

**NORTH DAKOTA DEPARTMENT OF HUMAN
SERVICES BISMARCK, NORTH DAKOTA**

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TO: Field Service Specialists
Human Service Zones
Division of Juvenile Services
Tribal Nations
Nexus PATH

FROM: Dean Sturn, CFS Permanency Administrator

SUBJECT: Child & Family Team Membership 624-05-15-20-08
Relative Care 624-05-15-50-20
Review of Children in Out-of-Home Care 624-05-15-80-05-10
Goals in Foster Care Placement 624-05-15-115
Placement with Relatives 624-05-15-115-10
Adoption 624-05-15-115-15

PROGRAMS: Foster Care

RETENTION: Until Manualized

EFFECTIVE: Immediately

The ND Department of Health and Human Services, Children and Family Services is updating policy for case management in efforts to clarify portions of the Foster Care Permanency Planning chapter.

Policy changes and clarifications are primarily related to guidance surrounding the establishment of permanency goals and guidance surrounding safety when placing youth with an unlicensed relative care giver. Policy changes and clarifications can be viewed as red/underlined.

Questions related to policy can be directed to Dean Sturn drsturn@nd.gov, or to your areas assigned Field Service Specialist for case management technical assistance.

Thank you.

Child & Family Team Membership 624-05-15-20-08

The custodial agency director or designee and the foster care case manager will co-chair the Child & Family Team Meeting (CFTM). The foster care case manager shall select and invite pertinent members to join the CFTM committee.

Local circumstances must be considered in selecting the Child & Family Team. Cooperation between the members is essential. The common goal must always be to arrive at a joint decision and provide the child's legal custodian a recommendation which is in the "best interests of the child."

Permanent CFTM members include:

1. Custodial agency director or designee
2. Department representative (Field Service Specialist) to engage in an administrative review. The administrative review must occur by the department every six months;
3. Parents or legal guardian;
4. Foster care provider where child is placed;
5. Foster child (when appropriate). When a foster child is age 14 or greater, they have the opportunity to personally invite two additional members to join the CFTM.
6. Developmental Disabilities coordinator or designee when any case involves a child who is developmentally disabled or if there is a reason to believe the child may be developmentally disabled.

Other CFTM members may include:

1. A treatment or therapeutic professional working with the child and/or family;
2. Juvenile court supervisor or other court representative;
3. Tribal Government personnel (if appropriate);

4. Additional case management from partnering agencies (therapeutic foster care or AASK)
5. School teacher or special education coordinator;
6. School designated foster care liaison;
7. Chafee Coordinator, if applicable;
8. Others identified by the child, family or case manager who has appropriate interest in the child or family.

Goal of adoption:

Adults Adopting Special Kids (AASK) should be invited to meetings for children whose parental rights are in the process of being terminated or where there is concurrent plan that includes adoption. If the child has a concurrent plan involving adoption as an alternate plan, AASK must be invited to the CFTM following the change to or an addition of a goal of adoption. Prior to inviting AASK, parents should be informed about concurrent planning and the roles and responsibilities of AASK. The adoption worker will have information regarding the potential for the child to be adopted and the availability of a potential adoptive family for the child.

It is appropriate for a representative from AASK to be at the CFTM when the child's parental rights have not yet been terminated if there is some thought being given to seeking termination of parental rights for the child. The child placing agency could provide information to both the team and the birth parents to aid in the case planning for the child. This gives teams another opportunity to explore every avenue possible in developing permanency plans for children in foster care.

The foster care administrative review completed by the Department must assure that the intent of permanency planning and the requirements of this chapter are carried out.

Relative Care 624-05-15-50-20

Federal law under title IV-E of the Social Security Act requires public agencies to consider relatives of the child as a placement preference while

the child is in foster care, provided that the relative caregiver meets relevant standards. Relative placement minimizes loss, promotes timely reunification and placement stability, as children placed with relative's experience fewer placement disruptions than children placed with non-related foster parents. Preserving the child's existing personal and cultural connections can be achieved by engaging in placement with relatives.

N.D.C.C. ~~27-20~~. Uniform Juvenile Court Act 27-20.3-01-Child Welfare: "fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified person under chapters 27-20.1 and 30.1-27, and who consents in writing to act as a legal guardian.

N.D.C.C. 50-11 further defines placement of a child in a home other than parents, can be with an "Identified Relative":

- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
- b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
- c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
- d. The child's stepparent.

In order to verify prospective identified relatives, the agency must complete a comprehensive search via the relative search policy. Relative caregivers are not required to become licensed foster parents; however, the option should be offered if financial support is necessary to care for the child's needs while he/she remains in public custody. Foster care funding is available only to licensed foster care providers. In lieu of becoming a licensed foster care provider, the relative may choose to apply for TANF Kinship program "**for child only**".

Best practices indicate that when a child is placed in an unlicensed home of an identified relative caregiver, steps should be taken to ensure the appropriateness and safety of the placement. These steps should be completed as soon as possible and include, but are not limited to:

- A safety inspection of the physical structure where the child will reside.

- Abuse/neglect index checks of all adults living in the home.
- A check of the NDCOURTS website, and surrounding states if appropriate, for all adults living in the home.
- Fingerprint based criminal background checks for all adults living in the home.

Review of Children in Out-of-Home Care More than 1 Year 624-05-15-80-05-10

The Adoption and Safe Families Act requires that we look at cases to develop an alternate permanency plan for a child that cannot be reunified. Consider the age of the child and whether the goal is realistic if it has not yet been achieved. Consider also if concurrent planning is appropriate; and if services the family needs have been provided. The basic premise is that the child needs permanency. The longer a child has been in care, the less chance they have for reunification with their family or adoption. If concurrent permanency goals are appropriate for the circumstances surrounding the case, then simultaneous efforts must be made to achieve the goals. Rationale for choosing the goals and efforts made toward achievement must be documented in the case record.

Suggested Questions to ask at review of longer-term placement.

1. What reasons necessitated placement?
2. What is the permanent planning goal for this child?
3. Is the plan realistic?
4. What is the current family situation, what conditions are preventing return of the child (absence, condition, conduct)? What do they want in a plan?
5. Is there a concurrent plan?
6. What is the current situation of the child? Where are his/her psychological ties, what does he/she want in a plan?
7. What is the current situation of foster care provider, relatives or others who have been caring for the child? What is the role and planning process for the relatives and foster care providers? How do they fit into the permanent plan?
8. What is the independent living plan for youth 16 and over?
9. Do safety issues prevent child's return home?

Goals in Foster Care Placement 624-05-15-115

It is impossible to develop any plan for children in foster care without establishing goals, either single or concurrent, with specific deadlines and a specific time frame established to reach those goals. All permanency goals must be established in a timely manner and be appropriate for the circumstances present in the case. The rationale utilized to select the goal(s) should also be documented in the case record.

It is imperative that a plan be developed with the Child & Family Team related to strengths, needs, risks, and safety issues with specific measurable and time-limited goals and tasks that will achieve permanency for the child. The safety, permanency, and well-being of children and their families must be the priority for everyone involved in the case planning to assure timely permanence and goal achievement.

The primary purpose of the case plan for each child is to document the intent and the steps under way to achieve the goals, including both reunification goals and/or alternate permanency goals. Federal law requires that the case plan documents the goals and progress being made toward those goals. If the team decides that concurrent goals are reasonable to ensure timely and appropriate permanence, then simultaneous efforts to achieve those goals must be made and documented in the case record.

With respect to a child whose singular or concurrent permanency goal is adoption or placement in another permanent home, the case plan must document the steps which the agency is taking to find an adoptive family or other permanent living arrangement, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement (APPLA), and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of the state or national adoption exchanges. When a referral has been made to the AASK program, the assigned adoption worker can provide information as to program efforts to identify a potential adoptive family.

For foster youth 14 years of age and older, independent living goals must be developed in their case plan by the custodian. When the child reaches age 16, a referral can be given to the Chafee Independent Living program. Refer to Manual Chapter 624-10, Independent Living Policy.

The following sections are some examples of the goals that can be established to meet the needs of the children, when to select the goal, how to implement it, and when a selected goal may not work.

Placement with Relatives 624-05-15-115-10

Federal law under title IV-E of the Social Security Act requires public agencies to consider relatives of the child as a placement preference while the child is in foster care, provided that the relative caregiver meets

relevant standards. Relative placement is allowable and can be the selected permanency goal if timely reunification is not possible. timely. Relative care, also known as kinship care, means the child lives in a home environment with persons to whom he/she is related or where a close relationship already exists.

While Placement with Relatives is an allowable permanency goal, best practices dictate that it be a concurrent goal along with another goal that will lead to "legal permanency", such as guardianship or adoption as appropriate.

Relative caregivers are not required to become licensed foster care providers; however, the option should be offered if financial support is necessary to care for the child's needs while he/she remains in public custody. Foster care funding is available only to licensed foster care providers. In lieu of becoming a licensed foster care provider, the relative may choose to apply for TANF Kinship program "**for child only**".

Best practices indicate that when a child is placed in an unlicensed home of an identified relative caregiver, steps should be taken to ensure the appropriateness and safety of the placement. These steps should be completed as soon as possible and include, but are not limited to:

- A safety inspection of the physical structure where the child will reside.
- Abuse/neglect index checks of all adults living in the home.
- A check of the NDCOURTS website, and surrounding states if appropriate, for all adults living in the home.
- Fingerprint based criminal background checks for all adults living in the home.

When to Select "Place with Relative" as the Permanency Goal:

The goal of placement with relatives is one of the least restrictive options. Placement with relatives should be selected under these circumstances:

- The agency is granted court ordered custody of the child.
- The goal of returning home timely has been ruled out.
- The relative is willing and able to provide care safely and adequately.
- The relative is willing to participate in the child's treatment plan.
- The relative is willing to make a commitment to care for the child.
- The child wants to be placed with the relative.

How to Implement "Place with Relative" as the Permanency Goal:

To place a child with relatives, as case manager must:

1. Locate relatives as possible placement resources. If relatives have not already come forward to express an interest in caring for the child, search and locate family members to determine who might be interested.
2. Assess of the relative's home by considering:
 - a. Space and resources the relatives have for providing for the child in a safe and stable environment.
 - b. Commitment and willingness to nurture the child.
 - c. Flexibility and adaptability to accommodate changes the child will bring to the home, participate in appointments, communicate with various professional staff regarding care planning, assist with reunification efforts with the parents, etc.
 - d. Stability relatives have with their current relationships, employment, housing and social circumstances.
 - e. Nurturance capacity of the relative.

****IMPORTANT**** If the relatives live in another state, request an assessment of their home through Interstate Compact before deciding to place the child out of state.

3. Develop a case plan. The plan should be developed with the relatives and the child (when appropriate) and contain the following:
 - a. Placement transition plan to remain in the relative home post discharge.
 - b. Specific tasks the relative must complete in order to provide adequately for the child's needs post discharge.
 - c. A visitation plan designed to develop and strengthen the bond between child and relative.
 - d. Discharge plan/safety plan for family support post discharge.
4. If permanent placement is achieved with the relative, the foster care case manager must ensure clarity of legal authority concerning the

child (power of attorney, guardianship, etc.). The relative should be educated on their legal authority before a public custody order is vacated with the agency.

When Not to Select "Place with Relative" as the Permanency Goal:

The goal of placement with relatives may not be appropriate under the following circumstances:

- No relatives are willing to care for the child long term.
- The child strongly objects to placement with relatives.
- The parents strongly object to placement with relatives.
- The relatives cannot provide safely and adequately for the child's needs, or provide protection (i.e., sexual and physical abuse cases) and will not be able to within a reasonable period of time.
- The relatives are not willing to participate in the required treatment, plan or they are not willing to accept supervision and involvement from the agency.

Adoption 624-05-15-115-15

This refers to the situation where the legal rights and responsibilities of a parent to a child are terminated and assumed by another individual who becomes the child's legal parent.

When to Select this Goal:

Adoption is the permanent goal offering the most stability to children who cannot return home to their parents. It is also the most traumatic to the family since it generally involves permanent separation of child and family. All reasonable efforts should be made to reunite the family before moving to adoption. A singular permanency goal of adoption is allowable before a Termination of Parental Rights (TPR) is in place. The rationale as to why the permanency goal of adoption was made before a TPR was in place should be clearly documented in the case record. Many times, adoption is a concurrent permanency goal until a TPR is in place.

The goal of adoption should be considered under the following circumstances:

- The goal of return home has been ruled out.
- The parents through words or action have shown an inability or unwillingness to care for the child. The biological parents will not be

able to provide for the child's safety and well-being within a reasonable period of time.

- The parents want the child to be adopted, or parental rights have been terminated.
- An adoptive home is available or can be found within a reasonable period of time.
- The child wants to be adopted.

How to Implement this Goal:

The goal of adoption involves permanent separation of child and family, and this will require considerable work by the agency. There are two basic steps in the adoptive process:

1. Developing a plan for placement including the referral to AASK for adoption services. A referral must be made to AASK no later than when the petition for termination of parental rights has been filed. A referral to AASK should be made when a goal (or concurrent goal) for adoption has been established.
2. Freeing the child for adoption.

The release of a child for adoption is a legal procedure. Before continuing with adoption plans, consult with your agency attorney, court, or another attorney familiar with adoption laws in your state and get the following information:

1. What statutes pertain to adoption?
2. What procedures must be followed if a parent wants to voluntarily relinquish their parental rights?
 - a. What are the grounds necessary to terminate a parent's rights when they will not release the child voluntarily?
 - b. Many statutes permit termination of parental rights based upon:
 - i. Absence - Abandonment of the child for a long time or a series of shorter periods of abandonment.
 - ii. Condition- A parental condition which can be diagnosed as precluding parental ability to care for the child adequately.
 - iii. Conduct- Parental behavior which has demonstrated the parents' unwillingness or inability to provide adequately for the child's well-being.

- iv. Best interest of the child - The child has formed strong ties with another family and/or will be damaged by a return to the biological parents.

ASFA requirements and timelines have expanded the reasons for termination of parental rights. Refer to the 1999 amendments to N.D.C.C. 27-20-20.1. Petition to terminate parental rights – When brought – Definitions, for complete information.

- c. What factual evidence is necessary and admissible in court if parental rights are to be terminated?
- d. What if one parent will release the child and the other won't, or you cannot locate one parent?
- e. What is the appeal process?

A plan should be developed using the Custodial Team Meeting Process to initiate general and/or specialized recruitment for an adoptive family at the first Foster Care Child & Family Team meeting following a termination of parental rights. General recruitment is not necessary if the child's current placement resource has committed to adopting the child. Current caregivers should be given sufficient support to make their decision to adopt the child which will transition a child to permanence within a timely manner. It is not appropriate to delay a child's adoption while waiting indefinitely for a placement resource's decision. Timelines for a decision should be established with the resource family.

Development of the Goal:

A clear and specific goal should be developed with all parties involved which includes the following:

1. Preparation of the child for adoption, including explaining reasons for termination of parental rights, development of a life history books, counseling around loss of parents.
2. Visitation plan designed to build the adoptive parent-child relationship.
3. Collaboration with the AASK worker to allow the prospective adoptive family to visit with treatment providers, school personnel, etc. regarding the needs of the child.
4. Target date for placement.
5. Procedures for handling disagreements in the planning process.
6. Specific plans for follow-up services to child and family following

placement.

7. Procedures necessary to finalize adoption.

Prepare the Adoption Case:

Review your case record, case plan, your notes, all letters and correspondence concerning the child. Develop a chronology of your information for termination of parental rights.

For example, list in chronological order the following information about both parents:

1. Reason, date, and plan for placement. Note court orders, etc. that document these items.
2. Visits between child and parent, including dates, who made the arrangements, where the visit occurred, how the child and parent behaved and failure to show for visitation by parents.
3. Gifts given to the child - include cards and letters. Note appropriateness, whether one child in a family was left out, dates gifts were given and who gave them.
4. Financial support for child. Who paid what and when, was their court order requiring payment?
5. Parental involvement in case work plan for child's return. Document plans developed, note success and failures at goal achievement, note referrals made to other treatment providers.
6. Document parental conditions which necessitate termination of parental rights.
7. Review all documentation kept by the foster care providers throughout the course of the placement.
8. Agency service provision to the family to help in rehabilitation. Include dates of contacts, document services provided. List failed scheduled treatment appointments.
9. Periods of abandonment and agency attempts to locate missing parents.
10. Child's reaction and preference.
11. Parents reaction to situations regarding their child while in placement.

Review your chronological record with regard to state statutes for termination of parental rights.

- If you believe you have a strong case, meet with your attorney to plan to take your case to court.
- If your case is weak, begin NOW to collect the information you need. If the agency has failed to provide adequate services, you may need to plan for return home with a clear casework plan. Should that plan fail you will then have a clear documentation for termination at a future time.

When you have determined that you are ready to go to court, prepare the parents for what is to happen. This applies to voluntary as well as involuntary terminations.

1. Explain clearly to parents the nature of the court proceedings which will occur.
2. Explain clearly to parents their rights to counsel.
3. Explain to the child, if they are to be involved in this process, what is going to happen in the court proceedings.
4. Explain, when appropriate, to the foster care provider the process and what is going to happen in the court proceedings.
5. Explain that foster caregivers must be provided timely written notice and the "right" to be heard in any proceeding held with respect to the child.

When Not to Select This Goal:

This goal of adoption should not be selected under the following circumstances:

1. The child's own family wants the child and can provide adequately for their safety and well-being.
2. The child wants to return to the parents.
3. The child strongly objects to being adopted.
4. The child cannot be freed for adoption.
5. No adoptive home can be found following an exhaustive search for such a home, including use of national resource exchanges.