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	<b>3. Originating Office:</b> Children’s Bureau	
	<b>4. Key Words:</b> State Court Improvement Program Grant	

## PROGRAM INSTRUCTION

**TO:** Highest State Courts of Appeal

**SUBJECT:** Instructions for State Courts on Applying for State Court Improvement Program (CIP) Funds for Fiscal Year (FY) 2023.

**REFERENCES:** Section 438 of the Social Security Act, as amended by Public Law (P.L.) 116-260, Section 305 of title III of Division CC of the Consolidated Appropriations Act, 2021.

**PURPOSE:** The purpose of this Program Instruction (PI) is to set forth the eligibility requirements and grant application procedures for the State CIP grant for FY 2023, including updating the five-year strategic plan, and to provide guidance on the requirements for state courts to continuously assess and improve the handling of court proceedings related to child welfare and enhance collaboration with title IV-B/IV-E agencies and tribes.

### **BACKGROUND:**

#### *Program Overview and Recent Statutory Changes*

Section 438 of the Social Security Act (the Act) authorizes funding for the highest court of each state to assess the role, responsibilities and effectiveness of state courts in carrying out state laws guiding child welfare proceedings and to implement improvements based on those assessments including: to provide for the safety, well-being, and timely permanence of children in foster care; to support engagement of families in child welfare cases; and to improve collaboration between the courts and the child welfare agency around data collection and analysis, training, and around the Child and Family Services and title IV-E Foster Care Eligibility Reviews.

On December 17, 2020, the Children’s Bureau (CB) issued ACYF-CB-PI-20-12<sup>1</sup> providing guidance on how to apply for FY 2022 CIP funding and initiate a new five-year strategic planning cycle. Just after the issuance of that PI, on December 27, 2020, P.L. 116-260, the Consolidated Appropriations Act, 2021 was enacted into law. This law included provisions reauthorizing the CIP through FY 2022 and amending the program, effective October 1, 2021, the first day of FY 2022.<sup>2</sup>

The primary change to the CIP made by the new law was to consolidate the former three CIP grants (basic, data and training) into a single grant that can be used for all program purposes. Under the new single CIP grant structure, each state CIP grantee is required to use at least 30 percent of funds for collaboration and data sharing. The funding formula for the program was updated to reflect the change from three grants to one grant, ensuring that grantees will receive approximately the same amount of funding that they would have received if they participated in all three of the prior CIP grants. Should Congress enact additional amendments affecting program requirements for FY 2023 and beyond, CB will issue additional guidance.

### ***The Children’s Bureau’s Priorities for Creating an Equitable Child Welfare System***

As CIPs carry out ongoing projects and prepare submissions for FY 2023 funding, CB urges CIPs to consider how the following priority areas to create a more equitable child welfare system may inform CIP work.

On January 20, 2021, President Biden signed Executive Order 13985<sup>3</sup>, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” This Executive Order defined the term “equity” as the consistent and systematic fair, just, and impartial treatment of all individuals, including those who belong to underserved communities that have been denied such treatment, such as Black, Latino, Indigenous and Native American, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

Agencies across the federal government, including the Administration for Children and Families (ACF) and CB, are committed to advancing equity through our work at the federal level and with states, territories, tribes, and all other grantees. On February 2, 2022, ACF issued [Information Memorandum \(IM\) ACF-IOAS-22-01 on Equity in Action: Prioritizing and Advancing Racial Equity and Support for Underserved Communities](#).<sup>4</sup> This IM expresses ACF’s unequivocal

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<sup>1</sup> See, <https://www.acf.hhs.gov/cb/policy-guidance/pi-20-12>

<sup>2</sup> Section 305(c) of title III of Division CC of the Consolidated Appropriations Act, 2021.

<sup>3</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>

<sup>4</sup> To read the full IM and accompanying appendixes click on the following links:

- [Information Memorandum on Equity in Action](#)
- [Attachment A Definitions](#)
- [Attachment B References](#)
- [Attachment C Selected Resources in Support of Racial Equity](#)
- [Equity in Action Fact Sheet](#)

commitment to advancing racial equity for all and calls for transformational leadership at all levels to ensure that Americans of all racial and ethnic backgrounds can reach their full potential. ACF strongly encourages its grantees to assess and address how its programs and policies may perpetuate systemic barriers for children and families of color.

In this PI, CB has highlighted several areas where equity considerations may inform planned use of CIP funding, outreach strategies and efforts to reach underserved populations. Undertaking this work together, we can start to understand and address persistent inequities in child welfare services and chart a course to improve the lives of the children, youth, and families that we serve.

While addressing equity concerns cuts across all of our work, CB has identified four priority goals where we will be focusing efforts.

### *Prevent Children from Coming into Foster Care*

We know that child and family poverty represents a key source of family vulnerability. However, too often, poverty and neglect are conflated leading to unnecessary child welfare involvement and separation of children from their families. It is critical that we, in the child welfare field, examine both legal definitions and frontline practice to disentangle poverty from neglect, so that we can provide meaningful support to strengthen families, keep children safe and prevent unnecessary entries into foster care.

Another key strategy for preventing unnecessary foster care entries is to ensure that families have access to legal services to help them advocate for needed services and resolve issues that leave them vulnerable to child welfare involvement or impede permanency for children once in care. CB has dedicated resources to support system improvements around quality legal representation including supports from the Capacity Building Center for Courts.

### *Support Kinship Caregivers*

Nationally, about 2.7 million children are being raised in kinship care without a parent present. The term “kinship care” encompasses a variety of situations in which children are raised by other family members, relative caregivers or close non-related caregivers when the child’s parents are unable to care for the child. While kinship caregivers provide essential support to children, they often do not receive adequate support.

CB is committed to strengthening support for kinship caregivers by working with state agencies to ensure equitable access to licensure for relative foster care providers and expanding kinship navigator programs to support all kinship caregivers in learning about and gaining access to financial support, legal assistance<sup>5</sup> and support groups. CIPs can bring valuable perspectives to this work around legal needs for kin caregivers such as helping coordinate with other civil legal services and working with kinship navigator programs.

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<sup>5</sup> For more information on Kinship Navigator funding see, <https://www.acf.hhs.gov/cb/policy-guidance/pi-21-06> and <https://www.acf.hhs.gov/cb/policy-guidance/pi-18-11>

## *Ensure Youth Leave Care with Strengthened Relationships, Holistic Supports and Opportunities*

Entry into foster care is a traumatic event and youth often experience continued trauma while in the foster care system and after exiting care. It is essential to ensure trauma-informed care and access to behavioral health supports for young people in care. It is also critical to provide youth in foster care with safe, healthy, and normative experiences. This includes allowing youth to participate fully in activities that are a normal part of the transition to adulthood, including activities at school and in their communities. We must support young adults in having a successful transition to adulthood both by promoting legal and relational permanency and by providing robust services and supports. CIPs can work toward this goal in many ways by strengthening quality legal practice that meaningfully engages youth in court and case planning that supports strong permanency relationships, economic and educational opportunities.

## *Develop and Enhance the Child Welfare Workforce*

Since the beginning of the pandemic, CB has heard from state agencies about the issue of a dwindling child welfare staff recruitment pool and an increase in staff turnover rate at all levels. While staff turnover has been recognized as a widespread problem for years across child welfare agencies and legal and judicial systems, it has become clear that even basic improvements in child welfare practice and outcomes may not be realized without strengthening the child welfare workforce.

CB is committed to supporting innovative strategies for the recruitment, training, and retention of child welfare staff to improve the quality of child welfare practice. CB is likewise committed to expanding resources for quality legal representation, including working with state title IV-E agencies that want to receive title IV-E federal financial participation for administrative costs of independent legal representation provided by an attorney.<sup>6</sup> CIPs may also consider how multi-disciplinary training on court-related roles, responsibilities, and practices could benefit the workforce and families.

CB looks forward to engaging with states to address the above priorities as we jointly seek to make meaningful progress in advancing equity and improving the lives of the children, youth, and families that we serve.

### **INFORMATION: Organization of the Program Instruction:**

- Section I. Program Eligibility and Funding
- Section II. Program Requirements
- Section III. Self-Assessment Process Requirements
- Section IV. Strategic Plan Requirements
- Section V. Application Requirements
- Section VI. Fiscal Reporting Requirements
- Attachments

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<sup>6</sup> [https://www.acf.hhs.gov/sites/default/files/documents/cb/technical\\_bulletin\\_faq\\_legal\\_representation.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/technical_bulletin_faq_legal_representation.pdf)

## **I. PROGRAM ELIGIBILITY AND FUNDING**

This PI describes the purpose of the CIP, application procedures and reporting requirements for the CIP grant. It explains how state courts must plan, implement, amend, update and report on the programs and activities they support using grant funds. State courts must comply with the requirements delineated in this PI as a prerequisite to receiving CIP funds.

### **Eligibility**

The highest state court of each state that participates in the programs funded under title IV-E of the Act is eligible to apply for CIP funds. The term “highest state court” means the judicial tribunal that is the ultimate court of appeals in the state or territory and responsible for the implementation of the CIP grants. Although the highest state court is the designated applicant for the grant, the application must reflect meaningful and ongoing collaboration among state and local courts, state and local child welfare agencies and, where applicable, federally recognized Indian tribes.

### **Funding**

- **Allotments:** State courts with an approved application will be allotted \$255,000 and, after the sum of all states’ base amounts and the \$1 million set aside for grants to tribes are subtracted from the total appropriation, a percentage of the remainder based on the state’s proportionate share of children under age 21.<sup>7</sup> For reference and estimation purposes, FY 2021 allotment tables for each of the former three grants are included as Attachment E of this PI. CB estimates that FY 2022 and 2023 allotments for each state court will approximate the sum of the three former grants.
- **Project Period:** Each state court must obligate its federal funds by the end of the following fiscal year, with an additional 90 days to liquidate any outstanding obligations. ACF does not have the authority to grant an extension of a program obligation period. Any funds remaining unobligated or unliquidated by the respective deadlines will be recouped by ACF and returned to the U.S. Treasury through the issuance of a negative grant award.
- **Cost Sharing Requirement:** A non-federal share is required for the CIP grant at the rate of 25 percent of the total budget (1/3 of the Federal share). For example, a project totaling \$100,000 would require a state court contribution of \$25,000 to receive federal funds totaling \$75,000. Funds eligible to be used as non-federal share must meet the regulatory provisions of 45 CFR 75.306, which establishes the rules for cost sharing.

In accordance with these provisions, funds eligible to be used as non-Federal share, among other things:

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<sup>7</sup> 42 U.S.C. § 629h(c); Social Security Act § 438(c)

- Must not be federal grant funds, unless specifically allowed by Federal statute;
  - Must not be used to match any other Federal grant;
  - Must be used for costs that are otherwise allowable (i.e. the non-Federal share, like the Federal share must also be used for the purposes described in Section 438 of the Act and this PI);
  - May originate with a third party, public or non-public; and
  - May be in-kind contributions of services, equipment, or property.
- Indirect Costs: If a state court wishes to receive reimbursement for indirect costs within its allotment as a part of the CIP grant, it must have an approved indirect cost rate with the cognizant Federal agency. The cognizant Federal agency is that Federal agency that provides the most funds to the state court. If a state court has not been assigned a cognizant agency, it should work with the Federal agency from which it receives the largest amount of funds to negotiate and receive approval of indirect cost proposals.

## II. PROGRAM REQUIREMENTS

The purpose of the CIP is to promote the continuous quality improvement of: (1) child welfare court hearings and reviews; (2) legal representation for parents, children, youth and the state child welfare agency responsible for administering titles IV-B and IV-E of the Act; and (3) collaboration between the judicial branch of state government, the title IV-B/IV-E agency, and tribes to improve child welfare outcomes.

### a. Meaningful and Ongoing Collaboration

State courts are required to demonstrate “meaningful and ongoing collaboration” among the courts in the state, the title IV-B/IV-E agency, and where applicable, federally recognized Indian Tribes in their CIP applications in order to receive funding.<sup>8</sup>

“Meaningful, ongoing collaboration” means that: state courts, title IV-B/IV-E agencies, and tribes will identify and work toward shared goals and activities to increase the safety, permanency, and well-being of children in the child welfare system.

To satisfy this requirement, state courts must: (1) establish and operate a statewide multi-disciplinary task force to guide and contribute to CIP activities; and (2) create and describe a process by which they will work with the title IV-B/IV-E agency, and tribal partners, to jointly review and discuss child welfare outcome data and meaningfully participate in child welfare program planning and improvement efforts on an ongoing basis including around the Child and Family Services Review (CFSR)/Program Improvement Plan (PIP) processes.

Many child welfare programs are coordinated by the submission of the Child and Family Services Plan (CFSP) and annual update to that plan, the Annual Progress and Services Report (APSR). Annual updates are due June 30 each year. We urge CIPs to align collaboration efforts with those conducted by the state title IV-B/IV-E agency.

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<sup>8</sup> 42 U.S.C. § 629h(b)(3); Social Security Act § 438(b)(3)

## **i. CIP Leadership**

The CIP grant is intended to engage the highest court of appeals in states and territories in the continuous improvement of child welfare court hearings and reviews, legal representation and the functioning of the child welfare system overall. CB expects that CIP directors will have the authority to represent the highest court of appeals in this important work.

From the perspective of CB, CIP directors and state child welfare directors maintain equivalent levels of responsibility as system partners. CB expects that CIP directors will work closely with state and territorial child welfare directors and other key, high-level government leaders.

## **ii. Statewide Multidisciplinary Task Force**

State courts must maintain a statewide multidisciplinary task force that includes, state and local judges, preferably including a justice of the highest court of appeals; top child welfare agency leadership; attorneys for parents, children and the child welfare agency; and, where applicable, Indian tribes or tribal consortia.

The CB expects that representatives from the state IV-B/IV-E agency will be individuals who are involved in child welfare program planning and improvement efforts and are equipped to participate in discussion of how CIPs can become meaningfully involved in these processes and ensure action.

State courts are strongly encouraged to include the following representatives on the task force:

- the IV-B/IV-E agency administrator,
- the IV-B-IV-E agency quality assurance/continuous quality improvement lead,
- the Child and Family Service Plan (CFSP)/Annual Progress Services Report (APSR) lead,
- IV-B/IV-E agency official responsible for CFSR/PIP processes,
- the IV-B/IV-E agency permanency division director,
- the IV-B/IV-E agency training lead,
- Court Appointed Special Advocate leads,
- other related Children's Bureau grantees in the state, such as the Community-Based Child Abuse Prevention (CBCAP) lead,
- key service providers,
- state department of education representatives,
- an Indian Child Welfare Act specialist, and
- parents and youth with lived expertise in the child welfare system.<sup>9</sup>

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<sup>9</sup> CIPs should consider compensating and supporting parents and youth for their time and expenses. For additional information see, ACYF-CB-IM-19-03 <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1903.pdf>

State courts must provide an especially strong rationale in their grant application for not including the above identified agency representatives as task force members.

State courts are strongly encouraged to convene the task force at least quarterly and should provide an especially strong rationale in their application for holding meetings less than quarterly. Task force meetings should include joint review and discussion of child welfare data, data that may be available from court or attorney data systems and discussion of what those data may mean with this multidisciplinary group. This should include analysis and discussion of quantitative or qualitative data that help the state understand and take action on disparities or disproportionalities, including in terms of legal and judicial systems practice, the experience of the family, and/or outcomes affecting particular groups of children, youth or families (e.g., people of color, Native American children and families, LGBTQ youth or children and parents with disabilities). Meetings shall be used as an opportunity to monitor and review goals, identify opportunities for interventions and plan CIP involvement in program planning and improvement efforts with the title IV-E/IV-B agency.

### **iii. Collaboration with Title IV-B/IV-E Agency and Tribes**

State courts must demonstrate collaboration in applications for CIP funding by describing how the title IV-B/IV-E agency and tribes, where applicable, will be involved in CIP planning, including:

- identifying needs;
- developing theories of change;
- selecting or developing solutions;
- planning, preparing and implementing change; and
- evaluating and applying findings.

State courts must also commit to participating in all stages of child welfare program planning and improvement efforts, including the CFSP/APSR, CFSR and title IV-E Foster Care Eligibility Review processes within required timeframes.<sup>10</sup> CB also encourages state courts to collaborate with the IV-B/IV-E agency in planning for training judges and attorneys on the congregate care provisions of the Family First Prevention Services Act<sup>11</sup> and other relevant topics.

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<sup>10</sup> It is also important to note that there is a corresponding State agency requirement to demonstrate collaboration with State courts. Specifically, State child welfare agencies must demonstrate substantial, ongoing and meaningful collaboration with State courts in the development and implementation of their State plans under titles IV-B and IV-E and any PIPs developed as a result of the Child and Family Services and IV-E Foster Care Eligibility Reviews. *See* 42 U.S.C. § 622(b)(13).

<sup>11</sup> 42 U.S.C. § 629h(b); Social Security Act § 438(b)



### *CIP support for round 4 of the CFSR/PIP*

As described in CFSR Technical Bulletin #12, CB is asking for broad participation of legal and judicial partners in all stages of the CFSR/PIP.<sup>12</sup> This approach is rooted in the theory that meaningful inclusion of a representative array of stakeholders fosters better decision making.<sup>13</sup> While this will be a particular focus of our support for CIPs during this round of the CFSR/PIP, developing infrastructure to organize meaningful input from a broad array of legal and judicial stakeholders and supporting collaboration with other system partners is useful for other major CIP projects as well.

CIP leadership will be crucial to help support the CFSR/PIP. Because state legal systems are structured differently, some factors for each state team to consider around meaningful and representative participation include:

- Engaging legal and judicial stakeholders with a broad representation of perspectives including:
  - Judges and attorneys who have different levels of involvement in child welfare (e.g. full-time or part-time, supervisory)
  - Attorneys who represent parents, children, the agency, or others.
  - Tribal judges or attorneys
  - Diversity of experience and perspectives (e.g. individuals from different backgrounds or geographic areas and different levels of experience or expertise)
  - Type of offices (e.g. solo practitioners, organizational providers).
  - Experience with prior or on-going system reforms
  - Experience with particular practice models (e.g. attorney teams with parent or youth mentors, specialty courts)
- Balancing breadth and depth. Depending on how your legal and judicial systems are organized, their size and capacities, it may not be advisable for everyone to be involved in a concerted way throughout the process. Broad engagement has little benefit if perspectives cannot be meaningfully heard and used. Some approaches you may consider include:
  - Establishing tiers of participation such as a small group with key perspectives who can engage via other methods to gain a wider collective voice
  - Using shared virtual spaces (e.g. virtual meetings, documents, or listservs)
  - Using effective structures for meetings (e.g. Liberating Structures<sup>14</sup> Human-Centered Design<sup>15</sup>)
- Involving formal or informal leadership structures
- Utilizing legal and judicial data in the process

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<sup>12</sup> CB Announcement of CFSR Round 4 (August 2020), 7, [https://www.acf.hhs.gov/sites/default/files/documents/cb/csfr\\_technical\\_bulletin\\_12.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/csfr_technical_bulletin_12.pdf)

<sup>13</sup> See, id.

<sup>14</sup> <https://www.liberatingstructures.com/>

<sup>15</sup> <https://www.designkit.org/methods>

- Identifying different participation roles depending on the stage in the process (e.g. outreach, data collection, consensus building, decision-making, implementation)
- Keeping stakeholders informed throughout the process including through decision making and implementation using communication and feedback loops

Collaboration should result in institutional and infrastructural changes that lead to measurably improved outcomes for the children and families that the State is serving. The state court and the title IV-B/IV-E agency should meet regularly to examine agency and legal system(s) data in order to establish activities for both legal and judicial systems and the agency to target improvement. It is important to examine substantive and process outcomes including due process, equity, reducing maltreatment, reducing unnecessary removals<sup>16</sup>, improving family time/visitation,<sup>17</sup> improving placement stability, education stability,<sup>18</sup> or increasing quality, quantity, or timeliness of reunifications, adoptions or guardianships.

Examples of collaborating with tribes include establishing and regularly convening a state and tribal court workgroup to examine ICWA practice and state and tribal court collaboration on Indian child welfare matters. The group may conduct or oversee an ICWA assessment, work to implement the Bureau of Indian Affairs ICWA Regulations,<sup>19</sup> or develop and implement plans to continuously improve legal, case management, or service delivery practices.

CB strongly encourages grantees to work with the title IV-B/IV-E agency to collect and share critical data important to understanding ICWA practice<sup>20</sup>, including, but not limited to those related to:

- inquiry
- notice
- right to counsel
- qualified expert witnesses
- burdens of proof
- applicability determinations and findings

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<sup>16</sup> For related information on prevention, see ACYF-CB-IM-18-05  
<https://www.acf.hhs.gov/sites/default/files/documents/cb/im1805.pdf>

<sup>17</sup> For related information see, ACYF-CB-IM-20-02  
<https://www.acf.hhs.gov/sites/default/files/documents/cb/im2002.pdf>

<sup>18</sup> Joint guidance from the U.S. Departments of Education and Health and Human Services about implementation of the foster care provisions of the Every Student Succeeds Act (ESSA) is available at  
<http://www2.ed.gov/policy/elsec/leg/essa/index.html>

<sup>19</sup> The final regulations can be found at  
<http://www.indianaffairs.gov/WhoWeAre/BIA/OIS/HumanServices/IndianChildWelfareAct/index.htm>

<sup>20</sup> While this list of elements does not cover every possible area of ICWA practice, it represents the major areas seen in CIP work in this area. Assistance in developing programs around this is available from the Children’s Bureau’s Capacity Building Center for Courts.

- tribal involvement in cases
- active efforts
- tribal court jurisdiction
- placement preferences
- voluntary and involuntary terminations
- safety outcomes
- permanency outcomes
- well-being outcomes such as through tribal connections and placement stability

**b. CIP Projects and Activities**

State courts applying for the CIP grant must plan for and implement a minimum of three projects: a project to continuously improve the quality of child welfare court hearings and reviews; a project to continuously improve the quality of legal representation for parents, children and youth or the child welfare agency; and a joint project with the title IV-B/IV-E agency to improve specific safety, permanency, or well-being outcomes as identified through the CFSR or other CQI process.

(1) A project to continuously improve the quality of child welfare court, shelter care/emergency hearings, permanency hearings or permanency reviews.<sup>21</sup>

Quality court hearings are essential to a well-functioning child welfare system. Quality hearings ensure due process rights for children and parents and promote improved outcomes of safety, well-being and timely permanence. Given the importance of initial court appearances (e.g. shelter care and emergency hearings) as demonstrated through the research<sup>22</sup>, CB strongly encourages projects to include a special emphasis on the quality of those hearings.

CB further strongly encourages all grantees to ensure hearing quality projects include an enhanced focus on the quality of reasonable efforts determinations required under the law, specifically, reasonable efforts to prevent removal and reasonable efforts to finalize the permanency goal. This emphasis centers on the factual basis on which reasonable efforts determinations are made as opposed to simply measuring whether the determinations are made. Rather than a simple yes or no question and response, the determination contains a strong qualitative component, requiring appropriate breadth and depth in proceedings regarding what the IV-B/IV-E agency has done to make reasonable efforts.

State courts are required to share the results of efforts under this project in an ongoing fashion with the title IV-B/IV-E agency to help assess and improve legal

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<sup>21</sup> See, 42 U.S.C. § 629h(a)(1) and (2); Social Security Act § 438(a)(1) and (2)

<sup>22</sup> Summers, A., Gatowski, S., & Gueller, M. (2017). *Examining hearing quality in child abuse and neglect cases: The relationship between breadth of discussion and case outcomes*. Children and Youth Services Review, 82, 490-498.

and judicial roles around the CFSR, PIPs, title IV-E foster care eligibility reviews, and ongoing, joint CQI work. CIPs may find it helpful to review a collection of resources on hearing quality developed through a contract funded by CB and the ACF Office of Planning, Research, and Evaluation (OPRE). The purpose of this contract was to deepen the understanding of judicial decision-making and hearing quality in child welfare cases through a comprehensive review of research and measures. As part of this process, the project team developed a conceptual model to identify key components of judicial decision-making, hearing quality, and case outcomes.<sup>23</sup>

State courts are encouraged to consider all of the below data sources and methodologies in designing plans:

- Data from statewide and local court databases, where available;
- Data from the state title IV-B/IV-E agency including data available through state child welfare information systems, Adoption and Foster Care Analysis and Reporting System (AFCARS), CFSR Data, National Child Abuse and Neglect Data System (NCANDS), and National Youth in Transition Database (NYTD)<sup>24</sup>
- Quantitative or qualitative data which can highlight equity aspects of practice
- Manual data collection activities:
  - Periodic court observation using a standardized protocol
  - Periodic court file review using a standardized protocol
  - Surveys, focus groups, and interviews of judges, attorneys, agency stakeholders, parents or youth, or others

(2) A project to continuously improve the quality of legal representation for parents, children and youth, or the title IV-B/IV-E agency at all stages of child welfare proceedings.<sup>25</sup>

Quality legal representation is one of the primary supports that ensures safety, well-being, and permanence, including by increasing and improving engagement of the family in child welfare cases.<sup>26</sup>

In undertaking a legal representation project, CB strongly encourages grantees to consider statewide models of or approaches to legal representation for parents, children and youth, or the agency that require specialization in child welfare law through ongoing training and/or certification and incorporate multi-disciplinary teaming approaches such as the pairing of a well-trained child welfare attorney

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<sup>23</sup> <https://www.acf.hhs.gov/opre/report/compendium-measures-and-data-sources-understanding-judicial-decision-making-and-hearing>

<sup>24</sup> See <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>

<sup>25</sup> See, 42 U.S.C. § 629h(a)(1) and (2)(C); Social Security Act § 438(a)(1) and (2)(C)

<sup>26</sup> See, High Quality Legal Representation for All Parties in Child Welfare Proceedings, ACYF-CB-IM-17-02, available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>

with a social worker. Evidence of the value of multi-disciplinary models of legal representation and its association with expedited permanency and other positive outcomes continues to grow.<sup>27</sup>

CB encourages grantees to explore how access to and provision of legal representation may be contributing to or could be a force for addressing inequities.

CB further encourages grantees to work with the title IV-B/IV-E agency to maximize access to title IV-E funding<sup>28</sup> to support high quality legal representation<sup>29</sup> for parents, children and youth and to promote robust, ongoing training for judges, attorneys for parents, children and youth, and the title IV-B/IV-E agency attorneys as professional partner training under title IV-E training plans.

(3) A joint project with the title IV-B/IV-E agency to improve a specific safety, permanency, or well-being outcome or outcomes. State courts are required to plan and implement a joint project with the title IV-B/IV-E agency that will focus on improving a specific safety, permanency, or well-being outcome. The plan must identify the specific outcome(s) that will be addressed and the specific measures that will be used to track progress and ensure continuous quality improvement. The plan must also identify the data, such as CFSR findings, that were used to identify the selected outcome as a priority.

Joint projects on safety could include projects on primary or secondary prevention.<sup>30</sup> In one state example, the CIP, judges, the title IV-E agency, and service providers are collaborating to build the capacity of communities to connect children and families to the supports and services they need to be safe, stable, and self-sufficient, before maltreatment occurs.

Joint projects may also focus on preventing the need for removal when families have made contact with the system. For example, this may include efforts to build state capacity to fund collateral civil legal issues such as housing, benefits, child custody, immigration and other issues that may leave families vulnerable to

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<sup>27</sup> See Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare, by Lucas A. Gerber, Yuk C. Pang, Timothy Ross, Martin Guggenheim, Peter J. Pecora, and Joel Miller (*Children and Youth Services Review*, 102), is available at <https://www.sciencedirect.com/science/article/pii/S019074091930088X>.

<sup>28</sup> In December of 2018, CB revised policy to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care, and his/her parents to prepare for and participate in foster care legal proceedings. This change in policy will help ensure that, among other things, reasonable efforts are made to prevent removal and finalize the permanency plan, parents and youth are engaged in and understand their case plan. See question 30 +

[https://www.acf.hhs.gov/cwpm/public\\_html/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp.jsp?citID=36](https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36)

An additional Technical Bulletin was released in 2020 to provide additional clarification

[https://www.acf.hhs.gov/sites/default/files/documents/cb/technical\\_bulletin\\_faq\\_legal\\_representation.pdf](https://www.acf.hhs.gov/sites/default/files/documents/cb/technical_bulletin_faq_legal_representation.pdf)

<sup>29</sup> See, <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2106.pdf>

<sup>30</sup> <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1805.pdf>

child welfare involvement.<sup>31</sup> Another example may include better addressing out-of-court kinship diversions (sometimes called ‘hidden foster care’), where the legal and judicial community may be able to help support kinship placements, particularly to ensure both due process rights and civil legal support for parents and kin.

### c. **Continuous Quality Improvement and Change Management**

The 2012 PI for the CIP<sup>32</sup> introduced continuous quality improvement (CQI) as the common approach for CIP work. CQI is a cyclical process used to identify, inform, monitor and improve progress toward outcomes in an ongoing fashion. The CQI framework provides an opportunity to meaningfully examine projects and activities to ensure resources are used in an efficient and effective manner and that interventions have their desired effect. CQI is a change management process that includes multiple steps or phases. CB provides an array of supports for improving CQI-processes through the Capacity Building Center for Courts. See Resources for State Court Improvement Programs below. To advance individual work and collective learning, state courts are required to use the following steps to guide court-centered and collaborative work:<sup>33</sup>

- ***Identify and assess needs.*** Before diving into a project or activity it is important to take time to intentionally identify and assess the problem or need. To ensure a well-rounded perspective, teams of relevant stakeholders should be formed to discuss the need and guide the work. These teams may be composed of CIP task-force members, but may also require additional expertise.

It is important to explore existing data and gather additional data to help understand the problem in more depth, to better identify who or what is most affected by the problem, and discern what information is already available to think about the need. State child welfare agencies collect and store a wide range of child welfare administrative data, housed in electronic data management systems. State child welfare agencies collect and store a wide range of child welfare administrative data, housed in electronic data management systems. Child maltreatment data are reported annually for NCANDS and foster care and adoption data, and data are reported semi-annually through AFCARS.<sup>34</sup> NYTD is another data source with important data on outcomes for older youth remaining in or exiting care.<sup>35</sup>

Many measures calculable from these systems can help state courts dig deeper and better understand the safety and permanency of children and youth in foster care and begin discerning how court and attorney action may impact both.

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<sup>31</sup> For an example, see <https://artscimedia.case.edu/wp-content/uploads/sites/35/2014/02/14194055/CFARReport.pdf>

<sup>32</sup> <https://www.acf.hhs.gov/sites/default/files/documents/cb/pi1202.pdf>

<sup>33</sup> 42 U.S.C. § 629h(a)(1) and (2); Social Security Act § 438(a)(1) and (2)

<sup>34</sup> <https://www.cfsrportal.acf.hhs.gov/resources>

<sup>35</sup> <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>

- ***Develop a theory of change.*** Following the data gathering phase, it is important to develop a theory of change. The theory of change identifies theoretical root causes of a problem and how they can be resolved with an intervention. A theory of change links outcomes to proposed activities and explains both how and why a desired change is expected to occur.
- ***Select and adapt or develop a solution.*** Once a problem or need has been clearly identified and defined, it is time to explore solutions. It is important to take the time to research and consider interventions that already exist, including what has worked in other jurisdictions. Research should inform decisions, particularly if interventions or similar practices have been implemented elsewhere and have evidence to support their effectiveness. Selecting the appropriate intervention depends on needs, resources, and feasibility. Any intervention selected should be adapted to meet the unique needs of the state/jurisdiction. If no available interventions exist, consider designing and testing one to best meet the needs of the program.
- ***Plan, prepare and implement an intervention or change.*** Implementation is most successful when done following a strong and specific implementation plan and where a site is ready to change. An honest assessment of readiness with a site should always be conducted prior to determining if it is appropriate to implement the effort. Capacity should be built within the site to ensure resources and supports are available to sustain the intervention. Then, the intervention (e.g., program or practice) should be piloted or tested.
- ***Evaluate and apply findings.*** Changes in practice or implementation of new interventions should be monitored and evaluated to understand if they are achieving their intended effect. Data should be collected on implementation or fidelity of the new practice to ensure it is being implemented as expected. Evaluation efforts should measure both the quality of the intervention (how it is being implemented) and the effects of the intervention, both immediate (how it changes practice) and long-term (how it affects outcomes for families or youth). Data from monitoring and evaluation should drive decision-making about modification, continuation, or expansion of the intervention. Attachment C includes a list of questions to consider for each of the above steps.

### **III. SELF-ASSESSMENT PROCESS REQUIREMENTS**

CIPs are required to conduct an annual self-assessment to identify progress, challenges and areas in need of assistance. The purpose of the self-assessment process is to create an opportunity for CIPs to reflect on what they are doing, why they are doing it, and to assess if efforts are achieving intended results. The self-assessment process is designed to help shape and inform ongoing strategic planning and should include meaningful discussion with the multi-disciplinary task force and candid reflection of key CIP staff. A self-assessment template has been developed

to assist with the process and is required to be submitted to the CB annually. The template and process are intended as important elements of CQI.

To promote joint planning with the title IV-B/IV-E agency and support integration of CIPs into child welfare planning and improvement efforts, annual self-assessments and strategic plan updates are due at the same time as state CFSP/APSR submissions. The self-assessment template is included as Attachment B.

CB will host individual calls with each CIP to review progress in meeting grant requirements, identified outcomes and to provide guidance and support at least annually.

#### **IV. STRATEGIC PLAN REQUIREMENTS**

To ensure thoughtful program and project management, each state court applying for CIP funding is required to create and submit a five-year strategic plan that identifies outcomes the state court will address and the projects and activities that they will undertake to achieve them. Courts submitted new five-year plans for FYs 2022 – 2026 in June 2021. Strategic plans are intended to be a tool that guides CIP work. Strategic plans must clearly articulate what the state court intends to achieve and how. Strategic plans are living documents that should be updated as needed to reflect self-assessment results and CQI efforts but minimally, an updated strategic plan must be submitted to CB annually for review, discussion, and approval. Therefore, for the CIP application due June 30, 2022, courts are required to review and make any needed updates to the previously submitted strategic plan. The strategic plan template is included as Attachment D.

As a reminder, the strategic plan should include:

- For the required projects as described in Section II(b) of this PI, plans
  - to continuously monitor and improve the quality of child welfare court proceedings, including court hearings and reviews;
  - for a joint, data-driven project with the child welfare agency;
  - to continuously monitor and improve the quality of legal representation.
- As integrated in the required projects or separately:
  - a description of how a portion of the grant will be used for cross-training with the title IV-E/IV-B agency;
  - plans to increase and improve engagement of the entire family in court processes including by training judges, attorneys, and other legal personnel; and
  - a description of how courts and child welfare agencies on the local and state levels will collaborate and jointly plan for the collection and sharing of all relevant data and



information to demonstrate how improved case tracking and analysis of child welfare cases will produce safe and timely permanency decisions.<sup>36</sup>

As a reminder, in FY21, grantees received supplemental funding through Division X of the Consolidated Appropriations Act, 2021 to address needs stemming from the COVID-19 public health emergency. Guidance on use of these funds and reporting requirements was provided in ACYF-CB-PI-21-04.<sup>37</sup> Consistent with that guidance, please denote in the Self-Assessment and updated Strategic Plan which projects were/will be funded in part through Division X supplement with the text ‘COVID’ somewhere in the project description.

## V. APPLICATION REQUIREMENTS

To receive funds for FY 2023, State courts must complete and submit an application including all of the requirements detailed below by **June 30, 2022**. Annual awards are subject to the availability of funds and to the CIP demonstrating program progress.

### Applications for FY 2023 CIP Grants

To receive funding for FY 2023, state courts must submit the application components:

1. An application cover sheet, providing organizational information and a checklist for the application packet (see Attachment A).
2. A list of the members of the statewide multidisciplinary taskforce including the:
  - a. name of the member; and
  - b. professional affiliation and title, role, or area of expertise.
3. In a case where the recommended state agency participants are not included on the statewide multi-disciplinary team, the state court must provide narrative explanation and rationale for not including the identified members.
4. A budget narrative, including a concise description of how FY 2023 funding is planned to be used to
  - a. support the overall program operation
  - b. support required projects and other efforts outlined in the Strategic Plan
  - c. support training, and
  - d. ensure that not less than 30 percent of funding will support data collaboration as described in Sections II and IV above
5. An updated Self-Assessment (see Section III and Attachment B).

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<sup>36</sup> 42 U.S.C. § 629h(b)(1); Social Security Act § 438(b)(1)

<sup>37</sup> The CIP sections starts on page 19, <http://www.acf.hhs.gov/sites/default/files/documents/cb/pi2104.pdf>

6. An updated five-year Strategic Plan that reflects how grant funds will be used to identify and implement approaches to ensure continuous quality improvement (see Section IV and Attachment D).

### **Submitting an Application**

State courts must submit applications in MS Word and PDF, via e-mail to the appropriate CB Regional Program Manager (See link below) and Scott Trowbridge, Federal Project Officer, at [scott.trowbridge@acf.hhs.gov](mailto:scott.trowbridge@acf.hhs.gov). CB will approve applications that satisfy the requirements and purposes described at Section 438 of the Act and the requirements described in this Program Instruction. [Children’s Bureau Regional Program Managers | The Administration for Children and Families \(hhs.gov\)](#)<sup>38</sup>

## **VI. FISCAL REPORTING REQUIREMENTS**

The CIP grants have a two-year project/obligation period starting the first day of the federal fiscal Year, October 1, for which funds were awarded and ending September 30, the last day of the following federal fiscal. An interim financial report, covering the first fiscal year (year of award), must be submitted no later than 90 days following the end of the fiscal year. In addition, and in accordance with Federal regulations at 45 CFR 75.309(b), the final financial report, covering the entire two-year obligation and liquidation periods, must be submitted no later than the last day of the liquidation period. Because of the merger of the grants, beginning with the FY 2022 grant, only one SF-425 Report will be now required each year. State courts are required to file these reports electronically through the HHS Payment Management System.

### **Resources for State Court Improvement Programs**

The Children’s Bureau’s Child Welfare Capacity Building Center for Courts (CBCC) is designed to provide capacity building support to all CIPs. The CBCC has liaisons assigned to each state and the tribal CIPs, as well as research staff that are paired with each liaison. They work directly with CIP Directors, Coordinators and key staff to help CIPs incorporate CQI approaches into their work, assist with strategic planning and serve as thought partners as needed. In addition to direct work with individual CIPs, the CBCC also hosts a number of constituency groups composed of groups of CIPs that are interested in similar types of work and facilitates opportunities for group learning and peer-to-peer sharing through regularly scheduled online meetings, working sessions and discussions. The CBCC also develops ‘Universal’ products that support CIP work. These and contact information can be found here <https://capacity.childwelfare.gov/courts/>.

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<sup>38</sup> <https://www.acf.hhs.gov/cb/training-technical-assistance/childrens-bureau-regional-program-managers>

## **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (P.L. 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. The OMB control number for this collection is 0970-0307 and it expires 11/30/2022. The estimated time to complete the CIP application process is 92 hours.

**INQUIRIES TO:**    [CB Regional Program Managers](#)

/s/

Cheri Hoffman  
Acting Commissioner  
Administration on Children, Youth  
And Families

### Disclaimer Language

*The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.*

### **Attachments:**

- A: Application Cover Sheet
- B: Self-Assessment Template
- C: Change Management Questions
- D: Strategic Plan Template
- E: FY 2021 Allocations for the Court Improvement Program Grants