

April 10, 2015

Kathleen McHugh
Division of Policy, Children's Bureau, Administration on Children, Youth and Families
Administration for Children and Families
1250 Maryland Avenue SW., 8th Floor
Washington, DC 20024

Re: Docket ID ACF-2015-02354

Dear Ms. Kathleen McHugh,

The National Network for Youth (NN4Y) is the nation's leading organization advocating at the federal level to educate the public and policymakers about the needs of homeless and disconnected youth. We are a membership organization of service providers, state agencies, faith-based organizations, coalitions, advocates and individuals who work towards our vision of a world where vulnerable and homeless youth can escape the dangers of the streets and access safety, youth-appropriate services, hope and healing. On behalf of these youth, the 25 undersigned organizations hereby submit the following comments on the proposed rules to the Adoption and Foster Care Analysis and Reporting System (AFCARS).

Overall, we support these regulations as they provide increased guidance to and accountability of State title IV-E agencies in regards to collecting data on the youth they serve. The issuance of these proposed rules shows that the Administration of Children and Families understands that additional data concerning youth who are in out-of-home care, and in subsidized adoption or guardianship arrangements with the State, is crucial to continuing to learn from and improve the child welfare system.

The comments below are meant to support the current Notice of Proposed Rulemaking (NPRM) where appropriate as well as note places in which the proposed rules could go further to specifically learn more about where youth go when they run away, whereabouts are unknown, etc., and also recommends that data not be collected if it could put a young person in a potentially unsafe situation. The recommendations in this document will inform policymaking within the foster care system and other systems and programs that these vulnerable young people encounter.

These comments are limited to:

Section 1355.43 Out-of-Home Care Data File Elements

Section 1355.43(b)(2): Child's sex and specific questions on LGBTQ data collection

Section 1355.43(d)(3): Environment at removal
Section 1355.43(d)(5)(i): Circumstances at removal-Runaway
Section 1355.43(d)(5)(ii): Whereabouts unknown
Section 1355.43(d)(5)(viii): Domestic Violence
Section 1355.43(d)(5)(xxv): Inadequate housing
Section 1355.43(e)(1): Date of living arrangement
Section 1355.43(e)(3)(vi): Living arrangements and provider information- Kin foster family home
Section 1355.43(e)(4): Other living arrangement type
Section 1355.43(f)(1): Permanency plan (addition of Kin to adoption)
Section 1355.43(f)(4)(viii): Emancipation likely
Section 1355.43(f)(7): Juvenile justice
Section 1355.43(g)(4): General exit information-Transfer to another agency
Section 1355.43(h)(2): Exit to adoption/guardianship- Child's relationship to adoptive parents or guardians

Section 1355.43(b)(2): Child's sex and specific questions on LGBTQ data collection

While the National Network for Youth (NN4Y) recognizes the value in collecting data about Lesbian, Gay, Bisexual, Transgender, or Queer (LGBTQ) youth in the foster care system, there are major concerns with doing so. First, it is an unfortunate truth that there are still providers and foster parents who will discriminate against and even mistreat a youth for identifying as LGBTQ. Secondly, many youth will not self-identify as LGBTQ out of fear; therefore, the data collected is likely to be inaccurate, which could lead to the appearance that certain services and policies are unnecessary. Because it has been established that LGBTQ youth are over-represented in the foster care system in comparison to the general youth population¹, if this data is to be collected, it must be coupled with extensive trainings and penalties for any negative repercussions suffered by the youth. Additionally, a hotline should be put in place for any youth in care to be able to call and report any negative or discriminatory treatment and policies should be created to investigate and adjudicate such a claim against a provider.

Section 1355.43(d)(3): Environment at removal:

Environment at removal. Indicate the type of environment (household or facility) the child was living in at the time of each removal for each removal reported in paragraph (d)(1) of this section... Indicate "justice facility" if the child was in a detention center, jail or other similar setting where the child was detained.

NN4Y strongly supports collecting data points about foster youth who have been involved with juvenile justice facilities.

¹ Child Welfare Information Gateway. (2013) Supporting Your LGBTQ Youth: A Guide for Foster Parents. *Factsheets for Families*. Retrieved from <https://www.childwelfare.gov/pubs/LGBTQyouth>

Section 1355.43(d)(5)(i): Circumstances at removal-Runaway

The child has left, without authorization, the home or facility where the child was residing [at the time of removal].

NN4Y supports data collection on youth who run away at the time a title IV-E agency was to receive placement and care responsibility. Additionally, we recommend the following specific data sub-points to get a more detailed picture of where youth running away from system involvement are running to:

- Other family homes
- Kin homes
- Homelessness
 - Residential or overnight program
 - Places not meant for human habitation (i.e., abandoned buildings, laundromats, public transportation hubs, libraries, etc.)
 - Unsheltered (i.e., streets, parks, camps, etc.)
 - Couch-surfing with strangers
- Other

These data sub-points will allow us to learn more about where youth are running to when avoiding foster care placements. This information will help the youth field understand how many are turning to other forms of services. Further, this information is crucial for understanding how different funding streams are used to help a youth throughout their time in out-of-home care.

Section 1355.43(d)(5)(ii): Circumstances at removal-Whereabouts unknown

The child’s whereabouts are unknown and the title IV–E agency does not consider the child to have run away.

NN4Y supports tracking when a youth’s whereabouts are unknown at the time the title IV-E agency was to receive placement and care responsibility. Additionally, it is important for informing policymaking that we know about where youth go, or are taken, during this period because the youth’s vulnerability is increased and they may be engaging with a number of programs. Therefore, we recommend the following specific data sub-points to get a more detailed picture of where the youth is while their whereabouts was unknown:

Check all that apply:

- Other family homes
- Kin homes
- Homelessness
 - Residential or overnight program
 - Places not meant for human habitation (i.e., abandoned buildings, laundromats, public transportation hubs, libraries, etc.)

- Unsheltered (i.e., streets, parks, camps, etc.)
- Couch-surfing with strangers
- Community or Drop-in centers
- Other

Additionally, this could help shed light on how many youth are being exploited as victims of human trafficking because a youth may have been taken out of the area by a trafficker. These data sub-points in combination with the specific trafficking data to be collected under 45 CFR § 1355.43(b)(18-19) will provide a clearer understanding of prevalence and the living situations of trafficked youth.

Section 1355.43(d)(5)(viii): Domestic Violence

Alleged or substantiated physical or emotional abuse between one adult member of the child’s home and a partner or the child and his or her partner if the child is age 18 or older. This does not include alleged or substantiated maltreatment of the child by a person who is responsible for the child’s welfare.

Due to the emphasis on collecting data on human trafficking victims, we recommend that this section should not be limited to a child aged 18 or older. Though there is a data point about youth who were victims of trafficking prior to out-of-home care placement, those data points do not show whether there was violence in the home the youth was staying in while trafficked. Those who traffic youth are often not the “person responsible for the child’s welfare.” Thus, traffickers of minors, and minor human trafficking victims, would not fall into either the physical abuse or the domestic violence categories if limited by age. Further, it would be helpful to add emancipated minors to this definition as well since they are likely to be minors and living with adults who are not responsible for their welfare.

Therefore we recommend removing the “18 or older” limitation and adding emancipated minors such that the first sentence will read, “Alleged or substantiated physical or emotional abuse between one adult member of the child’s home and a partner or the child and his or her partner regardless of age and including emancipated minors.”

Section 1355.43(d)(5)(xxv): Inadequate housing

The child’s or his or her family’s housing is substandard, overcrowded, unsafe or otherwise inadequate which results in it being inappropriate for the child to reside. This circumstance also includes homelessness.

It is noted in the NPRM that a reason for not parsing out “homelessness” as a separate category is because ACF did not have a purpose for collecting this level of detail. However, homelessness alone should not be a reason for system involvement. Also, it would be of great value to homelessness advocates to know how many youth are being placed in foster care solely on this basis. When youth are afraid of system involvement, they do not seek out resources and help which inevitably creates barriers to them

receiving services. Therefore, we recommend that “homelessness” should be a category separate from “inadequate housing,” and the specific circumstances of homelessness should also be recorded as follows:

- Homelessness
 - Residential or overnight program
 - Places not meant for human habitation (i.e., abandoned buildings, laundromats, public transportation hubs, libraries, etc.)
 - Unsheltered (i.e., streets, parks, camps, etc.)
 - Couch-surfing with strangers

Section 1355.43(e)(1): Date of living arrangement

ACF is interested in collecting runaway and whereabouts unknown dates in order to calculate the actual time the child is absent from the provider or facility without permission and the title IV–E agency must continue to report on each child in the out-of-home care reporting population until the title IV–E agency’s placement and care responsibility ends.

Question: Can this data be used for the purposes of title IV-E agencies reimbursing Runaway and Homeless Youth (RHY) programs when youth run away from foster care and seek services in RHY programs?

It is crucial to track where youth in out-of-home care go when they run away directly from a provider or facility. In addition to the dates the youth is absent from the provider or facility without permission, we also recommend recording where that youth was during the absence. The specific data sub-points should be listed in order to get a better picture of all of the different places a young person was while not with a foster care provider or facility:

Check all that apply:

- Other family homes
- Kin homes
- Homelessness
 - Residential or overnight programs
 - Places not meant for human habitation (i.e., abandoned buildings, laundromats, public transportation hubs, libraries, etc.)
 - Unsheltered (i.e., streets, parks, camps, etc.)
 - Couch-surfing with strangers
- Community or Drop-in centers
- Other

Section 1355.43(e)(3)(vi): Kin foster family home

The home is one in which there is a kin relationship as defined by the title IV–E agency, such as one where there is a psychological, cultural, or emotional relationship between the child or the child’s family and the foster parent(s).

NN4Y fully supports the addition of this new response option as kin families have become an increasingly important placement option.

Section 1355.43(e)(4): Other living arrangement type

Other living arrangement type. If the title IV–E agency indicated that the child’s living arrangement is other than a foster family home in the data element Foster family home in paragraph (e)(2) of this section, indicate the type of setting; otherwise the title IV–E agency must leave this data element blank... Indicate “juvenile justice facility” if the child is in a secure facility or institution where alleged or adjudicated juvenile delinquents are housed.

NN4Y fully supports collecting data about youth who are moving from out-of-home care into juvenile justice facilities in order to gain a clearer picture of youth involved in the foster care system and the extent to which their systemic experiences overlap with juvenile justice.

Section 1355.43(f)(1): Permanency plan (addition of Kin to adoption)

Indicate each permanency plan established for the child... Indicate “adoption” if the plan is to facilitate the child’s adoption by relatives, foster parents, kin or other unrelated individuals.

NN4Y fully supports the addition of this new response option as kin families have become an increasingly important placement option.

Section 1355.43(f)(4)(viii): Reason for permanency plan change-Emancipation likely

When permanency for the child through reunification, adoption or legal guardianship is not an appropriate permanency plan.

We support collecting this data as it is important to analyze the frequency with which permanency plans are changed for this reason.

Section 1355.43(f)(7): Juvenile justice

Indicate whether the child was found to be a status offender or adjudicated delinquent by a juvenile judge or court at any time during the report period. If the child was not found to be a status offender or adjudicated delinquent during the report period indicate “not applicable.” If the child was involved with the juvenile justice system, indicate the type of involvement. Indicate “status offender” if the child has been found to be a status offender. A status offense is specific to juveniles, such as running away, truancy or underage alcohol violations. Indicate “adjudicated delinquent” if the child has been adjudicated delinquent. Indicate “both status offender and delinquent” if the child has been found to be a status offender and adjudicated delinquent during the report period.

NN4Y supports collecting this data especially in regard to the collection of status offenses. We recommend specifying data sub-points for status offenses as it is important for policymaking to know how many youth are being sent to juvenile justice facilities because they ran away from out-of-home care. This would allow states to look more closely at facilities and potentially change state laws about runaway as a status offense. The data sub-points should read as follows:

- Status Offense:
 - Truancy
 - Run away
 - Underage Alcohol Violation
 - Other

Section 1355.43(g)(4): General exit information-Transfer to another agency

If the title IV–E agency indicated the child was transferred to another agency in the data element Exit reason described in paragraph (g)(3) of this section, indicate the type of agency that received placement and care responsibility for the child from the following options:

“State title IV–E agency,”... “juvenile justice agency,” “mental health agency,” “other public agency” or “private agency.”

NN4Y fully supports collecting general exit data on youth in these specific categories as they are likely to involve different funding streams after the youth exits out-of-home care.

Section 1355.43(h)(2):Exit to adoption/guardianship-Child’s relationship to adoptive parents or guardians

Indicate the type of relationship, kinship or otherwise, between the child and his or her adoptive parent(s) or legal guardian(s)... (h)(2)(vi)Kin. The adoptive parent(s) or legal guardian(s) has a kin relationship with the child, as defined by the title IV–E agency, such as one where there is a psychological, cultural or emotional relationship between the child or the child’s family and the adoptive parent(s) or legal guardian(s).

NN4Y fully supports the addition of this new response option as kin families have become an increasingly important need and placement option for youth.

Thank you for your ongoing efforts to continue to improve the Adoption and Foster Care Analysis and Reporting System. NN4Y appreciates the opportunity to provide comment and urges your consideration of this important matter.

THE FOLLOWING ORGANIZATIONS ENDORSE AND SUPPORT THESE RECOMMENDATIONS:

NATIONAL

National Association for the Education of Homeless Children and Youth
National Center for Transgender Equality

National Disability Rights Network
National Network for Youth
National Safe Place Network
Polaris

STATE

California Coalition for Youth
Coalition for Homeless Youth, New York
Illinois Collaboration on Youth
Oklahoma Association of Youth Services
Wisconsin Association for Runaway Services

LOCAL

Alternative House, Fairfax, VA
Bill Wilson Center, San Jose, CA
Kids in Crisis, Cos Cob, CT
Larkin Street Youth Services, San Francisco, CA
Lighthouse Youth Services, Inc., Cincinnati, OH
LUK, Inc., Fitchburg, MA
Pathfinders Milwaukee, Inc., Milwaukee, WI
Sasha Bruce Youthwork, Washington, DC
Teen Feed, Seattle, WA
The Center for Youth Services, Rochester, NY
Walker's Point Youth & Family Center, Milwaukee, WI
YouthCare, Seattle, WA
Youth In Need, St. Charles, MO
Youth Services of Tulsa, Tulsa, OK