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Chapter:	Working with Families in Court	
Subject:	Conditional Custody Orders (CCOs)	Page 1 of 8
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## Purpose

To outline the requirements for working with families where there is a Conditional Custody Order (CCO) with:

- the original custodial parent(s);
- the non-custodial parent; or
- kin/relatives, friends of the family, or other non-parents.

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## Definitions

**Conditional Custody Order (CCO):** An order issued by the court in a juvenile proceeding conferring legal custody of a child to a parent, guardian, relative, or a person with a significant relationship with the child subject to such conditions and limitations as the court may deem necessary to provide for the safety and welfare of the child. Any conditions and limitations shall apply only to the individual to whom custody is granted. (33 V.S.A. § 5102(A)(5))

**Family Team Meeting:** A meeting of family members, natural supports, and providers. The purpose of the meeting may include: creating a safety plan focused on the harm and risks posed to the child, assessing the child’s safety and well-being in the home, developing a plan for responding to concerns, understanding the family’s needs, making decisions about who can provide support to the family, and/or determining the best living situation for the child.

**Family Time:** Face-to-face parent-child, kin, sibling, and/or contact with others who are important in the life of the child or youth.

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**Protective Supervision:** The authority granted by the court to the Department for Children and Families (DCF) in a juvenile case to take reasonable steps to monitor compliance with the court’s conditional custody order, including unannounced visits to the home in which the child currently resides. (33 V.S.A. § 5102(24))

**Safety Network:** Family, friends, and community members who care about the child and are willing to take action to support the family in keeping the child safe. They are willing to engage child protection staff and understand and accept the concerns.

Related Policies

Family Services [Policy 82](#): Juvenile Court Proceedings – CHINS

Family Services [Policy 98](#): Reunification of Abused or Neglected Children and Youth

Family Services [Policy 124](#): Family Time

Family Services [Policy 125](#): Permanency Planning for Children and Youth in DCF Custody

Policy

The division is obligated to provide services to families and children in conditional custody to the extent it has the resources to do so (33 V.S.A. § 5308 (c)(3)).

**The division shall request protective supervision for all CCOs.** Protective supervision allows the division to make appropriate service referrals for children and families, and to take reasonable steps to monitor compliance with the CCO.

If protective supervision is not granted to the department, social workers will discuss with their supervisor whether all relevant or newly learned information regarding danger and risk has been put forth to the court. If additional information is identified, social workers will prepare and submit a written report to the court. Social workers in consultation with their supervisor, district director, Assistant Attorney General (AAG) and the State’s Attorney, may request a motion for reconsideration regarding protective supervision. If all relevant or newly learned information has been shared and protective supervision is still not granted to the department, staff will make efforts to develop a safety and/or case plan to monitor the CCO to the extent possible given the existing order.

During the period of a CCO, the division shall maintain an open case with a case plan,

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and provide appropriate service referrals to the parent(s) and custodian. A CS case will be opened for all CCOs, even if protective supervision is not granted.

In instances of cross-district CCO cases where parents or CCO custodians reside in different districts, the case will be opened in the district where the parent who is the subject of the CHINS petition resides. If conditional custody is granted to a person who resides in a different district than the parent, the home district should notify the district the custodian resides in. Cross-district collaboration and teaming may be necessary to support these cases. See Family Services [Policy 211](#) for information on transferring cases between district offices.

#### Considerations for CCO Conditions

Conditions outlined in the CCO apply to the person with conditional custody of the child or youth. Conditions should address the safe care of the child(ren) and any case-specific safety or well-being concerns. Conditions should be individually considered and proportionate to the risk. At a minimum, the division should consider the following when recommending conditions:

- Conditions specifically related to the reasons the CHINS petition was filed (if appropriate);
- Expectations of the conditional custodian to be the primary caregiver for the child;
- The need for signed releases of information while the CCO is in effect;
- Family time arrangements between the child, both parents, and siblings;
- Announced or unannounced home visits;
- The needs of the child, including: adequate food and nutrition, age and developmentally appropriate supervision, safe housing and sleep areas, regular medical and dental care (including taking medication as prescribed), regular mental health care, adequate financial support for clothing and other needs, attending school daily, participation in extra-curricular activities, and support of the child's interests, talents and hobbies;
- Collaboration with the social worker and participation in team meetings; and
- Engagement with service referrals recommended by the division.

#### Duration of CCOs and Case Planning Requirements

CCOs are meant to be time-limited. Division staff will make efforts to ensure a timely ending to CCOs and safe closure of these cases.

<b>CCOs with Custodial Parents</b>	The presumptive duration of the order is no longer than six months from the date of the disposition order or conditional custody order, <u>whichever occurs later</u> , unless
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	<p>otherwise extended by the court. If the department, or any party, recommends that the order remain in effect for a longer period, they <b>must file a petition at least 14 days before the presumptive expiration date</b>. A change in circumstances must be demonstrated in order for judges to extend the CCO to the parent (33 V.S.A. § 5113(b)). Following a hearing, the court may extend the order for a period not to exceed six months. When the final order expires, the court will issue an order vacating the conditions, and transferring full custody to the parent without conditions.</p>
<p><b>CCOs with Noncustodial Parents and Non-Parents</b></p>	<p>These orders will be reviewed at a hearing to be held six months from the date of the disposition order or conditional custody order, <u>whichever occurs later</u>. At the hearing, the court shall determine whether it is in the child's best interest to:</p> <ul style="list-style-type: none"> <li>• Transfer either full or conditional custody to a parent;</li> <li>• Establish a permanent guardianship;</li> <li>• Move towards termination of parental rights and adoption; OR</li> <li>• If the court determines that reasonable progress has been made towards reunification, and that reunification is in the best interest of the child, the court may extend the CCO for a period not to exceed six months, and set the matter for further hearing.</li> </ul>

Social workers will convene a family team meeting with providers, the child's Guardian ad Litem (GAL), and informal supports that make up the safety network to develop the case plan. A family safety planning (FSP) meeting may be appropriate for discussing and clarifying the plan. The case plan will specify:

- activities that support the parent(s) progress in addressing dangers and risks that initiated a conditional custody order – including the monitoring of participation in required services;
- any medical, mental health, educational, or other issues the child has which require close coordination and attention;
- the plan for family time;
- the frequency of visits from the social worker;
- the frequency of visits from the safety network;
- a plan for services for the child and parent(s);
- supports needed for the caregiver(s) with conditional custody of the child; and

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- the method of monitoring the child’s safety and well-being.

### **Family Time and Face-to-Face Contact**

The likelihood of successful reunification or the removal of court oversight increases by having frequent and quality family time in place.

**Social workers shall observe family time at least monthly for CCO cases.** By doing so, the division achieves monthly face-to-face contact with children, parents, and CCO custodians. Additionally, social workers are able to observe the quality of family time based on the degree to which parents are demonstrating their parental capacity, responding to the child’s verbal and non-verbal signals, showing empathy towards the child, demonstrating knowledge of the child’s development, and putting the child’s needs ahead of their own. This information will inform the updates and recommendations the division shares with the court.

In CCOs where the child remains in the home with the custodial parent, monthly face-to-face contact shall occur in the home. Social workers should assess the same parent-child interactions described above and use this information to make recommendations to the court. If the CCO has been established with a case plan goal of reunification, refer to Family Services [Policy 98](#) for additional information and case planning requirements.

#### **Reviewing or Modifying the CCO**

The division should routinely:

- assess the child’s safety and well-being in the home they are residing;
- determine if any newly identified dangers or risks have emerged;
- monitor the caregiver with conditional custody’s adherence to the conditions of the CCO;
- maintain contact with the safety network and providers who are supporting the family;
- offer support through contracted services subject to district resource availability;
- monitor whether the services put in place are adequately addressing the caregiver’s, parent’s, and child’s needs;
- discuss how the plan is working with the family and safety network;
- assess the need for any additional releases of information to appropriately monitor the case plan; and
- recommend modifications to the case plan when appropriate.

If progress towards the case plan goal does not occur within five months from the date of the disposition order or conditional custody order, whichever occurs later, social workers should discuss alternative approaches to the case with their supervisor and

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CCOs with custodial parents will automatically expire at the end of six months; therefore, it is critical to evaluate by the end of the 5th month whether DCF should seek an extension of that order. If it should be extended, the division must file a petition at least 14 days before the presumptive expiration date. A change in circumstances must be demonstrated in order for judges to extend the CCO to the parent (33 V.S.A. § 5113(b)).

If there are newly identified dangers or risks, the division shall notify the court and either request a hearing to discuss a substantial change in the circumstances of the existing CCO or seek custody of the child.

**Special Considerations for CCOs with Relatives and Other Non-Parents**

**Relatives Living Out-of-State**

For out-of-state relatives, social workers should inform the court that the division does not have the authority to conduct an assessment or background checks in another state. The division does not have the authority to cross state lines to practice social work or conduct home visits. The division does not have the ability to enforce conditions in another state, and the other state has no obligation to oversee conditions unless they approve the placement. Out-of-state placement requests must be made through the Interstate Compact on the Placement of Children (ICPC) process. The ICPC deputy compact administrator shall be notified immediately if an out-of-state CCO (with relatives or parents) is ordered.

If the court orders it, the social worker will initiate an ICPC for relatives residing outside of Vermont, even if the child in question is not in DCF custody. It is an ICPC violation for a judge to give custody to an out-of-state relative without ICPC home study and approval. In order for an out-of-state placement and custody transfer to occur, a home study must be conducted, receive a positive recommendation, and then the judge must approve the plan for the child to live with that relative.

**Collaboration with the Child Benefits Unit and Required Documentation**

If the child is placed out of their parent’s custody in the care of a relative or other non-parent, the social worker will complete a Title IV-E application ([FS-201](#)) to document the family’s financial circumstances at the time of the child’s removal. This application should remain in the family’s file and not be submitted for processing. This documentation is vital in cases where reunification is determined to not be in the child’s best interest and other permanency options are explored, and IV-E subsidy needs to be determined.

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### **Applying for Benefits & Other Support**

Social workers may need to refer caregivers who have conditional custody to apply for Reach Up, medical insurance, or other supports. If families need assistance with these processes or completing the required forms, the social worker should refer caregivers to [Vermont Kin As Parents](#).

### **Training Requirements**

Caregivers pursuing adoption or permanent guardianship are required to fulfill the training requirements described in Family Services [Policy 93](#).

#### **Post-Disposition Division Involvement to Achieve Permanency**

If permanency is not achieved for children or youth during the duration of a CCO, the division should remain involved with the family to ensure the child is living in a nurturing family setting which offers legal commitment and continuity of relationships. Permanency may have been sufficiently achieved for children and youth in CCOs in instances where cases are post-disposition and custody has been transferred to a relative or other individual by a family court judge. If a higher degree of permanency is possible, such as adoption, permanency meetings should be used to determine whether division involvement continues to be necessary. Division staff will collaborate with Project Family staff regarding permanency options for children and youth subject to CCOs.

### **Reunification of Children and Youth After a CCO**

See Family Services [Policy 98](#) for information on reunifying children and youth. Policy 98 is applicable to all children and youth who have been physically returned to the parent from whom they were removed due to abuse or neglect (either through DCF custody or a Conditional Custody Order to others).

### **Adoption of Children and Youth After a CCO**

The AAG for the division or the child’s attorney may file a petition for a termination of parental rights so that an adoption can occur. In cases where adoption may be an appropriate goal, social workers shall consult with their supervisor and AAG to discuss the individual needs and circumstances of the child and the caregiver with conditional custody.

If the caregiver who has conditional custody does not meet licensing/home study criteria, they will not be able to adopt the child. In this case, TPR is not in the child’s best interest. The social worker should inform the court of this reality as soon as possible.

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If the child was not IV-E eligible at the time of removal (documented by FSD at time of removal from parents), the eligibility for and type of subsidy that the child/youth and family may receive will be different.

### **Permanent Guardianship of Youth After a CCO**

For some children and youth, the case plan goal may be permanent guardianship. Before an order for permanent guardianship can be issued, the court must find clear and convincing evidence all of the following:

- Neither parent is able to assume or resume parental duties within a reasonable time;
- The child has resided with the permanent guardian for at least six months;
- A permanent guardianship is in the best interests of the child;
- The proposed permanent guardian is (1) emotionally, mentally, and physically suitable to become the permanent guardian and (2) financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;
- The proposed permanent guardian has expressly committed to remain the permanent guardian for the duration of the child’s minority; and
- The proposed permanent guardian has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian including an understanding of any resulting loss of state or federal benefits or other assistance.

Vermont law allows for the creation of subsidized permanent guardianships. Children and youth in the custody of a caregiver with conditional custody do **NOT** qualify for this program. Subsidized permanent guardianships are only an option when the child has been in DCF custody for at least six months.