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Chapter:	Planning with Children and Families	
Subject:	Permanency Planning for Children and Youth in DCF Custody	Page 1 of 11
Approved:	Karen Shea, Deputy Commissioner	Effective: 9/25/2017
Supersedes:	Family Services Policy 125	Dated: 8/24/2016

Purpose

To provide an overview of permanence and permanency planning for children and youth in DCF custody, as well as specific guidance about choosing a case plan goal for children and youth.

Introduction

Permanency planning guides social work practice from the first contact with a family. It is the process of developing and implementing strategies to achieve legal permanence. Permanence is achieved when a child or youth is living in a nurturing family setting which offers legal commitment and continuity of relationships. For additional information and guidance on permanence for children and youth see the [Family Services Permanence Position Paper](#).

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Definitions

Compelling: A word used in federal statute which is not defined, but is used to convey a powerful reason why it is in a child’s best interest to continue custody than to achieve timely permanence.

Project Family: A collaborative partnership between the Family Services Division and Lund. Project Family recruits for respite providers, foster families, and adoptive families for children currently in DCF’s care and provides the services and supports in order for them to be successful. Project Family workers finalize adoptions of children in DCF custody on behalf of the division.

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

Related Policies

Family Services [Policy 68](#): Serious Physical Injury Investigation and Case Planning

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

Family Services [Policy 193](#): Adoption Subsidy

Family Services [Policy 195](#): Guardianship Assistance Program

Family Services [Policy 196](#): Post-Adoption Contact Agreements

Policy

Reasonable Efforts to Prevent Placement and to Achieve Permanency

The Adoption and Safe Families Act of 1997 ([Public Law 105-89](#)), also known as ASFA, supports best social work practice by requiring that division staff make reasonable efforts to ensure permanence for children. In making those efforts, the child/youth's health safety is always a paramount concern. The division will make reasonable efforts to:

- prevent or eliminate the need for removing the child from his or her home, except when such services might endanger a child's health and safety;
- make it possible for a child to safely return to the child's home; and

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- for those children/youth who cannot return home, safely achieve another permanent plan in a timely way.

Establishing a Goal for Permanency

The goal for permanency is established as part of initial case planning. The goal is included in the disposition case plan and is approved by the Family Division judge. 33 V.S.A. § 5316 speaks to the permanency goal as follows: “The long-term goal for a child found to be in need of care and supervision is a safe and permanent home. A disposition case plan shall include a permanency goal and an estimated date for achieving the permanency goal. The plan shall specify whether permanency will be achieved through reunification with a custodial parent, guardian, or custodian; adoption; permanent guardianship; or other permanent placement. In addition to a primary permanency goal, the plan may identify a concurrent permanency goal.”

Reunification Case Plan Goal

For most children/youth that enter custody, the initial case plan goal will be reunification. However, each situation requires its own assessment of safety and risk to determine what is in the child/youth’s best interests.

When a child/youth is returned home, a specific plan should be made to support the family and monitor the child/youth's safety. This plan should be made with the parents, the child/youth, and other members of the safety network. The plan should include specific actions to be taken by specific individuals to address safety for the child/youth.

In determining if and when to reunify the child/youth, the social worker should evaluate the extent to which:

- the goals of the case plan have been achieved;
- the safety of the child/youth and community has been successfully addressed;
- and
- the decision is in the child/youth’s best interests.

Family Services [Policy 98](#): Reunification of Abused or Neglected Children and Youth provides guidance on reunifying children into a home in which the child was previously abused or neglected.

Concurrent Plan Case Plan Goal

Concurrent planning is type of permanency planning in which reunification services are provided to the family at the same time that an alternative permanency plan is

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identified, in case reunification efforts failed. Concurrent planning requires active efforts toward both plans simultaneously, with the full knowledge of all participants.

Concurrent case plan goals may be appropriate, especially for young children with parents who face challenges that call into question whether reunification is achievable within a reasonable period of time. Most often, concurrent plan goals identify reunification and adoption as the concurrent goals.

Reunification Not Required by State or Federal Law

Reunification efforts **are not** required by either state or federal statute. For some children and youth, it may be clear from the beginning that reunification with family is contrary to the child/youth's best interests due to concerns about danger and risk.

Examples of situations in which termination of parental rights should be considered at the time of initial custody include, but are not limited to:

- The parent has been convicted of murder or voluntary manslaughter of a child;
- The parent has aided or abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of a child;
- The parent has committed a felony assault that results in serious bodily injury to a child; or
- The child has been the victim of serious physical abuse and
 - there is reason to believe that the parent has caused the injury or is unwilling or unable to protect the child from the abuser; or
 - the abuse has not been adequately explained or addressed in such a way that ensures the child will not be a victim of serious abuse if reunified.

Family Services [Policy 68](#): Serious Physical Abuse Investigation and Case Planning provides additional guidance on this topic.

There may be other times when the division would not support reunification efforts such previous TPR history with no significant change in circumstances or supports, unresolved danger and risk factors, and/or prior custody episodes for the same child. Consultation with a policy and operations manager is required in any of these situations when districts are considering reunification.

Federal Requirements to Seek Termination of Parental Rights

Federal and state statute requires the division to address permanence promptly. For children/youth who have been placed out of the home for 15 out of the last 22 months,

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ASFA requires that a petition to terminate parental rights be filed unless the case plan documents a compelling reason why such an action is not in the child/youth's best interest. In determining whether there is a compelling reason, the safety and well-being of the child/youth are the primary consideration. As outlined in 33 V.S.A. § 5114, the Court shall consider the best interests of the child in accordance with the following:

- (1) the interaction and interrelationship of the child with his or her parents, siblings, foster parents, if any, and any other person who may significantly affect the child's best interests;
- (2) the child's adjustment to his or her home, school, and community;
- (3) the likelihood that the parent will be able to resume or assume parental duties within a reasonable period of time;
- (4) whether the parent has played and continues to play a constructive role, including personal contact and demonstrated emotional support and affection, in the child's welfare.

It is important that social workers inform the parents of children/youth in care of this possibility from the very beginning, while at the same time working towards reunification.

Options for Permanency When Reunification Cannot Be Achieved

Adoption

When reunification cannot be achieved in a timely manner, adoption by a relative or foster parent is the preferable plan. If a social worker is considering termination of parental rights 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.

To achieve adoption, the residual parental rights of each parent must be terminated, either voluntarily or by order of the court. If a parent has voluntarily surrendered parental right and the adopting parent and others agree, the judge may make an order establishing enforceable post-adoption contact or communication. For additional information on post-adoption contact agreements, see Family Services [Policy 196](#).

In most cases, children in DCF custody are eligible for adoption assistance. See Family Services [Policy 193](#) on adoption subsidy.

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Permanent Guardianship

For some children or youth, an adoption may not be attainable or necessary to assure safety or to create stability for the young person. Permanent guardianship provides legal permanency without requiring termination of parental rights. In particular, when a child is placed with kin, a termination of parental rights process may damage relationships between adult family members and be harmful to the child. These situations should be assessed on an individual basis in consultation with a supervisor, district director, and local permanency team.

Permanent guardianship is not the preferred or highest level of permanency for young children. It is the division's position that permanent guardianship as a permanency plan is not in the best interests of children under the age of 12 years old. All instances of permanent guardianship for children younger than 12 years old must be approved by the permanency planning manager. The permanency planning manager may grant a waiver in instances where:

- The proposed permanent guardian is a relative and the TPR process could be traumatic for the child;
- The proposed permanent guardian is already serving as a permanent guardian for the child's older siblings; or
- Another rationale based on the child's best interests.

The parent cannot petition the court for custody or to end the guardianship. The plan for parent-child contact is set by the court. The parent retains residual parental rights; that is, the right to visitation, knowledge of where the child lives, information on the child's well-being, and the right to pay child support.

Should the guardian not be capable of fulfilling their obligation in the future, custody of the child reverts back to DCF. However, the permanent guardian can and should suggest a successor guardian. The court may name a successor guardian in the initial order for permanent guardianship. In the event the permanent guardian dies or the guardianship is terminated by the probate court, custody of the child transfers to the permanent guardian.

For children who have been previously freed for adoption, permanent guardianship is generally not appropriate, as it leaves DCF holding residual parental rights. Consultation with the assigned Assistant Attorney General (AAG) and the division's permanency planning manager is required in these cases.

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14 V.S.A. § 2664 lays out the circumstances under which a permanent guardianship can be established for a child/youth who has been the subject of juvenile court proceedings:

- (1) Neither parent able to assume or resume parental duties within a reasonable time.
- (2) The child has resided with the permanent guardian for at least six months.
- (3) A permanent guardianship is in the best interests of the child.
- (4) The proposed permanent guardian:
 - (A) (i) is emotionally, mentally, and physically suitable to become the permanent guardian; and (ii) is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;
 - (B) has expressly committed to remain the permanent guardian for the duration of the child's minority; and
 - (C) 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.

For children/youth whose permanency plan is placement with a relative with guardianship assistance payments, federal law requires that the child's case plan will include a description of:

- the steps that the department has taken to determine that it is not appropriate for the child to be returned home or adopted;
- the reasons for any separation of siblings during placement;
- the reasons why a permanent placement with a fit and willing relative through a permanent guardianship assistance arrangement is in the child's best interests;
- the efforts the department has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons; and
- the efforts made by the department to discuss with the child's parent or parents to the permanent guardianship assistance arrangement, or the reasons why the efforts were not made.

See Family Services [Policy 195](#) on the Guardian Assistance Program for information about eligibility criteria for the Guardianship Assistance Program, which provides financial assistance and Medicaid for certain children in DCF custody who are the subject of permanent guardianships **with a relative or fictive kin**. Any agreement to provide assistance must be signed **before** the order for permanent guardianship is made.

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Another Planned Permanent Placement (APPLA)

The case plan goal of Another Planned Permanent Living Arrangement may not be used for children and youth under the age of 16, per the Preventing Sex Trafficking and Strengthening Families Act ([Public Law 113-183](#)).

Permanency Planning for Youth Age 16 and Older

Every youth deserves permanence. All efforts must be made to ensure youth have an identified permanency plan. When reunification, adoption, or permanent guardianship cannot be achieved, a number of resources should be utilized to achieve permanence. These include:

- Local permanency meetings with Project Family;
- Permanency Round Tables (PRT);
- Family Group Conference or Connections Meeting

The youth's significant relationships should be evaluated to determine what other options might be available to ensure continuity of relationships and support of the youth into early adulthood.

Additional permanency options include:

- Continued kinship foster care or foster care with a family that has a strong commitment to provide a home for the youth until emancipation;
- Shared parenting models in which the primary parents and kinship or foster parents are actively involved in sharing responsibilities of parenting a youth with serious physical or emotional disabilities.

Because the above listed options do not achieve the highest level of permanence, the social worker must document why this was determined to be the most appropriate case plan goal.

Adoption after the youth turns 18 should also be considered. Such adoptions do not require termination of parental rights.

APPLA Case Plan Goal

The APPLA goal should **only** be used (1) for youth over the age of 16 and (2) when other options have been evaluated and clearly found to not be in the child/youth's best interest. For youth with an APPLA goal, the division is still focused on achieving permanence.

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To establish or continue an APPLA goal:

1. The youth must be over 16 years;
2. A compelling reason for the goal is documented in the youth's case plan;
3. If the youth has been in care for 15 of the last 22 months, the case plan documents a compelling reason not to file for termination of parental rights;
4. The youth is living with foster parents who are committed to providing a home for him or her at least until age 18, and preferably into early adulthood.

For each youth who has an APPLA permanency goal, [Public Law 113-183](#) requires that, at each permanency hearing, the division provide written documentation of our intensive and continuing efforts to place a child permanently with a parent, relative (including adult siblings), or in a guardianship or adoptive placement. This includes attempts to locate and engage relatives not previously engaged in the youth's case plan, including the use of search technologies and social media.

Preparation for Independent Living Case Plan Goal

The Independent Living goal is rarely appropriate as it does not achieve permanency or life-long connections for the youth. This goal may only be maintained at the request of the youth AND after the social worker has explored other options and engaged in dialogue about the youth's reasons for this request. This goal must be approved by the district director. The district director may at that time convene a permanency review team to discuss with a consultant group how to best achieve a higher level of permanence. Youth in an independent living situation should be assisted in developing relationships with a network of caring adults to provide advice and assistance into early adulthood.

Project Family and District Permanency Meetings

Each district office is expected to have a local process that focuses on timely permanent outcomes for children and youth. This is often achieved through regularly scheduled meetings with our contracted partners at Lund through the joint partnership of Project Family. Permanency meetings are attended by social workers, supervisors, district directors and Project Family staff. While respecting the role of the social worker and the supervisor in the case planning process, it is expected the team will work together to achieve permanence for children and youth.

Any child or youth who has not achieved permanency with two years has not achieved timely permanency. These children and youth should take highest priority for permanency planning.

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Case Plan Goal for Children Freed for Adoption

Any child/youth in custody that is freed for adoption should receive services centered on achieving a timely adoption. The case plan goal will be adoption except in unusual circumstances.

For any child/youth that is not living with a family willing to adopt, the district office, in partnership with Project Family, will make diligent efforts to locate an adoptive family. The child/youth's permanency issues will be discussed at a district permanency team meeting. During the meeting, the team will decide upon a specific strategy (including clear tasks and time frames) to recruit an adoptive family for the child. Project Family will assist with specific recruitment strategies.

The Project Family permanency worker will follow up on all inquiries about the child/youth and keep the social worker and supervisor informed. The district must consider homes in other districts and in other states that can meet the needs of the child/youth.

Once a decision is made on which family is the best fit, a transition plan is established. The Project Family worker will assist the child/youth with the transition to the adoptive family and provide casework support to the family until the adoption is legally finalized. Jointly, the child/youth's social worker and Project Family worker ensure services are in place and the family has all the information about the child/youth's trauma history or special needs prior to the child/youth moving into the home. This should include a discussion and possible referral to post-permanency supports.

For a small number of children/youth, adoption may not be the best plan due to their extraordinary needs. In addition, there may be some children/youth for whom an adoptive family cannot be found. Even in these situations, the division has a continuing responsibility to ensure the child/youth's need for permanency is considered and addressed in the case plan.

When the child/youth's social worker is considering a change from adoption to another permanency goal, the child/youth's team, including the Project Family permanency worker, will review that decision. At minimum, the following issues will be discussed in that decision-making process and addressed in the case plan:

- Have efforts been made to identify an adoptive family for the child/youth? If they have not, those efforts should be made unless it is clearly not in the child/youth's best interest.

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- Is the child/youth living with a foster parent or kinship foster parent willing to assume guardianship?
- Is there a member of the extended family who might not have been previously identified or considered who might now be appropriate to assume care for the child/youth?
- What is the plan for the child/youth once he or she reaches the age of eighteen? Does he or she have the capacity to be live independently and support him or herself? If not, what adult services will assist the individual? If continuing education is appropriate, how will that be financed?
- Who will provide the concrete emotional supports needed by the young adult? Does the child/youth have meaningful relationships with adults that will last into adulthood? If not, how can they be developed and nurtured?