Section 8.3C.2c TITLE IV-VE, Foster Care Maintenance Payments Program, State Plan/Procedural Requirements, Case review system, permanency hearings

Question: In what way can a State meet the requirement for the court holding a permanency hearing to conduct age-appropriate consultation with the child in section 475(5)(C)(ii) of the Social Security Act (the Act)?

Answer: Any action that permits the court to obtain the views of the child in the context of the permanency hearing could meet the requirement. Section 475(5)(C)(ii) of the Act tasks the State with applying procedural safeguards to ensure that the consultation occurs. However, the statute does not prescribe a particular manner in which the consultation with the child must be achieved which provides the State with some discretion in determining how it will comply with the requirement.

We do not interpret the term 'consult' to require a court representative to pose a literal question to a child or require the physical presence of the child at a permanency hearing. However, the child's views on the child's permanency or transition plan must be obtained by the court for consideration during the hearing. For example, a report to the court in preparation for a permanency hearing that clearly identifies the child's views regarding the proposed permanency or transition plan for the child could meet the requirement. Also, an attorney, caseworker, or guardian ad litem who verbally reports the child's views to the court could also meet the requirement. Information that is provided to the court regarding the child's best interests alone are not sufficient to meet this requirement. Ultimately, if the court is not satisfied that it has obtained the views of the child through these or any other mechanism, it could request that the child be in the courtroom, or make other arrangements to obtain the child's views on his/her permanency or transition plan.

- **Source/Date:** (date of approval)
- **Legal and Related References**: Social Security Act – section 475(5)(C)(ii)