

Implementing the Enhanced Resource Guidelines Improves Hearing Quality and Buffers Against Potential Negative Impacts from the COVID-19 Pandemic

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OVERVIEW

In 2016, the Berrien County Family Division in St. Joseph, Michigan was selected as an Implementation Site for the Enhanced Resource Guidelines (ERGs). The Family Division's Lead Judge, Brian S. Berger invited a multidisciplinary stakeholder team to participate in a 2-day ERGs training (March 21–22, 2019) and accommodated intensive Implementation Site technical assistance through a dedicated NCJFCJ site manager.

In keeping with this court's Continuous Quality Improvement (CQI) program, it asked the National Council of Juvenile and Family Court Judges (NCJFCJ) to evaluate system performance after ERGs implementation.

Much to the court's—and the world's—surprise, the COVID-19 pandemic struck one year later, introducing extraordinary circumstances impacting the juvenile justice system, as well as the court's efforts to implement ERGs practices.

The pandemic was an unexpected confounding factor in the original evaluation design. However, the Berrien County Family Division court leaders were eager to learn from their experience implementing the ERGs through the pandemic, even though the challenging environment might have limited or mitigated ERGs implementation outcomes.

While some of the Family Division's performance and outcome measures declined during the pandemic, the evaluation revealed that the court nonetheless made significant improvements in two key ERG focus areas: judicial engagement and hearing quality.

Furthermore, given recent research (Siegel et al., 2022; Summers & Gatowski, 2021) highlighting the possible negative impacts the pandemic had on court processes and case outcomes, we suspect that the timely ERGs training and implementation may have helped Berrien County Family Division buffer against these effects.

The 10 Key Principles Underlying the ERGs

- Keep families together;
- Ensure access to justice;
- Cultivate cultural responsiveness;
- Engage families through alternative dispute resolution techniques;
- Ensure child safety, permanency, and well-being;
- Ensure adequate and appropriate family time;
- Provide judicial oversight;
- Ensure competent and adequately compensated representation;
- Advance the development of adequate resources; and,
- Demonstrate judicial leadership and foster collaboration.

Juvenile and Family Courts Across the U.S. were Disrupted by the Pandemic

For example, many courts:

- Shifted to virtual hearings and processes;
- Experienced staff turnover and shortages;
- Suffered mental, behavioral, and physical health resource reductions in their communities; and
- Witnessed the closure of residential and detention facilities.

These impacts could potentially reduce hearing quality and negatively impact case outcomes.

An overview of those impacts and key findings can be found in the full evaluation report [Enhanced Resource Guidelines Implementation Evaluation, Berrien County, Michigan – Family Division.](#)

I. Study Background

The Enhanced Resource Guidelines

The Enhanced Resource Guidelines (ERGs) are a set of recommended practices for child abuse and neglect court proceedings published by the NCJFCJ (Gatowski et al., 2016). The ERGs outline essential components of child abuse and neglect (aka dependency) hearings, providing judicial officers with key considerations and decision points at each hearing stage, from the first or preliminary protective hearing through termination of parental rights (TPR) proceedings.

A growing body of research evidence indicates that adherence to the ERGs improves hearing quality, court practices, and case outcomes (Gatowski et al., 2019; Hurst et al., 2022; Macgill & Summers, 2014; Russell et al., 2023; Sage & Green, 2022; Summers et al., 2017).

Impact of the Pandemic on Child Abuse and Neglect Proceedings

The advent of the pandemic created circumstances that had profound effects on juvenile and family courts across the country, forcing them to quickly adapt.

In the dependency realm, challenges were particularly acute as these courts are responsible for handling cases that involve the most vulnerable child victims who are part of families that are often experiencing a range of serious challenges (e.g., mental health, substance misuse, poverty, parent incarceration, and other challenges), all of which the court must try to address in a timely manner while focusing on child safety, permanency, and fairness for children and families.

There is another growing body of research focusing on the specific impacts of the pandemic on child abuse and neglect proceedings (e.g., Ahn et al., 2023; Conrad & Magsamen-Conrad, 2022; Siegel et al., 2022; Summers &

Gatowski, 2021), which centered more on the pandemic's impacts on court practices and processes rather than specific case outcomes.

II. Evaluation Methodology

The Implementation Site technical assistance process and expected outcomes flow that guided the current evaluation can be found at the end of this report.

Berrien County, MI

This evaluation took place within Berrien County Family Division, which is a small urban court in the Midwest. The county population is roughly 150,000 people.

Approximately 21.5% of Berrien county's population is age 17 or younger. Below is a breakdown of racial categories for the county population, 6% of which identify as Hispanic or Latino.

Percent of Racial Categories for Berrien County

American Indian	1%
Multi-Racial	2%
Hispanic	6%
Black	16%
White	81%

According to data provided by the state child welfare agency, just over 2,500 child abuse and neglect referrals were received during 2020 in this jurisdiction, with 270 of these referrals ultimately being substantiated or confirmed (Berrien County Family Division Court Administration, 2023).

The court participated in ERGs training in March 2019, after which they implemented ERGs practice changes and prepared for evaluation.

Case Sampling

The evaluation used a pre/post comparison quasi-experimental design. The research team examined casefiles

and observed video-recorded hearings from both pre-ERGs and post-ERGs implementation. Cases that closed between January 1, 2015, and December 31, 2016, were eligible for inclusion in the pre-ERGs sample, while cases closed between July 1, 2020, and June 30, 2022, were eligible for inclusion in the post-ERGs sample.

Research Design and Evaluation

In the larger evaluation, researchers reviewed 96 case files (59 pre-ERGs, 37 post-ERGs). Using a case file review tool created by the NCJFCJ, the research team measured performance and case outcomes including but not limited to time to case closure, reunification rates, and other permanency indicators.

The team also observed 104 hearings (58 pre-ERGs, 46 post-ERGs) and collected data on hearing quality based on the key performance indicators contained in the ERGs using a hearing observation tool, also created by the NCJFCJ.

As mentioned previously, the pandemic took place during the evaluation period. The effects of the pandemic and the ERGs implementation were happening concurrently and are unable to be statistically isolated to determine distinguishable effects on the outcomes evaluated. However, the hearing observation tool was modified during the post-ERGs evaluation period to allow for pandemic-related observations to take place.

III. Key Findings at a Glance

To explore the impacts of the pandemic, the research team coded all discussions during the hearing that related to the pandemic and associated technological issues. Further, it was expected that the impacts would vary across time periods, as the court ceased operations initially and then went through a transitional period to get virtual hearing technology implemented. As such, comparisons

were made between hearings that took place during the beginning of the pandemic (March 2020 through June 2020, n=5) and the months following the initial pandemic-related transitions (July 2020 and beyond, n=22).

Further, as part of the original evaluation research design, the research team examined the impact of ERGs implementation on permanency outcomes, judicial engagement, and the breadth of hearing discussions. This analysis was reassessed using the two time periods specified above.

Key findings from the analyses include:

- Most virtual hearings that took place during the pandemic did not contain substantial discussion around the pandemic, which may be due to those conversations taking place outside of the virtual courtroom. However, when this was observed, the pandemic's effects on family time, availability of services, and placement options were discussed. These conversations decreased in frequency between the initial onset of the pandemic and the period after the transition.
- While we may have expected the pandemic to negate the expected progress resulting from the ERGs

implementation, there were notable positive impacts between pre-implementation and post-implementation (e.g., increased judicial engagement with parents, reduction in placement changes for youth), demonstrating the ERGs' effectiveness in improving quality of practices despite unprecedented circumstances.

- Not surprisingly, we observed several unexpected but important changes between the pre-ERGs implementation and post-ERGs implementation groups (e.g., decreased family reunification rates, reduction in judicial continuity) which may be, in part, examples of the considerable effects the pandemic had on courts and case processing.

While there were some positive findings, many areas evaluated saw little to no improvement. It is likely that the potential positive impacts of ERGs implementation were mitigated by the pandemic. Further, it is also likely that the timely ERGs training and implementation buffered the court against the harmful effects of the pandemic that were experienced in other jurisdictions.

The following sections describe these key findings in more nuanced detail.

IV. Comprehensive Study Findings

Pandemic-Related Discussions During Hearings

When observing discussions that took place during the hearing that were specifically mentioning the pandemic, they most often focused on topics such as family time, availability of services, and placement options. The table below shows the frequency of these discussions during hearings that took place at the beginning of the pandemic and after the transitional period, as well as whether these discussions were positive or negative.

Unsurprisingly, many of the discussions that took place were negative, referring to challenges brought on by pandemic-related circumstances such as being unable to access services due to service provider closures.

Notably, most hearings that took place during the pandemic contained very little to no detailed discussion around the pandemic itself and how it may directly or indirectly impact youth, their families, the court and its processes, access to resources and services, and so on. However, these results must be interpreted within the context of the research design itself which only measured discussions that took place on

Frequency of Discussions During Hearings				
Discussions		No Discussion Percentage (Count)	Negative Discussion Percentage (Count)	Positive Discussion Percentage (Count)
Family Time	Early COVID	40.0% (2)	40.0% (2)	20.0% (1)
	After Transition	77.3% (17)	13.6% (3)	9.1% (2)
Availability of Services	Early COVID	40.0% (2)	60.0% (3)	0.0% (0)
	After Transition	86.4% (19)	4.5% (1)	9.1% (2)
Placement Options	Early COVID	80.0% (4)	20.0% (1)	0.0% (0)
	After Transition	100.0% (22)	0.0% (0)	0.0% (0)

the record during the recorded hearing and it is very likely that these topics were being discussed in this jurisdiction in other contexts.

Pandemic-Related Technology Challenges

While the pandemic impacted discussions that took place during hearings, it also had more direct impacts on hearing quality through technology issues that occurred during the shift to virtual court.

For example, coders observed audio issues (e.g., people unable to unmute or unsure how to do it); difficulty hearing participants; frozen video feeds; some issues admitting participants into hearings, etc.).

It is important to acknowledge the role technology challenges can play in affecting hearing quality. For example, audio and visual challenges can create disruptions and delays to the hearing process, ultimately affecting timeliness of case processing.

Further, these issues can negatively impact participants' ability to participate and engage in the hearing process.

The presence of technology issues during hearings decreased after the initial transition period:

- Technology issues were experienced in 100% of hearings AT THE BEGINNING of the pandemic.
- Technology issues were experienced in 59% of hearings AFTER the pandemic transition period.

Permanency Outcomes

Due to severe disruptions caused by the pandemic, it was expected that timeliness to case closure and permanency outcomes could be negatively affected.

For timeliness, findings revealed that most variables remained relatively stable across hearings from pre- to post-ERGs. However, consistent with the above hypothesis:

- There was an increase in the number of days between adjudication and disposition from pre- to post-ERGs.
- There was an increase in mean time from TPR (termination of parental rights) petition to first TPR for both mother and father from pre- to post-ERGs.

Similarly, most permanency outcome variables remained relatively stable across hearings from pre- to post-ERGs, with some notable exceptions:

- Family reunification rates decreased significantly from pre-ERGs (69.5%) to post-ERGs (62.2%).
- There was a significant increase in termination of parental rights from pre-ERGs (20.3%) to post-ERGs (29.7%).
- There was a significant decrease in the mean number of placement changes from pre-ERGs ($M = 1.92$) to post-ERGs ($M = 1.30$), indicating that there were still some positive outcomes post-ERGs despite the pandemic's impact.

Judicial Engagement

The ERGs indicate the judge should engage children and families during dependency hearings using a family-centered and strengths-based approach.

As demonstrated in the table below, there were some significant improvements in engagement with both mothers and fathers. While some variables measured did not show statistically significant improvements, judicial engagement appeared to be trending positively across most measures despite the pandemic.

Improvements in Judicial Engagement with Caregivers

Variables measured:	Father Post-ERGs (n=37)	Father Pre-ERGs (n=59)	Mother Post-ERGs (n=37)	Mother Pre-ERGs (n=59)
Asked if they had any questions	40%	17%	39%	18%
Asked if they understood next steps	25%	0%	25%	5%
Identified next steps	60%	63%	72%	71%
Gave opportunity to be heard	45%	23%	36%	9%
Asked if they understood everything	45%	13%	39%	23%
Addressed by name	90%	80%	94%	68%
Spoke directly to	85%	77%	92%	82%

Judicial Inquiries During Hearings: Five Statistically Significant Improvements

All hearings:	Pre-ERGs (n=59) Percentage	Post-ERGs (n=37) Percentage
What prevents return home	24%	73%
Number of days in placement	0%	18%
Educational needs	14%	47%
Family time with siblings	2%	35%
Maintain connections with family	7%	22%

Breadth of Hearing Discussions

Another key aspect of the ERGs is the need to conduct substantive hearings at all stages of the dependency process indicating several critical topics or inquiries that should be discussed across all hearings (e.g., educational needs of the youth).

Once again, this jurisdiction displayed important progress despite the challenges posed by the pandemic. Of the 16 topics examined, 11 showed improvements and five of these improvement areas reached statistical significance, as listed on the table to the right.

V. Conclusions and Future Considerations

The pandemic presented unprecedented challenges for all juvenile and family courts, particularly during the early months when few, if any, knew what the ramifications of the virus would be for the courts, children, families, and communities.

After a brief period where the court ceased operations, they had to abruptly identify and implement new virtual hearing practices. At the same time, all key parties involved in dependency matters also had to adapt and adjust to the new technology.

For example, this transition affected parents who may have had limited access or experience with the technology or devices needed to participate in remote hearings, as well as service providers who could no longer provide court-ordered services in person.

Despite these challenges, this evaluation demonstrates how one court was able to achieve important progress related to the ERGs. The NCJFCJ research team was able to document that hearing quality improved despite substantial technological challenges and other important obstacles.

This is an important advancement, as improved hearing quality is strongly correlated with improved case outcomes (Gatowski, et al., 2019 and Hurst, et al., 2022).

It is important to note that the ERGs exclusively focus on courtroom practice and oversight in child welfare cases, but there is no way to control for the impact of the pandemic on the child welfare agency network (e.g., reduction in staff to manage cases, service provider closures, etc.).

While there is little question that the pandemic contributed to challenges for this court and may explain areas where expected improvements did not occur, it is likely that the timely ERGs training and implementation helped buffer against even worse case outcomes.

As such, the positive outcomes related to improved hearing quality should not be dismissed nor undervalued, as they occurred in the face of the unprecedented circumstances and obstacles brought on by the pandemic.

This evaluation highlighted the tenacious commitment of the court to learn, implement, and adhere to best practices outlined by the ERGs during extraordinary times.

Findings from this evaluation emphasize the importance of courts taking similar initiative to ensure the best outcomes for the youth and families in their care during the best of times and the worst of them.

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