

**Chapter: Planning with Children and Families**

<b>Subject:</b>	Case Plan Reviews and Permanency Hearings for Children and Youth in Custody	Page 1 of 8
<b>Approved:</b>	Cynthia K. Walcott, Deputy Commissioner	Effective: 1/31/2014
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## Purpose

To outline the requirements for formal reviews of case plans for children and youth in the custody of DCF.

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## Introduction

Title IV-E of the Social Security Act specifies the purpose of reviewing case plans is to discuss the written plan with the child and family, to document any disagreement and/or information in the meeting that is not already noted in the plan, and to determine:

- the safety of the child;
- if it is still necessary for the child to be placed away from home;
- if so, the appropriateness of the child's placement;
- that the plan assures the child's safe and proper care and addresses the child's needs;

- that all parties understand and are following through on their commitments outlined in the action plan;
- that services are provided to the parents, child, and substitute care providers to make it possible for the child to safely return home or be placed in another permanent setting;
- progress towards addressing the conditions that brought the child and family to the division's attention;
- progress towards goals of the plan, barriers to progress, and how they can be addressed;
- for children who have been in substitute care for fifteen out the most recent twenty-two months, whose case plan is not adoption, what compelling reason exists for not filing a petition to terminate parental rights; and
- the likely date by which permanency for the child may be achieved by (Refer to the Permanence Position Paper for further guidance):
  - safely reunifying the child or youth with his or her family;
  - transferring custody and/or guardianship of the child;
  - adoption;
  - another permanent placement and/or preparing the youth for legal independence (only if the Commissioner has demonstrated to the satisfaction of the court a compelling reason that other permanence options are not in the child's best interests – Policy 125, Permanency Planning for Children in Custody

## Policy

### Engaging Families in Case Planning

Best practice dictates and Vermont state statute requires that social workers engage with families in a process of case planning. 33 V.S.A § 5121 states:

“The department shall actively engage families, and solicit and integrate into the case plan the input of the child, the child's family, relatives and other persons with a significant relationship to the child. Whenever possible, parents, guardians and custodians shall participate in the development of the case plan.”

This policy assumes the process described above has taken place during case planning (Refer to Case Planning Practice Guidance for more information).

### Case Plan Reviews Required

The plan for a child in custody of the Commissioner, whether or not the child is living away from family, will be comprehensively reviewed at an independently facilitated case plan review held at least every six months. The court shall hold a permanency hearing no later than twelve months after custody of the child is initially transferred and every twelve months thereafter. If requested by a party, the permanency hearing may be held earlier, as follows:

- Younger than age three at time of custody --- Every three months
- Between the ages of three and six at time of custody --- Every six months

If there is a shortened review period, the court shall review the order of disposition for all siblings in the custody of the Commissioner.

### Timing for Reviews

The date that triggers case plan reviews and permanency hearings is the date the child came into custody or voluntary care [Policy 81, Voluntary Care]. For every twelve months the child is in custody, case plan reviews and permanency hearings must be convened no later than the following dates or the anniversary of that date:

<b>Type of Review or Hearing</b>	<b>Deadline for Converging</b>
First Case Plan Review	Six months from custody date
Second Case Plan Review	Eleven months from custody date
Permanency Hearing	Twelve months from custody date

This schedule of case plan review repeats until the court discharges custody. [Important Note: The date of the case plan review triggers the due date for the next review. For this reason, when reviews are held early or late, the schedule can vary somewhat from what is shown above.]

If the disposition or post-disposition hearing is within thirty days of a scheduled six-month case plan review, the hearing and the dispositional case plan review can substitute for the six-month case plan review meeting. In that case, the date of the dispositional case plan review is entered as the review date on the Supervisory Tracking Form.

Federal law requires that a permanency reasonable efforts finding be made strictly within the required time interval for permanency hearings. Consequently, a child's eligibility for IV-E funding to support placement costs ends if the permanency reasonable efforts finding is not held by the end of the 12<sup>th</sup> month. Funding resumes when the favorable permanency reasonable efforts finding is made and entered into the Supervisory Tracking Form.

### Composition of Review Meetings

Title IV-E of the Social Security Act requires a case plan review meeting be facilitated by an impartial party, who is not responsible for case management or delivery of services to the child or parents.

In addition, the following persons must be invited to participate:

- Child;
- Child's attorney;
- Parent's attorney;
- Guardian ad litem;
- Mental health provider;
- Both parents (unless parental rights have been terminated), and/or legal guardians;
- Social worker;
- School personnel, including special education administrator (if child has an IEP);
- Substitute care provider;
- Educational Surrogate;
- Child care provider; and
- Transitional Services Coordinator (for youth age sixteen and older).

Consideration should be given to inviting other people the child/youth or parents find supportive. Social workers and supervisors should use discretion in determining if other participants will be helpful to the process.

For a case plan review meeting prior to a permanency hearing, invitations will also be sent to the state's attorney and any other party to the original disposition hearing, except for any parent whose rights have been terminated.

### Permanency Hearings

For children in the custody of DCF, both state and federal statute require a permanency hearing every 12 months. State statute allows permanency hearings to be held more frequently:

1. If the child was three or younger at the time of the initial transfer of legal custody, the court may order that permanency hearings be held as frequently as every three months.
2. If the child is between the ages of three and six at the time of the initial transfer of legal custody, the court may order that permanency hearings be held as frequently as every six months.

If the court shortens the time for the permanency review hearing for a younger sibling, that shortened review interval shall be applied to all siblings in the family who are in the custody of DCF.

At a permanency hearing the judge shall approve or reject the permanency plan for the child or youth, including the permanency goal and when it is anticipated to be achieved. The goal may be one of the following:

- custody of the child/youth will be discharged to a parent or guardian;
- the state will file a petition to terminate parental rights to achieve a case plan goal of adoption;
- guardianship will be transferred to another individual;
- a permanent guardianship will be established;
- when the case plan documents a compelling reason why it is not in the child/youth's best interest to return home, be adopted, or for guardianship to be transferred to another individual, what other permanent living arrangement is appropriate for the child or youth.

There will also be a reasonable efforts determination at the permanency hearing.

### Filing Requirements for Permanency Hearing

DCF must file with the court:

- a notice of permanency review;
- the case plan and recommendation for a permanency goal
- Permanency Reasonable Efforts Affidavit (FS-602a)

The court must hold a permanency review hearing within 30 days of the filing of notice.

### **Notice Requirements**

DCF shall provide notice to the state's attorney having jurisdiction and to all current parties to the proceeding in accordance with the rules for family proceedings.

DCF must also provide notice of the hearing to a foster parent, preadoptive parent, or relative caregiver for the child/youth. That caregiver shall be an opportunity to be heard at any permanency hearing held with respect to the child/youth. This right does not confer person party status in the proceeding.

### **Reasonable Efforts to Finalize a Plan for Permanence**

The Permanency Reasonable Affidavit documents the department's ongoing efforts to finalize a permanency plan for the child/youth. Those efforts may be:

- (1) reasonable efforts to reunify the child and family following the child's removal from the home, where the permanency plan for the child is reunification; or
- (2) reasonable efforts to arrange and finalize an alternate permanent living arrangement for the child, in cases where the permanency plan for the child does not include reunification.

For children who have been out of home for 15 of the last 22 months, federal statute requires that, unless compelling reasons why this is not in the child's best interest are documented in the child's case plan, the state file a petition to terminate parental rights.

If a social worker is considering termination of parental rights (TPR) and adoption as the case plan goal, the social worker shall consult with their supervisor and the assigned AAG before changing a case plan goal to TPR or indicating TPR on a case plan. Once a decision to change the case plan goal to TPR has been finalized, the AAG will file the necessary paperwork with the court to commence the process.

## Tasks

### Administrative Tasks:

- Ensures custody date, docket number and date permanency hearing was convened (if any) and accurately entered in Supervisory Tracking Screen.
- Reviews monthly computer generated review list and notifies social workers of reviews due, and date by which invitation information and case plans must be entered on computer.
- Enters date review meeting or permanency hearing was convened on Supervisory Tracking Screen.
- If plan is modified as the result of an appeal, sends copies of amended plan with a memo describing changes to person invited to review.
- Completes tasks associated with automated scheduling system and any other tasks related to case plan review assigned as per district protocol.
- At least ten days in advance of a permanency hearing, mails original packet to court or e-files where applicable.
- Send notices to each person who was invited to the review (except review facilitator) and to the parents attorney(s). If written plan was changed, includes amended plan. Initials and dates invitation list and files in child's record.

### Supervisory Tasks:

- At least six weeks before a case plan review is due, discusses child and family's progress and proposed plan with social worker.
- Reviews written plan with social worker. Ensures that it is clearly written, the appropriate issues are addressed, policy has been followed, and appropriate plan review participants have been invited. Signs and dates plan.
- May attend case plan review meetings. Any substantive or factual changes to the plan may be made if the supervisor agrees.

### Social Worker Tasks:

- Prepares family, child, substitute care providers and others as appropriate for the review meeting, discussing the purpose, process and issues to be determined.
- Offers assistance to parents and others in finding transportation, as

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appropriate.

- Makes accommodations for clients with special needs – e.g., certified interpreters.
- Describes the plan, including any changes since written. Describes progress towards resolution of issues, strategies described and expected outcomes, including what will happen if the plan is not followed.
- If there is unresolved disagreement, may assist or support the appropriate party in using the appeal process [Policy 123].
- If it is a permanency review:
  - obtains date for permanency hearing;
  - completes Notice of Permanency Hearing [FS-303], Permanency Report [FS-311] and Reasonable Efforts Affidavit: Permanency Review [FS-602b];
  - follows office procedures for obtaining signatures and mailing packet; and,
  - attends hearing, giving testimony as required.

**Review Facilitator Tasks:**

- Facilitates case plan review meeting, ensuring all participants are introduced. Explains purpose and process of review and the importance of confidentiality.
- Reviews responsibilities of each party.
- Assures opportunity for input by all participants.
- Helps the group to focus on permanency issues and strategies to address those issues.
- Summarizes determinations made and identifies any remaining unresolved issues.
- Ensures each participant signs the signature sheet.
- Explains the appeals process.

**District Director Tasks:**

- If requested, holds Level I review.
- Responds to concerns of the reviewer.