

Final Committee Report, Vol. 99, No. 1
**State Foster Care Review Board:
Compliance With Federal
Case-Review Requirements**

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EXECUTIVE SUMMARY

Introduction

The welfare of children in foster care has been an ongoing concern of government at both the federal and state levels. In response, the United States Congress enacted Public Law 96-272 (1980), which, in part, requires states to implement systems of case reviews for children in foster care.

In Nebraska, the Foster Care Review Board (FCRB) has been designated as the agency responsible for conducting the federally required administrative case reviews. The FCRB, which was created in 1982, was given this responsibility by Laws 1996, LB 642.

The purpose of the program evaluation described in this report was to (1) determine if the FCRB is meeting federal requirements relating to administrative case reviews and (2) provide a cost analysis of the reviews. The evaluation was also intended to satisfy the LB 642 requirement that the Legislature's Executive Board conduct a one-time evaluation, in 1998, of FCRB case reviews.

The Nebraska Foster Care Review System

The FCRB is a noncode state agency consisting of nine members appointed by the Governor and approved by the Legislature. The FCRB has two major responsibilities: (1) to ensure that the case of each child in foster care is reviewed every six months; and (2) to maintain a statewide registry of children in foster care (commonly referred to as the "tracking system"). Case reviews are done by local citizen review boards located throughout the state. The FCRB central office, located in Lincoln, is staffed by an executive director and administrative support staff. Review specialists, who provide staff support to local boards, work in their respective communities throughout the state.

Federal Laws Governing Foster Care

The timing and content of case reviews are dictated primarily by federal law. States are required to periodically review the cases of children who are (1) in the custody of the state and (2) placed outside of their family homes. In Nebraska, the Nebraska Health and Human Services System (NHHSS) is the agency primarily responsible for the out-of-home care of state wards.

An administrative case review must:

- Examine the continuing necessity for and appropriateness of the placement;
- Measure the extent of compliance with the case plan;

- Determine the progress made towards alleviating or mitigating the factors that led to the foster care placement;
- Determine whether a date has been set by which the child will be returned to the home, be placed for adoption, or have a legal guardian appointed;
- Ensure that a child's health and education records are maintained, updated, and supplied to the foster care provider at the time the child is placed;
- Be open to the participation of the parents of the child; and
- Ensure that at least one member of the review panel is not responsible for the case management of or the delivery of services to the child or his or her parents.

FCRB Compliance with Federal Case-Review Requirements

Timeliness of Case Reviews

To determine whether FCRB case reviews are being conducted on a schedule consistent with federal law, the Legislative Program Evaluation Unit (unit) obtained and analyzed data from the FCRB tracking system relating to a randomly selected sample of 189 children (1) who were in the custody of NHHSS, (2) who were placed outside of their homes, (3) whose cases were open for at least six months, and (4) whose cases were open, at least in part, between July 1, 1997, and March 31, 1998.

Although federal statutes require the status of each child in foster care to be reviewed once every six months, federal guidelines used to monitor state compliance¹ allow an additional month. Therefore, the unit used a standard of seven months to measure the timeliness of case reviews.

The unit found that, of the 189 cases analyzed, 137 (72.5 percent) were reviewed on time, 50 (26.5 percent) were reviewed late, and 2 (1 percent) were not reviewed at all. In other words, approximately 28 percent of the cases the FCRB was required to review were not reviewed within the timeframe set forth in the federal guidelines.

¹ The federal guidelines used by the unit when conducting its analysis are being revised. However, this evaluation was conducted in 1998, before the new guidelines were available. Because the unit could not, with certainty, determine what standards would be used by the federal government in assessing state compliance with federal law, the unit had to rely on the most recent standards available at the time of the evaluation. Subsequent to the release of this report, new regulations were made available for public comment. However, these regulations have not been formally adopted and are subject to change; and, therefore, still cannot be relied upon for purposes of analysis.

The FCRB identified several factors that have affected the timeliness of the reviews conducted by the local review boards, such as staff leave, bad weather, and unexpectedly lengthy board meetings. In response, the Legislative Program Evaluation Committee (committee) recommends that the FCRB develop better policies and procedures to ensure timely review. For example, a comprehensive plan should be developed to reduce delays caused by unforeseen circumstances. Local boards should be more closely monitored so that problems can be identified and dealt with quickly.

Other Federal Requirements

The structure of the review process, which is based on a “findings-and-recommendations” form completed by local review boards in conjunction with each case review, ensures that most of the other federal requirements for administrative case reviews are met. The committee believes that the FCRB should have little difficulty modifying its procedures to comply with the remaining requirements. The committee recommends that, to comply, (1) the FCRB modify its findings-and-recommendations form to ensure better monitoring of foster children’s health and education records, and (2) the FCRB invite parents to every case review instead of every other case review.

Cost Analysis

In addition to determining whether the case reviews conducted by the FCRB meet federal requirements, the unit was directed to prepare a cost analysis of the reviews. The cost analysis yielded an estimated per-case-review cost of \$164, which the committee believes is reasonable.

Other Significant Issues

While the unit was gathering data for its timeliness analysis, three other significant issues surfaced. First, NHHSS has recently implemented new procedures used to report new foster care cases or changes in existing foster care cases to the FCRB. Under the new system, the FCRB has to manually check each case reported by NHHSS against its own tracking system to determine where the child is placed and whether there have been any changes in the case. Because this process is time consuming and cumbersome, the new procedures must be altered so that the FCRB is notified of changes in existing cases in a more timely fashion and in a more efficient format.²

² Because the unit raised questions about NHHSS procedures, NHHSS was allowed to review and comment on the relevant section of this report. Its response is included as an addendum.

The second issue relates to the FCRB tracking system. In two separate samples, the unit found a significant number of errors—nearly 20 percent—in fields that could affect the timeliness of reviews. These samples, drawn for other purposes, were not representative of the tracking system as a whole and thus cannot be used to make any conclusive statements about the tracking system. However, the committee recommends that the FCRB should take measures to verify the accuracy of tracking system data with special emphasis on fields that can affect the timeliness of reviews.

Finally, there is a question about whether the FCRB should review the cases of foster care children who are returned to their homes but remain in the custody of NHHSS. The FCRB does not currently review these children, and Nebraska statutes are not clear about whether reviews are required. Future compliance reviews conducted by the federal government may require such cases to be reviewed; therefore, the committee recommends that the FCRB request an opinion from the Attorney General relating to this matter.

Conclusion

To ensure that states strive to protect children in foster care, federal funding is made contingent on the ability of state agencies to conduct administrative case reviews consistent with federal requirements. The unit's evaluation of FCRB case reviews reveals that improvements must be made to bring the FCRB into compliance with federal requirements. The FCRB must work to develop better policies and procedures to ensure the timeliness of case reviews and must modify existing procedures to monitor health and education records, to involve parents in the review process, and to correct errors in the tracking system.

Detailed findings and recommendations made by the committee in conjunction with this evaluation are found in Section VI, beginning on page 33 of this report.