023, HHS has made substantial progress in building the infrastructure for new prevention services funding. However, in FY 2022, only \$29 million of federal funds were spent by state and tribal child welfare agencies on Family First preventive services and programs to keep children with their families,¹⁵² compared to the Children’s Bureau’s almost \$10 billion annual budget.¹⁵³

Steps ACF should undertake to accelerate the implementation of the Family First law include:

1. Ensuring that every state has an approved Family First plan by the end of 2024 in order to accelerate state spending on preventative services and programs.

ACF should continue its effort to support states and territories in accessing the prevention funding available under Family First, including by providing proactive technical assistance. To this end, ACF should set a goal for every state to have an approved Family First plan by the end of 2024.

As of October 2023, only four states and one territory (U.S. Virgin Islands) have not submitted a Title IV-E prevention program five-year plan.¹⁵⁴ ACF should continue to engage these five entities to discuss—and help to address—barriers to submitting plans. Additionally, HHS should work with relevant federal partners to accelerate the approval of states’ administrative cost allocation plans to allow for speedier deployment of Family First funds and avoid “on the ground” implementation delays.

ACF should also consider moving the Family First technical assistance work from the Child Welfare Capacity Building Collaborative¹⁵⁵ to a freestanding, higher profile “Family First Resource Center”¹⁵⁶ akin to the resource centers for adoption and community-based child abuse prevention.^{157, 158} This structural change would emphasize the importance of Family First implementation among the most important ongoing child welfare issues and ideally would be accompanied by increased resources for Family First technical assistance activities.

2. Soliciting tribal preferences and addressing barriers to tribes’ utilization of Family First funds.

Many tribes have yet to apply for Family First funding. More context and input from tribes are needed to understand and address the specific reasons and the challenges tribes have in administering the Title IV-E program overall.¹⁵⁹ Consultation with tribes could be a good first step in identifying barriers and potential solutions, which could lead to increased tribal participation in Family First. To help tribes work towards approved Family First plans, ACF should engage tribes and tribal child welfare agencies to find workable solutions to barriers standing in the way of them submitting their plans.

Only tribes that have an approved Title IV-E plan and operate the program directly through the federal government, as states do, can utilize Family First funds for their preferred evidence-based interventions approved through the Title IV-E Clearinghouse. Tribes that operate a Title IV-E program through an agreement with a state can only use Family First funding as defined in the state’s Title IV-E plan, meaning those tribes can only fund the evidence-based interventions that are already a part of a state plan.¹⁶⁰ Operating through an agreement with a state limits the flexibility of these funds to support tribes’ culturally-specific interventions. ACF has the discretion to address this barrier for tribes through additional clarification and expanding the definition of how approved evidence-based interventions can be culturally adapted for use in tribal communities.^{viii, ix, 161, 162, 163, 164} However, to date, ACF has argued they do not have this authority in tribal communities where the state still runs the child welfare system.¹⁶⁵

viii 12 states with Tribal-State IV-E agreements (Alaska, Arizona, California, Michigan, Minnesota, Montana, New York, North Dakota, Oklahoma, Oregon, South Dakota, and Washington) cite to ICWA and insert ICWA into their agreement. O’Loughlin, Shannon Keller. “A Survey and Analysis of Tribal-State Indian Child Welfare Act Agreements.” Association on American Indian Affairs, June 2017. Available at https://www.indian-affairs.org/uploads/8/7/3/8/87380358/icwa_tribal-state_agreements_report.pdf.

ix Despite tribes’ nation-to-nation status with the U.S. federal government, some state IV-E agreements do not explicitly recognize Indian Nation sovereignty and explicitly proclaim that the tribes are obligated to follow state law to receive federal funds. Trope, Jack F., and Shannon Keller O’Loughlin. “A Survey and Analysis of Select Title IV-E Tribal-State Agreements” Association on American Indian Affairs, March 2014. Available at https://narf.org/nill/resources/title-iv-e/20140320_title_iv-e_report.pdf

3. Developing distinct and more appropriate Clearinghouse evidence standards for “promising” interventions.

The Family First statute specifies three different ratings for interventions or programs that qualify for reimbursement: “promising,” “supported,” or “well-supported.”¹⁶⁶ The Clearinghouse currently applies the same requirements to all three ratings. While the statute explicitly requires a quasi-experimental design (QED) or randomized controlled trial (RCT) study design for “supported” or “well-supported” ratings, it does not require the same for “promising” programs.

This unnecessarily strict standard limits the deployment of prevention services by ruling out interventions and programs that have good evaluation results using other—usually less expensive—methods of providing a control group, such as including an untreated group or placebo group. ACF should review the Clearinghouse’s current “promising” evidence standards and develop more appropriate standards.

ACF should also improve guidance for cultural adaptation of approved evidence-based prevention services, such as by issuing guidance allowing child welfare agencies to adapt services to meet the cultural needs of the children and families they serve. Such guidance would allow program administrators to tailor interventions to families of varying cultures without each version of the intervention requiring its own review and approval by the Clearinghouse.¹⁶⁷

4. Prioritizing Clearinghouse review of programs that have been developed by and for communities of color, including tribes.

Clearinghouse standards and processes for determining eligibility of programs hamper efforts to achieve racial equity in the child welfare system.¹⁶⁸ Programs most likely to meet Clearinghouse’s evidence standards and present strong histories of costly evaluation were not designed with the needs of communities of color in mind.^{169, 170, 171} The Clearinghouse has not reviewed studies that measure outcomes preferred by some communities of color.¹⁷² As of February 2022, out of the 43 models that had been approved by the Clearinghouse, only one was a model designed by an AIAN community.¹⁷³

The Clearinghouse should prioritize identifying and reviewing evidence-based interventions that benefit communities most harmed by the child welfare system, including Black families and tribes.¹⁷⁴ Communities of color have suffered disproportionate harms from the child welfare system, and prioritizing the review of preventative programs that are culturally-specific and evidence-based will promote equity through reduced removals into foster care.^{x, 175, 176}

ACF’s October 2023 Federal Register Notice soliciting comments on an updated and revised handbook for Clearinghouse operations is progress towards achieving this recommendation. The proposed revisions for the Clearinghouse handbook add “population/s served” as an additional prioritization criterion.¹⁷⁷

5. Supporting partnerships between child welfare agencies, community-based organizations, research organizations, & philanthropic entities to increase program evaluation capacity.

Child welfare agencies and community-based organizations use interventions they believe are effective in supporting families. However, the high cost of conducting evaluations that meet Clearinghouse standards creates barriers to quantifying potential successes. ACF can encourage states, tribes, and philanthropic partners to collaborate on evaluations with each other and research organizations.

x The Family First Act uses “services” and “programs” interchangeably or collectively, implying flexibility in the kinds of support that can be financed by Family First, and the importance of deploying preventative supports, including financial supports that have been proven to reduce child abuse and neglect cases. This flexibility highlights the potential uses for Family First funding towards programs and/or services that address children’s economic and concrete support needs, and thereby prevent child welfare intervention in families.

ACF should support an effort to foster collaboration between states, tribes, community-based organizations, research organizations, and philanthropic entities to evaluate programs in a manner that would meet the high bar of evidence necessary to meet Clearinghouse standards and make more interventions eligible for Family First funding. Recommendations from stakeholders could help generate partnerships that eventually facilitate Clearinghouse approvals for programs already in operation. Increasing approvals holds the promise of opening up new sources of federal funding to scale up effective prevention programs that are currently small or limited in geographic scope.

6. Requiring more direct input from parents and children involved in the child welfare system in Family First state plans.

The current Family First state plan approval process requires consultation with child and family community-based organizations “in order to foster a continuum of care for children... and their parents or kin caregivers.”¹⁷⁸ Engaging directly with parents and older children with experience in the child welfare system could improve the responsiveness of the program to the needs of families and children.

ACF should require consultation with parents with experience interacting with the child welfare system, older children involved in the child welfare system, and young adults with child welfare system experience. This change would build on the Children’s Bureau’s work engaging older children involved in the child welfare system and young adults who were children in the child welfare system.

Background

In 2020, the Georgetown Center on Poverty and Inequality (GCPI) conducted a project to develop recommendations for the incoming administration, with a particular focus on ACF at the Department of Health and Human Services. The recommendations were for administrative actions—steps that could be undertaken without the need for legislation and within the first 100 days of a new administration—that would ensure the security and well-being of families and children, particularly those of color or with low incomes during the height of the pandemic. GCPI consulted extensively with experts, advocates, and people with lived experience and provided recommendations to the administration for actions addressing a variety of programs and cross-cutting issues. The recommendations are summarized in a published brief: [“100 Days for Opportunity and Well-Being: An Executive and Administrative Action Agenda for Children and Families.”](#)¹⁷⁹

GCPI revisited the work of the “administrative actions” project, documented progress, and provided priorities for further action as part of this series of briefs.

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