

<b>Division of Children and Family Services Protection and Safety Procedure #19-2016</b>	
Regarding:	Permanency and Case Planning
Rescinds:	AM#11-2015 – Concurrent Planning AM#17-2013 – Ongoing Case Management, Pages 41-46 #7 Case Planning
Date Effective:	July 20, 2016
Contact:	Katie Weidner at 402-471-9700 or <a href="mailto:katie.weidner@nebraska.gov">katie.weidner@nebraska.gov</a>
Issue by:	Douglas J. Weinberg, Director, Division of Children and Family Services

**Philosophy:**

The Division of Children and Family Services (DCFS) is committed to helping children attain safety and timely permanency. Establishing timely permanency objectives and implementing case plans is essential in identifying what needs to happen in order for children and families to attain permanency.

**Procedure:**

**I. Establishing the Permanency Objective**

- A. The CFS Specialist in collaboration with the parents and family team members, will establish a permanency objective that considers the needs and best interest of the child.
- B. Within 3 days of opening an ongoing case or when a child has been removed from the home, a permanency objective will be established so the parent(s) are aware of the next steps prior to completion of the Family Strengths and Needs Assessment (FSNA) and the development of a case plan.
- C. The permanency objective for each child will be discussed during family team meetings and will be integrated into the case plan.
- D. The highlights from the Family Team meeting will be documented in N-FOCUS in appropriate narrative areas (family team meeting; face-to-face contact; safety plan, etc.) and will be documented within 3 business days of case opening, when the child is removed, or when the family team meeting occurred.

**II. Selecting the Permanency Objective**

The initial permanency objective will be selected based on the best interest of the child and using information gathered from the parent(s) and the family team. The permanency objectives will be assessed in the order listed below.

- A. **Family Preservation:** Family Preservation means that all efforts are being made to safely keep the family together or when a decision is made that the child can be safely maintained in the home. This permanency objective will be used when:

1. The CFS Specialist's assessments indicate that the child can reside safely in the parent(s) home; or
  2. The child has been in out-of-home care and has returned home. The permanency objective will be updated to Family Preservation; or
  3. The child was originally placed with the non-custodial parent with a goal of reunification and subsequently the plan would be to maintain placement with the non-custodial parent until the court transfers custody.
- B. Reunification:**
1. Reunification is a permanency plan for the child to return to the individual who retains parental or legal rights to the child after removal, regardless of the custody arrangement prior to the child entering out-of-home care. The goal of reunification will be with the parent who the child was removed from unless that is no longer an option.
  2. When the child is in out-of-home care (including residing with the non-custodial parent), reunification will be the first permanency objective considered. Alternatives to reunification will be considered only when the family has been given reasonable opportunities to reunify and those efforts have not been successful or the court has made a finding of aggravated circumstances.
  3. Reunification will remain the permanency objective when the CFS Specialist requests the county attorney file a termination of parental rights on the parent(s). Reunification will remain the permanency objective until the court has made a decision to pursue the termination of parental rights. See section on Concurrent Planning.
- C. Adoption:** Adoption is a method provided by law to establish the legal relationship of parent and child with the same mutual rights and obligations that exist between children and their birth parents.
1. When reunification efforts have been exhausted or when reunification is not appropriate, the permanency objective to be considered is adoption. This permanency objective will be selected when:
    - a. Parental rights have been relinquished (Refer to 390 NAC 8-004);
    - b. The court has terminated the parent's rights, even if the court decision is under appeal or action has not been take on another parent; (Refer to 390 NAC 8-005)
    - c. The court orders the plan to be adoption;
    - d. Consultation with the county attorney that termination of parental rights **will be pursued**;
    - e. County Attorney has filed a petition to terminate parental rights; or
    - f. Structured Decision Making (SDM®) Reunification Assessment recommends a change to the permanency plan goal and adoption is the goal selected.
- D. Legal Guardianship:** A guardianship means that the court has appointed an individual to become a child's legal custodian. Legal guardianship should be considered as a permanency objective when:
1. All efforts to reunify the family have been exhausted;
  2. The child cannot return home;
  3. All reasonable efforts to secure adoption of the child have been unsuccessful; or
  4. It is determined that adoption is not in the best interest of the child.
- E. Independent Living:** Independent Living is when a foster youth will be living on their own and responsible for taking care of their needs (i.e., paying rent, buying and

preparing food, managing a budget). This includes youth with disabilities who will need continued supervision in their living situation as an adult.

1. Independent living should only be considered when it appears that reunification for a youth may not occur and adoption or legal guardianship are not appropriate.
2. When Independent Living is chosen for a permanency objective the CFS Specialist must continue to search for a permanent living arrangement for the youth and lifetime connections with others.

### III. **Updating the Permanency Objective:**

- A. The CFS Specialist will utilize the SDM® Reunification Assessment to determine the permanency objective recommendation. (See Program Guidance for Ongoing Case Management – section on SDM® Reunification Assessment).
- B. The Family Team Meeting is the venue that should be utilized to discuss the permanency objective and case plan.
- C. The discussion of the permanency objective and case plan will be documented in the Family Team Meeting narrative on N-FOCUS.
- D. The Permanency Objective and the Case Plan will be updated to reflect any recommended changes.
  1. The CFS Specialist will utilize the ‘Copy Case Plan’ function in N-FOCUS to update the Permanency Plan and case plan goals. The ‘copied’ case plan is the working draft the CFS Specialist can utilize in ongoing work with the family and the family team to document progress and develop any new goals and strategies that will help the family achieve permanency.
- E. When a court orders a permanency objective and/or case plan that is different than what the CFS Specialist submitted, the CFS Specialist will utilize the ‘Copy Case Plan’ function in N-FOCUS and update the plan based on the courts order. The modified case plan will be reviewed and approved by the CFS Supervisor.

### IV. **Case Plan:**

- A. Case Plans are developed based on the needs identified in the FSNA. The plan will include goals and objectives that the parents must meet to provide a safe home for the child and timeframes for achieving these goals. The case plan will include the behaviors that a parent or child needs to exhibit in order to demonstrate that the parent can safely parent their child and strategies to achieve the goals. The parent’s protective factors and strengths should be considered as the case plan is developed.
- B. Case Plans are developed for court and non-court involved cases.
- C. The CFS Specialist will meet with the family team to develop the case plan and discuss progress. The CFS Specialist will work with the family to share information gathered from the FSNA to assist in case plan development.
- D. All “Needs” identified in the FSNA for the child, must be included in the case plan. For children in out of home care, the case plan should also include information regarding parenting time. (See Program Guidance on Family Strengths and Needs Assessment)
- E. When a family demonstrates that they have improved their family functioning, but has not been able to complete each goal and/or strategy, the CFS Specialist should determine if the goal and/or strategy needs to be adjusted and assess the family for improvements as opposed to compliance.

V. **Case Plan Time Frames**

- A. The case plan needs to be completed no later than 60 days from the date the child's legal status is one of the following:
  - 1. Ward (HHS, HHS-OJS, Both HHS & OJS, Tribal Court Custody);
  - 2. Non-Court
- B. All families involved with CFS (court and non-court) for on-going case management will have a case plan developed.
- C. A case plan must be developed even if the court case has not been adjudicated, or disposition is not scheduled within 60 days of a ward legal status.
  - 1. The parent(s) may elect not to participate in or follow the case plan prior to adjudication or disposition.
- D. Case plans will be updated prior to every court hearing and whenever new information is shared that impacts achievement of permanency for the child. Case plans will be updated at least every 6 months.

VI. **Case Plan Development**

- A. The CFS Specialist will review the FSNA prior to meeting with the family and discuss the identified strengths and needs with the family.
- B. The CFS Specialist will engage the family and the family team to develop goals and strategies for each of the needs identified in the FSNA.
  - 1. A domain/need may be a priority for one or both caregivers.
  - 2. The CFS Specialist will work with the family to encourage working on the needs that most closely relate to the safety threats and risk factors impacting the child's safety and well-being.
- C. The CFS Specialist will identify any critical needs that must be addressed prior to reunification or case closure. An example is: The parent's substance use caused or was a causal factor to the child maltreatment and the child cannot be considered safe until substance use issues are addressed.
- D. If the critical needs related to safety threats were identified but the family is not prepared to work on them, the case manager must describe the conversation in which the caregiver was informed of:
  - 1. the likely consequences (e.g., inability to recommend case closure or reunification);
  - 2. timelines (e.g., consideration of changing the permanency goal after a child has been in care for 15 or 22 months); and
  - 3. the availability of services to the caregiver when they choose to address the critical need. This will be documented in the case plan critical needs narrative.
- E. The critical needs the parent has chosen not to address must be listed under the "Plan for Critical Needs" and the CFS Specialist will describe the services and strategies that will be available when the caregiver indicates willingness to address the need.

VII. **Case Plan Requirements**

- A. Safety is not negotiable and must be given primary consideration in the development of the case plan.
- B. The CFS Specialist will ensure that all efforts are made to locate and notify the parent(s) so that they may participate in the case plan development process. If the parent cannot be located or participate in case planning, the CFS Specialist will complete the case plan in collaboration with other family members and the child (if appropriate), focusing on the best interest of the child. The parents will immediately

be involved in the process as soon as they are available, and the plan will be modified to reflect the current situation.

- C. The CFS Specialist will utilize information from the FSNA in identifying the child's needs and family needs. The CFS Specialist will work with the child and the family team to develop a written case plan.
  - 1. All children in the household will have their needs assessed and addressed in the case plan.
- D. If the child is determined to be conditionally safe or unsafe a safety plan will be implemented. Safety interventions will remain in place as long as the child is conditionally safe or unsafe. The case plan does not replace the safety plan. The case plan identifies goals and strategies that address the identified safety threats and risk issues to facilitate return of the parent to their protective role.
- E. The case plan must help the family access supports and services to make changes that result in the elimination of safety threats and lessen risk in ways that can be maintained and sustained after CFS intervention ends. Case planning is not a one-time event. It is an ongoing process that continues throughout the time that that DHHS is involved with the family and their child(ren).
- F. The case planning process will be carried out using Family Centered Practice principles: Family/person driven; Strength based; Needs driven; Individualized; Based on the culture of the family; Flexible; Normalized; Compassionate; Team developed and supported; Community based to the fullest extent possible; Outcome-focused; and Unconditional.

#### VIII. **Case Plan Goals, Strategies and Services:**

- A. The case plan will:
  - 1. Clearly identify the goals that describe the behavioral changes that need to be demonstrated by the parent that address identified safety threats and priority needs using strength based strategies to encourage change.
  - 2. Be focused on behavior changes within the family rather than task-compliance.
  - 3. Identify a permanency objective and a concurrent plan when appropriate and identify a realistic date to achieve the permanency objective.
  - 4. Be signed, dated and filed in the child's case record. The signed case plan will be scanned into N-FOCUS and indexed in the Case Plan and Court Report category.
- B. Goals will:
  - 1. Address any safety threats, high risk issues and enhance the parents protective factors;
  - 2. Be determined and prioritized by the family team.
  - 3. Be written with the following "SMART" criteria in order to establish an evaluation process to assess whether goals are being achieved.
    - a. Specific - it is clear and based on behavior;
    - b. Measurable - There is a way to know if it has been achieved;
    - c. Achievable - It is something that can be accomplished;
    - d. Realistic - It makes sense for the family or person; and
    - e. Time limited - There is a specific period by when the outcome will be achieved.
  - 4. Be individualized to each family's unique circumstances, culture, and values.
  - 5. Be change based, not compliance based.
  - 6. Set the stage for subsequent planning.
  - 7.

- C. **Case Plan Strategies:** The case plan will identify strategies which:
1. Are clear, practical, logical, and realistic. Strategies may be developed using brainstorming and then prioritized by which best fit the family;
  2. Build upon the family or child's functional strengths;
  3. Focus on addressing the identified goal and needs;
  4. Include at least one strength-based strategy identified for each goal;
  5. Identify needed services and supports to achieve the designated goal. Are individualized to the family;
  6. Are based on the family's values, beliefs, culture, preferences, and talents. Identify who, what, when, where, and how they will be achieved;
  7. Utilize informal supports and resources whenever possible. If informal resources are not available, formal resources may be utilized.
- IX. **Special Consideration when Working with Native American Parents in Case Planning:** In working with Native American parents and children who are adjudicated pursuant to Neb. Rev. Stat. §43-247-(3)(a), (b), (c) and (8), DHHS will use Tribal Social Services or local Native American cultural center services whenever possible. Case planning and service provision will be based upon the social and cultural standards of the Tribe. Active efforts will be made to provide culturally relevant remedial and rehabilitative services to prevent the breakup of the family and to reunify the family." (See Program Guidance on the Indian Child Welfare Act.)
- X. **Updating a Case Plan:** The CFS Specialist and the family team will utilize information from the SDM® Family Strengths and Needs Assessment and the SDM® Reunification Assessment or Risk Reassessment when reviewing and updating the case plan.
- A. The Family Team Meeting is the venue that should be utilized to discuss the permanency objective and case plan. The family team meeting discussion and recommendations will be documented in the Family Team Meeting narrative on N-FOCUS. The Permanency Objective and the Case Plan should be updated to reflect any recommended changes to the permanency objective and the case plan.
  - B. The CFS Specialist will utilize the 'Copy Case Plan' function in N-FOCUS to update the Permanency Plan and case plan goals.
  - C. Court Cases: The copied Case Plan will be the working draft. The draft should be used for discussion at Family Team Meetings and finalized for submission to the court for any review or permanency hearings.
    1. When a court orders a permanency objective and/or case plan that is different than what the CFS Specialist submitted, the CFS Specialist will utilize the 'Copy Case Plan' function in N-FOCUS and update the plan based on the courts order. The modified case plan will be reviewed and approved by the CFS Supervisor.
- XI. **Concurrent Planning:**
- A. Concurrent planning is defined as the process of developing and implementing a plan to reach one permanency objective while simultaneously developing and implementing a plan to reach an alternative permanency objective. Concurrent planning is not required for every child.
  - B. Concurrent planning requires the identification of an alternative plan and the implementation of reasonable or active efforts toward both permanency objectives simultaneously. Full disclosure of all permanency plans to the family and all other family team members is important in the concurrent planning process. The CFS Specialist will make the parents, foster parents, and legal parties aware of and

facilitate participation in the concurrent planning process

XII. **When to Consider Concurrent Planning:**

- A. There is no specific timeframe in which a concurrent permanency objective and plan should be established. Consideration to add a concurrent permanency objective should occur during family team meetings when discussing progress of the current permanency objective and case plan. The SDM® Reunification Assessment information will help guide discussion on concurrent planning.
- B. When it appears likely that the current permanency objective will not be achieved within a reasonable amount of time (regardless of the objective), the CFS Specialist must evaluate the need to consider a concurrent permanency objective and the case plan.
  - 1. **(Note: The Federal Children and Family Service Review (CFSR) requirement states that a “reasonable amount of time; in most cases, is 12 months for reunification, 18 months for guardianship and 24 months for adoption.)**
- C. Deciding when to identify and implement a concurrent permanency objective and plan will vary from case to case. The following guidelines will assist in determining when a concurrent permanency objective and plan should be considered and how/where this should be documented.
- D. Concurrent planning is highly recommended in (but is not limited to) the following situations:
  - 1. Parent is making minimal progress toward reunification;
  - 2. Parent exhibits little motivation for change and has established a pattern of chronic abuse or neglect;
  - 3. Parent repeatedly expresses serious doubts about wanting to parent the child;
  - 4. Parental rights to another child have been terminated following a period of ongoing case management and no significant change has occurred;
  - 5. Parent has abandoned the child for 6 months or more.
- E. The establishment of a concurrent permanency objective and plan must be appropriate to the child’s situation and there must be documentation of progress toward that objective.
- F. Concurrent plans must include goals and strategies leading to achievement of the concurrent permanency objective. When it is determined that a concurrent permanency objective and plan is necessary and appropriate, reasonable/active efforts to achieve this permanency objective must be implemented, regardless of the primary permanency objective.

XIII. **Factors to Consider and Actions Required when Selecting a Concurrent Plan**

- A. **Adoption** – Adoption may be an appropriate concurrent plan for any child whom returning home is not possible or likely, and adoption is the plan to achieve permanency when parental rights have been severed. Adoption is considered the most permanent permanency objective, and implies the lifelong commitment and acceptance of a child into the adoptive family unit. A child’s age or special needs should not prevent adoption as a permanency objective.
  - 1. **Actions to be taken when pursuing Adoption as concurrent plan:** Critical components of pursuing adoption are severing the legal relationship between parent and child, and locating an adoptive placement for the child. The list below may assist the CFS Specialist in developing goals and strategies to move the concurrent plan forward.

- a. The CFS Specialist will ensure prior case management efforts to identify and locate non-custodial parent, relative supports have been completed. The CFS Specialist will continue to identify and locate relatives as sources for permanent placement.
- b. The CFS Specialist will document discussions with the parent's addressing questions they have regarding legal separation, contact agreements, relinquishment counseling, identified relatives or kin known to the child they want to provide permanency for their child. These discussions should be documented in the Family Team Meeting documentation.
- c. The CFS Specialist will determine how parental rights will be severed and proceed with making efforts. It may be beneficial for the CFS Specialist to staff the case with the Permanency Team Supervisor to assist in identifying next steps. Document this in a consultation point narrative.
- d. When a parent intends to relinquish, the CFS Specialist will consult with the permanency team in your area. There are times when it is not appropriate for DHHS to accept a relinquishment. The CFS Specialist will document whether it is appropriate to obtain a relinquishment, and whether relinquishment counseling was offered/arranged in a consultation point narrative. The CFS Specialist will make a referral for relinquishment counseling. It is best for the CFS Specialist or other DCFS staff to discuss relinquishment with a parent with their attorney present.
- e. When a parent is deceased, the CFS Specialist will ensure a request is made to obtain a certified copy of the death certificate from Vital Records in the state in which the parent die
- f. The CFS Specialist will determine whether the child was born outside of marriage. If so, complete the Affidavit of Identification of Father By Mother and other necessary required forms must be completed. *See Program Guidance on Changes in Adoption Laws Regarding Fathers Rights (AM#4-2008).*
- g. The CFS Specialist will request the Biological Father Registry Certificate from Vital Records to inquire if anyone has filed Notice of Intent to Claim Paternity and Obtain Custody or Claim Paternity for Notification Purposes.
- h. The CFS Specialist will discuss the addition of the concurrent permanency objective with the current placement for the children and ask whether the family has considered keeping the child (ren) permanently and moving towards adoption.
- i. If the child(ren) is/are not in a permanent home, and efforts to identify and locate relative placement has been exhausted, it may be appropriate to refer the child (ren) to an Adoption Recruiter through Wendy's Wonderful Kids, and/or professional photo-listing services through the Nebraska Heart Gallery. *(See Memo)*
- j. The CFS Specialist will refer a candidate interested in obtaining placement of the child for the purposes of adoption for an adoptive pre-placement home study to the child placing agency, or if this is a new, child specific inquiry, refer to Resource Development.

- k. The CFS Specialist will complete the Report of Selection of Adoptive/Fos-Adopt Family (PS-AR-65 Forms website) indicating parental requests for adoptive placement, families who have been considered for permanent placement by the child's team, and the identified first choice adoptive family.

B. **Guardianship** –Guardianship will be carefully considered as a concurrent plan, and not selected because it is the path of least resistance. Guardianship ends at age 19, therefore is not permanent. Factors to consider when selecting Guardianship as the concurrent permanency objective include:

1. When all efforts to successfully reunify the child with his/her family have been exhausted, and there is no advantage to the child to pursue termination of parental rights, legal guardianship may be appropriate to consider as a permanency plan. It is unreasonable to pursue adoption because:
  - a. Efforts to secure a voluntary relinquishment of parental rights and termination of parental rights by the court have been unsuccessful;
  - b. It has been determined that adoption is not in the child's best interest; or
  - c. Parental rights have been terminated but exhaustive efforts have not been able to secure an adoptive placement.
2. The child is age 12 or older, or attached to a sibling group.
3. The child has a relationship with a prospective guardian and has lived successfully for a minimum of six months in the home of the guardian, or the worker has determined that the child will develop a relationship with a relative or foster parent who is committed to the guardianship plan.
4. If the child is age 14 or older, must consent to the guardianship. If the child objects to the guardianship, the guardianship will not be pursued.

C. **Actions to be taken when pursuing Guardianship as the Concurrent Plan:**

When guardianship has been identified as the Concurrent Permanency Objective, the following strategies can be implemented.

1. The CFS Specialist will document the rationale for selecting the permanency objective of guardianship over adoption in the child's file in the Reunification Assessment Summary narrative.
2. The CFS Specialist will ensure prior case management efforts to identify and locate non-custodial parent, relative supports have been done. The CFS Specialist will continue to identify and locate relatives as sources for permanent placement.
3. The CFS Specialist will document discussions with the parent's addressing questions they have regarding legal separation, guardianship consents, and identifying relatives or kin known to the child they want to provide permanency for their child. These discussions should be documented in the Family Team Meeting documentation.
4. When a parent is deceased, the CFS Specialist will ensure a request is made to obtain a certified copy of the death certificate from Vital Records in the state in which the parent died.
5. The CFS Specialist will discuss the concurrent permanency objective with the child's placement provider and ask whether the family has considered keeping the child (ren) permanently and moving towards Guardianship.

6. The CFS Specialist will consult with the Permanency Team or champion in your area to discuss the paperwork that will need to be completed after it has been determined Guardianship will be pursued as the primary permanency objective.
- D. **Independent Living:** The Department must base consideration of Independent Living on the youth's safety, permanency, and well-being needs. A youth's age or disability is never a disqualifier for a more preferred permanency objective, such as adoption or guardianship.
- E. **Factors to Consider When Considering Independent Living**
1. The youth is age 16 or older.
  2. There is a compelling reason(s) why the permanency objectives of reunification, adoption or guardianship are not appropriate and not in the youth's best interest.
    - a. Compelling reason(s) for selecting Independent Living must be documented in the youth's transitional living proposal/plan (TLP) and continually updated.
  3. The youth's best interest and long term needs can best be met with this option.
  4. The youth demonstrates positive self-care.
  5. Safe housing arrangements can be sustained so external supervision can occur.
  6. Permanent informal supports are present and able to support the youth when a need arises. At least two (2) informal supports need to be identified.
  7. The youth agrees that Independent Living is the best permanency objective.
- F. **Documentation:** Documentation of concurrent planning discussions will be entered in N-FOCUS in the "Program Case Narrative" section based on the context of the meeting. Types of meetings when concurrent planning discussion may occur include, but is not limited to: family team meetings, monthly meetings with the parent, and supervisor consultations. When it is determined that a concurrent permanency objective and plan is necessary, the concurrent permanency objective, goals and strategies must be developed and documented as part of the case plan and court report for submission to the court for the next hearing.

<b>References:</b>
--------------------

390 NAC Chapter 6