

June 2000

# FOSTER CARE

## HHS Should Ensure That Juvenile Justice Placements Are Reviewed



G A O

Accountability \* Integrity \* Reliability



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## Abbreviations

CFS	child and family services
DSS	Department of Social Services
HHS	Department of Health and Human Services
ISP	individual services plan
JPC	Juvenile Probation Commission
PRS	Department of Protective and Regulatory Services
TYC	Texas Youth Commission

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B-281545

June 9, 2000

The Honorable George Miller  
Ranking Minority Member  
Committee on Resources  
House of Representatives

The Honorable Charles Rangel  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives

The Honorable Henry A. Waxman  
Ranking Minority Member  
Committee on Government Reform  
House of Representatives

The Honorable Pete Stark  
Ranking Minority Member  
Subcommittee on Health  
Committee on Ways and Means  
House of Representatives

The Honorable David R. Obey  
Ranking Minority Member  
Committee on Appropriations  
House of Representatives

The Honorable John Conyers  
Ranking Minority Member  
Committee on the Judiciary  
House of Representatives

The Honorable Barbara Lee  
House of Representatives

Each year, the federal government spends over \$3 billion to finance foster care placements for about half a million children. Under title IV-E of the Social Security Act, which authorizes federal foster care funding, foster care placements may be based on a judicial determination that remaining in

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the home would be contrary to the welfare of the child. These determinations are made in both dependency (child welfare) and delinquency (juvenile justice) cases. Although most foster care funds support child welfare placements, they may also be used to support juvenile justice placements.

Since the early 1980s, the Department of Health and Human Services (HHS) has been approving title IV-E reimbursements for foster care placements made by juvenile justice agencies for children in the juvenile justice system. However, the Social Security Act prohibits using foster care funds for placements in facilities operated primarily for detention. In addition, the act stipulates specific procedural requirements intended to protect the welfare of all children in foster care placements supported by title IV-E funds. These include developing a written case plan for each placement, a court or administrative case review at least every 6 months, a permanency hearing within 12 months of placement, and “procedural safeguards” to protect parents’ rights when a child is removed from the home. Concerned that compliance with provisions of the law may be more difficult in juvenile justice placements, you asked us to (1) determine the number of title IV-E foster care placements made by juvenile justice agencies in fiscal year 1998 and the amount of federal care funding expended for these placements, (2) describe how selected states ensure that title IV-E funds are not used for placements in detention facilities and ensure that procedural requirements to protect the welfare of children in title IV-E funded juvenile justice cases are met, and (3) assess HHS’ processes for ensuring the appropriate use of funds and compliance with these procedural requirements in title IV-E funded juvenile justice placements.

To conduct our work, we reviewed state licensing regulations for child care institutions in the 10 states that HHS data showed had claimed the most fiscal year 1998 title IV-E funding for all foster care maintenance expenses—primarily food, shelter, and clothing: California, Illinois, Maryland, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, and Texas. To estimate the number of title IV-E funded juvenile justice placements in fiscal year 1998 and the federal dollars expended for both maintenance and administrative costs, we surveyed all 50 states and the District of Columbia. We also did fieldwork at state and county child welfare and juvenile justice agencies in California and Texas to determine how they attempt to ensure that title IV-E procedural requirements are met. However, we did not independently verify the effectiveness of these activities. We reviewed a total of 18 cases during our fieldwork to obtain some indication of how the systems that are in place to

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ensure facility eligibility and procedural requirements operate and what issues arise related to placement eligibility for title IV-E funds and compliance with title IV-E procedural requirements in cases involving juvenile justice placements. We did not determine, in these cases, if facilities in which children were placed were eligible for title IV-E funding, if procedural requirements were met, or if children received the services they required. We also interviewed HHS officials and reviewed pertinent laws, regulations, and documents, including regulations issued in January 2000 revising the objective, scope, and methodology for HHS title IV-E eligibility and child and family services review systems. (For a detailed description of our scope and methodology, see app. I.) We conducted our work between January 1999 and May 2000 in accordance with generally accepted government auditing standards.

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## Results in Brief

In fiscal year 1998, about \$300 million in title IV-E funds was used to support foster care placements of children in the juvenile justice system. Almost half of the states used some portion of their title IV-E funds in this way. Nearly 60 percent of the total amount of title IV-E funding used for juvenile justice placements was used by California. The \$300 million used for children in the juvenile justice system is 10 percent of all fiscal year 1998 title IV-E expenditures; however, the 15,000 juvenile justice system children supported by those funds constituted only about 4 percent of all children supported by foster care funds. The disproportionate spending on juvenile justice system foster care children may be attributable, in part, to the greater levels of—and thus more costly—supervision that, according to juvenile justice officials, many children in the juvenile justice system need.

To ensure that title IV-E funds are not being used for placements in detention facilities, the 10 states that used the largest amount of such funding in fiscal year 1998 rely primarily on the requirements that a facility must meet in order to be licensed as a child care institution. Licensing regulations in those states establish standards designed primarily to ensure a healthy and safe physical environment for the children. In some states, these regulations allow a facility to engage in some restrictive practices that have been associated with detention; however, the regulations permit such practices only under certain circumstances, such as when children pose a threat to themselves or others or when such practices are necessary in order to manage inappropriate behaviors. State licensing regulations also play a role with regard to meeting title IV-E procedural requirements intended to protect the welfare of children in foster care cases—namely, that case plans be developed, administrative case reviews be conducted,

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and procedural safeguards be in place. States enforce their licensing regulations through periodic on-site visits and facility inspections. In addition to their licensing regulations, the two states whose procedures we examined more closely, California and Texas, have administrative regulations for protecting children in foster care, which address in detail the title IV-E procedural requirements.

HHS has acknowledged that states have sometimes encountered difficulty in determining whether the facilities in which juvenile justice system children are placed qualify to receive title IV-E funding and in meeting procedural requirements in these cases. Consequently, HHS has provided guidance to states on what constitutes detention and is currently in the process of developing additional guidance on that subject. In addition, HHS conducts two broad oversight reviews in each state, a title IV-E eligibility review and a child and family services (CFS) review. Title IV-E eligibility reviews primarily verify children's and foster care providers' eligibility for title IV-E funding in a random sample of title IV-E funded foster care placements in each state. CFS reviews, in part, assess systems states use to determine the eligibility of foster care providers for title IV-E funding and systems states use to ensure that procedural requirements are met in title IV-E funded placements. CFS reviews collect information for this assessment through interviews with state and community representatives and a review of a random sample of title IV-E funded cases in each state. It is not clear based on new regulations for eligibility and CFS reviews whether the results of these reviews will enable HHS to determine if title IV-E funding is being used for placement in appropriate facilities or if procedural requirements are being met in juvenile justice cases—and, thus, whether these reviews, as designed, constitute adequate oversight of the use of title IV-E funds in these cases. Therefore, we are recommending that HHS review a sufficient number of title IV-E funded juvenile justice placements in child care institutions in those states having such placements to determine with a reasonable degree of assurance whether facility eligibility and procedural requirements are being met for such cases. In its comments on a draft of this report, HHS agreed that more information is needed to understand and address issues surrounding the use of title IV-E funding in juvenile justice cases and suggested other means than those we recommended for collecting this information. Therefore, we modified the language of our recommendations to accommodate the use of alternative means of accomplishing their intended effect.



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## Background

Federal funds for foster care are authorized under title IV-E of the Social Security Act. The foster care entitlement program provides matching funds to states to cover the cost of maintaining neglected and abused children in foster care placements, such as foster family homes or child care institutions, also referred to as group homes.<sup>1</sup> To receive title IV-E funds, a state must submit to HHS for approval a plan that protects the rights of foster care children and families and defines a statewide service delivery system for the foster care maintenance program authorized by the act. These state plans must include, in part, how agencies will ensure that (1) the children and the foster homes or child care institutions in which the children are placed meet title IV-E eligibility criteria and (2) procedural requirements in the act are met in title IV-E funded placements.

Children qualify if they have been removed from the home pursuant to a voluntary agreement entered into by their legal guardian or as the result of a judicial determination that continuation in the home would be contrary to their welfare, and their families meet eligibility criteria related to income level.<sup>2</sup> Title IV-E funded placements are typically for children in the child welfare system. However, HHS has issued several policy statements specifically allowing eligibility claims for title IV-E funding for foster care placements for juveniles who are wards of the court.

Foster homes and child care institutions qualify for title IV-E funding if they are licensed by the state and not operated primarily to detain children who have been determined to be delinquent. In a policy statement issued in 1982, HHS stated that the term “child care institution” may not include “detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children determined to be delinquent.” The statement also noted that “primarily” refers to the use of the facility for detention purposes and that determining whether a facility operates primarily for detention depends on who operates it, for what purposes it exists, from whom it receives its major financial resources, the circumstances of the children who reside there, and its economic viability if it did not house children adjudicated delinquent. In 1988, HHS issued a

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<sup>1</sup>These include private nonprofit or for-profit child care institutions and public child care institutions housing up to 25 residents.

<sup>2</sup>Specifically, the criteria in effect are those in the Aid to Families with Dependent Children program—precursor to the Temporary Assistance to Needy Families program—on July 16, 1996.

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policy statement emphasizing that “the two factors that will be determinative in identifying such a facility are (1) it must be a physically restricting facility and (2) it would not be operational without a population of children who have been adjudicated delinquent.”

The nature and purpose of facilities’ restrictive practices were addressed in a 1988 Departmental Grant Appeals Board decision in which California appealed HHS’ decision to disallow IV-E payments for placements in a Rite of Passage facility. HHS’ Departmental Grant Appeals Board cited a number of physically restrictive practices as indications that a facility’s primary purpose may be detention. These practices include location in a remote area, confiscation of personal belongings, pursuit of runaways, constant supervision of residents, and use of isolation as punishment. The board, while drawing a distinction between restrictive practices for the purpose of detention and restrictive practices for the purpose of treatment, recognized that treatment is an integral part of a juvenile justice placement even when the treatment’s primary purpose is detention. According to current HHS regulations, a detention facility, “in the context of the definition of child care institution in section 472(c)(2) of the [Social Security] Act means a physically restricting facility for the care of children who require secure custody pending court adjudication, court disposition, execution of a court order or after commitment.”<sup>3</sup>

According to federal requirements related to state foster care plans, states are responsible for establishing and maintaining licensing regulations for facilities. These regulations must represent minimum standards related to admission policies, safety, sanitation, and protection of the civil rights of children placed in foster family homes and child care institutions and, to a reasonable extent, be in accord with the standards recommended by national organizations concerned with standards for such institutions or homes. The Child Welfare League of America recommends that licensing standards for child care institutions cover facility administration, personnel qualifications, the personal rights of residents, services and activities provided to residents, and provisions to ensure a healthy and safe physical environment.

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<sup>3</sup>45 C.F.R.

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State child welfare agencies are also responsible for ensuring that procedural requirements are met in title IV-E funded foster care placements. The Social Security Act<sup>4</sup> requires that there be a written case plan for each title IV-E funded foster care placement and specifies that this plan address such concerns as the appropriateness of the placement, the treatment and services the child needs, meeting the child's health and educational needs, and services needed to improve the conditions in the home. The act also requires a court or administrative review in these cases at least every 6 months to monitor compliance with the case plan, the necessity for and appropriateness of the placement, the progress made in improving the home, and when the child is likely to return home or when an action to terminate parental rights is likely to be initiated. A permanency hearing is also required within 12 months of the child's entrance into foster care to decide what the child's permanency goal should be—to return home, remain in foster care, or be adopted. Finally, the act requires that "procedural safeguards" be applied to protect a parent's rights when a child is removed from the home, when there is a change in the child's placement, and when decisions are made concerning the parent's right to visit the child.

States are responsible for carrying out specific monitoring and evaluation activities; HHS has oversight responsibility for the title IV-E program in general. Federal law requires states to monitor and periodically evaluate their own activities to ensure that children and placements qualify for title IV-E funding and that procedural requirements are met in IV-E funded cases. States must also submit statistics to HHS on the legal status of children in title IV-E funded placements and their demographic characteristics, location, and length of stay in foster care. In addition to reviewing state foster care plans and approving those that meet federal requirements, HHS is required by the Social Security Act to evaluate and periodically monitor states' compliance with these plans and to collect and publish state data pertaining to the incidence and characteristics of foster care in this country. In addition, according to its strategic plan, HHS has identified the importance of supporting the state-administered title IV-E program by ensuring that (1) procedures for monitoring the program allow for a realistic examination of the experiences of families and children, (2) best practices related to the program are disseminated, and (3) HHS'

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<sup>4</sup>Sections 471(a)(16) of the Social Security Act require states to develop case plans for title IV-E eligible children. Section 475(1) of the act sets forth the requirements regarding the content of such plans.

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technical assistance and training are relevant and useful to states and localities in administering their title IV-E programs.

Title IV-E funds are meant to cover a portion of states' costs for food, shelter, clothing, daily supervision, school supplies, general incidentals, liability insurance for the child, and travel to the child's home for visits. States set the basic rates they pay foster parents and child care institutions for these maintenance costs.<sup>5</sup> States set higher payment rates for foster care placements that provide higher levels of care needed by children with, for example, psychological or behavioral problems or exceptional physical care needs. The higher rates correspond to the higher levels of supervision that are needed. To determine the amount of reimbursement states receive for a placement under title IV-E, a state's payment rate for that placement (minus the costs not allowable under title IV-E) is multiplied by its title IV-E matching rate, which is the same as its Medicaid matching rate and based on per capita income. These matching rates vary from 50 to 83 percent, averaging about 57 percent across all states.

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<sup>5</sup>According to the American Public Human Services Association, the basic rate for foster care varies across states because the expenses states factor into their basic rate vary by state. In addition to the cost of room and board, clothing, supervision, and child care, for example, a state's rate can include the costs of school supplies, liability insurance for the child, reasonable travel to the child's home for visits, personal allowances, recreational activities, and other general incidentals.

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## A Small Proportion of Title IV-E Funds Are Used for Juvenile Justice Placements, but These Placements Are More Costly

Of the more than \$3 billion in title IV-E funding claimed in 1998, 10 percent was used to finance foster care placements for children in the juvenile justice system. Nearly half of the states indicated they had used title IV-E funds to finance juvenile justice placements in 1998, with three states accounting for about 80 percent of total title IV-E funds expended for juvenile justice placements. While title IV-E juvenile justice placements consumed 10 percent of all title IV-E funds claimed nationwide, they account for only about 4 percent of all title IV-E foster care placements. One reason for this disproportion is that compared to child welfare children, juvenile justice children were more often placed in facilities that provided a higher level of supervision, which costs more.<sup>6</sup>

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## Almost Half the States Claimed Title IV-E Funds in 1998 for Juvenile Justice Placements

We estimate that, in fiscal year 1998, about \$318 million, or 10 percent, of total title IV-E funds was used to finance placements for children in the juvenile justice system.<sup>7</sup> Of the 41 respondents to our survey, 23 states indicated they had used title IV-E funds to finance juvenile justice placements in fiscal year 1998.<sup>8</sup> About 60 percent of the total amount of title IV-E funding for juvenile justice placements by these states went to California. New York and Pennsylvania combined accounted for another 24 percent. (See app. II for a state-by-state breakdown of title IV-E funds used to finance juvenile justice placements and the number of these placements in fiscal year 1998.)

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<sup>6</sup>It should be noted that, according to HHS, many juvenile justice children in title IV-E placements are placed in out-of-state facilities, which increases cost. Because we did not obtain data from states that distinguished between in- and out-of-state placements, we could not determine what effect out-of-state placements have on the disproportion of title IV-E funds expended on child welfare versus juvenile justice children. According to California officials, 15 percent of their title IV-E funded juvenile justice placements in November 1998 were in out-of-state facilities.

<sup>7</sup>Not all states could provide both the dollars claimed and the number of juvenile justice placements made. We estimated these numbers for those states.

<sup>8</sup>Eighteen states could provide the amount claimed for and/or the number of juvenile justice placements funded under title IV-E. For a few additional states, we were able to develop estimates.

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## Title IV-E Funded Juvenile Justice Placements Use a Disproportionate Amount of Total Title IV-E Expenditures

While the juvenile justice placements reported nationwide consumed 10 percent of total title IV-E expenditures in fiscal year 1998, they accounted for only about 15,000—or 4 percent—of all children placed in foster care. Such disproportions occurred, to varying degrees, across the states that used these funds—including California and Texas, which together accounted for about 35 percent of all title IV-E funded juvenile justice placements nationwide. For juvenile justice placements in California—where the disproportion was most dramatic—24 percent of the fiscal year 1998 title IV-E funds claimed was used for just 6 percent of all the state’s title IV-E funded placements. In Texas, 12 percent of the year’s title IV-E funds was used for juvenile justice placements, which represented about 8 percent of the state’s placements.

According to California and Texas officials, juvenile justice children require higher levels of care or supervision than do children in the child welfare system and, consequently, are placed in homes and child care institutions in which care is more costly. In California, 69 percent of juvenile justice placements—compared to 6 percent of child welfare placements—were in child care institutions, which receive higher payment rates than do foster homes. In addition, a greater percentage of juvenile justice children were placed in child care institutions that provide higher levels of care. (See table 1.) As the level of care (determined primarily by staff-to-child ratios) increases, the state payment rate and, thus, the title IV-E allowable amount increases. For example, the title IV-E allowable amount for child care institutions with care levels 1 and 2 averages \$44 per day per child. At care levels 9 and 10—which may entail as many as four full-time workers supervising six children (a two-to-three staff-to-child ratio)—the title IV-E allowable amount averages \$122 per child per day. In fiscal year 1998, 54 percent of juvenile justice children in institutions received care at levels 9 through 14, compared to 42 percent of child welfare children. The levels of care in part explain why California’s title IV-E funded juvenile justice placements averaged about \$120 a day per child—five times the per diem cost for the state’s child welfare placements in that year.<sup>9</sup>

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<sup>9</sup>Children in juvenile justice placements in California also tend to be older than those in the state’s child welfare placements, and the IV-E allowable amount increases as the age of the child increases.

**Table 1: Number of Title IV-E Funded Juvenile Justice and Child Welfare Placements in California and Cost per Day, by Setting and Level of Care Received, Fiscal Year 1998**

	Juvenile justice		Child welfare		Cost per day <sup>a</sup>	
	Number	Percent	Number	Percent	State payment rate <sup>b</sup>	Title IV-E allowable amount <sup>c</sup>
Foster family homes	428	13%	47,301	72%	\$15	<sup>d</sup>
Foster family agencies <sup>e</sup>	565	17	13,012	20	14 <sup>f</sup>	<sup>d</sup>
<b>Child care institutions<sup>g</sup></b>						
Care levels 1 and 2	650 <sup>h</sup>	20	1,929 <sup>h</sup>	3	47 <sup>i</sup>	\$44 <sup>j</sup>
Care levels 3 and 4	12	0	21	0	68 <sup>j</sup>	66 <sup>j</sup>
Care levels 5 and 6	78	2	66	0	89 <sup>i</sup>	82 <sup>j</sup>
Care levels 7 and 8	318	10	183	0	109 <sup>i</sup>	101 <sup>j</sup>
Care levels 9 and 10	788	24	470	1	133 <sup>j</sup>	122 <sup>j</sup>
Care levels 11 and 12	383	12	719	1	151 <sup>i</sup>	134 <sup>j</sup>
Care levels 13 and 14	60	2	423	1	172 <sup>j</sup>	155 <sup>j</sup>
Other <sup>k</sup>	23	1	1,177	2	<sup>d</sup>	<sup>d</sup>
<b>Total</b>	<b>3,305</b>	<b>100%<sup>l</sup></b>	<b>65,301</b>	<b>100%<sup>l</sup></b>	<sup>m</sup>	<sup>m</sup>

<sup>a</sup>The monthly amount divided by 30 days, rounded to the nearest dollar.

<sup>b</sup>State payment rates include maintenance costs and the administrative costs associated with maintenance as well as the cost of treatment and other services. Rates vary by age of child. Amount represents the average of the base rate for each age range.

<sup>c</sup>Title IV-E funds cover only maintenance costs and the administrative costs associated with maintenance.

<sup>d</sup>Data not available.

<sup>e</sup>Foster family agencies provide homes or other living arrangements for children who alternatively would be placed in a child care institution.

<sup>f</sup>Agencies can receive more—up to \$51 per day for a child from 15 to 19 years of age—if they provide additional care and services.

<sup>g</sup>Referred to in California as group homes.

<sup>h</sup>The data California provided to us placed these children in the child care institution category. State officials, however, noted that for children receiving levels of care 1 or 2, it could not be determined with certainty whether the care was provided in child care institutions or through foster family agencies.

<sup>i</sup>Amount represents the average of the rates for the two levels of care indicated.

<sup>j</sup>In California, there is a different IV-E allowable rate for each group home; consequently, the allowable amount shown is the average of the individual amounts for which the state could seek title IV-E reimbursement for all placements in the two levels of care.

<sup>k</sup>Other placements include medical facilities and shelters.

<sup>l</sup>Due to rounding, total percentages do not add to 100.

<sup>m</sup>Not applicable.

Source: GAO analysis of statewide data provided by California.

Texas also bases its payment rates on the level of care provided in foster family homes and child care institutions (see table 2). At care levels 5 and 6, for example, children have 24-hour supervision and staff-to-child ratios are greater than those at care levels 3 and 4. In Texas, almost 70 percent of the children in the juvenile justice system were placed in foster family homes and child care institutions at care level 4, 5, or 6, compared to less than 20 percent of child welfare placements. The levels of care in part explain why Texas' cost per juvenile justice placement averaged \$30 a day in fiscal year 1998 while its cost per child welfare placement averaged \$18 a day.

**Table 2: Number of Title IV-E Funded Juvenile Justice and Child Welfare Placements in Texas and Cost per Day, by Setting and Level of Care Received, Fiscal Year 1998**

	Juvenile justice		Child welfare		Cost per day <sup>a</sup>	
	Number	Percent	Number	Percent	State payment rate <sup>b</sup>	Title IV-E allowable amount <sup>c</sup>
<b>Foster family homes</b>						
Care level 1	0	0%	2,967	45%	\$16	\$13
Care level 2	1	0	704	11	34	30
Care level 3	3	1	669	10	58	52
Care level 4	34	12	443	7	83	68
Care level 5	0	0	1	0	100	85
Care level 6	0	0	0	0	187	161
<b>Foster group homes and child care institutions</b>						
Care level 1	0	0	112	2	16	13
Care level 2	11	4	106	2	34	30
Care level 3	74	25	417	6	58	52
Care level 4	95	32	457	7	83	68
Care level 5	70	24	261	4	100	85
Care level 6	4	1	89	1	188	161
Other <sup>d</sup>	3	1	392	6	e	e
<b>Total</b>	<b>295</b>	<b>100%<sup>f</sup></b>	<b>6,618</b>	<b>100%<sup>f</sup></b>	<b>e</b>	<b>e</b>

<sup>a</sup>The daily rate rounded to the nearest dollar.

<sup>b</sup>State payment rates include maintenance costs and the administrative costs associated with maintenance as well as the cost of treatment and other services. Unlike rates in California, rates in Texas do not vary by age of child.

<sup>c</sup>Title IV-E funds cover only maintenance costs and the administrative costs associated with maintenance.

<sup>d</sup>Other placements include medical facilities and shelters.



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<sup>e</sup>Not applicable.

<sup>f</sup>Due to rounding, total percentages do not add to 100.

Source: GAO analysis of statewide data provided by Texas.

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## State Licensing Regulations Are Used to Ensure Appropriate Use of Title IV-E Funds and Compliance With Procedural Requirements

To ensure that title IV-E funds are used appropriately and that title IV-E procedural requirements are met, the 10 states claiming the most fiscal year 1998 title IV-E funding rely on licensing regulations and other administrative regulations. The states' licensing regulations establish minimum standards for child care institutions, where many juvenile justice children in title IV-E funded foster care are placed, to ensure the safety and well-being of children. To qualify for title IV-E funds, facilities need to be licensed or approved as child care institutions. Although title IV-E prohibits the use of funds to finance placements for detention purposes, some states' licensing regulations allow, under certain circumstances, restrictive practices that could be associated with detention. States' licensing regulations also address title IV-E procedural requirements intended to protect the welfare of children, including requirements to develop a case plan, conduct periodic administrative reviews, and follow procedural safeguards. Each of these 10 states uses several monitoring mechanisms to ensure child care institutions comply with licensing regulations. California and Texas also have administrative regulations that establish standard procedures—which mirror title IV-E procedural requirements—as well as monitoring procedures to ensure these procedures are followed in individual cases.

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## Licensing Regulations Allow for Practices Sometimes Associated With Detention and Address Most Title IV-E Procedural Requirements

Each of the 10 states' licensing regulations for child care institutions establishes minimum standards regarding facility administration and personnel qualifications, intake procedures and children's personal rights, services and activities to be provided, and practices to ensure a healthy and safe physical environment for children. Several provisions in these regulations specifically address restrictive practices. Others establish procedures that mirror title IV-E procedural requirements intended to protect the welfare of children.

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Child care institutions are eligible to receive title IV-E funds if they meet the licensing standards set for these institutions by the state. While facilities operating primarily for the detention of children determined to be delinquent are ineligible to receive title IV-E funds, some provisions governing the practices of licensed child care institutions allow for certain restrictive practices. For example, although none of the 10 states allow facilities to isolate or restrain a child as a form of punishment, some allow facilities to use short-term isolation and physical restraint to prevent children from posing a risk or threat to themselves, others, or physical property, and to manage inappropriate behaviors.<sup>10</sup> Maryland and Michigan also allow locks to be used for reasons other than security. Specifically, licensed child care institutions in Maryland are allowed to lock doors as part of “secure care programs” for children who are deemed delinquent, and licensed child care institutions in Michigan are permitted to lock the doors of “behavior management rooms.” Similarly, when we asked staff in county probation departments in California and Texas about the restrictive practices in 18 title IV-E funded juvenile justice cases we reviewed in their states, we learned that in 7 of these cases the facility served primarily children in the juvenile justice system. While this information alone does not constitute sufficient evidence to disqualify these facilities for title IV-E funding, it illustrates how difficult it may be to distinguish between juvenile justice placements in detention and nondetention facilities without more knowledge about the facilities in these cases and the nature of the treatment they provide. This information also emphasizes the importance of adequate oversight of the use of title IV-E funds for juvenile justice placements.

Licensing standards for child care institutions in the 10 states also contain provisions that address three procedural requirements under title IV-E: (1) development and updating of case plans; (2) review by a court or an administrative body of children’s status at least every 6 months; and (3) procedural safeguards for notifying parents about their child’s placement, any changes in the placement, and about reviews and hearings that take place.<sup>11</sup> None of the state licensing regulations we reviewed addressed permanency hearings. All 10 states’ licensing regulations require a case

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<sup>10</sup>See app. III for a description of the specific provisions related to each of these restrictive practices in the licensing regulations for child care institutions in each of these 10 states.

<sup>11</sup>See app. IV for a description of the specific provisions related to title IV-E procedural requirements in the licensing regulations for child care institutions in each of these 10 states.

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plan for each child that includes an educational program and provides for health care. All also require reviews of case plans on a regular basis, ranging from once a month to once a year. Some states' regulations for case plans require child care institutions to specify steps and time frames for tracking progress toward long-range goals. Michigan's licensing regulations, for example, require that case plan reviews evaluate progress toward family reunification. All states' licensing regulations also contain procedural safeguards regarding admission, visitation, and services to families.

All of the 10 states have systems in place to ensure licensed child care institutions continue to comply with all provisions in licensing regulations, including those covering restrictive practices and title IV-E procedural requirements. For example, California and Texas officials told us that, to enforce their licensing regulations, they conduct annual on-site visits, which include reviews of case records and files to ensure that the facility is providing required services, interviews with children and staff, and a visual inspection of the facility.<sup>12</sup> They also stated that they investigate complaints and have procedures for levying penalties for noncompliance, including denying renewal of, temporarily suspending, or revoking a license.

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**California and Texas Also Have Administrative Regulations That Address Procedural Requirements in Title IV-E Funded Cases**

When we looked more closely at how California and Texas ensure that title IV-E procedural requirements are met, we found that in addition to their licensing regulations, their child welfare agencies also have administrative regulations that address title IV-E procedural requirements and contain processes for enforcing these requirements. In California, the Department of Social Services (DSS) is responsible for enforcing compliance with these procedural requirements; in Texas, the Department of Protective and Regulatory Services (PRS) has this responsibility.

DSS regulations require children in foster care in California to be visited at least monthly; the child welfare agency in each county is responsible for conducting these visits with children in its jurisdiction. For title IV-E funded juvenile justice cases, the juvenile probation department in each California county, through formal agreements with the county child welfare agency, is required to conduct monthly visits with children in these cases, monitor the services they receive, and ensure that title IV-E procedural requirements are met. According to DSS officials, California has recognized

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<sup>12</sup>California and Texas also conduct prelicensing inspections.

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that juvenile justice agencies and the courts play key roles in ensuring that title IV-E funded juvenile justice cases are managed in accordance with the law. As a result, California is developing special training for probation officers on procedural requirements that accompany title IV-E funding. To address concerns related to the courts' role in ensuring that procedural requirements are met in title IV-E funded juvenile justice cases, California recently passed legislation placing into state law many of the federal procedural requirements in the Social Security Act. According to DSS officials, this legislation will better ensure that the procedural requirements are met, particularly in title IV-E funded juvenile justice cases. These officials stated that, as regulatory rather than legislative requirements, courts that usually handle juvenile justice cases involving title IV-E funded placements were not legally bound to follow them. As a result of title IV-E requirements being placed into state law, the courts must see to it that, in juvenile justice cases, procedural requirements are met.

In Texas, PRS is responsible for ensuring that procedural requirements are met in all title IV-E placements and that children receive the services they require. To ensure that these requirements are met in juvenile justice placements, PRS contracts with two state-level juvenile justice agencies: (1) the Juvenile Probation Commission (JPC), which oversees county juvenile probation agencies in the state, and (2) the Texas Youth Commission (TYC), which handles juvenile justice cases statewide that require more resources than local probation departments can provide. According to PRS officials, to monitor compliance with these contracts, PRS annually reviews the case files for a sample of title IV-E funded juvenile justice cases from each agency. PRS officials also stated that the department contracts with a private agency, Youth for Tomorrow, to monitor licensed child care institutions in Texas in order to ensure that they are providing the types and level of services that the children in their care require.

JPC and TYC each have a system in place to comply with the title IV-E procedural requirements in their contracts with PRS. JPC officials told us that the agency, through contracts with county probation departments, requires probation department staff to review cases on a quarterly basis and to contact on a monthly basis every child in title IV-E funded placements, the parent or guardian, and the caregiver in each placement. Officials also noted that JPC staff audit the caseload of title IV-E funded juvenile justice placements twice per year. Similarly, TYC officials told us that the agency contracts with placement service providers and requires them to follow the agency's policies regarding procedural requirements,

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which mirror title IV-E requirements. To monitor these contracts, TYC officials told us that they regularly review each provider's service delivery processes and periodically review provider performance in each case, relative to the needs of the youth in the placement. TYC officials also noted that, for each case, the agency reviews the case record and case plan every month for the duration of a placement and conducts a 6-month administrative review and a permanency hearing.

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## HHS' Title IV-E Reviews Not Likely to Provide Sufficient Information on Juvenile Justice Placements

According to HHS, some states have claimed title IV-E funds for children placed in facilities not eligible for title IV-E reimbursement. HHS has recognized that states might encounter difficulty in determining whether a specific facility would qualify to receive title IV-E funding for the placement of juvenile justice children. HHS has also found that states face unique challenges in meeting title IV-E procedural requirements within a juvenile justice framework. HHS is in the process of developing additional guidance on what constitutes detention and on meeting procedural requirements in juvenile justice placements. It began this initiative by issuing in December 1998 a request for public comment on these issues.<sup>13</sup> A total of 17 states and 5 facilities responded along with several advocacy and professional groups. The comments provided examples of the issues states face in determining facility eligibility and meeting procedural requirements in juvenile justice placements. Our review of the comments shows that states differ on how they believe detention should be defined, and some have explicitly asked HHS to clarify the definition. To address these facility eligibility issues, HHS is continuing to review these comments and is considering its options for creating more comprehensive guidance related to title IV-E eligibility of facilities in juvenile justice placements. HHS also addressed comments related to satisfying procedural requirements in title IV-E juvenile justice cases in its new regulations for title IV-E eligibility and CFS reviews.

HHS carries out its title IV-E oversight responsibilities primarily through its title IV-E eligibility and CFS reviews. HHS recently revised the regulations for these two reviews, in part, to respond to federal legislation requiring the department to modify its approach to monitoring state compliance with federal child welfare requirements, including title IV-E eligibility and procedural requirements. The new regulations, which went into effect on March 27, 2000, specify a new objective, scope, and methodology for these

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<sup>13</sup>63 Fed. Reg. 67484-67485 (Dec. 7, 1998).

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reviews. Through statewide and on-site assessments, CFS reviews are intended to ensure that individual states “substantially conform” to their foster care requirements and other program requirements under title IV-E, as well as title IV-B, of the Social Security Act.<sup>14</sup> Title IV-E eligibility reviews focus on verifying eligibility for title IV-E funding by reviewing records for a random sample of title IV-E funded placements in each state. The purpose of these reviews is to validate the accuracy of a state’s claims to ensure that payments are appropriate—that is, they are made on behalf of eligible children, to eligible homes and institutions, and at allowable rates. CFS reviews, as designed, focus primarily on results or outcomes and, according to HHS, do not cover eligibility requirements for children or facilities. They examine, state by state, (1) indicators of safety, permanency, and child and family well-being and (2) systems affecting a state’s capacity to deliver services leading to these outcomes. To obtain information for these assessments, HHS relies on statewide data on outcome indicators, interviews with state and local community representatives, and reviews of case records.

As part of its title IV-E eligibility reviews, HHS intends to randomly sample in each state 80 cases from a sample of 88 cases in the primary review from all title IV-E funded placements in the state; during the on-site component of its CFS reviews, HHS intends to review a sample of 30 to 50 cases selected from a sample of 150 individual cases drawn from all cases of children served by the state in foster care and in their own homes.<sup>15</sup> The remaining cases would be reviewed only in the event of a discrepancy between the on-site findings and the statewide assessment. While HHS looks at a sample of individual cases as part of each of its reviews, the sample sizes are small, so relatively few juvenile justice cases will be selected for review. Moreover, protocols for its title IV-E eligibility and CFS reviews have not been finalized, and at this point it is not clear what specific information related to eligibility and procedural issues in juvenile justice cases will be collected.

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<sup>14</sup>Title IV-B of the Social Security Act authorizes funds to states for a broad range of child welfare services, including family preservation and family support services.

<sup>15</sup>For CFS reviews, case samples will be drawn from all title IV-E funded foster care placements and cases that receive services funded under title IV-B of the Social Security Act.

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## Conclusions

Juvenile justice placements constitute a small proportion of all title IV-E placements. However, states have on occasion claimed reimbursement for juvenile justice placements at facilities that were not eligible for such reimbursement and, in many of the title IV-E funded cases we reviewed, the facility served primarily children in the juvenile justice system. Furthermore, according to HHS, states find it particularly difficult in juvenile justice cases to meet title IV-E procedural requirements intended to protect the welfare of children. In light of these findings, we believe it is important for HHS to exercise adequate oversight of title IV-E funded juvenile justice placements to determine the extent to which title IV-E funding is appropriately used and procedural requirements are met in these cases. To do this, HHS needs sufficient information about

- facility eligibility and compliance with procedural requirements in individual title IV-E funded juvenile justice cases and
- the state and county systems used to determine if the facilities in title IV-E funded juvenile justice cases are eligible for title IV-E funding, as well as systems used to ensure that procedural requirements are met in these cases.

Although states have primary responsibility for making title IV-E facility eligibility decisions and meeting procedural requirements in juvenile justice placements, we believe that as the ultimate steward of title IV-E funds, HHS has responsibility to exercise close oversight of the use of those funds. Collection of such information will allow HHS to identify the nature and magnitude of any problems that may exist in these cases.

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## Recommendations

We recommend that the Secretary of HHS direct the Assistant Secretary, Administration for Children and Families, to review title IV-E funded juvenile justice placements in child care institutions in states that have such placements in order to collect information needed to determine whether or not the facility in which the child was placed was a detention facility.

We also recommend that, in each state having title IV-E funded juvenile justice placements in child care institutions, HHS review a sufficient number of such placements to provide a reasonable degree of assurance that detention facilities are not receiving title IV-E funds and that procedural requirements intended to protect the welfare of children are being met in juvenile justice placements. Depending on the results of the

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initial review in a given state, HHS could decide whether it would be necessary to review the same number of juvenile justice cases in that state in the future.

Finally, we recommend that for those states having title IV-E funded juvenile justice cases, HHS ensure that the adequacy and effectiveness of state and county systems used to (1) determine if the facilities in which juvenile justice children are placed are licensed and otherwise eligible for title IV-E funding and (2) ensure that procedural requirements are met in title IV-E funded juvenile justice cases are examined.

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## Agency Comments

We gave HHS an opportunity to review a draft of this report; its written comments are reproduced in app. V. While HHS agreed that more information is needed to understand and address issues related to placing juvenile justice children under foster care, it did not agree with our suggestions on how to obtain such information. HHS said that the disproportion we found—10 percent of title IV-E funds spent on juvenile justice placements that constitute 4 percent of all title IV-E funded foster care placements—was insufficient to justify revising its review systems for the foster care program. We did not, however, base our recommendations on the disproportion HHS cites. Rather, they were based on concern for the welfare of the children involved, given that title IV-E funds have been claimed for juvenile justice placements in ineligible facilities and that meeting procedural requirements intended to protect the welfare of children can be difficult in juvenile justice cases. Although the magnitude of federal expenditures involved is certainly an important consideration, we believe that ensuring the appropriateness of placements for and the welfare of 15,000 juvenile justice children is important as well. While there have been inappropriate placements in the past, and difficulties have been encountered in meeting procedural requirements, the extent to which these situations exist now is unknown and needs to be determined.

HHS' comments to our draft report also indicated to us that the department believed that our proposal to modify its title IV-E eligibility and CFS reviews to sample enough juvenile justice cases to provide reasonable assurance that the extent of problems with these cases was measured would involve more work than necessary. HHS said that it had two mechanisms—the partial CFS review and the partial review for state plan requirements outside the scope of a CFS review—that could be used as an issue-specific, targeted approach to identify and respond to problems with juvenile justice placements. The intent of our proposed recommendation



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was to have HHS determine the extent of problems with juvenile justice foster care placements and to correct problems that may exist. HHS believes it can adequately accomplish these objectives through alternative means, which we found satisfactory. Therefore, we modified the language of our recommendations to allow for the use of alternative means to accomplish their intended effect.

California and Texas also commented on a draft of the report; HHS also provided technical comments. These comments were incorporated where appropriate.

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We will send copies of this report to the Honorable Donna E. Shalala, Secretary of HHS, and program officials in California and Texas. We will also send copies to child welfare program directors in all other states and make copies available to others on request.

If you have any questions concerning this report, please contact me at (202) 512-7215 or Clarita Mrena at (415) 904-2245. Susan Riggio, Cornelius Williams, May Lee, Patrick DiBattista, and Traci Gleason Wright also made important contributions to this report.



Cynthia M. Fagnoni  
Director, Education, Workforce, and  
Income Security Issues

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# Scope and Methodology

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To determine the number of title IV-E funded juvenile justice and child welfare placements nationwide, the amount of title IV-E funds used by each state for juvenile justice and child welfare placements, and the ages of children in title IV-E funded juvenile justice placements, we conducted a survey of all 50 states and the District of Columbia. We asked each state to provide this information statewide for their fiscal year 1998. We conducted follow-up calls to encourage states to complete the survey and to clarify responses when necessary.

In response to our survey, 23 states indicated that they had claimed title IV-E funding for juvenile justice placements during fiscal year 1998;<sup>1</sup> 17 states and the District of Columbia indicated they had not. The remaining 10 states did not respond to our survey.

While all of the 23 states that indicated they had financed juvenile justice placements with title IV-E funding could provide the total amount claimed that year, only 17 could provide the amount claimed for juvenile justice placements alone. To determine what proportion of all title IV-E funding nationwide during fiscal year 1998 was used for juvenile justice placements, we used estimates of the amount each of the other five states claimed for these placements.<sup>2</sup> We estimated this amount in these states by multiplying the total title IV-E funding each state indicated they claimed by 14.5 percent. We used this percentage because, across the 17 states that could provide the amount claimed for juvenile justice placements, 14.5 percent of the total title IV-E funding claimed was for juvenile justice placements. For example, in Alabama we estimated that \$991,543 in title IV-E funding, or 14.5 percent of the total \$6,833,512 claimed, was for juvenile justice placements.

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<sup>1</sup>See app. II for state-by-state information on the amount of title IV-E funding claimed for juvenile justice placements and the number of these placements.

<sup>2</sup>These states include Alabama, Indiana, Minnesota, Pennsylvania, and Virginia.

Similarly, only 18 of the 23 states that indicated they had claimed title IV-E funding for juvenile justice placements could provide the number of juvenile justice placements for which these funds were claimed. To determine what proportion of all title IV-E funded placements nationwide were juvenile justice placements, we used estimates of the number of juvenile justice placements in two of the four states that could not provide this number.<sup>3</sup> We multiplied the total number of title IV-E funded placements in each state by 6.4 percent because 6.4 percent of all title IV-E funded placements across the 18 states that could provide this number were juvenile justice placements. For example, in Alabama we estimated that 79 title IV-E funded placements, or 6.4 percent of the total 1,235 placements for which the state claimed title IV-E funding, were juvenile justice placements.

To determine what systems are in place in states to ensure title IV-E funds are not used for placements in detention facilities and that procedural requirements are met in title IV-E funded cases, we conducted in-depth fieldwork in California and Texas. We visited state-level agencies in both states and met with officials from county agencies in Los Angeles and San Bernardino counties in California and Dallas and Harris counties in Texas. As part of this fieldwork, we reviewed the case files of a total of 18 children in title IV-E funded juvenile justice placements. These reviews examined case planning, administrative reviews, permanency planning, and efforts to reunify the children in these cases with their parents. We also obtained information on selected features of most of the facilities in these cases from probation officers and title IV-E program staff in county probation departments in Texas and county probation officers in California.<sup>4</sup> We did not independently determine in these cases if the facilities in which children were placed were eligible for title IV-E funding, if procedural requirements were met, or if children received the services they required. We also obtained state administrative data relevant to IV-E funded placements in 1998. These data included breakdowns of the title IV-E funded juvenile justice and child welfare populations in these states by

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<sup>3</sup>We estimated this number for Alabama and Indiana. Minnesota and Virginia could provide neither the number of juvenile justice placements nor the total number of placements for which title IV-E funding was claimed, so there was no basis for estimating the number of juvenile justice placements in these states.

<sup>4</sup>Features included whether the facility was located in an isolated or remote area, whether the facility was locked, facility policies regarding visitation and telephone calls and pursuit of runaways, and whether the facility primarily serves youth in the juvenile justice system.

level of care received, type of foster care placement or placement setting, and the state payment rate and the title IV-E allowable amount paid for such care. Finally, we conducted extensive interviews with officials in the state and county agencies responsible for administering title IV-E funding.

To determine how provisions in state licensing regulations for child care institutions reflect eligibility criteria for title IV-E funding and address title IV-E procedural requirements, we reviewed licensing regulations in the 10 states claiming the most federal foster care funding during 1998. In addition to California and Texas, we reviewed licensing regulations in Maryland, Ohio, North Carolina, Missouri, Illinois, New York, Michigan, and Pennsylvania.

To identify the processes HHS has in place to ensure that title IV-E funds are only used for placements that qualify for this funding and that title IV-E procedural requirements are met in juvenile justice cases, we reviewed pertinent laws, regulations, and other documents and interviewed program officials from the department. We conducted our work between December 1998 and May 2000 in accordance with generally accepted government auditing standards. We did not independently verify the data states provided to us.

# Fiscal Year 1998 Title IV-E Funding Claimed and Number of Placements, by State

State	Amount of title IV-E funding claimed		Number of placements for which title IV-E funding was claimed	
	Total	For juvenile justice placements	Total	Juvenile justice
Alabama	\$6,833,512	\$991,543 <sup>a</sup>	1,235	79 <sup>b</sup>
Alaska	8,630,748	917,789	489	52
Arizona	39,781,393	0	4,224	0
Arkansas	20,167,765	0	<sup>c</sup>	0
California <sup>d</sup>	779,431,192	188,900,670	70,696	4,317
Colorado	27,760,609	3,419,368	4,432	416
Connecticut <sup>e</sup>	—	—	—	—
Delaware	6,476,120	140,078	405	5
Washington, D.C.	31,141,626	0	2,350	0
Florida	111,048,387	0	10,130	0
Georgia	26,265,132	0	7,410	0
Hawaii	10,294,557	0	1,920	0
Idaho	3,830,200	0	497	0
Illinois	470,708,348	0	43,061	0
Indiana	28,454,479	4,128,745 <sup>a</sup>	5,346	341 <sup>b</sup>
Iowa <sup>e</sup>	—	—	—	—
Kansas	12,061,336	0	1,725	0
Kentucky	34,061,773	915,654	5,071	66
Louisiana	52,170,448	5,337,890	3,561	481
Maine	44,315,875	0	3,109	0
Maryland	74,320,191	1,361,650	1,941	327
Massachusetts <sup>e</sup>	—	—	—	—
Michigan	185,380,873	0	9,080	0
Minnesota	27,657,424	4,013,093 <sup>a</sup>	<sup>c</sup>	<sup>c</sup>
Mississippi	10,443,760	0	1,009	0
Missouri	61,145,850	0	10,507	0
Montana <sup>e</sup>	—	—	—	—
Nebraska <sup>e</sup>	—	—	—	—
Nevada <sup>e</sup>	—	—	—	—
New Hampshire	9,604,538	960,454	1,002	225
New Jersey	43,100,000	0	<sup>c</sup>	0
New Mexico	3,699,023	0	1,100	0
New York	380,423,754	36,000,000 <sup>e</sup>	58,655	2,456

**Appendix II  
Fiscal Year 1998 Title IV-E Funding Claimed  
and Number of Placements, by State**

(Continued From Previous Page)

State	Amount of title IV-E funding claimed		Number of placements for which title IV-E funding was claimed	
	Total	For juvenile justice placements	Total	Juvenile justice
North Carolina	35,825,085	0	7,726	0
North Dakota	8,618,741	1,356,542	1,121	83
Ohio	295,000,000	1,338,872	28,000	344
Oklahoma <sup>c</sup>	—	—	—	—
Oregon <sup>c</sup>	—	—	—	—
Pennsylvania	269,864,495	39,157,339 <sup>a</sup>	31,223	3,910
Rhode Island	15,837,832	160,416	2,115	41
South Carolina	17,424,000	0	2,160	0
South Dakota	2,851,781	40,642	564	2
Tennessee	28,856,741	12,737,366 <sup>e</sup>	5,874	673
Texas	79,944,180	9,901,770	11,545	889
Utah	16,075,312	584,096	2,019	276
Vermont <sup>f</sup>	—	—	—	—
Virginia	36,199,110	5,252,491 <sup>a</sup>	<sup>c</sup>	<sup>c</sup>
Washington	20,974,310	0	4,882	0
West Virginia <sup>c</sup>	—	—	—	—
Wisconsin <sup>c</sup>	—	—	—	—
Wyoming	224,372	29,075	303	19
<b>Total</b>	<b>\$3,336,904,872</b>	<b>\$317,645,543</b>	<b>346,487</b>	<b>15,002</b>

<sup>a</sup>State used title IV-E funds for juvenile justice placements but could not provide statewide data on the amount claimed for juvenile justice placements. Entry is our estimate of the amount based on the percentage of title IV-E funds other states, in general, claimed for juvenile justice placements.

<sup>b</sup>State used title IV-E funds for juvenile justice placements but could not provide data on the number of these placements statewide. Entry is our estimate of the number based on the percentage of all title IV-E funded placements in other states, in general, for juvenile justice placements.

<sup>c</sup>State did not respond to our survey or could not provide the data we requested.

<sup>d</sup>It should be noted that, in 1999, California no longer authorized placements in (that is, decertified) three out-of-state facilities that received title IV-E funds during 1998. The state has not determined whether these decertifications should be retroactive to 1998, which would require these facilities to return title IV-E funds they received for placements in that year.

<sup>e</sup>State provided an approximate amount.

<sup>f</sup>State indicated that it claimed title IV-E funding for juvenile justice placements but did not provide the data we requested.

# Provisions of State Licensing Regulations for Child Care Institutions Related to Physical Restriction of Residents

Discipline	Isolation	Locks	Restraints
<b>California</b>			
Any form of discipline that violates a child's personal rights is prohibited. Acceptable forms of discipline include exclusion in an unlocked living, sleeping, or play area; institution of fines under certain conditions; prohibition against attendance at or participation in planned activities; and prohibition against use of entertainment devices, such as telephones, televisions, radios, and phonographs.	(See discipline column.)	Resident children cannot be locked in any room, building, or facility premises by day or night. Facility is permitted to use any other means for securing exterior doors and windows or for protection of residents provided residents are able to exit the facility.	(See discipline column.) Physical restraining devices may be used for the protection of a child with special health care needs during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures.
<b>Illinois</b>			
Discipline may only be used to help children develop self-control and learn to assume responsibility for their actions. Acceptable discipline includes assigning special or additional tasks and/or removing privileges for periods not to exceed 1 month, restriction to the child's sleeping quarters or room for periods not to exceed 3 hours per day, or restriction to the premises or specified areas of the premises for periods not to exceed 3 days.	Confinement is limited to children who pose a threat of physical harm to themselves or others. A child may not be kept in confinement more than 30 minutes beyond the point at which the child ceases presenting the specific behavior for which the confinement was ordered or any other behavior for which confinement is an appropriate intervention. Confinement may be used to prevent runaway only when the child presents a threat of physical harm to self or others.	Key locks may not be used on locked confinement room doors. Automatic mechanisms are to release the child from confinement in the event of a fire or other disaster.	Physical restraint may be used only as a therapeutic measure when a child presents a threat of physical harm or dangerous behavior reasonably expected to lead to physical harm to self or others. Physical restraints are not to be used until after other less restrictive procedures or measures have been explored and found to be inappropriate. No child is to be subjected to mechanical restraints unless prescribed by a licensed physician.
<b>Maryland</b>			
Prohibited disciplinary measures include assigning physically strenuous exercise or work and the withholding of meals, sleep, mail, family visits, or program participation other than recreation or leisure activities.	A child may not be kept in a locked room away from the general population unless it is clearly necessary to prevent imminent physical harm to the child or other individuals or to prevent imminent and substantial destruction of property.	Facility with "secure care program" may employ locked doors or other means to care for alleged or adjudicated delinquent children.	Restraints can only be used when (1) failure to do so would result in harm to self or others or would result in property damage, (2) ordered by a physician or court of competent jurisdiction, and (3) permitted by state law.

**Appendix III  
Provisions of State Licensing Regulations for  
Child Care Institutions Related to Physical  
Restriction of Residents**

(Continued From Previous Page)

Discipline	Isolation	Locks	Restraints
<b>Michigan</b>			
A child care facility may receive approval to use a "behavior management" room for a child who is out of control and is in danger of harming self or others. The rooms are to be used only for the time needed to change the behavior compelling its use.	(See discipline column.)	The door to the behavior management room may be equipped with a security-locking device that operates by means of a key or is electrically operated and has a key override and emergency electrical backup in case of a power failure.	(See discipline column.)
<b>Missouri</b>			
Facilities are to have written policies and procedures prohibiting discipline that may adversely affect a child's health or physical or psychological well-being.	Locked isolation for the purpose of discipline is not to be used. A facility with a residential treatment program may use locked isolation when a child presents a danger to self or others or poses a threat of serious property damage and in the shortest intervals possible until the child regains reasonable self-control.	(See isolation column.)	Restraints are to be used only to end disturbances that threaten physical injury to the child or others or do serious property damage.
<b>New York</b>			
Discipline is to be prescribed, administered, and supervised only by adults. Deprivation of meals, snacks, mail, or visits by family as methods of discipline are prohibited.	Room isolation as a method of discipline is prohibited.	No child is to be confined to a locked room for any reason.	Restraints are to be used without purposely inflicting pain or harm and only when other forms of intervention are either inappropriate or have been tried and proven unsuccessful. Restraint, including room isolation, will never be used for punishment or for the convenience of staff.
<b>North Carolina</b>			
Isolation or locked custody is to not be used as punishment. Appropriate work tasks or denials of privileges are acceptable methods of discipline. Corporal punishment or denials of meals are not to be used as punishment.	(See discipline column.)	No locks are to be installed on exits and on room doors that would prevent occupants from getting out by the simple operation of a single knob or lever.	(Not specifically addressed in state regulations.)
<b>Ohio</b>			
Facilities must have disciplinary policy and procedures to prohibit all cruel, unusual practices and punishments.	Isolation can be used exclusively for the behavior management of a child who is out of control.	All locks on doors to any room or storage area in which a child could be confined are to be of the type that permit the door to be unlocked from either side of the door.	Isolation, physical, chemical, or mechanical restraint may not be used as a means of punishment.



**Appendix III  
Provisions of State Licensing Regulations for  
Child Care Institutions Related to Physical  
Restriction of Residents**

(Continued From Previous Page)

Discipline	Isolation	Locks	Restraints
<b>Pennsylvania</b>			
A licensed facility may not use a method of physical restraint, isolation, security, or physical barriers that would prevent a child from leaving the facility.	Placing a child in a locked room—including rooms with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut—is prohibited.	Locks may be used as a means of external security to keep persons out or deny access to an area but not to exit.	Use of mechanical restraint is prohibited. No child is to be restrained for purposes of punishment or for the convenience of others. Restraint may be used only in cases of emergency where there is the occurrence or serious threat of violence to self, others, or property.
<b>Texas</b>			
Any discipline or control must fit the needs of each child. Children must not be punished by shaking or striking; denied food, mail, or family visits as punishment; or subjected to cruel, harsh, unusual, or unnecessary punishment. Physical punishment (that is, spanking) is permitted only in basic care facilities, not in facilities serving mentally retarded or emotionally disturbed children. If the facility has a behavior therapy program, it must have clearly written policies and procedures for the program and be approved by the state's Department of Protective and Regulatory Service. If a facility's policy permits physical punishment, a complete description of any physical punishment administered must be recorded. The punishment must be administered by a staff member and witnessed by another staff member. If a child is restricted to the facility for more than 24 hours, the restriction must be recorded in the child's record. Denial of "edible treats" may be used as part of an individual behavior management program.	A child must not be placed alone in a locked room. Children must not be placed in a dark room. Children in a behavior therapy program and required to be placed in a locked time-out must not be placed in a locked time-out room for more than 15-minute intervals. Children in a locked time-out room must be watched or visually monitored on a continuous basis by the foster parent or child care worker. If a child in an individual behavior management program is restricted to the facility for more than 24 hours, the restriction must be recorded in the child's record.	(See isolation column.)	Physical holding for restraint or mechanical restraints must be used only when necessary to protect the child from injury to self or others. If physical restraint is to be used other than in an emergency, it can be used only upon the orders of a licensed physician. An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

Source: State child care licensing regulations in each state cited.

# Provisions in State Licensing Regulations That Relate to Procedural Requirements in Title IV-E Funded Foster Care Cases

Case/service plan	Case reviews/program progress reports	Procedural safeguards
<p><b>California</b></p> <ul style="list-style-type: none"> <li>— Plan development: Needs and services plans are to include (1) reason for placement; (2) education and training history; (3) ability to care for and groom oneself and to manage money; (4) on- and off-site visitation privileges with family members and friends; and (5) other specific services, including those required by the child's parent or guardian.</li> <li>— Services to family: Licensees must have a policy regarding participation of the child and authorized representative in the development of the needs and services plan.</li> <li>— Education: Licensees are to ensure each child's attendance at an educational program in accordance with state law.</li> <li>— Health services: Licensees are to obtain and maintain in each child's record medical and dental insurance coverage information and consent forms completed by the child's authorized representative. Licensees are not to accept any child with special health care needs unless the licensee has obtained an individualized health care plan for the child.</li> </ul>	<p>Licensees must have procedures for reviewing and evaluating needs and services plans, which are to be updated at least every 6 months to determine (1) the child's need for continuing services and (2) the facility's recommendation regarding the feasibility of the child's return home, placement in another facility, or move to independent living.</p>	<ul style="list-style-type: none"> <li>— Resident visitation: Needs and services plans are to identify the child's needs regarding visitation, including the frequency of and any other limitations on visits to the family residence and other visits inside and outside the facility.</li> <li>— Services to family: Licensees must have a policy regarding participation of the child and authorized representative in the development of the needs and services plan.</li> <li>— Admission/intake procedures and practices: Licensees are to develop, maintain, and implement intake procedures that will specify (1) needs and services plan requirements and (2) signature of child and authorized representative that they (a) were offered the opportunity to participate in plan development and (b) approved the plan.</li> </ul>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Illinois</b>		
<p>— Plan development: Plans for services for each child and family must be in writing, reviewed at least every 6 months, and signed by all the parties involved. Plans are to describe the services to be provided and how these services (1) will meet the needs of the child and family and (2) are directed toward resolution of the need for placement. Plans also must establish a time frame for termination of services and care in the facility.</p> <p>— Education: Each child is to have the opportunity and be encouraged to complete high school or vocational training in accordance with aptitude. Those excluded from school or unable to benefit from usual school attendance are to be provided education, training, or work experience consistent with their needs and abilities. Each child is to be permitted and encouraged to participate in extracurricular activities. The group home must ensure that each child has available necessary school supplies, materials, and equipment and must maintain contact with and seek cooperation of those serving the educational needs of its children.</p> <p>— Health services: Each child is to be examined by a physician within 30 days before placement and screened for communicable diseases within 72 hours. If an emergency, the physical examination is to be scheduled within 5 days after placement and completed within 15 days after placement. Children must also be examined annually, or more frequently if findings and medical opinion indicate need, and given a dental examination at least annually with diagnosed dental defects treated promptly.</p>	<p>Licensees are to assess with the referring agency, child, and/or family the child's need for placement, the purpose for referral to the specific institution, and the institution's ability to serve the child. Each child's plan for services must be reviewed at least every 6 months and signed by all parties involved.</p>	<p>— Resident visitation: Children are not to be deprived, as discipline, of visits or weekly telephone contacts with family, attorneys or legal assistants, assigned caseworkers, or other persons who have established a parenting bond with the child. Children are to be allowed to visit families other than their own and friends in the community when the living conditions of the family to be visited are known and the visits are approved by the child care facility. The facility is to ensure that visits with the child, on or off the facility's premises, are in the child's best interests.</p> <p>— Services to family: Families are involved in developing and improving service plans for the child and family.</p> <p>— Admission/intake procedures and practices: Children are to be admitted only upon written consent or application of parent or guardian; upon court order; or, in emergency situations, upon authorization of an officer of the law or a department child protective services worker. No person who has attained age 18 is to be admitted unless referred by a parent or a guardian, including an agency having legal responsibility for the person under Illinois statute.</p>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Maryland</b>		
<p>— Plan development: Licensees are to have and follow written policies regarding individual service planning. Service plans are to be developed within 30 days after admission and are to identify the child's needs with respect to (1) counseling and drug and alcohol abuse, (2) education, (3) family relationships, (4) health care, (5) life skills development, (6) recreation, (7) social work, (8) program goals, and (9) the time planned to achieve goals.</p> <p>— Services to family: Licensees are to invite to participate in the admission process and in the development of the individual service plan and the discharge plan the (1) representative designated by the placing agency and (2) child's parent if consistent with the child's permanency plan.</p> <p>— Education: Licensees are to (1) ensure that each child who is of mandatory school attendance age and who has not earned a secondary school diploma or a certificate of completion, and each child who is eligible for special education services attends school or is provided with appropriate education services; (2) work cooperatively with the local school system to ensure that the children attend the local school whenever possible; and (3) when applicable, obtain a certificate of approval for educational programs in nonpublic schools and child care and treatment facilities.</p> <p>— Health services: Licensees are to (1) have and follow a written plan for the provision of preventive, routine, and emergency medical, dental, and mental health care for children; (2) obtain written authorization from a parent or other authorized individual for nonemergency medical, dental, or mental health care; (3) authorize emergency medical, dental, or mental health care if a parent cannot be reached.</p>	<p>Licensees are to review and update individual service plans at least every 90 days.</p>	<p>— Resident visitation: Licensees are to have and follow a written policy regarding communications—which include visitations, telephone contacts, correspondences, and reports—between the child and others. When consistent with the child's service plan, family members are to be encouraged to participate in the program.</p> <p>— Services to family: Licensees are to give the child's parent and, as appropriate, the child a written description of the program that includes (1) the program mission and admission and discharge policies, (2) daily routines, (3) treatment strategies and disciplinary practices, (4) visiting hours and other procedures related to communications with the child, and (5) procedures for registering grievances regarding the child's care.</p> <p>— Admission/intake procedures and practices: Licensees are to have and follow written policies regarding admission, individual service planning, and discharge, and invite to participate in the admission process and in developing the individual service plan and the discharge plan the representative designated by the placing agency and the child's parent if consistent with the child's permanency plan.</p>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Michigan</b>		
<p>— Plan development: Service plans are to be developed within 30 days of admission and with resident, parents, and the referral source. Plans are to include (1) an assessment of the resident's and family's strengths and weaknesses in the areas of education, economics, psychology, society, and health as they relate to the resident's needs; (2) parent and child visitation plans; (3) treatment goals to remedy problems of the resident and family and time frames for achieving the goals; (4) indicators of goal achievement; (5) persons responsible for coordinating and implementing the resident and family treatment goals; (6) staff techniques for achieving the resident's treatment goals; and (7) the projected length of stay and next placement.</p> <p>— Education: Licensees are not to admit a child for care unless an appropriate educational program can be provided in accordance with Act No. 451 of the Public Acts of 1976, as amended (§380.1 et seq of the Michigan Compiled Laws, known as the School Code of 1976) not later than 5 school days after admission and continuously thereafter for each resident of school age.</p> <p>— Health services: Licensees are to establish and follow written health service policies and procedures for (1) routine and emergency medical and dental care, (2) health screening procedures, (3) maintenance of health records, and (4) storage and dispensing of medications and personnel authorized to dispense medications.</p>	<p>Services plans are to be updated and recorded by the social services worker for each child at least once every 3 months following the initial plan. Updated service plans are to be developed with the resident, the resident's parents, and the referral source, unless documented as inappropriate. Updated service plans are to include (1) progress made toward achieving the goals established in the previous plan; (2) any changes in the plan, including new problems and new goals to remedy the problems; and (3) indicators of goals and time frames for achievement.</p>	<p>— Resident visitation: Facilities are to make provisions for visits between each resident and the resident's parents, except where parental rights have been terminated or the resident's record contains documentation that visitation is detrimental to the resident.</p> <p>— Services to family: Facilities are to have a program statement that specifically addresses the services that will be provided to residents and parents directly by the institution and the services provided by outside resources.</p> <p>— Admission/intake procedures and practices: Service plans developed for each child within 30 days of admission include (1) an assessment of the child's immediate and specific needs, (2) the specific services to be provided by the institution and other resources to meet the child's needs, and (3) a description of the child's placement circumstances and general physical and emotional state at the time of admission.</p>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Missouri</b>		
<p>— Plan development: From the time a child is admitted, a preliminary written service plan must be developed and documented in the child's record within 15 days for each child admitted by plan for placement or within 72 hours for emergency placement admissions. The service plan must identify and include (1) the child's individual needs in addition to basic needs for food, shelter, clothing, routine care, and supervision; (2) specific strategies and their frequency to meet the child's needs, including instructions to staff; (3) specific strategies and frequencies for family involvement, including a defined plan for visitation and engaging the family in services for the child; (4) specific strategies to meet the recreational and developmental needs of the child; (5) the estimated length of stay; and (6) the date and signature of the treatment team coordinator and a signed and dated attendance sheet of all other participants.</p> <p>— Services to family: The service plan must also identify and include time-limited goals and preliminary plans for discharge, including plans for reintegration into family and community.</p> <p>— Education: The facility administrator is responsible for ensuring compliance with Missouri statutes pertaining to a child's education.</p> <p>— Health services: The facility is to have a written health care program plan that addresses preventive medical eye, hearing, and dental care.</p>	<p>The service plan review with the date and signature of the treatment team coordinator and a signed and dated attendance sheet of all other participants in the review must be documented in the child's record. Reports of the evaluations in summarized form are to be included in the child's record and shared with the parent, guardian, or legal custodian. The service plan review must include (1) an evaluation of progress toward meeting the child's needs; (2) an evaluation of progress toward family reunification; (3) any needs identified since the plan was developed or last reviewed and strategies to meet the needs, including instructions to staff; and (4) an update of the estimated length of stay and discharge plans, if changed.</p>	<p>— Resident visitation: agencies are to develop written visitation policies. An agency is to encourage and support contacts between a child and the family while the child is in care, unless the rights of the parent to contact the child have been terminated or restricted by court order.</p> <p>— Services to family: The admission assessment must be in writing and include specific information on (1) the circumstances that led to the child's referral; (2) the immediate and long-range goals of placement; and (3) the parent's or legal guardian's expectations for placement, family involvement, and duration of the child's stay in care.</p> <p>— Admission/intake procedures and practices: Intake policies are to be in writing and are to identify services and programs offered. Whenever possible, an agency is to arrange for one or more preplacement visits by the child (except in emergency placements) and, when appropriate, arrange for at least one or more preplacement visits by the child's parent, guardian, or legal custodian. When a child is self-referred, efforts are to be made to contact the child's parent, guardian, or legal custodian within 24 hours. If the parent, guardian, or legal custodian cannot be contacted, the agencies are to notify the appropriate public agency. All efforts to notify the appropriate public agency, parent, guardian, or legal custodian are to be documented in the child's case record.</p>

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<b>Case/service plan</b>	<b>Case reviews/program progress reports</b>	<b>Procedural safeguards</b>
<b>New York</b>		
<p>— Plan development: A case planner is assigned to each child and is responsible for assessing the need for, providing or arranging for, and coordinating and evaluating the provision of services to children in foster care and services to parents of children in foster care.</p> <p>— Services to family: Casework contacts are defined as individual or group face-to-face contacts between the case planner and a child's parents or relatives for the purpose of guiding parents and relatives toward a course of action aimed at resolving problems or needs of a social, emotional, developmental, or economic nature that are contributing to the need for foster care.</p> <p>— Education: Licensees are to take such steps as may be necessary to make certain that all children receive education appropriate to their needs and in accordance with the requirements of the state's Education Law and are to make certain that each child receives appropriate educational and vocational guidance.</p> <p>— Health services: Each child must have complete medical examinations and is to be provided, when necessary, with eyeglasses, hearing aids, and prosthetic or other adaptive devices. Food is to be of good quality, properly prepared, served at regular hours, sufficient in quantity, and meet nutritional standards recommended by the National Research Council. To the extent possible, nutritional requirements based on a child's religious beliefs are to be met.</p>	<p>During the first month of placement, casework contacts are to be held with the child's parents or relatives as often as is necessary to implement the tasks in the family and children's services plan but, at a minimum, are to occur at least twice, unless compelling reasons are documented why such contacts are not possible. After the first month of placement, casework contacts are to be held with the child's parents or relatives at least once every month if the permanent planning goal for the child is to return to the parents or relatives and quarterly if the child's permanent planning goal is for adult residential care or to prepare for independent living. Casework contacts may include either face-to-face contacts or telephone consultations.</p>	<p>— Resident visitation: For children with a permanency planning goal of returning to parents or relatives, contacts between the caseworker and the child's parents or relatives are to be scheduled to occur in the home of the parents or relatives to whom the child will be discharged as often as is necessary to implement the tasks in the family and children's services plan.</p> <p>— Services to family: Social service officials must provide care and services as directed by the family court judge to encourage and strengthen the parental relationship when the court finds that such efforts will not be detrimental to the best interests of the child.</p> <p>— Admission/intake procedures and practices (see case reviews).</p>

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<b>Case/service plan</b>	<b>Case reviews/program progress reports</b>	<b>Procedural safeguards</b>
<b>North Carolina</b>		
<p>— Plan development: A written plan of care for each child is to be developed at the time of admission and reviewed at least semiannually by facility staff; parents and legal custodians; and the child, where appropriate. This plan of care is to include (1) the expectations and goals for the child and (2) the tasks and activities of facility staff, parents, and legal custodian to meet the needs of the child while in care.</p> <p>— Services to family: Each facility is to provide those services to children and their families that it has stated it will provide in each child's plan of care. Licensees are to evaluate each child's placement needs on a regular basis and are to include in this review the parents, relatives, and the agency with legal responsibility for the child.</p> <p>— Education: Children are to attend the public school to which they are assigned, unless an alternative education plan is agreed upon by the child, the facility, and the responsible person or placement agency.</p> <p>— Health services: Facilities are to have a planned program of medical care. No child is to be accepted into a program without having had a physical examination within 90 days prior to admission, which is to include a signed statement by a licensed medical provider specifying the child's current medical condition and prescribed medications.</p>	<p>Each child's plan of care is to be reviewed at least semiannually by facility staff, parents, legal custodian, and, when appropriate, the child.</p>	<p>— Resident visitation: Resident visitation and telephone calls are to be planned on an individual basis. Visitation policies are to be developed through consultation with and the approval of the legal custodian of the child.</p> <p>— Services to family: Each facility is to provide services that it stated it will provide in children's written plans of care. In reviews of each child's placement needs, licensees are to include the parents, relatives, and the agency with legal responsibility for the child.</p> <p>— Admission/intake procedures and practices: Admission policies are to be clearly defined in writing and are to be reviewed annually and changed as needs and conditions in the community change. A written plan of care for each child is to be developed at the time of admission and reviewed at least semiannually by the group home staff, parents, legal custodian, and, when appropriate, the child. Written placement agreements, signed by authorized persons, are to include the services to be provided by the facility and the responsibilities of parents and legal custodians, indicating responsibility for (1) the child's financial and medical needs and fees to be paid; (2) consent for emergency medical treatment; and (3) determining length of stay, visitation expectations and limitations, and the schedule of review conferences.</p>



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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Ohio</b>		
<p>— Plan development: Service plans are to be in writing and contain, at a minimum, (1) goals and objectives; (2) the time frame projected for meeting placement goals and objectives and projected placement plans upon discharge; (3) the educational, counseling, recreational, vocational, and medical activities or services that will be provided by facility; (4) any specialized services that will be provided or arranged; (5) frequency of progress reports; and (6) specifications for visitation between child and family or friends.</p> <p>— Services to family: The facility is to (1) develop and review a service plan for each child with authorized representative, parent, or guardian and (2) keep the parent, guardian, or custodian informed of health care provided to the child while at the facility.</p> <p>— Education: The child has the right to participate in an appropriate educational program.</p> <p>— Health services: Within 5 working days of admission, the facility is to secure a placement medical screening of the child conducted by a licensed physician, registered nurse, licensed practical nurse, or physician's assistant. Health care is to include dental and optical examinations by licensed practitioners.</p>	<p>At least every 90 days after the initial review of a child's service plan, all individuals involved in the development and implementation of the plan are to review and make any necessary amendments. Such reviews are to be documented in case records and are to include an assessment of the current adjustment of the child and a determination of whether the child should remain in the facility.</p>	<p>— Resident visitation: Service plans are to contain specifications for visitations between the child and family or friends. Facilities are to develop a handbook for residents and their families, which contains visiting hours and communication policies.</p> <p>— Services to family: The facilities' handbooks must also describe the roles and responsibilities of the family in the care and treatment of the child.</p> <p>— Admission/intake procedures and practices: Facilities are to have written individual child care agreements for each child with the person or agency holding custody of the child. Facilities are to document, at the time of admission, a physical description of each child or teenage mother, any available medical information, the name and authority or relationship of the person placing the child, and the reason for placement.</p>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Pennsylvania</b>		
<p>— Plan development: Licensees are to develop and begin implementing an individual service plan (ISP) for each child within 30 days of admission. The plan is to include (1) service goals; (2) time-limited objectives to be used for evaluating progress toward these goals; (3) specialized activities or services that the facility will provide, arrange for, or coordinate, and methods for measuring accomplishment; (4) a schedule of the child's visits by or with a parent or guardian; (5) anticipated duration of stay; and (6) the persons responsible for and their role in implementing the plan, and methods of assessing progress.</p> <p>— Education: Children of compulsory school age are to be enrolled in or have access to a basic education. Children beyond the age of compulsory school age are to have an opportunity to access career counseling and continuing education. Academic and vocational programs operated on facility grounds are to meet applicable requirements of the state's Department of Education.</p> <p>— Health services: Licensees are to ensure each child receives a health screening within 24 hours of admission. The screening may be conducted by a licensed physician, nurse practitioner, registered nurse, licensed practical nurse, physician's assistant, or a specially trained direct care staff person. Licensees are to establish written policies and procedures governing the provision of health care, including preventive, routine, and emergency medical and dental care; the administration of medication; and staff training.</p>	<p>Licensees are to review each child's ISP at least once every 6 months to determine progress in achieving the plan's goals and objectives. The first ISP review is to occur no later than 6 months from the date the child was placed in the facility or, for certain children, no later than 6 months from the initiation date of the ISP. Subsequent reviews are to be held no later than 6 months from the date of the previous review. If appropriate, ISPs are to be modified or revised as a result of these reviews. ISP review results are to be recorded in the child's record.</p>	<p>— Resident visitation: Licensees are to arrange family visitations that are convenient for the family and the facility. Visitations and communications between a child and the child's parents, attorney, clergy, or placing agency may not be restricted or terminated without a written court order.</p> <p>— Services to family: Licensees are to provide the child's parents or guardian (1) an opportunity to participate in the ISP development and reviews and to sign the initial or revised or modified ISP and (2) a copy of the initial and each amended ISP.</p> <p>— Admission/intake procedures and practices: Licensees may accept a child for care if it receives in writing (1) a description of the circumstances that make placement necessary, (2) the needs of the child that the facility must address, and (3) the child's legal status.</p>

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Case/service plan	Case reviews/program progress reports	Procedural safeguards
<b>Texas</b>		
<p>— Plan development: Licensees are to complete an intake study for each child accepted for placement (see admission/intake procedures and practices) and, within 30 days of admission, develop an initial plan of service after conferring with the child and the child's parents or managing conservator. The plan of service is to specify the objectives of placement, how the child's needs will be met, and the estimated length of stay.</p> <p>— Services to family: The parents or guardian cooperate with the child-placing agency in developing and carrying out the plan of service for each child.</p> <p>— Education: Licensees are to arrange an education appropriate for each child. The facility is to provide for the social and educational needs of each child; each child is to be permitted to attend the public free schools in the district in which the foster parents reside free of charge to the foster parents.</p> <p>— Health services All children are to be examined each year by a licensed physician and at least once a year by a licensed dentist or a dental hygienist working under the supervision of a licensed dentist. Provisions are to be made for emergency medical and dental care. All medications are to be given by foster parents or an adult staff member, except when a child is participating in a medically approved self-medication program. Prescription medications are to be in the original container, labeled with the child's name, a date, instructions, and the prescribing physician's name.</p>	<p>Plans of service are to be reviewed and updated by conference every 6 months. Conferences are to include a representative from the group home who meets the same qualifications as the person doing the intake study, the child's parents, and the child. Updated plans are to note achieved or changed objectives. The child's parents are provided copies of updated plan summaries.</p>	<p>— Resident visitation: Contacts between the child and family are to be allowed unless the rights of the parents have been terminated by court order or family contact is not in the child's best interest. If limits are put on communication or visits for practical reasons (such as expense), such limitations are to be determined with the participation of the child and family. Children may not be denied visits with their families as punishment.</p> <p>— Services to family: A written plan of service must be developed and documented in the child's record within 30 days of admission for each child in care. The plan must be based on the admission assessment. A copy or summary of the plan must be given to the child, when appropriate, and the child's parents. Staff who work with the child must implement and follow the plan.</p> <p>— Admission/intake procedures and practices: Facilities may not accept a child for care until an intake study has been made and a determination that the placement meets the needs and best interests of the child and family. In addition to the parents' or managing conservator's expectations of placement, the intake study is to describe the child's (1) family circumstances and relationships that make placement necessary; (2) developmental and medical history; (3) understanding of placement; (4) personality, behavior, and interests; (5) school history; (6) previous placements; (7) legal status; and (8) needs. The study is also to describe the immediate and long-range goals of the placement and the family member or managing conservator who will be responsible for the relationship between the home and the child.</p>

Source: State child care licensing regulations in each state cited.

# Comments From the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

Apr 26 2001

Ms. Cynthia M. Fagnoni  
Director, Education, Workforce, and  
Income Security Issues  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Ms. Fagnoni:

Enclosed are the Department's comments on your draft report, "Foster Care: HHS Should Ensure That Juvenile Justice Placements Are Reviewed." The comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department also provided extensive technical comments directly to your staff.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

A handwritten signature in cursive script that reads "June Gibbs Brown".

June Gibbs Brown  
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the Department's response to this draft report in our capacity as the Department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

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**Appendix V**  
**Comments From the Department of Health**  
**and Human Services**

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COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE  
U.S. GENERAL ACCOUNTING OFFICE'S DRAFT REPORT, "FOSTER CARE: HHS  
SHOULD ENSURE THAT JUVENILE JUSTICE PLACEMENTS ARE REVIEWED"  
(GAO/HEHS-00-42)

The Department appreciates the opportunity to comment on the General Accounting Office's (GAO) draft report, which attempts to identify the extent to which States are expending title IV-E foster care maintenance payments on behalf of children who are adjudicated delinquent and to make recommendations for ensuring that such children are placed in appropriate facilities. The following comments are intended to provide additional clarification or information for GAO's consideration.

General Comments

The Department's Administration for Children and Families' (ACF) Children's Bureau, in the Administration on Children, Youth and Families, administers the title IV-E foster care maintenance program, which provides funds to States to assist them in meeting the needs of certain children who are removed from their homes and placed in foster care. Federal financial participation (FFP) is available for a portion of the costs States incur in their placement and care responsibilities for title IV-E eligible children.

Following the passage of the Adoption and Safe Families Act of 1997 (ASFA) (Public Law 105-89), we received a number of comments and questions regarding the Act's implications for children in foster care who are adjudicated delinquent. To assist us in responding to these comments and concerns, we published a notice for public comment in the *Federal Register* (63 Fed. Reg. 67484) on December 7, 1998. In this notice, we also asked for comments regarding the issue of identifying appropriate child-care institutions for title IV-E eligible children who are adjudicated delinquent. The comments we received in response to the notice overwhelmingly focused on issues related to satisfying title IV-E procedural requirements for children in foster care who are adjudicated delinquent. Most commentaries were clear about the restrictions regarding facilities in which title IV-E eligible children must be placed in order for a State to receive Federal reimbursement. Therefore, in the preamble to the final rule that codified many of the ASFA amendments to title IV-E (65 Fed. Reg. 4020, January 25, 2000), we provided guidance on how to satisfy title IV-E procedural requirements for children in foster care who are adjudicated delinquent. We have yet to make decisions regarding what, if any, additional guidance to issue with respect to appropriate foster care facilities for children who are adjudicated delinquent.

The Department recognizes the importance of GAO's report and the effort that went into developing this report. We view the report as an important step in understanding the true scope of the issue. However, for reasons described in technical comments that the Department has already provided to GAO, we question the scope of the problem as presented in GAO's report. We agree that it may be necessary to gather additional information to fully understand and address the issue of the accurate application of and

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Comments From the Department of Health  
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compliance with title IV-E requirements for children who are adjudicated delinquent. However, we do not believe that implementing the recommendations in GAO's report is a viable method for gathering such information.

GAO Recommendations

We recommend that the Secretary of HHS direct the Assistant Secretary, Administration for Children and Families, to ensure that when examining juvenile justice placements in the course of its title IV-E eligibility review, HHS collect information needed to determine whether the purpose for which the child was placed in a particular facility was treatment or detention, and whether or not the facility in which the child was placed was being operated primarily for the detention of adjudicated delinquents.

In addition, we recommend that in the initial title IV-E eligibility and CFS review it conducts in each state having title IV-E funded juvenile justice cases, HHS ensure that a sufficient number of juvenile justice cases is reviewed to provide a reasonable degree of assurance that title IV-E eligibility and case management requirements are being met for such cases. Depending on the results of these initial reviews in a given state, HHS could decide whether it would be necessary to review that same number of juvenile justice cases in that state in the future.

Finally, we recommend that in those states having title IV-E funded juvenile justice placements, as part of its CFS review of state systems, HHS ensure that systems the state uses to determine if the facilities in which juvenile justice children are placed are eligible for title IV-E funding, and systems used to manage title IV-E funded juvenile justice cases, are examined.

Department Comment

Issues of accuracy with respect to the scope of the problem aside, we are not convinced that GAO has identified a problem whose scope is consistent with the recommendations set forth in the report. The degree of disproportion found in the GAO report (10 percent of title IV-E funds are expended on behalf of 4 percent of title IV-E eligible children) is relatively small. This disproportion is explained by the higher costs associated with the levels of care provided in institutional settings, with no indication of title IV-E compliance issues. We do not believe GAO's recommendations that we alter our review protocols to address this issue is supported by GAO's findings.

We recently promulgated regulations to codify both of our new review protocols. We do not believe that the report's recommendations are consistent with the procedures for both the title IV-E eligibility reviews and the child and family services (CFS) reviews, and with the purposes of the CFS reviews. Both reviews include a small sample of children to be reviewed on-site (the intensive nature of a CFS review limits the size of a sample). Requiring that a portion of the already small sample be specifically devoted to a small population of children who are adjudicated delinquent that are served under title IV-E would seriously hamper our capacity to use the reviews to cover all children whose

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**Appendix V**  
**Comments From the Department of Health**  
**and Human Services**

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cases we are required to monitor. Further, random sampling is used in both reviews to identify the cases to be reviewed on-site; therefore, children in foster care who are adjudicated delinquent have an opportunity to be included in the sample under both review protocols.

The ACF has two mechanisms, the partial CFS review and the partial review for State plan requirements outside the scope of a CFS review, that permit issue-specific targeting of our monitoring/compliance activities. We think that an issue-specific, targeted approach to identifying and responding to title IV-E compliance regarding children who are adjudicated delinquent is a more viable approach with respect to the burden and scope of the problem presented.

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# Related GAO Products

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*Foster Care: States' Early Experiences Implementing the Adoption and Safe Families Act* (GAO/HEHS-00-1, Dec. 22, 1999).

*Federal Reimbursement for Foster Care* (GAO/HEHS-95-197R, Aug. 11, 1995).

*Residential Care: Some High-Risk Youth Benefit, but More Study Needed* (GAO/HEHS-94-56, Jan. 28, 1994).

*Foster Care: State Agencies Other Than Child Welfare Can Access Title IV-E Funds* (GAO/HRD-93-6, Feb. 9, 1993).

*Child Welfare: Monitoring Out-of-State Placements* (GAO/HRD-91-107BR, Sept. 3, 1991).

*Youth Camps: Nationwide and State Data on Safety and Health Lacking* (GAO/HRD-89-140, Sept. 20, 1989).

*Foster Care: Use of Funds for Youths Placed in the Rite of Passage Program* (HRD-87-23BR, Dec. 9, 1986).

*Review of Certain Aspects of Group Home Care for Children in California* (GAO/HRD-85-62, July 19, 1985).



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