

	Department of Human Services CHILDREN, ADULTS and FAMILIES	NUMBER: I-E.3.6 OAR: 413-070-0500 / 0517
	CLIENT SERVICES MANUAL I ISSUED BY: Office of Permanency for Children EFFECTIVE DATE: January 1, 2002	SECTION: E. Substitute Care
		SUBSECTION: 3. Placement Expectations
SUBJECT: 6. Achieving Permanency - Oregon Administrative Rules		

Responsible Manager: Manager, Adoption Services Approval: _____
Administrator, Office of Permanency for Children

Interpretation: Legal Assistance Specialists, Adoption Services

REFERENCES: Title IV-E
Indian Child Welfare Act
PL 105-89, Adoption and Safe Families Act (ASFA)
45 CFR Parts 1355, 1356 and 1357, 1/25/2000
CAF Policy I-A.4.5, Rights of Relatives
CAF Policy I-E.2.1, Placement of Indian Children
SB 408
CF 0305, Code Sheets

PURPOSE

413-070-0500 (1) As soon as a child is placed in care, DHS shall formulate a plan to achieve permanency for the child. Although the plan may change as more information becomes available, the goal is to develop a safe and permanent family resource with the child's parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(2) The Adoption and Safe Families Act and Oregon statutes require that DHS develop, document and implement a permanency plan, and an alternate plan for every child placed in the legal custody of DHS for substitute care placement. These rules define the minimum agency expectations for achieving permanency for every child in substitute care, and clarify the appropriate use of DHS specialized Legal Assistance Program for children who are likely to be freed for adoptive placement. In the case of an Indian child, DHS shall follow the Indian Child Welfare Act and CAF Policy I-E.2,1, Placement of Indian Children.

Statutory Authority: ORS 418.005
Stats Implemented: Title IV-E, P.L.105-89

DEFINITIONS

413-070-0505 (1) "Concurrent Plan": plan established as an alternate or backup permanency plan when the goal of the permanency plan is placement with parent(s). If placement with parent(s) is not possible, DHS shall first consider placement with relatives as an alternate, concurrent plan for the child. Although the concurrent permanency plan may change as more information becomes available, the goal is to develop a safe and permanent resource with the parent(s), relatives or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood. The child's important attachments will be considered and maintained when in the best interest of the child.

(2) "Designated Local Review Body": The internal local committee, assigned by the, SDA Manager or Designee responsible for reviewing and approving case planning for substitute care placement, for permanency and alternate permanency planning and for adoption planning. Since these duties may be assigned to more than one group, this procedure uses the terminology "designated review body" to describe the respective group responsible for these functions.

(3) "First Consideration of Relatives": Oregon law and federal law require that when DHS places a child either on a temporary or permanent basis, DHS shall first consider relatives as a potential placement resource for the child, as provided in CAF Policy I-E.1.1, Working with Relatives towards Permanency for Children.

(4) "Permanency Plan": A plan to achieve permanency for the child. Reunification of the child(ren) with the parent(s) is the permanency plan of first choice providing the family can provide safe, adequate care. If placement with a parent(s) is not possible, DHS shall first consider relatives as placement resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parent(s), relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood. The child's important attachments will be considered and maintained where in the best interest of the child.

(5) "Substitute Care": Refers to a child(ren) in the legal or physical custody and care of the Department of Human Services (DHS) and who is in an out-of-home placement with someone other than their birth parent, legal parent, or legal guardian.

Statutory Authority: ORS 418.005

Stats Implemented: Title IV-E, P.L. 105-89

VALUES

413-070-0510 (1) Substitute care placement is temporary care for a child who requires protective care or specialized treatment.

(2) Every child needs and deserves a safe, nurturing and permanent home.

Statutory Authority: ORS 418.005

Stats Implemented: Title IV-E, P.L.105-89

PROCEDURES

413-070-0515 (1) Initial Permanency Planning. DHS shall develop a permanency plan and a concurrent permanency plan for each child in DHS custody within 60 days of the actual placement date of the child into substitute care, (OAR 413-040-0000 through 0045, Service Plans). In developing the permanency plan, the health and safety of the child are of paramount concern. The permanency plan and concurrent permanency plan shall each contain a permanency goal.

(a) If DHS does not pursue termination of parental rights for a child in DHS custody, DHS must document an exception to the requirement to file a petition to terminate parental rights in the following cases:

(A) When a child has been in care for 15 of the past 22 months;

(B) Parent convicted of certain crimes;

(C) Child abandoned; or

(D) At any time the permanency plan changes from “place with parents” to another plan other than adoption.

(b) If the goal is placement in another planned permanent living arrangement, DHS must document a compelling reason why it is not in the best interests of the child to be placed with a parent, to be referred for termination of parental rights and placed for adoption, to be placed with a relative, or to be placed with a legal guardian.

(2) Goals for Achieving Permanency. Each child in substitute care must have an appropriate and current permanency goal recorded in IIS and in the child's service plan. The goals as listed on the IIS Code Sheet, CF 305, are the options permitted by CAF policy; these goals must accurately reflect the service plan and the legal status of the child.

(3) Permanency Plan Reviews:

(a) DHS shall review the permanency plan and concurrent permanency plan for each child in its legal custody after the 6 month review conducted under ORS 419A.106 or any hearing conducted in lieu of such review but prior to the permanency hearing required by ORS 419B.470(2) to determine the appropriateness of the permanency plans. If the permanency hearing is scheduled before the 6 month review, DHS shall review the permanency plans prior to the permanency hearing even if the 6th month review has not occurred, (CAF Policy I-F.3.2.1, Termination of Parental Rights, OAR 413-110-0230). The caseworker shall document this review on the 147B.

(b) A permanency hearing must be conducted for all children in substitute care within 12 months after the date of the jurisdictional hearing or 14 months after the child was first placed in substitute care, whichever is earlier. Ongoing subsequent permanency hearings must be conducted not less frequently than every 12 months after the initial permanency hearing. Subsequent permanency hearings are also required for all children placed in a permanent foster home or a preadoptive home. Nothing in these rules precludes DHS from tracking an earlier date to assure compliance or seeking an earlier review.

(c) DHS may request that the court conduct a permanency hearing at any time. The court is not required to conduct a permanency hearing for a child in circumstances such as those described below but, based on an assessment of the specific facts of a case, DHS may determine that it is appropriate to request a permanency hearing:

(A) A child, who was in substitute care, is living with a parent(s) when a permanency hearing is due and remains under the jurisdiction of the court with an open DHS case; or

(B) A child, for whom no permanency hearing was held because the child had left substitute care and was living with a parent(s) when a permanency hearing was due, has now returned to substitute care.

(d) The permanency hearing shall determine the permanency plan for the child that includes whether, and if applicable, when:

(A) The child will be placed with the parent(s);

(B) DHS will file a petition for termination of parental rights and the child will be placed for adoption;

(C) The child will be referred for legal guardianship;

(D) The child will be placed in another planned permanent living arrangement.

(e) If DHS plans to place the child in another planned permanent living arrangement, as provided in (3)(d)(D) above, DHS must document a compelling reason for determining that it would not be in the best interest of the child to:

(A) Be placed with a parent;

(B) Be referred for termination of parental rights and placed for adoption;

(C) Be placed with a fit and willing relative;

(D) Be placed with a legal guardian.

(4) Reasonable Efforts. When making reasonable efforts, or active efforts in the case of an Indian child, the child's health and safety are the paramount concerns. DHS shall make reasonable efforts, or active efforts, consistent with strengths/ needs based practices, to preserve and reunify families, to prevent or eliminate the need for removing the child from the child's parent(s), and to make it possible for the child to safely be placed with a parent. If continuation of reasonable efforts to place with the parent(s) inconsistent with the permanency plan for the child, DHS shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan, and to complete necessary steps to finalize the permanent placement of a child. This includes documentation of efforts to search for and place with relatives, and child specific recruitment efforts to locate an adoptive resource. In the case of an Indian child, DHS shall make active efforts to involve the Indian child's tribe in the selection of a permanent plan for the child.

(a) If a court determines that one of the following circumstances exists, the juvenile court may make a finding that DHS is not required to make reasonable efforts to make it possible for the child to return home:

(A) The parent has subjected the child to aggravated circumstances. Aggravated circumstances include, but are not limited to the following:

(i) The parent by abuse or neglect has caused the death of any child;

(ii) The parent has attempted, solicited or conspired to cause the death of any child;

(iii) The parent by abuse or neglect has caused serious physical injury to any child;

(iv) The parent has subjected any child to rape, sodomy or sexual abuse;

(v) The parent has subjected any child to intentional starvation or torture;

(vi) The parent has abandoned the child;

(vii) The parent has unlawfully caused the death of the other parent of the child.

(B) The parent has been convicted in any jurisdiction of one of the following crimes:

(i) Murder, of another child of the parent, which would have been an offense under section 1111(a) of Title 18, United States Code:

(ii) Manslaughter in any degree, of another child of the parent, which would have been an offense under section 1112(a) of Title 18, United States Code;

(iii) Aiding, abetting, attempting, conspiring or soliciting to commit an offense described in 413-070-0515(4)(a)(B)(i) or (ii); or

(iv) Felony assault that results in serious physical injury to the child or another child of the parent;

(C) The parent's rights to another child have been terminated involuntarily.

(b) If, pursuant to (4)(a) above, the juvenile court makes a finding that DHS is not required to make reasonable efforts to prevent or eliminate the need for removal of the child from the home or to make it possible for the child to safely return home, and DHS determines that it will not make such efforts:

(A) DHS shall request the court to conduct a permanency hearing no later than 30 days after the judicial finding in (4)(a);

(B) If the court's finding under (4)(a) was based upon proof that the parent has been convicted of one of the crimes listed in (4)(a)(B), DHS shall file a petition for termination of parental rights no later than 60 days after the court's finding that DHS is not required to make reasonable efforts to make it possible for the child to safely return home unless:

(i) At the option of DHS the child is being cared for by a

relative;

(ii) DHS has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the child as provided in ORS 419B.498(2); or

(iii) DHS has not provided to the family of the child, consistent with the time period in the case plan, services as DHS deems necessary for the safe return of the child to the child's home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

(C) DHS shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan, and to complete the required necessary steps to finalize the permanent placement of the child.

(5) Specialized Legal Assistance (formerly Permanent Planning) Services.

Specialized legal assistance services are appropriate only if adoption is a realistic alternative to placing the child with a parent. These services shall be used only if the case meets the requirements of CAF Policy I-F.3.2.1, Termination of Parental Rights, and in accordance with requirements of CAF Policy I-F.3.2, Legal Assistance Program.

Statutory Authority: ORS 418.005

Stats Implemented: Title IV-E, P.L. 105-89

WITHOUT REASONABLE EFFORTS

413-070-0517 In some cases, DHS may decide to file a petition to terminate the parental rights of a parent whose child is in DHS custody without making reasonable efforts to make it possible for the child to be safely returned home and without seeking or having the juvenile court make a finding that DHS is not required to make such efforts.

Statutory Authority: ORS 418.005

Stats Implemented: Title IV-E, P.L. 105-89