



Capacity Building
CENTER FOR COURTS

September 2022



Judicial, Court, and Attorney Measures of Performance (JCAMP)

Volume I: Measures

Judicial, Court, and Attorney Measures of Performance (JCAMP), Volume I: Measures

Authors

Alicia Summers, Ph.D., Capacity Building Center for Courts
Sophia Gatowski, Ph.D., Capacity Building Center for Courts
Anne Fromknecht, M.P.H., James Bell Associates

Submitted to

Scott Trowbridge, J.D., Federal Project Officer
Children's Bureau
Administration for Children and Families
U.S. Department of Health and Human Services
Grant Number: 90CZ0030

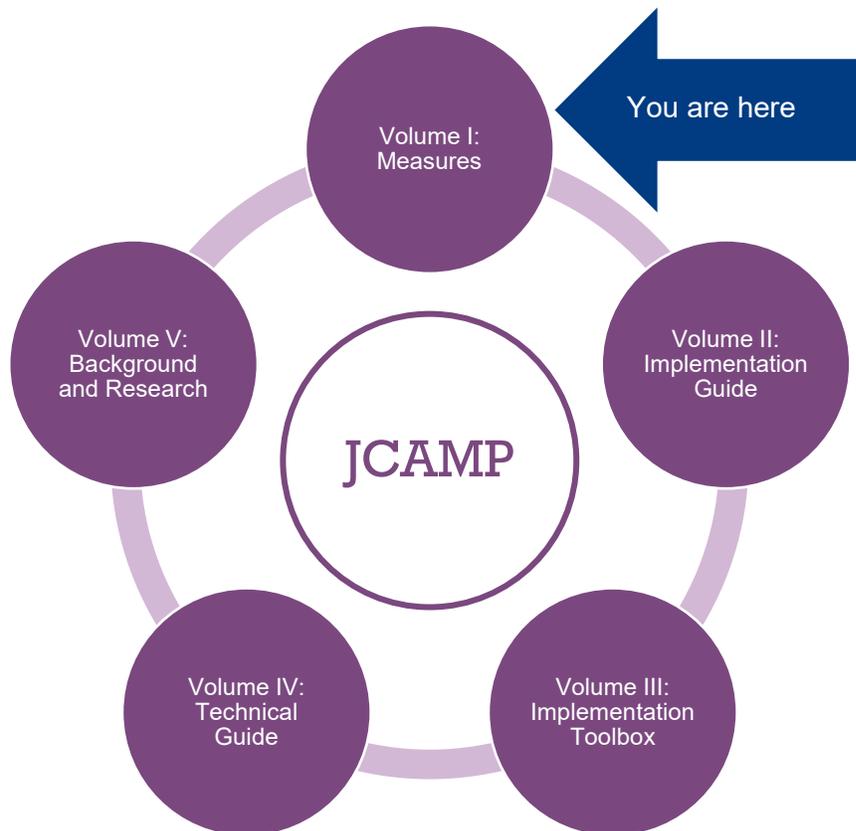
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Acknowledgments

The authors would like to thank the other members of the Prototype Development Team who helped shape the measures, conceptualize the scope, and reviewed and commented on report drafts: Zabrina Alequire, Janet Ciarico, Carmen Hidalgo, Kristina Jorgensen, Christine Kiesel, Jaymie Lorthridge, Katherine Malzahn-Bass, and Ron Whitener. Appreciation is also extended to research assistant Terrica Dang-Mertz, Tammy Richards for review, and Joelle Ruben for communications support.

We would also like to thank the Judicial, Court, and Attorney Measures of Performance (JCAMP) Core Team: Angela Burton, Heather Cantamessa, Timothy Jaasko-Fisher, Christine Kiesel, Mimi Laver, Jennifer Renne, Sheldon Spotted Elk, Scott Trowbridge, and Andrew Yost and over 60 advisors and consultants for their review and feedback on JCAMP. See appendix A for a complete list of expert advisors.



Foreword From Scott Trowbridge, Children’s Bureau

When I think back on working on JCAMP over the last year, two quotes come to mind. One is from Alan Alda: “Your assumptions are your windows on the world. Scrub them off every once in a while, or the light won’t come in.” The second is from Cornel West: “Justice is what love looks like in public.”

From a historical point of view, our current national child welfare system is in its youth. One can debate the significant markers in history of an organized child welfare system in the United States, but many of us that worked on JCAMP lived through some of the big markers that have shaped the current legal framework. For example, some are the Child Abuse and Treatment Act (1974), the Indian Child Welfare Act (1978), the Adoption Assistance and Child Welfare Act (1980), the Adoption and Safe Families Act (1997), and the Fostering Connections to Success and Increasing Adoptions Act (2008).

Many of us have invested our hard work and ‘heart’ work into making this framework *just* and effective for families during those years.

But, there has been a major gap through most of that time. We have not had the data, in an organized national sense, about how courts, judges, and attorneys are helping or hurting the cause of justice for families in our system. We have not had the data to test our assumptions about how our practices benefit children, parents, and families. We have data showing inequities, notably by race, but there are many unanswered questions about how legal practice helps or contributes to those inequities. We have not had the data to know whether families experience things as just, or whether they feel, in a sense, that our system is tilting toward the ambition of West’s quote.

JCAMP then was an attempt to build something, a way forward to challenge our assumptions.

To challenge our own assumptions, JCAMP was designed to be a microcosm of our field. The participants in this endeavor included people in every role in child welfare, including parents and youth with lived expertise. And the participants, intentionally included, provided a diverse array of perspectives, some with wildly divergent views on the path forward, not just for JCAMP, but for the field.

It was no small feat to try to gain some consensus. Further, it was no small feat to marry the many perspectives for what we found research support. One way of looking at what evolved in that context is that there is a framework, with multiple paths forward. There are data elements that could live in an administrative data system and answer broadly some of the big legal practice questions. There are paths to dig deep into qualitative matters. In a word, what you will see here is adaptive.

If you choose to follow these paths, I encourage you to be bold in creating your own microcosm to decide which paths to take. JCAMP provides roadmaps to challenge your system to live up to your vision, but deciding what is important for your jurisdiction, will benefit from hearing from the many.

Thank you for reading. Thank you for the work you do.



Statements of Support From Perspective Groups

A critical part of the JCAMP process was to make sure a wide range of perspectives were meaningfully included. To that end, JCAMP created a team of over 60 advisors and consultants. This team was made up of people who differed in many ways including race, ethnicity, geography, education, experience, and role in the system. We made a conscious effort to avoid tokenism and equalize power within the larger group. One way we supported meaningful input from unique perspectives was to provide an open invitation for JCAMP team members to form “Perspective Groups.” Anyone on the team could gather a subgroup to further explore JCAMP through a particular lens. JCAMP offered to support these groups in whatever way the group thought most useful. Perspective groups were encouraged to meet on any schedule they chose. All members were fully compensated for any time committed to Perspective Group activities. These groups set aside extra time to consider JCAMP issues through their particular lens. They were consulted and invited to give input on JCAMP material related to their unique perspectives. The groups were also invited to create statements about JCAMP and their work, provided below.

System-Impacted Parents Perspective Group

System-impacted parents were involved in creating these measures. Our perspectives and feedback were given equal importance and consideration along with all other viewpoints at every stage of the process. A system-impacted parent was a member of the core group which oversaw the administration of the entire project. Parents were chosen as part of the group of expert advisors with the specific purpose of representing diverse viewpoints, backgrounds, and experiences. This included inviting parents that had both positive and negative experiences within the child welfare system.

JCAMP was done on a very tight timeline. It was often challenging for parents to meet the demands of the timeline; and this felt, at times, indicative of what it felt like navigating the system. Parents gave feedback during the initial feedback session and added comments throughout the process both written and as part of larger feedback groups. Our input resulted in changes to JCAMP that made it better for everyone. For example, in response to overwhelming parent feedback that the first version of the prototype was difficult to understand, the lead authors revised the entire document and took a different, more simplified approach focused on using more common language.

We wanted to help create measures that are family focused and improve the family experience. We understand that simply writing these measures does not change anything. They must be implemented to create change. As parents with lived experience, we contributed to the best extent possible. However, we can only stand by these measures when they are actually implemented. That part is now up to you!



People With Lived Experience as Children or Youth in Foster Care Perspective Group

We are grateful the JCAMP measures include a section on family engagement. Multiple advocates self-identified as people with lived experience¹ as children and youth in foster care. All too often youth who are experiencing care are excluded from the court hearings that determine where they will live, with whom they will live, and what visitation they might have with their siblings/relatives or support systems.

Foster youth sometimes do not have an attorney during these proceedings. In fact, 14 states do not provide the right to counsel for youth experiencing foster care.² Youth experiencing care may not be actively engaged in the decisions affecting their lives even if they have an advocate or are present in the courtroom.

Research shows that when youth are involved in their court cases, court decision-making improves, new information is gathered, and court is a positive experience for youth. When New Jersey implemented a child and youth engagement project, 68 percent of adults (judges, attorneys, caseworkers, etc.) said there was a benefit to having youth in court and 33 percent of adults reported that youth contributed new information to the court. In Kansas 81 percent of judges said youth presence impacted decisions and 51 percent said they found out more information from the young person(s). The majority of youth surveyed share that they were glad they came to court, Vermont (71 percent), Washington (77 percent), and New Jersey (97 percent). Youth also felt heard and understood by the judge.³

While long overdue, the child welfare field is finally listening to those with lived experience to learn from the ‘good, bad, and ugly’ of their time in care. We, those with lived experience, have brought awareness to a multitude of issues: trauma of multiple placement changes, harms of congregate care settings, over prescription of psychotropic medications, lack of educational stability and support, sibling separations, severing of cultural connections, and the pipeline to prison.

Some with lived experience have raised awareness of harms within the system and the impact of disproportionality, and some have shared more privately the horrors of abuse and neglect that went unidentified and unaddressed before entering care; while in care; and after reunification, adoption, and guardianship. We have shared how little is done once “permanency” is achieved or not achieved as young adults struggle when they’ve aged out or experienced

¹ The pronoun “we” refers to persons with lived experience in foster care, sometimes referred to as former foster youth or foster care alumni. For this document we will use person-first language.

² Right to Counsel Map

³ For more information on youth and family engagement see ABA Resolutions 115 chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.americanbar.org/content/dam/aba/directories/policy/annual-2020/115-annual-2020.pdf and 613 chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.americanbar.org/content/dam/aba/administrative/news/2022/02/midyear-hod-resolutions/613.pdf with a fact sheet available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.americanbar.org/content/dam/aba/directories/policy/annual-2020/115-annual-2020.pdf. Also see Federal Guidance: <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2101.pdf> and <https://www.acf.hhs.gov/cb/policy-guidance/im-19-03>.



failed reunifications, adoptions, or guardianships. We have also seen the rise of the hidden foster care system where families are often put through other systems without legal protections. This includes those in kinship placements; failed adoptions; and reunification where some have fewer rights, recognition, and resources for the same kinds of traumatic childhood experiences as those in the formal foster care system.

We know all too often that what is written in our court reports and what is said by professionals in our cases does not reflect the realities of our lives or who we are.

We have encountered professionals who are loving, supportive, and empowering as well as sometimes those who are problematic, difficult, and abusive. We know there is little transparency or checks in the system to protect us, such as no system to track foster homes and child attorneys and their placements outcomes, complaints, and feedback. We know courts have the legal obligation to protect our rights and respond when our rights are infringed. The fastest way to improve our court system is by listening and respecting lived experience voices in all decision-making about their own proceedings and lifting up our unique voices in our court cases and putting people with lived experience in decision-making roles in projects such as this one.

People with lived experience in foster care assisted in drafting and editing the youth surveys and focus group questions in this document. We have also reviewed the other materials and provided feedback throughout this JCAMP process. We are excited to see the outcomes of this work and hope that courts use these measures to make the system more accessible and to improve the treatment and outcomes of children and youth. We hope everyone who is involved in the child welfare system has the same goal of promoting well-being. We appreciate you being open to learning and unlearning how things have been done and changing business as usual to prevent the perpetuation of the current harm that has been experienced by those who are directly impacted.

We hope you view these measures as a step toward a more reflective and engaging court process and outcomes. We appreciate being included and partnering with those with lived experience going forward in your work. We highly recommend continued partnership with those of us who have been directly impacted. Please do not hesitate to partner with people with lived experience in your local jurisdictions to meet the needs of children and youth. Without working in tandem with those with lived experience the system will not improve. We trust that since you have read this introduction you are committed to improving. Just remember to make space in the decision-making processes for our voices. It is unacceptable to do anything about us without us.



People With Lived Experience as Caregivers and Relatives of Youth in Foster Care

Caregivers. In 1997, as one part of the Adoption and Safe Families Act, Congress updated the rights of caregivers to participate in court. On the floor of the United States Senate, before the vote on the bill, Senator Rockefeller highlighted the important role that caregivers play.

“The bill establishes for foster and pre-adoptive parents the right to be given notice of hearings and the right to testify on behalf of the children in their care. How could anyone ever want to leave these people out of the process? These parents have been in charge of the children 24 hours a day, 7 days a week. They are the ones in the best position to know the problems.”

Senator Jay Rockefeller
Senate Floor Congressional Record
November 13th, 1997
[Available at: Pages S12668-S12675]

As of 1997, 42 U.S.C. § 675 (5)(G)⁴ states “foster parents (if any) of a child and any pre-adoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child.” The Code of Federal Regulations similarly now requires foster parents, relative caregivers, and preadoptive parents to receive both notice and the opportunity to be heard, 45 C.F.R. § 1356.21(o). Additionally, Court Improvement Programs (CIPs) should know about and make sure the highest state courts in their jurisdictions adopt rules related to caregiver engagement in court and training of professionals about federal laws. To be eligible for federal CIP funding, state courts must specifically adopt rules which “ensure that foster parents, preadoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child,”⁵ 42 U.S.C. 629h.

Caregivers play a critical role in the lives of children and youth in foster care. They contribute to stability and support the child or youth receives as well as providing continuity in the community.

Despite the policies on the books around caregiver engagement, caregivers often feel left out of the court process, negatively impacting how comprehensive the information the court has regarding the youth. This gap in information can lead to outcomes that are not in the child’s or youth’s best interest.

⁴ 42 U.S.C. § 675 (5)(G), “the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard.” Available at: https://www.ssa.gov/OP_Home/ssact/title04/0475.htm

⁵ 42 U.S.C. 629h states “In order to be eligible to receive a grant under this section, a highest State court shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, shall provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies...”



When speaking to caregivers about their experiences in dependency court, they reported various concerns including not receiving notice of hearings, not knowing how to provide information to the court, transportation issues, and fear of retaliation if they were to raise an issue. Of these issues, fear of retaliation was the most salient. Caregivers are often not parties and are without legal protection or representation. Unlike biological parents, children can easily be removed from caregivers and have contact truncated by social services most often without a court hearing.

Relatives. Engaged relatives can completely change the trajectory of a case. Relatives can serve as supports to biological parents achieving permanency, they can serve as caregivers to children and youth, they can serve long-term legal permanency goals, and they can provide relational and cultural permanency connections. Engaged caregivers can support familial and cultural ties, provide for the safety and wellbeing of children and youth, and help the court understand what recourse is needed for the child or youth to thrive in their home. And similar to caregivers, relatives have certain rights to court notices. For example, relatives have rights to notice at the onset of a case and relatives even have additional rights in the court system with preferences for placement.⁶

When asked about their experiences in court, relatives similarly reported having to navigate barriers in the court system. Similar to caregivers, relatives report not receiving notice of court hearings. Unique to relatives, many report not being identified earlier. Adult siblings reported that they aren't necessarily notified when their siblings enter care and struggled for visitation or placement. Funding and approval processes are difficult to navigate, and caregivers often aren't explained their rights.

Both caregivers and relatives reported that at times they've been able to add information of which the court wasn't aware. These updates helped the court support the needs of the children in their care (e.g., sharing health records, educational achievements, visitation updates).

Additionally, both groups reported concerns around retaliation. Caregivers and relatives who disagreed with a case plan or contradict a social worker in court can lead to removal of the children from their homes. Given the power dynamics in the court, the child welfare process favors a professional's reports over those of youth and families. It is more critical for courts to regularly have confidential surveys and focus groups of caregivers and relatives to find out about best and potentially problematic practices. This we hope can lead to relatives and caregivers feeling better able to fully engage in court and share concerns with the court when they arise.

The barriers and issues listed above are non-exhaustive but seek to provide a window into some of the challenges these populations face. The positive effects of having engaged caregivers and relatives in the court process cannot be understated. We are so grateful for the addition of the relative and caregiver survey to the toolbox and we hope JCAMP will help

⁶ 42 U.S.C. § 671(a)(19) which gives relatives placement preferences and 42 U.S.C. § 671(a)(29) which provides "within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to" certain relatives.



continue to increase caregiver and relative engagement. Please work to incorporate relatives and caregivers in improving your local systems. Trust us, you'll learn something new, and be glad you did.

Racial Equity Perspective Group

Structural inequalities underlying and embedded in the child welfare system create disproportionate and unjust treatment for some children and families.⁷ It is widely understood that racial discrimination and biased practices in child welfare contribute to relatively poorer (“disparate”) outcomes for some families—raising important questions on whether the system should be dismantled or reformed.^{8,9} While not settling the debate, the JCAMP measures support the notion of equity for underserved communities,¹⁰ and acknowledge fundamental problems in the design and operation of the child welfare system that need to be urgently addressed to better serve all families. As a feature of American society, “institutional racism” has been described as “the systematic oppression, subjugation and control of one racial group by another dominant or more powerful racial group, made possible by the manner in which the society is structured. In this society, racism emanates from white institutions, white cultural values, and white people. The victims of racism in this society are Black people and other oppressed racial and ethnic minorities.”¹¹

Black and Indigenous children and youth are disproportionately represented (“overrepresented”) in foster care nationally, are kept in the foster system longer, and reach the age of ineligibility for child welfare system funding without having been reunified with their family or provided with an alternative permanent family at higher rates than children of other races. Black families are particularly targeted for attention: by the time they reach the age of 18 years old, an astounding 53 percent of Black children in the United States will have been subjected to at least one child protective services (CPS) investigation compared with 28 percent of White children and 37 percent of all children.¹² In some states, Hispanic and Indigenous families also experience disparate outcomes from the child welfare system.

In this context, efforts at creating racial equity in the child welfare system must recognize the repercussions of past discrimination against Black and Indigenous people in employment, education, housing, and access to government benefits. To effectively fulfill their responsibilities, the child welfare system and court professionals must understand this history; these lessons

⁷ CBX https://cbxpress.acf.hhs.gov/previous_issues/a46e6d5d1bdec910517620efe54bcb17.

⁸ Alan Detlaff, et al. (2020). It is not a broken system, it is a system that needs to be broken: The upEND Movement to abolish the child welfare system. *Journal of Public Child Welfare*, 14(50), 500–17; also see Children’s Rights. (2021). *Fighting institutional racism at the front end of child welfare systems: A call to action to end the unjust, unnecessary, and disproportionate removal of black children from their families*. <https://www.childrensrights.org/fighting-institutional-racism-at-the-front-end-of-child-welfare-systems/>

⁹ Naomi Schaefer Riley, et al. (2021). *What child protection is for*. American Enterprise Institute.

¹⁰ Executive Order 13985. 86 Fed. Reg. 14 (January 20, 2021). Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>

¹¹ Robert B. Hill, Institutional Racism in Child Welfare, 7 *Race & Society* 17, 19 (2004), citing Andrew Billingsley & Jeanne M. Giovannoni, *Children of the Storm: Black Children and American Child Welfare* (1972).

¹² Hyunil Kim et al. (2017). Lifetime prevalence of investigating child maltreatment among US children. *Am. J. Pub. Health*, 107(2), 274–278. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5227926/>



must be an essential part of their training and an essential aspect of their everyday interactions with the families with whom they work. Equity requires that every family be treated fairly and justly, and that families impacted by the system are provided with individualized, concrete goods and services necessary to support family integrity, family autonomy, and safety, stability (“permanency”), and well-being of system-impacted children and families.

The measures contained herein have been thoughtfully considered with a racial equity lens. While we make no claims to getting everything right, we want to acknowledge the importance of bringing an equity lens to the consideration of what we choose to focus on in these measures. This is just the start of the journey to a more equitable child welfare system.



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Introduction

The Judicial, Court, and Attorney Measures of Performance (JCAMP) project developed this set of performance measures to help the field understand and improve child welfare court practices. The targeted audience includes individuals (e.g., judges, attorneys, court administrators) and organizations (e.g., Court Improvement Programs, attorney organizations) with an interest in improving child welfare court practices. Measures may be especially useful to those who make decisions about data collection and use for child welfare court and systems improvement.

Most current child welfare measures focus on agency practice (e.g., the Child and Family Services Reviews [CFSR]¹³) or on outcome measures (e.g., the Court Performance Measures Toolkit [Toolkit]¹⁴). The JCAMP performance measures focus on—

- **Court process measures:** What happens in the court process, including before, during, and after court
- **Professional practice measures:** The activities judges and attorneys perform
- **Family experience measures:** How families experience and perceive the child welfare court system

Guiding Principles

The measures must—

- Highlight the child and family experience.
- Incorporate equity in implementation and analysis.
- Be usable and flexible for sites and court stakeholders to inform practice.
- Be feasible for sites with varying data capacity to implement.
- Be guided by research evidence and best practice recommendations.
- Include theories of change for each measure that describes how it relates to outcomes for children and families.
- Complement the existing court measures (e.g., The Toolkit) and CFSR measures.

The JCAMP performance measures are designed to track practice over time—in the spirit of **continuous quality improvement**—and not to set standards for performance. As a result, they do not include preestablished benchmarks or goals. For example, a performance measure of

¹³ The Children's Bureau conducts CFSRs, which are periodic reviews of state child welfare systems. The CFSR process is designed to ensure conformity with federal child welfare requirements, determine what is happening to children and families when they are engaged in child welfare services, and assist states in helping children and families achieve positive outcomes. ([acf.hhs.gov/cb/monitoring/child-family-services-reviews](https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews))

¹⁴ See the JCAMP [Resource Review](#) for a description of existing court performance measures, including [The Toolkit](#), [Family Justice Initiative](#) Indicators, and National Center for State Courts National Center for State Courts (NCSC) [CourTools](#).



how many hearings parents attend does not include a standard specifying the percentage of hearings parents *should* attend. Rather, the JCAMP performance measures identify questions to help guide understanding of the system and subsequent improvement efforts.

Guidance on collecting the measures also accounts for variations in state and tribal resources and data collection capacity. The Implementation Guide (volume 2) and Implementation Toolbox (volume 3) provide guidance on assessing data capacity to collect measures and identify ways to gather the needed information.

How were the JCAMP performance measures developed?

The JCAMP Project is funded by the Children’s Bureau and is conducted by the Capacity Building Center for Courts (CBCC). The measures were developed by a team under the direction of Co-Project Leads Dr. Alicia Summers and Dr. Sophia Gatowski. A Prototype Development team comprising researchers, court administrators, attorneys, and parents with lived experience met weekly to discuss ideas, challenges, and structure. The measures were informed by—

- A comprehensive review of existing court measures, research, and best practices (see [Measuring Child Welfare Court Performance: Review of Resources, 2022](#))
- Multiple rounds of structured feedback from the JCAMP Expert Advisor Pool and Children’s Bureau partners

Measurement development was an iterative process, evolving prototypes that included input from parents, children, and youth with lived experience at every stage of development from ideation to prototype development, implementation guidance, and development of data collection tools.

What do they measure?

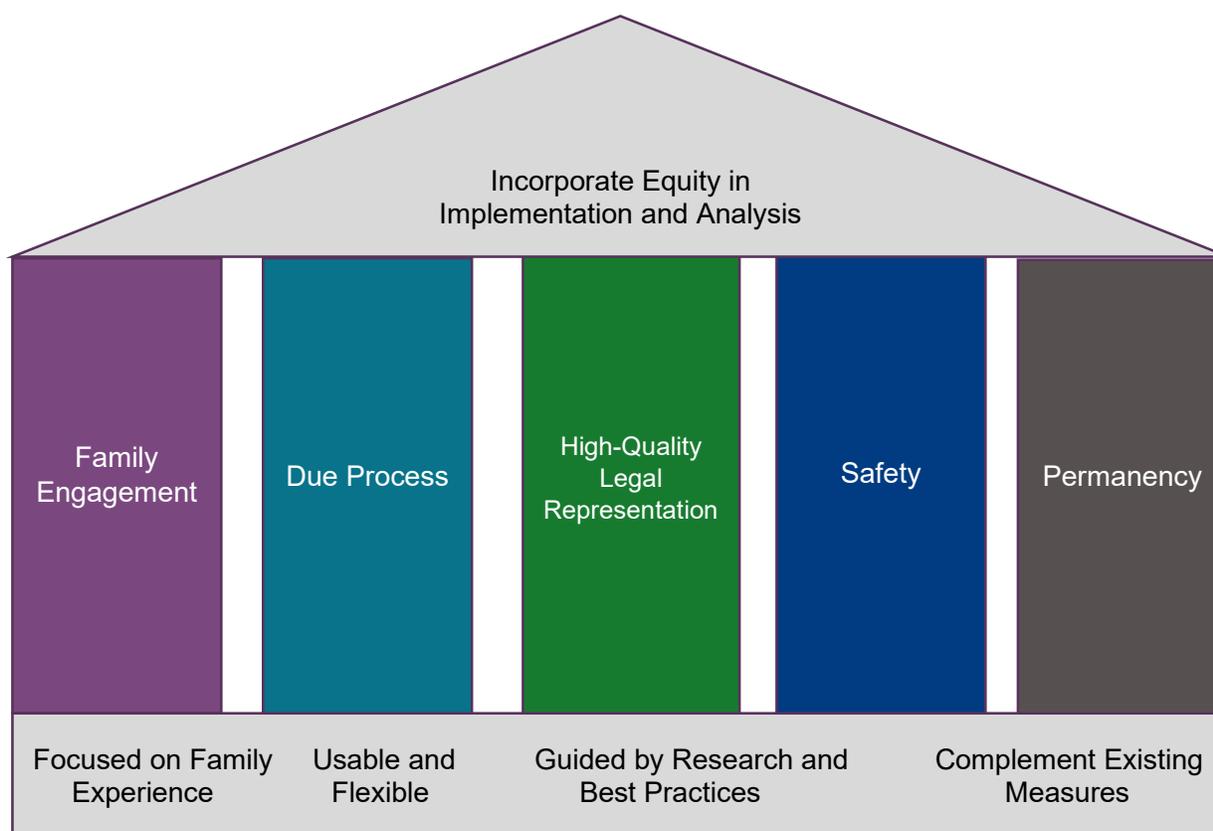
The JCAMP performance measures are organized into five categories.

- Family engagement
- Due process
- High-quality legal representation
- Safety
- Permanency

Each measurement category includes court process, professional practice, and family experience measures to complement the field’s previous focus on outcome measures. For example, the length of time it takes to reunify a family or to sever a child’s legal bond to their family (“termination of parental rights”) does not shed light on the family court experience and provides limited information to the courts to help improve practice. Exhibit 1 provides a visual model of the JCAMP performance measures.



Exhibit 1. Model of JCAMP Performance Measures



How do the JCAMP performance measures prioritize equity?

It is widely recognized that encounters with the child welfare system result in disparate outcomes for some families. Black and American Indian children and youth are nationally overrepresented in foster care, tend to have longer stays in care, and have lower rates of permanency.¹⁵ In some states, Hispanic families also experience disparate outcomes. Addressing differential experiences is an overwhelming, but necessary task to improve outcomes for all families. Doing so requires implementation of equity-focused child welfare policies and actions.

Equity in this context means all families are provided with what they specifically need to navigate through the child welfare system efficiently and effectively; it differs from equality, which focuses on providing the same services to all families. Racial equity needs to be a priority for U.S. child welfare systems, though equity for all families is the ultimate goal.

To guide efforts toward eliminating bias and achieving equity in child welfare court practices, the JCAMP measures suggest how to break down data by groups—starting with race and ethnicity—to better understand how the measures differ for families. This is a necessary first

¹⁵ For example, see <https://cssp.org/wp-content/uploads/2019/04/Better-Outcomes-for-Older-Youth-of-Color-in-Foster-Care.pdf>



step, although insufficient on its own for improving outcomes. As such, the JCAMP documents also suggest ways to embed equity as part of a holistic approach to measurements and systems change efforts. Equity considerations are included within the measures themselves, the guidance on implementation, a technical guide that describes key data elements, and the instrumentation recommended for data collection. Here are a few notable places where equity is discussed.

- As part of measure development, the team conducted an intensive [Resource Review](#) of standards in the field, available suggested performance measurement, and research. The review included exploring how equity was examined in the research related to performance measurement.
- The JCAMP Performance Measures (volume I) features “Equity Insight” boxes to highlight areas where steps to ensure equitable implementation of data collection and analysis processes should be considered.
- The Implementation Guide (volume II) offers insights into planning for measurement and suggestions for including a diversity of identifies; roles; and perspectives in planning, decision-making, and data collection. The Implementation Guide also includes suggestions for how to use collected data in a meaningful way to promote equity in the system.
- The Implementation Toolbox (volume III) provides tools to support successful implementation in the process, including a comprehensive needs assessment, data capacity assessment, and example data collection instruments, etc.
- The Technical Guide (volume IV) includes demographic data elements for all measures so data can be compared—at a minimum—by race and ethnicity and by youth Indian Child Welfare Act (ICWA) status. The Technical Guide also offers guidance on other demographic variables that may be collected. For example, data on jurisdiction, county, or region may provide courts with additional information on county-level demographics (e.g., poverty) and their impact on rural versus urban areas. Data on gender as expressed by parents or youth can also provide additional context to identify inequities within the system.



What are the key terms?

The terms listed below are essential to understanding the JCAMP performance measures. Additional terms not included should be defined by each site using its local context (e.g., whether “family” includes biological parents only or also stepparents, relatives, and kin).

- **Court professionals.** This includes judges, attorneys, advocates, and court administrators.
- **Due process.** All families have access to fair hearings and thus, equal access to justice. Legal matters are resolved according to a fair, clear, and reasonable process. This entails courts following certain rules and principles to ensure objective judicial review of information and reasonable, bias-free decision-making. The U.S. Constitution outlines due process in both the 5th and 14th Amendments, which prohibit the government from taking any action that would deprive a person of “life, liberty, or property without due process of law.” This Constitutional protection applies to child welfare/dependency cases.
- **Equity.** This means “the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality” (EO 13985 2021, 7009).
- **Family engagement.** This is defined as how parents, children, and youth, and caregivers are involved in their court hearings. It includes whether they attend hearings, the strategies professionals use to facilitate their meaningful participation, and their own perceptions of whether they understand what is happening and feel they have an opportunity to be heard.
- **Performance measurement.** This is a structured way to collect data about a process, activity, or perception that is used to track progress over time.
- **Reasonable efforts.** There are legally required activities the child welfare agency must perform to prevent the removal of the child from the home and to return the child home safely. Judges must determine (make a finding) whether the agency has made reasonable efforts to prevent or eliminate the need to remove children or youth from the home prior to placement into foster care and whether the agency has made reasonable efforts to make it possible for them to safely return when removed from the home.
- **Active efforts.** Active efforts are thorough and timely ones performed primarily to maintain or reunite an Indian child with their family. They are a required legal finding in Indian Child Welfare Act (ICWA) cases.
- **Children and youth.** Because the terms children or youth may have varying expectations for the reader, “children and youth” is used to describe all persons under 18 involved in the child welfare system.



How are the JCAMP materials organized?

The JCAMP project has developed five volumes related to the performance measures.

- **Volume I: Measures**
 - Describes the five measure categories, including a definition of each, why it is important, how to measure (organized by court process, professional practice, and family experience measures), related child welfare agency or court measures, and contextual considerations
- **Volume II: Implementation Guide**
 - Sets out steps for implementing the measures, including forming a multidisciplinary team, selecting measures that align with your priorities, planning data collection activities, sampling recommendations, reporting and using data, and sustaining performance measurement efforts
- **Volume III: Implementation Toolbox**
 - Provides example tools to help facilitate implementation of the measures, including tools for each step of implementation from team formation to sustainability
- **Volume IV: Technical Guide**
 - Explains how to calculate and analyze each measure, including data elements, data collection methods, and descriptions of the calculation process
- **Volume V: Background and Research**
 - Details the methods used to develop the measures and research evidence and best practice recommendations supporting each measure category



Important Considerations Before Reading the Measures

- **JCAMP measures are starting points for measurement.** They were designed to provide a manageable set of measures that could be prioritized and adapted depending on site specific measurement goals and differing data capacities.
 - ***You don't have to do everything at once.*** You can start small now, at your highest priority measures, and work to build your data collection capacity for more of the measures.
- **The JCAMP measures are not exhaustive of all possible measures in each topic.** If your measurement goals are more robust or comprehensive (e.g., a more in-depth assessment of the quality of legal representation), sites are encouraged to consider building upon the JCAMP measures to add measures and data indicators (see ***Volumes IV: Technical Guide and Volume V: Background and Research*** for lists of possible data indicators for measures from which you can draw).
- **The JCAMP measures are meant to be adapted to the unique needs of the site.** Court practices vary widely, as do state laws, local court rules, and policies. The language in the measures may need to be adapted, or measures may need to be expanded to meet site specific goals. For example, sites may include both an attorney for the child and a lay advocate (Court Appointed Special Advocate or Guardian ad litem [GAL]) and may want to measure separately the practice of both the attorney and the advocate.



1. Family Engagement

What is family engagement?

Family engagement describes how parents, children, youth, foster parents, and relative caregivers are involved in their court hearings. It includes whether they attend hearings, the strategies professionals use to facilitate their effective and meaningful participation, and family perceptions of whether they understand what is happening and feel they have an opportunity to be heard.

Why is family engagement important?

Engaging families in the court process can lead to timelier reunification. Research shows when family participation in the court process is effectively supported, families are more likely to—

- Attend court hearings
- Participate in services
- Participate in problem solving to resolve case issues
- Have regular visits with their children
- Share information in discussions so judges can make more informed decisions
- Have the ability/power to tend to children's needs throughout the court process
- Hold the child welfare agency accountable throughout the court process
- Positively influence the outcome for their family as the recognized expert on their family

Equity Insight: The definition of 'family' should be defined and based on local practice, policy, and law. Family may include stepparents, relatives, kin, tribal members, nonrelative extended family members, etc. For this document, family means all parents, children, and youth.



How do you measure family engagement?

The court process, professional practice, and family experience measures listed in this section gauge whether families are meaningfully engaged in court hearings.

Court Process Measures: How do you describe what is happening?

Describing who attends a hearing and what happens is a good place to start measuring family engagement. These court process measures are counts that can be used to describe what is happening in the court process.

Court Process Measures of Family Engagement	
1.1	Do parents attend hearings?
1.2	Do children and youth attend hearings? ¹⁶
1.3	Do tribal representatives attend hearings?
1.4	Do foster parents and relative caregivers attend hearings?
1.5	Do courts send orders to parties or provide them at the end of the hearing?

Professional Practice Measures: What are judges and attorneys doing to engage parents, children, youth, foster parents, and relative caregivers?

Professional practice measures focus on the actions of judges and attorneys that could help facilitate participation of parents, children, youth, foster parents, and relative caregivers in the court process.

Equity Insight: Not all parents have equal access to resources that could increase their likelihood of attending hearings either in person or virtually. For example, parents may not have a drivers license, a reliable vehicle, access to public transportation (live in a rural area), or access to a computer and/or internet.

¹⁶ Statutes, rules, and policies regarding youth hearing attendance vary widely across the country. Therefore, use of measure 1.2 will depend on local court rules. The American Bar Association house of delegates adopted Resolution 617 in 2022 which urges jurisdictions to enact, and courts to enforce, laws establishing a “presumption of child presence in all dependency proceedings.” The standard is to ensure that, “the child, in consultation with the child’s attorney, has the sole right to choose not to be present and reasons such as age, disability, scheduling conflicts, lack of transportation, or perceived trauma, which is not documented, are not used to rebut the presumption.” Similarly, per the Enhanced Resource Guidelines, “Judges should expect that children are brought to court when safe and appropriate—and if they are not, the court should require that the child welfare agency provide an explanation that relates to that child’s safety and well-being” (page 72).



Professional Practice Measures of Family Engagement

- 1.6 What do judges do to engage parents, children, and youth in hearings?
- Do they inquire about missing parents, children, youth, or tribal representatives?
 - Do they explain hearing purpose/process? If so, do they use plain language?
 - Do they ask which language the person is most comfortable speaking? If not English, do they arrange for family members to be able to participate in the language they are most comfortable speaking?
 - Do they speak directly to the person?
 - Do they address the person by name (first, last, and salutation)?
 - Do they ask if parents, children, or youth have questions?
 - Do they ask if parents, children, or youth understand?
 - Do they encourage active participation in hearing/case?
 - Do they give persons an opportunity to be heard?
 - Do they identify next steps?
 - Do they not interrupt or talk over the person?
 - Do they use the preferred pronoun for parents, children, and youth?
- 1.7 What do judges do to engage foster parents and relative caregivers in hearings?
- Do they explain the hearing purpose/process?
 - Do they ask what language the person is most comfortable speaking?
 - Do they speak directly to the person?
 - Do they address the person by name (first, last, and salutation)?
 - Do they ask if foster parents and relative caregivers have questions?
 - Do they ask if foster parents and relative caregivers understand?
 - Do they encourage active participation in hearing/case?
 - Do they explain how foster parents or relative caregivers can provide input on the case?
 - Do they specifically ask for foster parents and relative caregivers input about children and youth?
 - Do they ask how children and youth are doing in their placements?
 - Do they ask if caregivers need additional supports with the placements for children and youth?
 - Do they identify the next steps?
 - Do they interrupt or talk over the foster parents and relative caregivers?
 - Do they use the preferred pronoun for the foster parents and relative caregivers?
- 1.8 How do parent attorneys engage parents in the process?
- Do they consult with parents prior to the day of court to prepare them for the hearing?
 - Do they meet with parents in a timely manner following the hearing to discuss what happened and next steps?
 - Do they use preferred pronouns of the parent?



Professional Practice Measures of Family Engagement

- 1.9 How do child or youth attorneys and/or attorney guardians ad litem (GALs) engage children and youth in the process?
- Do they meet with children and youth prior to the day of court to prepare them for the hearing?
 - Do they meet with children and youth following the hearing to discuss what happened and next steps?
 - Do they use preferred pronouns of the children and youth?
- 1.10 How do prosecuting (or agency or state) attorneys engage parents, children, and youth in the process?
- Do they provide all required reports/document to all parties and courts in a timely manner?
 - Do they use preferred pronouns of the parents, children, and youth?
 - Do they refer to the parent by their formal name?
- 1.11 Are important issues discussed in hearings? Topics of discussion may include:
- Child's current placement
 - Child's educational needs/placement
 - Child's physical health/development needs and services
 - Child's mental health needs and services
 - Visitation/family time
 - Parent's rights/process/permanency timelines
 - Paternity/locating parents
 - Identifying available relatives (due diligence family finding)
 - Possibility of kinship placement
 - Child's cultural needs
 - Needs related to aspects of the child's identify



Family Experience Measures: What is the family’s experience of the court hearing?

Experience measures focus on the beliefs and feelings of parents, children, youth, foster parents, and relative caregivers about their engagement in the court hearing.

Family Experience Measures of Family Engagement	
1.12	<p>Do parents feel judges engaged them in hearings?</p> <ul style="list-style-type: none">• Do they feel judges understood their needs and wishes?• Do they feel they had an opportunity to be heard?• Do they feel their questions were answered?• Do they understand what must be done to resolve the case?• Do they understand what happened during the case and what comes next?• Do they feel respected during the hearing?• Do they feel like they were part of decision-making?
1.13	<p>Do children and youth feel judges engaged them in hearings?</p> <ul style="list-style-type: none">• Do they feel judges understood their needs and wishes?• Do they feel judges had an opportunity to be heard?• Do they feel their questions were answered?• Do they understand what must be done to resolve the case?• Do they understand what happened during the case and what comes next?• Do they feel respected during the hearing?• Do they feel like they were part of decision-making?
1.14	<p>Do foster parents and relative caregivers feel judges engaged them in hearings?</p> <ul style="list-style-type: none">• Do they feel judges understood their needs and wishes?• Do they feel they had an opportunity to be heard?• Do they feel judges valued their input?• Do they understand how they can provide information to courts?• Do they feel their questions were answered?• Do they understand what must be done to resolve the case?• Do they understand what happened during the case and what comes next?• Do they feel respected during the hearing?• Do they feel like they were part of decision-making?



Are there child welfare agency measures of family engagement in court hearings?

No companion CFSR or child welfare agency measures of family engagement in court hearings were identified.

What contextual factors should be considered when using these measures of family engagement?

Court structures, processes, and attorney and judicial resources may influence findings from these measures of family engagement. Consider the contextual information listed in the table below when interpreting findings.

Context	Why it matters
What are the ages of the children and youth?	Babies, toddlers, and young children cannot engage with judges or advocates the way older youth can.
What are the judicial assignment processes?	Jurisdictional decisions to quickly rotate judges among dockets (e.g., criminal, family, neglect and abuse) may affect their ability to effectively engage parents in a problem-solving process.
What is the timing and type of attorney appointment (i.e., attorney continuity; see High-Quality Legal Representation measure below)?	Families who have multiple attorneys throughout their cases may find developing a meaningful and trusting attorney-client relationship difficult with any of them.
Are parent mentors available?	Parent mentors can help families navigate the court process, hearings, and courthouse. They help prepare families for what to expect and support them if issues arise—potentially helping parents better engage during hearings.
How many judges hear each case (i.e., judicial continuity; see Toolkit Measure 3A: Number of Judges Per Case)?	Families who have multiple judges hear their cases may encounter different judicial styles and question whether each one understands their situation.
What is the calendaring policy (e.g., time-certain, block)?	Differences in calendaring policy may negatively affect a parent's ability to attend hearings.
Do judges ensure court decorum (i.e., an orderly and efficient hearing)?	Court culture can significantly affect how comfortable parents and youth feel during a hearing and how much they are able to engage.
Do judges ensure the court room is accessible (e.g., conducted in a way that promotes child and youth engagement)?	A court's child friendly culture can significantly affect how much they understand and how comfortable they feel engaging.
Are phone or web-based appearances available?	Flexible participation options affect the ability of parents and youth to attend hearings.
Are there differences in findings between parents based on gender?	Fathers may need different strategies to encourage attendance and engagement in hearings.

Equity Insight: Fatherhood engagement, while not specifically included in the proposed measures, should be considered when comparing data between types of parents.



2. Due Process

What is due process?

All families have access to fair hearings and thus, equal access to justice. Legal matters are resolved according to a fair, clear, and reasonable process. This entails courts following rules and principles designed to ensure the objective judicial review of information and rational, bias-free decision-making. The U.S. Constitution outlines due process in both the 5th and 14th Amendments, which prohibit the government from taking any action that would deprive a person of “life, liberty, or property without due process of law.” This Constitutional protection “for liberty” applies to child welfare/dependency cases; due process for families includes—

- Right to a hearing before the court removes children or youth alters parental rights
- Access to discovery, or information, held by the child welfare agency
- Opportunity to present evidence, call witnesses, and cross-examine witnesses
- Timely written notice of hearings
- Notice in the family’s primary language
- Right to counsel, including court-appointed attorneys, and timely access to counsel
- Access to interpreters
- Accommodations under the Americans With Disabilities Act

Why is due process important?

Ensuring families have access to fair court hearings is a fundamental right and associated with better decision-making and outcomes for families. When judges ensure due process, rights are upheld.

- Families are better able to prepare for court with their attorneys due to timelier notice and advanced copies of court documents.
- Families are better able to understand the purpose of a hearing, the decisions made, and next steps so they can actively engage in the process.
- Family perceptions of procedural justice (i.e., appropriate and just procedures were applied in their case and the government treated them fairly) improve, and families are more likely to feel they can trust the process.
- Parents may be more likely to engage in their case plans once they see how doing so will advance their goals and promote the likelihood of family reunification.



How do you measure due process?

The court process, professional practice, and experience measures listed in this section seek to measure whether families have access to a fair, productive, and effective court process.

Court Process Measures: How do you describe what is happening in the court process?

You can measure what is happening in a case to begin to understand due process. There are five court process measures of due process, four come from The Toolkit which supports the guiding principle not to duplicate or replace existing measures.

Court Process Measures of Due Process	
2.1	Do parties to the case receive timely service? (Toolkit Measure 3B: Service of Process to Parties)
2.2	Are child or youth attorneys and/or attorney guardians ad litem (GALs) appointed early in the case? (Toolkit Measure 3C: Early Appointment of Advocates for Children)
2.3	Are parent attorneys appointed early in the case? (Toolkit Measure 3D: Early Appointment of Advocates for Parents)
2.4	Do parties to the case (including the Tribe in ICWA cases) receive timely notice of hearings? (Toolkit Measure 3E: Advance Notice of Hearings to Parties)
2.5	Are Indian children ¹⁷ identified early in the case?

Equity Insight: Notice may take longer for some individuals, for example, parents who are currently incarcerated or persons living in rural areas.

¹⁷ This measure is specific to Indian children as defined by the Indian Child Welfare Act (P.L. 95-608, 92 Stat. 3069, 1978).



Professional Practice Measures: How do judges and attorneys ensure fair hearings?

Professional practice measures include actions of judges and attorneys that ensure fair hearings for parents, children, and youth.

Professional Practice Measures of Due Process	
2.6	<p>What do judges do to ensure fair hearings?</p> <ul style="list-style-type: none">• Is advance notice of the hearings provided to the tribes?• Do they explain the hearing process to parents?• Do they discuss parent rights during the hearing?• Do they discuss the child welfare agency's obligations during the hearing?• Do they ensure parents, children, and youth can be present at the next scheduled hearing?• Do they order accommodations for parents who are incarcerated, detained, institutionalized, or remote to participate in hearings?• Do they ensure interpreters and documents written in a parent's primary language are provided?• Do courts provide parents, children, and youth copies of court orders?
2.7	<p>How do prosecuting (or agency or state) attorneys ensure fair hearings?</p> <ul style="list-style-type: none">• Do they directly provide parents with copies of petitions, court reports, and service plans?• Do they provide discovery to counsel for parents, children, and youth routinely?• Do they identify and locate parents, such as parents who are incarcerated, at the earliest stage of the proceeding?
2.8	<p>How do parent attorneys ensure fair hearings?</p> <ul style="list-style-type: none">• Do they ensure parents understand court documents?• Do they request accommodations for incarcerated parents, non-English speaking parents, and parents with disabilities to participate in hearings?• Do they raise notice and service objections?
2.9	<p>How do child or youth attorneys and/or attorney GALs ensure fair hearings?</p> <ul style="list-style-type: none">• Do they request discovery?• Do they share court documents with children and youth and ensure they understand the contents?• Do they make arrangements for children and youth to attend court if they wish to do so?• Do they request a placement option that is supportive of sexual orientation, gender identity, and expression (SOGIE) of the children and youth?

Equity Insight: In cases involving children and youth with a particular SOGIE issue, the agency must make active efforts to advocate for appropriateness of gender-affirming care.



Family Experience: What is the family's experience of due process?

Experience measures focus on the beliefs and feelings of parents, children, and youth about whether they perceive they are being treated fairly.

Family Experience Measures of Due Process	
2.10	<p>Do parents feel they were treated fairly?</p> <ul style="list-style-type: none">• Do they feel judges treated them fairly?• Do they feel their attorneys explained their rights and the court process clearly?• Do they feel their voices are heard in courts?• Are they satisfied with their court experience? (See NCSC CourTools)<ul style="list-style-type: none">○ Could they easily navigate the courthouse?○ Could they complete their court business in a reasonable amount of time?○ Were they treated with courtesy and respect while at the courthouse?○ Did the court staff pay attention to their needs?○ Were there family friendly waiting areas?
2.11	<p>Do children and youth feel they were treated fairly?</p> <ul style="list-style-type: none">• Do they feel judges treated them fairly?• Do they feel their advocates clearly explained their rights/the court process?• Do they feel their voices were heard?• Do they know about any changes in placement and the reasons for those changes?• Do they feel courts hold agencies accountable for accomplishing steps necessary to support their transition out of foster care?

Are there child welfare agency measures of due process in court hearings?

Measures in this category relate to two CFSR measures.

- Item 24 of the CFSR Systemic Factors: How well is the case review system functioning to ensure that foster parents, preadoptive parents, and relative caregivers of children in foster care are notified of, and have a right to be heard in, any review or hearing held with respect to the child?
- Item 30 of the CFSR Systemic Factors: How well is the service array and resource development system functioning statewide to ensure that the services in CFSR Systemic Factor Item 29 can be individualized to meet the unique needs of children and families served by the agency?

What context should be considered when using these measures of due process?

Court structures, processes, and attorney and judicial resources may influence measurement findings. Consider the contextual information presented in the table below when interpreting findings.



Context	Why it matters
What is the workload for judges and attorneys?	Higher workloads can limit the time judges and attorneys have to spend with families, making it harder to ensure individual needs are met.
What type of trainings are provided to judges and attorneys?	Lack of judicial and attorney training could limit their understanding of the importance of due process and their efforts to ensure procedural and individual family needs are met.
Are parent mentors available?	Parent mentors can help families navigate the court process, hearings, and courthouse. They help prepare them for what to expect and support them if issues arise.
Do children and youth have a right to an attorney?	Currently, in 14 states, children and youth are not guaranteed a right to counsel and may be represented by lay advocates.
How many judges hear each case (i.e., judicial continuity, see Toolkit Measure 3A: Number of Judges Per Case)?	Families who have multiple judges hear their cases may encounter different judging styles and question whether each judge understands their situations.
Is advance written notice provided to relative caregivers and contract caregivers (i.e., foster parents or preadoptive caregivers) (see Toolkit Measure 3F: Advance Written Notice of Hearings to Foster Parents, Preadoptive Parents, and Relative Caregivers)?	When all nonparent caregivers in children's and youth's lives receive advance written notice, they have an opportunity to attend hearings and share their perspectives.

Equity Insight: Not all families have the same access and resources. Accommodations may be needed for families to attend their hearings by telephone and/or video if they are incarcerated, lack access to Wi-Fi, live in rural areas, or lack reliable transportation.



3. High-Quality Legal Representation

What is high-quality legal representation?

Attributes of high-quality legal representation are woven throughout each set of measures in this document. This section focuses on attorney practices in establishing the attorney-client relationship, developing their case strategy, and delivering effective advocacy that serves client interests.

When considering measurement of high-quality legal representation, it is important to know that parents, children, and youth may not automatically have legal counsel in child welfare cases. They may not have a right to legal representation or not be appointed an attorney until later in the case. Further, models of representation may impact how this should be measured. For example, child or youth attorneys may follow a best interest model or an expressed wishes model. Prosecuting attorneys may represent the agency or the state. For a more robust list of things to consider when assessing high-quality legal representation, see the contextual considerations at the end of this section.

For a deeper examination of the quality of legal representation, best practice standards for the representation of parents, children, and youth and for prosecuting attorneys (which in some jurisdictions could be child welfare agency attorneys or state attorneys such as a district, county, or attorney general) are helpful guides.¹⁸

Why is high-quality legal representation important?

Having high-quality legal representation can lead to timelier reunification and permanency for families because attorneys can do the following:

- Help families understand the court process
- Guide families through the court process
- Ensure families' due process rights are protected
- Help ensure laws are fairly and equally applied
- Help to provide complete and accurate information to judges
- Help families meaningfully participate in the court process
- Advocate for their client's position and provide a fair opportunity for families to present their positions
- Ensure families have access to and receive services

¹⁸ See, for example, the American Bar Association's Practice Standards for attorneys in child abuse and neglect cases, available at https://www.americanbar.org/groups/public_interest/child_law/resources/practice-standards/ and the Family Justice Initiative guidance (familyjusticeinitiative.org). *Volume V: Background and Research* includes a more comprehensive list of standards and best practices.



How do you measure high-quality legal representation?

The court process, professional practice, and family experience measures in this section seek to assess the quality of representation. Measures are included for the parent attorneys, child or youth attorneys, and/or attorney GALs and prosecuting (child welfare agency or state attorney) practices.

****Note:** *It is important to note that, while this section focuses on high quality legal representation, there are measures of attorney practices in **all** five categories of measurement that may contribute to a better understanding of current representation practices. See the table of attorney practice measures in [appendix B](#) for a full list of Attorney Measures.*

Equity Insight: High-quality legal representatives are instrumental to addressing the power imbalances between families, judges, and prosecuting (or agency or state) attorneys. They ensure parent and children and youth rights are protected, and their needs are articulated and understood during court proceedings. Power imbalances may be particularly pronounced for families of color, those with little-to-no material resources, and those whose primary language is not English. Prosecuting (or agency or state) attorneys should review data on local disproportionality rates and ensure more objective factors such as structured decision-making tools are used to assess risk and assist parents, children, and youth with removing barriers to visits and services in a way that is responsive to family resources and cultural contexts.

Court Process Measures: How do you describe what is happening with legal representation?

You can start measuring the quality of family legal representation by describing the attendance of the parent attorneys, child or youth attorneys and/or attorney GALs, and prosecuting (or agency or state) attorneys at court hearings. There are three court process measures of high-quality legal representation for families from The Toolkit which supports the guiding principle not to duplicate or replace existing measures.

Court Process Measures of High-Quality Legal Representation	
3.1	Do parent attorneys attend hearings? (Toolkit Measure 3G: Presence of Advocates During Hearings)
3.2	Do child or youth attorneys and/or attorney GALs attend hearings? ¹⁹ (Toolkit Measure 3G: Presence of Advocates During Hearings)
3.3	Do prosecuting (or agency or state) attorneys attend hearings?
3.4	Do multidisciplinary members of the legal team attend hearings?

¹⁹ Children have a federal statutory right to guardian ad litem in child abuse and neglect cases (CAPTA—P.L. 93-247), 42 U.S.C. 5101 et. seq., 42 U.S.C. 5116 et. seq., 41 C.F.R. 1340 (2011), and some state statutes provide children the right to representation by an attorney. Therefore, use of measures 1.2, 1.5, and 1.7 will depend on local court rules. Per the Enhanced Resource Guidelines, “Judges should expect that children are brought to court when safe and appropriate—and if they are not, the court should require that the child welfare agency provide an explanation that relates to that child’s safety and well-being” (page 72).



Professional Practice Measures: What are judges and attorneys doing to ensure high-quality legal representation for families?

Professional practice measures include the actions of judges and attorneys to ensure parents, children, and youth have high-quality legal representation. These measures are drawn from standards of best practices for effective attorney representation of parents, children, youth, and child welfare agencies.²⁰ It is important to note that structural factors influence the attorneys' abilities to deliver high-quality legal representation; see those contextual factors to be considered later in this section.

Professional Practice Measures of High-Quality Legal Representation	
3.5	How do parent attorneys ensure they provide high-quality legal representation?
3.5a	Does the same parent attorney represent the parent throughout the case? (Toolkit Measure 3J: Changes in Counsel for Parents)
3.5b	Do parent attorneys advocate for parents in hearings? <ul style="list-style-type: none">○ Do they contest hearings? If so, at which stages of the case?○ Do they call witnesses, present evidence, and cross-examine opposing witnesses?○ Do they present favorable evidence on the record?
3.5c	Do parent attorneys prepare in between hearings? <ul style="list-style-type: none">○ Do they talk with parents after hearings to discuss what happened and answer their questions?○ Do they maintain regular contact with parents between hearings?○ Do they communicate with other parties between hearings?○ Do they or their representatives attend nonhearing case events with parents?
3.6	How do child or youth attorneys and/or attorney GALs ensure they provide high-quality legal representation?
3.6a	Does the same child or youth attorney or attorney GAL represent the child or youth throughout the case? (Toolkit Measure 3I: Changes in Advocate for Children/Youth)
3.6b	Do child or youth attorneys and/or attorney GALs advocate for children and youth in hearings? <ul style="list-style-type: none">○ Do they contest hearings? If so, at which stages of the case?○ Do they call witnesses, present evidence, and cross-examine opposing witnesses?○ Do they argue for or request services to address the child's or youth's needs?○ Do they advocate for the child's or youth's position?
3.6c	Do child or youth attorneys and/or attorney GALs prepare in between hearings? <ul style="list-style-type: none">○ Do they ask children and youth what they would like?○ Do they check with children and youth to ensure they understand their position?○ Do they talk with children and youth after hearings to explain what happened and answer their questions?○ Do they maintain regular contact with children and youth between hearings?○ Do they visit with children and youth in their placement between court appearances?○ Do they communicate with other parties between hearings?

²⁰ See the following: American Bar Association. (1996, February 5). *Standards of practice for lawyers who represent children in abuse and neglect cases*; American Bar Association. (2004, August). *Standards of practice for lawyers representing child welfare agencies*; American Bar Association. (2006). *Standards of practice for attorneys representing parents in abuse and neglect cases*; and National Association of Counsel for Children (NACC). (2021). *Recommendations for legal representation of children and youth in neglect and abuse proceedings*.



Professional Practice Measures of High-Quality Legal Representation

- Do they meet with parents and their counsel?
- Do they attend nonhearing case events for children and youth?

3.7 How do prosecuting (or agency or state) attorneys ensure they provide high-quality legal representation?

3.7a Do prosecuting (or agency or state) attorneys stay on the same case throughout the case?

3.7b How do prosecuting (or agency or state) attorneys advocate in hearings?

- Do they call witnesses?
- Do they cross-examine witnesses?
- Do they present evidence?
- Have they offered favorable evidence about families and presented it to the courts on the record when appropriate?

3.7c Do prosecuting (or agency or state) attorneys prepare in between hearings?

- Do they prepare before hearings?
- Do they prepare caseworkers and witnesses before hearings?
- Do they talk with caseworkers after hearings to discuss what happened and answer questions?
- Do they maintain regular contact with caseworkers between hearings?
- Do they make reasonable attempts to resolve any issues outside of court when possible?
- Do they encourage resolution of issues by attending nonhearing case events?



Family Experience Measures: What is the family's experience of legal representation?

Experience measures focus on the beliefs and feelings of parents, children, and youth about the legal representation in the case.

Family Experience Measures of High-Quality Legal Representation	
3.8	<p>Are parents satisfied with their attorneys' representation?</p> <ul style="list-style-type: none">• Do they feel their attorneys understood their perspective?• Do they feel their attorneys listened to them?• Do they feel their attorneys treated them with respect?• Do they understand the role of their attorneys?• Do they feel prepared by their attorneys for court?• Do they believe the amount of communication with their attorneys was sufficient?• Do they understand their attorneys' strategy?• Do they trust their attorneys' judgment?• Do they believe their attorneys moved their cases forward strongly in the direction of their wishes?• Do they believe their attorneys helped them access and receive the services they needed?• Do they believe their attorneys helped them receive adequate time to accomplish permanency-related activities?• Do they know what to do to make a complaint about their attorney?
3.9	<p>Are children and youth satisfied with their legal representation?</p> <ul style="list-style-type: none">• Do they feel their attorneys and/or attorney GALs understood their perspective?• Do they feel their attorneys and/or attorney GALs listened to them?• Do they feel their attorneys and/or attorney GALs treated them with respect?• Do they understand the role of their attorneys and/or attorney GALs?• When represented by their attorneys, do they feel their attorney is representing their stated wishes?• Do they feel prepared by their attorneys and/or attorney GALs for court?• Do they believe the amount of communication with their attorneys and/or attorney GALs was sufficient?• Do they trust their attorneys' judgment?• Do they believe their attorneys and/or attorney GAL helped them to access and receive needed services?• Do they know what to do to make a complaint about their attorneys and/or attorney GAL?
3.10	<p>How do parents, children, and youth feel they were treated by prosecuting (or agency or state) attorneys?</p> <ul style="list-style-type: none">• Do they feel prosecuting (or agency or state) attorneys treated them fairly?• Do they feel prosecuting (or agency or state) attorneys treated them respectfully?• Do they understand the role of the prosecuting (or agency or state) attorney in the case and whom they are representing?• Do they feel prosecuting (or agency or state) attorneys were appropriately prepared for court?• Do they feel prosecuting (or agency or state) attorneys made appropriate efforts to advance case goals, including making sure they have access to appropriate family time and services?



Are there child welfare agency measures or other data sources for measures of high-quality legal representation of families?

Child welfare agency case files may contain data about attorney presence at nonhearing case events such as case planning, family decision-making, or family team meetings. Measures for attorney practices in and outside of court hearings may be available from attorney organizational case management systems or files.

What context should be considered when using these measures of high-quality legal representation?

It is crucial to note that structural factors influence the attorneys' abilities to deliver high-quality legal representation. These structural factors, as articulated by the Family Justice Initiative,²¹ include—

- Reasonable caseloads
- Compensation that is on par with agency attorneys
- Access to a multidisciplinary team which may include social workers and/or peer advocates as part of the legal representation
- Ongoing professional development to promote diversity and cultural humility in the workplace
- Early appointment to clients including prepetition advocacy where possible
- Support and oversight, including regular opportunities for professional learning, advanced training, and performance evaluation
- Mechanisms for data collection to promote a quality improvement process that includes qualitative and quantitative data

²¹ FJI is a national collaborative with a common goal of increasing access to high quality legal representation. For more information, see familyjusticeinitiative.org.



Consider the contextual information in the table below when interpreting findings from performance measures.

Context	Why it matters
What specific model for representation of children and youth is being used?	Understanding the role of the representative is important to evaluate the quality of representation (e.g., attorneys representing the children’s and youth’s wishes, advocates appointed to represent their best interests).
What supports or resources (e.g., multidisciplinary teams) do attorneys have to help them represent their clients?	Research shows that attorney access to other professionals, such as social workers, investigators, administrative support staff, youth advocates, and parent mentors may impact the time available for a case and the quality of representation. It is important to identify whether attorneys have multidisciplinary teams as part of their representation.
When are attorneys appointed in the case?	The point in the case at which parent attorneys or child or youth attorneys are appointed may impact the effectiveness of representation (e.g., in time to play an active role at the earliest possible stage).
What is the workload or caseload of attorneys?	Higher workloads could limit the time attorneys have to spend with each client, making it harder to communicate regularly, attend out-of-court case events, ensure individual client needs are met, and attend ongoing training on issues related to child welfare cases.
What training have attorneys received?	Lack of training could limit the attorney’s understanding of client needs and how best to represent them in the case.
What is the compensation structure for attorneys?	Compensation structures have a direct relationship to how much attorneys work on cases (e.g., lump sum versus hourly billing; disparate compensation for in-court and out-of-court work, presence of incentives to achieve client goals).
Do attorneys represent clients prepetition during child welfare investigations?	Some jurisdictions permit attorneys to begin representation before the child welfare agency files a petition with the court. In such cases, additional performance measures may be needed to assess the quality of representation (e.g., whether attorneys advocated for services that will keep children safely in the home, were involved in negotiating child safety plans, helped to identify relative and other safe placement options).
What model of representation is used for prosecuting, agency, or government attorneys?	Depending on the jurisdiction, attorneys may represent the child welfare agency (caseworkers) or the state. Prosecuting attorneys may be state district attorneys, attorneys general, or the in-house child welfare agency counsel. The model of representation used determines whether the attorneys consider the agency as the client—with potential significant impacts on issues such as confidentiality, who determines the objective for the case, and other practice-related factors.
What representation delivery system is used for attorneys?	Some jurisdictions provide representation through a panel of independent attorneys in private practice, while others offer counsel provided by an institutional provider or an interdisciplinary legal office (ILO).



4. Safety

What is safety?

Safety means protection from harm. Although there are multiple ways to think about safety in child welfare, this document defines safety in relation to safety decision-making that occurs immediately before the child has been removed from the home, and at every hearing thereafter until the child is returned home. The goals are (1) children and youth remain at home as long as safely possible and (2) are returned as soon as safety criteria (conditions for return) have been met.

Why is safety important?

- Ensuring safety of the children and youth prevents unnecessary removals, reduces trauma to the child and family, and reduces unnecessary delays in reunification.
- Focusing discussion on safety and conditions for return allows all parties to have a clear understanding of what needs to happen for the children and youth to return home.
- Increased safety discussion in hearings and opportunities to cross-examine reasonable efforts allow the court to hold the agency accountable for safety and removal decisions

How do you measure safety?

The court process, professional practice, and family experience measures in this section seek to gauge whether children and youth are protected from harm.

Court Process Measures: How do you describe what is happening in the court process?

Court process measures can be used to describe what is happening in the court process.

Court Process Measures of Safety	
4.1	How often and at what points in the case do courts make a finding of reasonable or active efforts to prevent removal? How often is the finding that the agency made “no reasonable efforts”?

Professional Practice Measures: What are judges and attorneys doing to ensure safety?

Professional practice measures include the actions of judges and attorneys to help ensure a focus on safety.

Professional Practice Measures of Safety	
4.2	How do courts discuss safety and removal? <ul style="list-style-type: none">• Do they discuss safety threats leading to removal?• Do they discuss parent protective capacities?• Do they discuss child or youth vulnerabilities?• Do they discuss what is preventing children and youth from returning home today?• Do they discuss family time supervision in relation to the safety threat?



Professional Practice Measures of Safety	
	<ul style="list-style-type: none"> Do they discuss the safety of children and youth in their current placement?
4.3	How do courts discuss the agency's reasonable or active efforts to prevent removal?
4.4	Do attorneys cross-examine reasonable or active efforts to prevent removal?
4.5	Do attorneys raise the issue of reasonable or active efforts if not raised?
4.6	Do prosecuting (or agency or state) attorneys offer information or evidence about the agency's reasonable or active efforts to the court?
4.7	Do judges ask about the agency's efforts to prevent removal?
4.8	Do judges make detailed reasonable or active efforts findings that explain how the agency has worked with the family to prevent removal?
4.9	Do judges consider parents' protective capacities in determining whether to remove, maintain, or return the child home?

Equity Insight: In Indian Child Welfare Act cases, the agency must make active efforts to maintain the family or reunify. Active efforts should be defined locally with the family and the tribe.

Family Experience Measures: What is the family's experience of safety?

Experience measures focus on the beliefs and feelings of parents, children, and youth about whether they understand the court decisions about safety and feel that their voices are heard.

Family Experience Measures of Safety	
4.10	Do parents understand the safety threats to the child and how those led to the child's removal?
4.11	Do parents understand the conditions for return of the child?
4.12	Do parents believe the judge considered their protective capacities in decision-making regarding removal and return?
4.13	Do parents feel their voices were heard in safety planning discussions?
4.14	Do children and youth feel their voices were heard in safety discussions?

Are there child welfare agency measures of safety?

The CFSR has two safety measures, one of which (Safety Outcome 2) focuses on the agency's role working with the family.

- Safety Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.
 - Item 2: Did the agency make concerted efforts to provide services to the family to prevent children's entry into foster care or re-entry after reunification?
 - Item 3: Did the agency make concerted efforts to assess and address the risk and safety concerns relating to the child(ren) in their own homes or while in foster care?



What context should be considered when using measures of safety?

Court structures, processes, and attorney and judicial resources may influence measurement findings. Consider the contextual information in the table below that may impact safety decision-making.

Context	Why it matters
When does removal occur in a case? Is it before or after talking with a judge?	Understanding if children and youth are removed before judicial order or how often they are removed on an emergency basis will help courts understand the common practices at the sites.
When are attorneys appointed for parents, children, and youth? Does it occur before the first hearing?	If attorneys are appointed before the first hearing, they will have more of an opportunity to meet with parents, children, and youth and review the case—helping clients feel more prepared for safety discussions in court.
What training have judges and attorneys had on safety decision-making?	Training on safety decision-making frameworks can lead to better in-court discussions of safety and removal and may influence judge and attorney decision-making.
What prevention efforts are in place in the jurisdiction?	Prevention efforts that occur before removal may lead to fewer removals in the state and may change the types of cases that are removed. Understanding whether and what prevention efforts are in place can be useful for comparing jurisdictions.
What are the rates of entry into foster care for the jurisdictions and for a specific type of families?	Higher entry rates may indicate the threshold for removal is lower in some jurisdictions or for some families. Understanding how the items in the measure are related to entry rates, particularly if entry rates are disaggregated by family characteristics, may create a greater understanding of safety across the state.
Is prepetition for legal representation available in the jurisdiction?	Prepetition for legal representation can help prevent removal of children and youth from the home.



5. Permanency

What is permanency?

Permanency means a person has a legal relationship with a safe, stable, nurturing family that is intended to last a lifetime. Ideally, permanency takes the form of a relationship that has a legal component and provides a parent-child relationship. For children and youth in temporary state custody, a key goal is for families to be part of a meaningful process to achieve reunification when safely possible. In some cases, the goal may include considering alternative forms of permanency. Permanency can also include preparing a youth to age out of the foster care system to be successful in building a safe, stable, nurturing home for oneself.

Why is permanency important?

- When children and youth are removed from the home, the most important goal is to end their temporary custody with the state as rapidly and safely as possible. The most desirable outcome is reunification (and is also the most likely) but other permanency options are also possible.
- Involving families in a process can help facilitate timely permanency. Providing clear information on requirements for getting their children and youth back home, tailoring services to match their unique needs, and ensuring sufficient family time can help lead to timely reunification.
- Discussing the barriers to achievement of permanency as well as concrete steps to achieve it can help families realize timelier reunification and, when reunification is not possible, timely permanency.
- Investing in children and youth whose permanency plan includes aging out of the system without a stable familial relationship, through kinship or otherwise, is vital in increasing stability and long-term outcomes for those who have aged out of care.

How do you measure permanency?

The court process, professional practice, and family experience measures in this section seek to gauge whether children and youth can effectively achieve permanency.

Court Process Measures: How do you describe what is happening in the court process?

Court process measures include describing how long it takes to get to key court hearings as the case moves toward permanency; the number of reasonable efforts or active efforts findings made to achieve reunification or finalize permanency; the number of continuances in a case; and the number of termination of parental rights (TPR) appealed. There are six court process measures of permanency, three of which come from The Toolkit which supports the guiding principle not to duplicate or replace existing measures.



Court Process Measures of Permanency	
5.1	How much time does it take until the first permanency hearing? (Toolkit Measure 4G: Time to First Permanency Hearing)
5.2	How much time does it take to file the termination of parental rights petition? (Toolkit Measure 4H: Time to Termination of Parental Rights Petition).
5.3	How much time does it take until the termination of parental rights? (Toolkit Measure 4I: Time to the Termination of Parental Rights)
5.4	How often and at what points in the case do courts make a finding of reasonable or active efforts to reunify or finalize permanency?
5.5	How often and at what points in the case are continuances granted?
5.6	How many termination of parental rights decisions are appealed?

Professional Practice Measures: What are judges and attorneys doing to ensure permanency for families?

Professional practice measures include the actions of judges and attorneys to ensure parents, children, and youth are involved in a meaningful process to achieve permanency.

Professional Practice Measures of Permanency	
5.7	How do courts discuss permanency? <ul style="list-style-type: none"> • Do they discuss reasonable or active efforts to reunify or finalize permanency? • Do they discuss concrete steps to achieve permanency? • Do they discuss barriers to finalize permanency? • Do they discuss the timeline to achieve permanency? • Do they discuss parent involvement in the case plan? • Do they discuss child or youth involvement in permanency planning? • Do they discuss the nature, extent, and quality of family time, including family time with siblings?
5.8	Do judges ask about what is preventing the child or youth from safely returning home today?
5.9	Do judges ask about parents' access to and receipt of relevant services?
5.10	Do judges order any relevant services to support reunification/permanency?
5.11	How do court orders address family time?
5.12	Do judges make detailed reasonable or active efforts to achieve permanency findings that explain how the agency has worked to reunify the family or achieve permanency?
5.13	What information or evidence about reasonable or active efforts to reunify or finalize permanency do prosecuting (or agency or state) attorneys present to the court?
5.14	Do prosecuting (or agency or state) attorneys file motions and petitions related to permanency goals in a timely manner?
5.15	Do parent attorneys advocate for reunification in hearings? <ul style="list-style-type: none"> • Do they advocate for tailored services to support reunification in hearings? • Do they advocate for family time/visitation in hearings? • Do they advocate for placement in hearings?
5.16	Do child or youth attorneys and/or attorney GALs advocate for reunification or other permanency in hearings? <ul style="list-style-type: none"> • Do they advocate for tailored services to support reunification in hearings?



Professional Practice Measures of Permanency	
	<ul style="list-style-type: none"> • Do they advocate for family time/visitation in hearings, including with siblings? • Do they advocate for placement in hearings? • Do they advocate for exploration of relative resources for permanency? • Do they advocate for guardianship or adoption and not for APPLA (aging out of foster care)? • When APPLA is the appropriate goal, do they advocate for tailored services to support the youth's transition to independent living?
5.17	Why are continuances granted? <ul style="list-style-type: none"> • What type of hearings are continued? • What are reasons for granting a continuance? • Who is requesting a continuance?

Family Experience Measures: What is the family's experience of the process to achieve permanency?

Experience measures focus on the beliefs and feelings of parents, children, and youth about whether they have been meaningfully involved in the process to achieve permanency, whether they understand the court decisions about permanency, and whether they feel their voices have been heard.

Family Experience Measures of Permanency	
5.18	Do parents feel their voices were heard in permanency planning discussions? <ul style="list-style-type: none"> • Do they feel they had an opportunity to share their views? • Do they feel they were involved in case planning? • Do they feel their voice was heard in permanency decisions?
5.19	Do parents understand what is required of them and steps needed to have their child returned?
5.20	Do parents feel services met their needs and assisted them in reunification?
5.21	Do parents feel they were able to engage in meaningful family time?
5.22	Do children and youth feel their voices were heard in permanency decisions? <ul style="list-style-type: none"> • Do they feel they had an opportunity to share their wishes about permanency? • Do they feel they were listened to in permanency decisions? • Do they feel they were involved in permanency planning?



Are there child welfare agency measures of permanency?

Data for some of these measures may be available from child welfare agency files (e.g., details about reunification services offered, parent involvement in case planning). Statewide data indicators such as permanency within 12 months, placement stability, and reentry rates are relevant to contribute to this measure. The CFSR has two permanency and one well-being measure related to this measure.

- Permanency Outcome 1: Children have permanency and stability in their living situations.
 - Item 5: Did the agency establish appropriate permanency goals for the child in a timely manner?
 - Item 6: Did the agency make concerted efforts to achieve reunification, guardianship, adoption, or other planned permanent living arrangement for the child?
- Permanency Outcome 2: The continuity of family relationship and connections is preserved for children.
 - Item 8: Did the agency make concerted efforts to ensure visitation between a child in foster care and their mother, father, and siblings was of sufficient frequency and quality to promote continuity in the child's relationships with these close family members?
 - Item 10: Did the agency make concerted efforts to place the child with relatives when appropriate?
- Well-Being Outcome 1: Families have enhanced capacity to provide for their children's needs.
 - Item 12: Did the agency make concerted efforts to assess the needs of and provide services to children, parents, and foster parents to identify the services necessary to achieve case goals and adequately address the issues relevant to the agency's involvement with the family?
 - Item 13: Did the agency make concerted efforts to involve the parents and children (if developmentally appropriate) in the case planning process on an ongoing basis?
 - Item 14: Were the frequency and quality of visits between caseworkers and child(ren) sufficient to ensure the safety, permanency, and well-being of the child(ren) and promote achievement of case goals?
- Case Review System
 - Item 21: How well is the case review system functioning statewide to ensure that a periodic review for each child occurs no less frequently than once every 6 months, either by a court or by administrative review?
 - Item 22: How well is the case review system functioning statewide to ensure that, for each child, a permanency hearing in a qualified court or administrative body



occurs no later than 12 months from the date the child entered foster care and no less frequently than every 12 months thereafter?

- Item 23: How well is the case review system functioning to ensure that the filing of termination of parental rights (TPR) proceedings occurs in accordance with required provisions?
- Item 24: How well is the case review system functioning to ensure that foster parents, pre-adoptive parents, and relative caregivers of children in foster care are notified of, and have a right to be heard in, any review or hearing held with respect to the child?

What context should be considered when using measures of permanency?

Court structures, processes, and attorney and judicial resources may influence measurement findings. Consider the following contextual information that may impact performance measures.

Context	Why It Matters
How often do the courts review the case?	Courts review of cases provides an opportunity to assess progress toward achieving permanency for the family, including determining what barriers still exist and how to problem-solve barriers that can be overcome. See related Toolkit measure [4F: Timeliness of Case Review Hearings].
What is the docketing/continuance practice between TPR filing and orders?	How often the courts review cases after filing of the TPR petition and between the filing and order may impact timely permanency.
What training have judges and attorneys had on achieving permanency for families?	Training on effective permanency planning can lead to better in-court discussions of permanency and may influence judge and attorney decision-making.
Is mediation or some other form of alternative dispute resolution offered in cases?	Mediation is a practice that child welfare practitioners may use to engage families in decision-making about their children, youth, and themselves. Mediation can enhance permanency planning by reducing the parents' sense of alienation and helplessness and by involving them in planning their children's futures.
Are parent mentors-supports available to parents?	Parent mentors may facilitate reunification by helping parents navigate the child welfare and court systems and working with them on identified barriers to reunification.
How well do court professionals and agencies collaborate?	The collaborative culture of the system may influence efforts to achieve permanency. Positive collaborative relationships between court professionals and agencies could promote problem-solving and the achievement of permanency in individual cases and may also lead to more trust and confidence in the community at large for the child welfare system.
What are the rates of entry into foster care for the jurisdictions?	Higher entry rates may indicate the threshold for removal is lower in some jurisdictions than others. Understanding how the items in the measure are related to entry rates may create a greater understanding of safety across the state.



Appendix A. JCAMP Expert Advisors

Zabrina Alegrure, J.D., CWLS
Bar Association of San Francisco

Ron Ayler, M.S.W.
Community Legal Services of Philadelphia

Lidia Bernal
Children's Law Center

Rachel Bingham, Director
*Kentucky Administrative Office of the Courts
Office of Statewide Programs*

Jennifer Bradburn
Children's Bureau

Angela Olivia Burton, Esq.
New York State Unified Court System

A. Nikki Borchardt Campbell
*National American Indian Court Judges
Association*

Heather Cantamessa, Parent Ally
Re-Unify Family Solutions

Michelle D. Chan
California Families Rise

Janet Ciarico, M.A.
*Capacity Building Center for Courts (Partner
Organization, Westat)*

Bonnie J. Claxton, Chickasaw Nation
*Eastern Band of Cherokee Indians Legal
Assistance Office*

Lily Colby, Esq.
*With Lived Experience, West Sacramento,
California*

Sheri Danz, J.D., CWLS
Colorado Office of the Child's Representative

Kendall Darling
Children's Bureau

Teri Deal, M.Ed.
National Center for State Courts

Kim Dvorchak, J.D.
National Association of Counsel for Children

Doris L. Fransein, J.D.
*(retired) District Judge
Independent consultant*

Bahu Gilliam
JBS International

Ernestine S. Gray, J.D.
*National Council of Juvenile and Family Court
Judges*

Allison Green, J.D., CWLS
National Association of Counsel for Children

Melissa Gueller, M.S.
*National Council of Juvenile and Family Court
Judges*

Justice Ingrid Gustafson
Montana Supreme Court

Jennifer Haight
Children's Bureau

Carmen Hidalgo,
System-Impacted Parent

Michael P. Huesca
*Paternal Opportunities Programs & Services
CEO*

Timothy M. Jaasko-Fisher, J.D., M.A.
Capacity Building Center for Courts

Sue Jacobs, J.D.

Kristina J. Jorgensen, M.A.
Advisor/Consultant

Cara Kelly, Ph.D.
Children's Bureau

Marylin Kennerson
Children's Bureau



Heather Kestian, M.Ed., J.D.
Capacity Building Center for Courts

Matt Orme
*Senior Research Associate,
Washington State Center for Court Research
Administrative Office of the Courts*

Christine S. Kiesel, J.D.
JBS International, Children's Bureau Contractor

Patrice Perrault
*JBS International Child Welfare Specialist,
CF SR Unit*

Steve Lao, M.P.H.
ICF, Child Welfare Reviews Project (CWRP)

Clark M. Peters, Ph.D., M.S.W., J.D.
University of Missouri-Columbia

Mimi Laver, J.D.
(formerly) ABA Center on Children and the Law

Beth Pierce
Children's Bureau

Stephanie Ledesma, M.A., J.D.
*Associate Dean of Experiential Education
Texas Southern University
Thurgood Marshall School of Law*

Summer Puckett
Children's Bureau

Hilari Lipton, J.D.
*(formerly) JBS International, Children's Bureau
Contractor*

Cristal Ramirez
*Youth Engagement Manager
National Association of Counsel for Children*

Jaymie Lorthridge, Ph.D., M.S.W.
(formerly) Westat

Carlette Randall, M.S.W., Oglala Lakota
Children's Bureau

Katherine R. Malzahn-Bass, M.A.
(retired) Supreme Court of Nevada

Jennifer Renne, J.D.
Capacity Building Center for Courts

Shawn C. Marsh, Ph.D.
University of Nevada, Reno

Timothy A. Ross, Ph.D.
Action Research

William Meltzer
Children's Bureau

JoAnn Santangelo
Court Improvement Program Coordinator

Amy Miller
*Director of Court Programs and Innovation
Oregon Judicial Department*

Beverly Schulterbrandt, J.D.
*Capacity Building Center for Courts, American
Bar Association*

Justice Raquel Montoya-Lewis
Washington State Supreme Court

Dennis W. Souza
JBS contactor for CF SR in Region 1 (Boston)

Nadia Nijim, M.S.W., M.P.H.
Children's Bureau Region 10

Sheldon Spotted Elk
*Senior Director, Judicial and National
Engagement, Casey Family Programs*

Judith Nord, J.D.
*Children's Justice Initiative, State Court
Administrator's Office, Minnesota Judicial Branch*

Roger Stanton
Children's Bureau

Teresa Nord
ICWA Law Center

Bethany R. Stoller, M.P.H.
Administration for Children and Families



Chauncey Strong, M.S.W.
Strong Training and Consulting

Scott Trowbridge, J.D.
Children's Bureau

Daniel Webster, Ph.D.
California Child Welfare Indicators Project, UC Berkeley

Ron J. Whitener, Squaxin Island Tribe
University of Washington Law School

Shereen White, J.D.
Children's Rights

David Wohler
National Council of Juvenile and Family Court Judges

Ray Worsham
Children's Bureau

Rob Wyman, J.D., M.S.W.
Judicial and National Engagement Team, Casey Family Programs

D. Andrew Yost, J.D., Ph.D.
Capacity Building Center for Courts

Jennifer Zanella
Children's Bureau

Core Team

Angela Olivia Burton, Esq.
New York State Unified Court System

Heather Cantamessa, Parent Ally
Re-Unify Family Solutions

Anne Fromknecht, M.P.H.
James Bell Associates

Sophia Gatowski, Ph.D.
Capacity Building Center for Courts

Timothy M. Jaasko-Fisher, J.D., M.A.
Capacity Building Center for Courts

Christine S. Kiesel, J.D.
JBS International, Children's Bureau Contractor

Mimi Laver, J.D.
(formerly) ABA Center on Children and the Law

Jennifer Renne, J.D.
Capacity Building Center for Courts

Sheldon Spotted Elk
Senior Director, Judicial and National Engagement, Casey Family Programs

Alicia Summers, Ph.D.
Capacity Building Center for Courts

Scott Trowbridge, J.D.
Children's Bureau

D. Andrew Yost, J.D., Ph.D.
Capacity Building Center for Courts



Literature Review Team

Ron Ayler, M.S.W.
Community Legal Services of Philadelphia

Terrica Dang-Mertz, B.A.
James Bell Associates

Joanna DeWolfe, M.S.
James Bell Associates

Anne Fromknecht, M.P.H.
James Bell Associates

Sophia Gatowski, Ph.D.
Capacity Building Center for Courts

Christine S. Kiesel, J.D.
JBS International, Children's Bureau Contractor

Kathy Kopiec, M.S.W., M.A.
James Bell Associates

Erin Morehouse, M.P.H.
James Bell Associates

Clark M. Peters, Ph.D., M.S.W., J.D.
University of Missouri-Columbia

Tammy Richards, M.Ed.
James Bell Associates

Alicia Summers, Ph.D.
Capacity Building Center for Courts

Prototype Drafting Team

Zabrina Alequire, J.D., CWLS
Bar Association of San Francisco

Janet Ciarico, M.A.
Capacity Building Center for Courts (Partner Organization, Westat)

Anne Fromknecht, M.P.H.
James Bell Associates

Sophia Gatowski, Ph.D.
Capacity Building Center for Courts

Carmen Hidalgo
System-Impacted Parent

Kristina J. Jorgensen, M.A.
Advisor/Consultant

Christine S. Kiesel, J.D.
JBS International, Children's Bureau Contractor

Jaymie Lorthridge, Ph.D., M.S.W.
(formerly) Westat

Katherine R. Malzahn-Bass, M.A.
(retired) Supreme Court of Nevada

Alicia Summers, Ph.D.
Capacity Building Center for Courts

Ron J. Whitener, Squaxin Island Tribe
University of Washington Law School



People With Lived Experience as Children or Youth in Foster Care Perspective Group

Lidia Bernal
Children's Law Center

Cristal Ramirez
*Youth Engagement Manager
National Association of Counsel for Children*

Lily Colby, Esq.
*With Lived Experience, West Sacramento,
California*

Chauncey Strong, M.S.W.
Strong Training and Consulting

System-Impacted Parent Perspective Group Member

Heather Cantamessa, Parent Ally
Re-Unify Family Solutions

Michael P. Huesca
*Paternal Opportunities Programs and
Services CEO*

Michelle D. Chan
California Families Rise

Kristina J. Jorgensen, M.A.
Advisor/Consultant

Carmen Hidalgo
System-Impacted Parent

Teresa Nord
ICWA Law Center

Equity Crew Perspective Group Member

Angela Olivia Burton, Esq.
New York State Unified Court System

Teri Deal, M.Ed.
National Center for State Courts

A. Nikki Borchardt Campbell
*National American Indian Court Judges
Association*

Doris L. Fransein, J.D.
*(retired) District Judge
Independent consultant*

Bahu Gilliam
JBS International

Sheldon Spotted Elk
*Senior Director, Judicial and National
Engagement, Casey Family Programs*

Clark M. Peters, Ph.D., M.S.W., J.D.
University of Missouri-Columbia

Daniel Webster, Ph.D.
*California Child Welfare Indicators Project, UC
Berkeley*

Beverly Schulterbrandt, Esq.
*Capacity Building Center for Courts, American Bar
Association*

Rob Wyman, J.D., M.S.W.
*Judicial and National Engagement Team,
Casey Family Programs*



Children's Bureau Feedback Team

Jennifer Bradburn
Children's Bureau

Kendall Darling
Children's Bureau

Bahu Gilliam
JBS International

Jennifer Haight
Children's Bureau

Cara Kelly, Ph.D.
Children's Bureau

Marylin Kennerson
Children's Bureau

Christine S. Kiesel, J.D.
JBS International, Children's Bureau Contractor

Steve Lao, M.P.H.
ICF, Child Welfare Reviews Project (CWRP)

Hilari Lipton, J.D.
(formerly) JBS International, Children's Bureau Contractor

William Meltzer
Children's Bureau

Nadia Nijim, M.S.W., M.P.H.
Children's Bureau Region 10

Patrice Perrault
JBS International Child Welfare Specialist, CFSR Unit

Beth Pierce
Children's Bureau

Summer Puckett
Children's Bureau

Carlette Randall, M.S.W., Oglala Lakota
Children's Bureau

Dennis W. Souza
JBS contactor for CFSR in Region 1 (Boston)

Roger Stanton
Children's Bureau

Bethany R. Stoller, M.P.H.
Administration for Children and Families

Scott Trowbridge, J.D.
Children's Bureau

Ray Worsham
Children's Bureau

Jennifer Zanella
Children's Bureau



Appendix B. Measures Organized by Group

Court Process Measures

Family Engagement Measures	
1.1	Do parents attend hearings?
1.2	Do children and youth attend hearings?
1.3	Do tribal representatives attend hearings?
1.4	Do foster parents and relative caregivers attend hearings?
1.5	Do courts send orders to parties or provide them at the end of the hearing?
Due Process Measures	
2.1	Do parties to the case receive timely service? (Toolkit Measure 3B: Service of Process to Parties)
2.2	Are child or youth attorneys and/or attorney guardians ad litem (GALs) appointed early in the case? (Toolkit Measure 3C: Early Appointment of Advocates for Children)
2.3	Are parent attorneys appointed early in the case? (Toolkit Measure 3D: Early Appointment of Advocates for Parents)
2.4	Do parties to the case (including the Tribe in ICWA cases) receive timely notice of hearings? (Toolkit Measure 3E: Advance Notice of Hearings to Parties)
2.5	Are Indian children identified early in the case?
High-Quality Legal Representation Measures	
3.1	Do parent attorneys attend hearings? (Toolkit Measure 3G: Presence of Advocates During Hearings)
3.2	Do child or youth attorneys and/or attorney GALs attend hearings? (Toolkit Measure 3G: Presence of Advocates During Hearings)
3.3	Do prosecuting (or agency or state) attorneys attend hearings?
3.4	Do multidisciplinary members of legal teams attend hearings?
Safety Measures	
4.1	How often and at what points in the case do courts make a finding of reasonable or active efforts to prevent removal? How often is the finding that the agency made “no reasonable efforts”?
Permanency Measures	
5.1	How much time does it take until the first permanency hearing? (Toolkit Measure 4G: Time to First Permanency Hearing)
5.2	How much time does it take to file the termination of parental rights petition? (Toolkit Measure 4H: Time to Termination of Parental Rights Petition).
5.3	How much time does it take until the termination of parental rights? (Toolkit Measure 4I: Time to Termination of Parental Rights)
5.4	How often and at what points in the case do courts make a finding of reasonable or active efforts to reunify or finalize permanency?
5.5	How often and at what points in the case are continuances granted?
5.6	How many termination of parental rights (TPR) decisions are appealed?



Professional Practice Measures: Judges

Family Engagement Measures

- 1.6 What do judges do to engage parents, children, and youth in hearings?
- Do they inquire about missing parents, children, or youth?
 - Do they explain hearing purpose and process? If so, do they use plain language?
 - Do they ask which language the person is most comfortable speaking? If not English, do they arrange for the family to be able to participate in the language they are most comfortable speaking?
 - Do they speak directly to the person?
 - Do they address the person by name (first, last, and salutation)?
 - Do they ask if parents, children, or youth have questions?
 - Do they ask if parents, children, or youth understand?
 - Do they encourage active participation in the hearing/case?
 - Do they give persons an opportunity to be heard?
 - Do they identify next steps?
 - Do they not interrupt or talk over the person?
 - Do they use the preferred pronoun for parents, children, and youth?
- 1.7 What do judges do to engage foster parents and relative caregivers in hearings?
- Do they explain hearing purpose and process?
 - Do they ask what language the person is most comfortable speaking?
 - Do they speak directly to the person?
 - Do they address the person by name (first, last, and salutation)?
 - Do they ask if foster parents and relative caregivers have questions?
 - Do they ask if foster parents and relative caregivers understand?
 - Do they encourage active participation in hearing/case?
 - Do they explain how foster parents or relative caregivers can provide input on the case?
 - Do they specifically ask for foster parents and relative caregivers for input about children or youth?
 - Do they ask how children and youth are doing in their placements?
 - Do they ask if caregivers need additional supports with placements for children and youth?
 - Do they identify next steps?
 - Do they interrupt or talk over foster parents and relative caregivers?
 - Do they use the preferred pronoun for foster parents and relative caregivers?
- 1.11 Are important issues discussed in hearings? Topics of discussion may include:
- Child's current placement
 - Child's educational needs/placement
 - Child's physical health/development needs and services
 - Child's mental health needs and services
 - Visitation/family time
 - Parent's rights/process/permanency timelines
 - Paternity/locating parents
 - Identifying potential relatives (due diligence family finding)
 - Possible kinship placements
 - Child's cultural needs
 - Needs related to aspects of the child's identify



Due Process Measures

- 2.6 What do judges do to ensure fair hearings?
- Is advance notice of hearings provided to tribes?
 - Do they explain the hearing process to parents?
 - Do they discuss parent rights during hearings?
 - Do they discuss the child welfare agency's obligations during the hearing?
 - Do they ensure parents, children, and youth can be present at next the scheduled hearing?
 - Do they order accommodations for parents who are incarcerated, detained, institutionalized, or remote to participate in hearings?
 - Do they ensure interpreters and documents written in a parent's primary language are provided?
 - Do they provide parents, children, and youth copies of court orders?

Safety Measures

- 4.2 How do courts discuss safety and removal?
- Do they discuss safety threats leading to removal?
 - Do they discuss parent protective capacity?
 - Do they discuss child or youth vulnerabilities?
 - Do they discuss what is preventing children and youth from returning home today?
 - Do they discuss family time supervision in relation to the safety threat?
 - Do they discuss the safety of children and youth in their current placement?
- 4.3 How do courts discuss the agency's reasonable or active efforts to prevent removal?
- 4.7 Do judges ask about the agency's efforts to prevent removal?
- 4.8 Do judges make detailed reasonable or active efforts findings that explain how the agency has worked with the family to prevent removal?
- 4.9 Do judges consider parents' protective capacities in determining whether to remove, maintain, or return the child home?

Permanency Measures

- 5.7 How do courts discuss permanency?
- Do they discuss reasonable or active efforts to reunify or finalize permanency?
 - Do they discuss concrete steps to achieve permanency?
 - Do they discuss barriers to finalize permanency?
 - Do they discuss the timeline to achieve permanency?
 - Do they discuss parent involvement in the case plan?
 - Do they discuss child or youth involvement in permanency planning?
 - Do they discuss nature, extent, and quality of family time, including family time with siblings?
- 5.8 Do judges ask about what is preventing child or youth from safely returning home today?
- 5.9 Do judges ask about parents' access to and receipt of relevant services?
- 5.10 Do judges order any relevant services to support reunification/permanency?
- 5.11 How do court orders address family time?
- 5.12 Do judges make detailed reasonable or active efforts to achieve permanency findings that explain how the agency has worked to reunify the family or achieve permanency?
- 5.17 Why are continuances granted?
- What type of hearings are continued?
 - What are reasons for granting a continuance?
 - Who is requesting a continuance?



Professional Practice Measures: Attorneys

Family Engagement Measures

- 1.8 How do parent attorneys engage parents in the process?
- Do they consult with parents prior to the day of court to prepare with them for the hearing?
 - Do they meet with parents in a timely manner following the hearing to discuss what happened and next steps?
 - Do they use the preferred pronouns of the parent?
- 1.9 How do child or youth attorneys and/or attorney GALs engage children and youth in the process?
- Do they meet with children and youth prior to the day of court to prepare them for the hearing?
 - Do they meet with children and youth following the hearing to discuss what happened and next steps?
 - Do they use preferred pronouns of children and youth?
- 1.10 How do prosecuting (or agency or state) attorneys engage parents, children, and youth in the process?
- Do they provide all required reports/document to all parties and courts in a timely manner?
 - Do they use preferred pronouns of parents, children, and youth?
 - Do they refer to parent by their formal name?

Due Process Measures

- 2.7 How do prosecuting (or agency or state) attorneys ensure fair hearings?
- Do they directly provide parents with copies of petition, court reports, and service plans?
 - Do they provide discovery to counsel for parents, children, and youth routinely?
 - Do they identify and locate parents, such as parents who are incarcerated at the earliest stage of the proceeding?
- 2.8 How do parent attorneys ensure fair hearings?
- Do they ensure parents understands court documents?
 - Do they request accommodations for incarcerated parents, non-English speaking parents, and parents with disabilities to participate in hearings?
 - Do they raise notice and service objections?
- 2.9 How do child or youth attorneys and/or attorney GALs ensure fair hearings?
- Do they request discovery?
 - Do they share court documents with children and youth and ensure they understand contents?
 - Do they make arrangements for children and youth to attend court if they wish to do so?
 - Do they request a placement option that is supportive of sexual orientation, gender identity, and expression (SOGIE) of children or youth?

High-Quality Legal Representation Measures

- 3.5 How do parent attorneys ensure they provide high-quality legal representation?
- 3.5a Does the same parent attorney represent the parent throughout the case? (Toolkit Measure 3J: Changes in Counsel for Parents)
- 3.5b Do parent attorneys advocate for parents in hearings?
- Do they contest hearings? If so, at which stages of the case?
 - Do they call witnesses, present evidence, and cross-examine opposing witnesses?



3.5c	<ul style="list-style-type: none"> Do they present favorable evidence on the record? Do parent attorneys prepare in between hearings? Do they talk with parents after hearings to discuss what happened and answer their questions? Do they maintain regular contact with parents between hearings? Do they communicate with other parties between hearings? Do they or their representatives attend nonhearing case events with parents?
3.6	<p>How do child or youth attorneys and/or attorney GALs ensure they provide high-quality legal representation?</p> <p>3.6a Does the same child or youth attorney or attorney GAL represent the child or youth throughout the case? (Toolkit Measure 3I: Changes in Advocate for Children/Youth)</p> <p>3.6b Do child or youth attorneys and/or attorney GALs advocate for children and youth in hearings?</p> <ul style="list-style-type: none"> Do they contest hearings? If so, at which stages of the case? Do they call witnesses, present evidence, and cross-examine opposing witnesses? Do they argue for or request services to address the child's or youth's needs? Do they advocate for child's or youth's position? <p>3.6c Do child or youth attorneys and/or attorney GALs prepare in between hearings?</p> <ul style="list-style-type: none"> Do they ask children and youth what they would like? Do they check with children and youth to ensure they understand their position? Do they talk with children and youth after hearings to explain what happened and answer their questions? Do they maintain regular contact with children and youth between hearings? Do they visit with children and youth in their placement between court appearances? Do they communicate with other parties between hearings? Do they meet with parents and their counsel? Do they attend nonhearing case events for children and youth?
3.7	<p>How do prosecuting (or agency or state) attorneys ensure they provide high-quality legal representation?</p> <p>3.7a Do prosecuting (or agency or state) attorneys stay on the same case throughout the case?</p> <p>3.7b How do prosecuting (or agency or state) attorneys advocate in hearings?</p> <ul style="list-style-type: none"> Do they call witnesses? Do they cross-examine witnesses? Do they present evidence? Have they offered favorable evidence about families and presented it to the courts on the record when appropriate? <p>3.7c Do prosecuting (or agency or state) attorneys prepare in between hearings?</p> <ul style="list-style-type: none"> Do they prepare before hearings? Do they prepare caseworkers and witnesses before hearings? Do they talk with caseworkers after hearings to discuss what happened and answer questions? Do they maintain regular contact with caseworkers between hearings? Do they make reasonable attempts to resolve any issues outside of court when possible? Do they encourage resolution of issues by attending nonhearing case events
Safety Measures	
4.4	Do attorneys cross-examine reasonable or active efforts to prevent removal?
4.5	Do attorneys raise the issue of reasonable or active efforts if not raised?



4.6 Do prosecuting (or agency or state) attorneys offer information or evidence about the agency's reasonable or active efforts to the court?

Permanency Measures

5.13 What information or evidence about reasonable or active efforts to reunify or finalize permanency do prosecuting (or agency or state) attorneys present to the court?

5.14 Do prosecuting (or agency or state) attorneys file motions and petitions related to permanency goals in a timely manner?

5.15 Do parent attorneys advocate for reunification in hearings?

- Do they advocate for tailored services to support reunification in hearings?
- Do they advocate for family time/visitation in hearings?
- Do they advocate for placement in hearings?

5.16 Do child or youth attorneys and/or attorney GALs advocate for reunification or other permanency in hearings?

- Do they advocate for tailored services to support reunification in hearings?
- Do they advocate for family time/visitation in hearings, including with siblings?
- Do they advocate for placement in hearings?
- Do they advocate for exploration of relative resources for permanency?
- Do they advocate for guardianship or adoption and not for APPLA (aging out of foster care)?
- When APPLA is the appropriate goal, do they advocate for tailored services to support the youth's transition to independent living?

5.17 When are continuances granted?

- What type of hearings are continued?
- What are reasons for granting a continuance?
- Who is requesting a continuance?



Parent Experience Measures

Family Engagement Measures

- 1.12 Do parents feel judges engaged them in hearings?
- Do they feel judges understood their needs and wishes?
 - Do they feel they had an opportunity to be heard?
 - Do they feel their questions were answered?
 - Do they understand what must be done to resolve the case?
 - Do they understand what happened during the case and what comes next?
 - Do they feel respected during the hearing?
 - Do they feel like they were part of decision-making?
- 1.14 Do foster parents and relative caregivers feel judges engaged them in hearings?
- Do they feel judges understood their needs and wishes?
 - Do they feel they had an opportunity to be heard?
 - Do they feel judges valued their input?
 - Do they understand how they can provide information to courts?
 - Do they feel their questions were answered?
 - Do they understand what must be done to resolve the case?
 - Do they understand what happened during the case and what comes next?
 - Do they feel respected during the hearing?
 - Do they feel like they were part of decision-making?

Due Process Measures

- 2.10 Do parents feel they were treated fairly?
- Do they feel judges treated them fairly?
 - Do they feel their attorneys explained their rights and the court process clearly?
 - Do they feel their voices are heard in court?
 - Are they satisfied with their court experience?
 - Could they easily navigate the courthouse?
 - Could they complete their court business in a reasonable amount of time?
 - Were they treated with courtesy and respect while at the courthouse?
 - Did court staff pay attention to their needs?
 - Were there family friendly waiting areas?

High-Quality Legal Representation Measures

- 3.8 Are parents satisfied with their attorneys' representation?
- Do they feel their attorneys understood their perspectives?
 - Do they feel their attorneys listened to them?
 - Do they feel their attorneys treated them with respect?
 - Do they understand the role of their attorneys?
 - Do they feel prepared by their attorneys for court?
 - Do they believe the amount of communication with their attorneys was sufficient?
 - Do they understand their attorneys' strategies?
 - Do they trust their attorneys' judgement?
 - Do they believe their attorneys moved the case forward strongly in the direction of their wishes?



- Do they believe their attorneys helped them access and receive the services they needed?
- Do they believe their attorneys helped them receive adequate time to accomplish permanency-related activities?
- Do they know what to do to make a complaint about their attorneys?

3.10 How do parents, children, and youth feel they were treated by prosecuting (or agency or state) attorneys?

- Do they feel prosecuting (or agency or state) attorneys treated them fairly?
- Do they feel prosecuting (or agency or state) attorneys treated them respectfully?
- Do they understand the role of prosecuting (or agency or state) attorneys in the case and whom they are representing?
- Do they feel prosecuting (or agency or state) attorneys were appropriately prepared for courts?
- Do they feel the prosecuting (or agency or state) attorneys made appropriate efforts to advance case goals, including making sure they had access to appropriate family time and services?

Safety Measures

4.10 Do parents understand the safety threats to the child and how those led to the child's removal?

4.11 Do parents understand the conditions for return of the child?

4.12 Do parents believe judges considered their protective capacities in decision-making regarding removal and return?

4.13 Do parents feel their voices were heard in safety planning discussions?

Permanency Measures

5.18 Do parents feel their voices were heard in permanency planning discussions?

- Do they feel they had an opportunity to share their views?
- Do they feel they were involved in case planning?
- Do they feel their voices were heard in permanency decisions?

5.19 Do parents understand what is required of them and the steps needed to have their children and youth returned?

5.20 Do parents feel services met their needs and assisted them in reunification?

5.21 Do parents feel they were able to engage in meaningful family time?



Children and Youth Experience Measures

Family Engagement Measures

- 1.13 Do children and youth feel judges engaged them in hearings?
- Do they feel the judges understood their needs and wishes?
 - Do they feel they had an opportunity to be heard?
 - Do they feel their questions were answered?
 - Do they understand what must be done to resolve the case?
 - Do they understand what happened during the case and what comes next?
 - Do they feel respected during the hearing?
 - Do they feel like they were part of decision-making?

Due Process Measures

- 2.11 Do children and youth feel they were treated fairly?
- Do they think judges treated them fairly?
 - Do they think their advocates clearly explained their rights/the court process?
 - Do they feel their voices were heard?
 - Do they know about any changes in placement and the reasons for those changes?
 - Do they feel the courts hold the agencies accountable for accomplishing steps necessary to support the transition out of foster care?

High-Quality Legal Representation Measures

- 3.9 Are children and youth satisfied with their legal representation?
- Do they feel their attorneys and/or attorney GALs understood their perspective?
 - Do they feel their attorneys and/or attorney GALs listened to them?
 - Do they feel their attorneys and/or attorney GALs treated them with respect?
 - Do they understand the role of their attorneys and/or attorney GALs?
 - When represented by attorneys, do they feel their attorneys are representing their stated wishes?
 - Do they feel prepared by their attorney and/or attorney GALs for court?
 - Do they believe the amount of communication with their attorneys and/or attorney GALs was sufficient?
 - Do they believe their attorneys and/or attorney GALs helped them to access and receive needed services?
 - Do they know what to do to make a complaint about their attorneys and/or attorney GALs?
- 3.10 How do parents, children, and youth feel they were treated by the prosecuting (or agency or state) attorneys?
- Do they feel the prosecuting (or agency or state) attorneys treated them fairly?
 - Do they feel the prosecuting (or agency or state) attorneys treated them respectfully?
 - Do they understand the role of the prosecuting (or agency or state) attorneys in their case and whom they are representing?
 - Do they feel the prosecuting (or agency or state) attorneys were appropriately prepared for court?
 - Do they feel the prosecuting (or agency or state) attorneys made appropriate efforts to advance case goals, including making sure they have access to appropriate family time and services?

Safety Measures

- 4.14 Do children and youth feel their voices were heard in safety discussions?
- Do the child or youth attorneys regularly ask them, without other persons present, whether they felt safe in their current placement?
 - Did they ever feel unsafe in foster care?

Permanency Measures

- 5.22 Do the children and youth feel their voices were heard in permanency decisions?
- Do they feel they had an opportunity to share their wishes about permanency?
 - Do they feel they were listened to in permanency decisions?
 - Do they feel they were involved in permanency planning?

