

1201 – CHILD PLACEMENT SERVICES
CHANGE #10-2009
DECEMBER 2009

VI. PERMANENCY PLANNING

A. DEFINITION OF PERMANENCY PLANNING

Permanency planning is a social work practice philosophy that promotes a permanent living situation:

- for every child entering the foster care system;
- with an adult;
- with whom the child has a continuous, reciprocal relationship; and
- within a minimum amount of time.

For children and youth in the custody and placement responsibility of the county department of social services (DSS), permanence occurs when he/she has a lasting, nurturing legally secure relationship with at least one adult that is characterized by mutual commitment¹.

This philosophy shall form the basis for all casework activity and decision-making. The county department of social services has the responsibility of **never giving up on permanency** for children and youth in its custody or placement responsibility. Concepts that guide permanency planning are the following:

- The minimum sufficient level of care is what every child needs to grow and develop safely. Society requires that parents provide this level of care and intervention by the agency is required when this level of care is not provided. However, the agency should not intervene in families to ensure a higher level of care for children based solely on a social worker's personal values about the ideal level of care for children. The county department of social services' authority to intervene occurs only when a parent's level of care for a child falls below the minimum sufficient level, with the safety of the child as the paramount concern. When children must be removed from their parents, reunification should occur when parents can demonstrate their ability to provide at least a minimum sufficient level of care.

¹ A "legally secure placement" is defined as a placement in which the direct caregiver has the legal authority to make parental decisions on behalf of the child.

- The least detrimental alternative is the term to describe the choice that must be made for a child. This term clearly illustrates that each time something is done **for** the child; something is done **to** the child. Foster care, by its very nature, has the potential to cause harm to the child. Each move hurts the child because each separation causes feelings of loss and grief. Achieving permanence for children as early as possible is vital. County departments of social services shall help parents who are seeking reunification with their child. At the same time, agencies shall explore and develop alternative permanent plans that can be implemented if reunification is not possible (please refer to the information on concurrent permanency planning found within Chapter IV; Section 1201; The Children's Services Yellow Pages: Tools for Enhanced Practice for additional information). These alternative plans help ensure a permanency for children even if they are not able to return home. Agencies shall be committed to a permanent resolution of the child's foster care status. Permanent resolutions include family reunification, custodial kinship care, legal guardianship, or adoption.
- Goal oriented casework ensures that all activity is focused on achieving permanency. Goal oriented casework also ensures that all permanency options are explored at the same time in the event that reunification is not possible. Placement of the child for adoption provides the most permanent alternative when reunification is not possible. Adoption by a relative, other kin, or foster family should always be considered as an alternative permanent plan. If neither reunification nor adoption is possible, custody or guardianship to relatives, kin, or foster parents provides another permanency option.
- Time limited focus recognizes that the child's sense of time should guide casework practice, and **a sense of urgency is needed in achieving a permanent plan for each child.**

B. IMPORTANCE OF PERMANENT HOMES

Children need and deserve to grow up with a sense of belonging in a family that is committed to providing safety, care, stimulation, continuity, and reciprocity. This environment is required for children to grow into healthy adults who can achieve their full potential. Children have the same basic needs. For the majority of children, these needs are provided by the family into which the child is born. However, for some children, the family either cannot or will not meet these basic needs. In these cases, social workers should remain primarily concerned with safety, but should also be concerned that the other basic needs are met.

Children need **care** that fulfills their basic needs for physical safety, food, clothing, shelter and the provision of necessary medical treatment. Children need **stimulation** that includes the emotional and physical interaction that helps the child learn about the world.

Children need **continuity** that assures that their care will be provided by the same people over time. Children need the **reciprocity** that comes from a stable, interactive, and mutually trusting relationship with a significant person.

In a reciprocal relationship, the child not only receives love, but also learns to give love. Care plus stimulation equals **nurturing**, and continuity plus reciprocity equals **commitment**. A child's sense of identity and worth grows out of nurturing and commitment. A child is able to form an attachment to an adult when his/her needs for care and stimulation are met and he/she is nurtured by that adult. A child bonds and develops self esteem when he/she is involved in a continuous, reciprocal relationship with an appropriate caretaker and when he/she is able to count on the commitment of that caretaker.

A permanent home gives commitment and continuity to a child's relationships. To become emotionally stable adults, capable of giving love to others and of making lasting, trusting relationships, children need consistent nurturing by adults who belong to them. When a sense of permanence is lacking, a child experiences doubt, uncertainty, and hesitancy that hinders healthy growth and development.

C. ELEMENTS OF PERMANENCY PLANNING CASEWORK

1. Early Planning

Early planning is a key element of permanency planning. When an agency is involved with a family and it appears that placement is likely, the agency should ask the family to help identify relatives and kin who can serve as potential resources for the child and his/her family. With early identification, the necessary assessments can be made with relatives and kin so that if the child must be removed from the home, he/she can be placed with appropriate relatives or kin. If a child must be removed from the home and reunification is the plan, early and intensive work with the parents should occur with measurable, goal-oriented, time-limited services that can help the family rectify the central problem that led to placement (please refer to the Relative Notification information found within Chapter IV; Section 1201; IV – Placement Decision Making for further discussion on requirements on identifying and notifying relatives of children placed into care).

A child deserves a permanent home as soon as possible. The difficulties inherent in achieving permanency for a child can be mitigated by beginning permanency planning as soon as a child enters foster care or before, if possible. Conditions supporting early planning include:

- The reasons the child is being removed are fresh on the minds of social workers and parents.
- Parents have not yet adjusted to their loss and are motivated to change.

- If a parent is missing, it is easier to find them and involve them in planning for the future.
- The child has not settled into a psychologically permanent relationship with the foster parents, nor has he/she had to suffer repeated damaging moves.

2. Concurrent Permanency Planning

Concurrent permanency planning is the process of working towards a primary permanent plan for a child, such as family reunification, while developing at least one alternative permanency plan at the same time. Concurrent permanency planning is used to keep the focus on the child's urgent needs for safety and permanence and to reduce the length of time a child spends in foster care.

When a child enters foster care, the primary plan is usually reunification with the parents or caretakers from whom the child is removed. In concurrent permanency planning, the social worker is developing at least one alternative permanent plan jointly with the family. If the Juvenile Court determines that reunification is not possible because it is inconsistent with the child's needs for safety and permanence, the alternative plan is implemented. If reunification efforts cease, relatives and kin that have been assessed to be appropriate resources for a child may become the permanent placement resource for the child. If there are no appropriate relatives or kin alternatives, consideration should be made early to place the child in a foster family home where the foster parents are trained to work with the parents toward reunification. The foster parent should also be a potential adoptive resource if reunification does not occur in a reasonable amount of time (please refer to the information on Concurrent Permanency Planning within Chapter IV; Section 1201; The Children's Services Yellow Pages: Tools for Enhanced Practice for additional information).

3. Shared Decision Making

In order to achieve timely permanence, effective planning for children is required. Effective planning requires the ability and willingness to make decisions based on the greatest amount of pertinent information. The best interest of the child is a continuing concern throughout the process and must be evaluated in the context of the current situation at each decision point.

Often there are not any easy solutions or any plan without disadvantages. In these instances, all factors must be weighed carefully and the plan chosen that has the best chance of success under the circumstances.

The serious consequences of permanency planning decisions mandate that no one person take full responsibility for making them; responsibility shall be shared with others who have knowledge and insight about the case.

MRS and System of Care principles help guide us in that families have the most information about themselves and that information is critical for decision-making. Parents also need to be fully informed of their rights and responsibilities and of the consequences of their behavior. Extended family and kin can be a resource for support to the parents and child, as well as a potential permanent resource.

With their knowledge of the situation and involvement in the decision-making and planning process, these roles can be maximized. The communities in which families live also provide many of the resources and support that families need. The families' link to their community is a critical piece in decision-making. MRS and System of Care also help us realize that community members should be seen as key partners in planning for children. County Departments of Social Services and other agencies involved with the child and family also have key information and supportive services that need to be coordinated in decision-making and planning. All of these partners must be involved in sharing information for the purpose of well-informed decisions and planning for the child with a focus on safety and permanence (please refer to Chapter IV; Section 1201; The Children's Services Yellow Pages: Tools for Enhanced Practice for additional information on Family Group Decision Making and Community Assessment Teams and to Chapter IV; Section 1201; IV – Placement Decision Making for additional information on kinship care).

Other key partners in the shared decision-making process in permanency planning are the courts and the Judge. Judges, attorneys and Guardians ad Litem all need complete information in order to conduct their various roles and to make well-informed decisions. It is important to include the attorneys and Guardians ad Litem in the agency reviews and to solicit their perspectives on the case. When going before the Court, the social worker shall ensure that the court summary has complete, concise, and relevant information so that the judge can make well-informed decisions.

Conditions supporting shared decision-making:

- It is often difficult to decide if a home is, or ever can be, adequate for a particular child; and, if not, to decide what other living arrangement is most suitable.
- Collaboration with other knowledgeable people provides the best guarantee that the best plan will be made.
- Shared decision-making lessens the possibility of bias and error.
- The use of shared decision-making provides a sound basis for making recommendations to the court and shares the responsibility for the consequences of fateful decisions.

D. PERMANENCY PLANNING HEARING

A permanency planning hearing in court is required by law within twelve (12) months of a child entering care, and every six months thereafter. A hearing is required for all children under the responsibility for placement and care of a DSS agency. This is a critical hearing in the case.

The agency should have a clear plan for permanence that is based on the shared decision-making process described above. Also, if the plan for reunification is discontinued, a permanency planning hearing is required by law within thirty (30) days of that decision.

Note: Counties shall ensure that in any hearing or review the child shall be consulted in an age appropriate manner about any permanency plans for the child.

E. PERMANENT PLACEMENT OPTIONS

Although there is never a guarantee of permanence, it is the intention that all work with the child, the family, the community, and the agencies involved targets a plan that supports permanence. At a very basic level, permanence is most probable when the legal parent is also the emotional parent, as well as the parenting figure in the child's life. The following permanent resolutions are most possible when relevant questions can be answered and the underlying issues they suggest have been addressed. There are only five possible permanent plan goals: reunification, adoption, guardianship with relatives or other kin, assignment of legal custody and another planned permanent living arrangement (APPLA). These options should all be considered and addressed from the beginning of placement and continuously evaluated. Although one option (reunification) may appear to be the primary plan, the other options should also be explored and planned concurrently.

Some children in foster care will exit the system through other avenues. Emancipation occurs in a few cases, whether through marriage, joining the armed forces, or emancipation by the Court. Some youth will leave foster care without ever achieving a permanent family. It is the responsibility of the agency to prepare these children for self-sufficiency. It is also the responsibility of the agency to assist the child in forming a positive attachment to adults who can be a resource to that youth through the rest of their childhood and into adulthood. Efforts to achieve a permanent plan for the youth should always remain active.

If the Director of the department of social services is asked to consent to marriage of a child in the agency's custody, or to give permission for that child to join the armed services, careful consideration should be made to ensure that the child's safety and needs will be provided.

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Children ages 16-18 may petition the Court for a judicial decree of emancipation.² In determining the best interests of the petitioner, the Court will make the following considerations:

- the parental need for the earnings of the petitioner;
- the petitioner's ability to function as an adult;
- the petitioner's need to contract as an adult or to marry;
- the employment status of the petitioner and the stability of his/her living arrangements;
- the extent of family discord which may threaten reconciliation of the petitioner with his/her family;
- the petitioner's rejection of parental supervision or support; and
- the quality of parental supervision or support.

After the final decree of emancipation, the petitioner has the same right to make contracts and conveyances, to sue and be sued, and to transact business as if he/she were an adult. The parent is relieved of legal duties and obligations owed to the petitioner and are divested of all rights with respect to the petitioner. The decree of emancipation is **irrevocable**.

1. Reunification

Reunification means that the biological/adoptive parent(s) or caretaker from whom the child was taken regains custody of the child. In most cases reunification is the primary permanent resolution sought, and reasonable efforts to reunify the child with the parent must be demonstrated and documented to the court. Reunification is appropriate when the parent is capable of providing minimum sufficient level of care, even when there are areas of concern. A return to even marginally adequate parents is a better alternative than years in foster care, as long as the safety of the child can be ensured.

Reunification should be considered when:

- The issues that precipitated the child's removal have been addressed and resolved, and
- Risk to the child has been reduced to a reasonable level; and

² [N.C.G.S. § 7B-3500](#).

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- The parents have made changes in their behavior and circumstances that were identified as needing to change before the child could be returned safely to the home; and
- The parent has demonstrated capacity and willingness to provide appropriate care for the child; and
- The child's safety and care in the home is reasonably expected to remain secure; and
- Supports from the agency and community are in place to assist the family to remain intact.

Reunification should not be considered when the court has found that such efforts would be futile or would be inconsistent with the juvenile's need for a safe, permanent home within a reasonable period of time.

Agency responsibility when the primary or concurrent permanency plan is reunification:

The agency is responsible for working with the parents to help them gain capacity to provide care for their children. This includes:

- Working with the family to assess its strengths and resources as well as the issues that must be resolved for reunification;
- Helping the family to build its own capacity through the use of community resources, education and training, and mutual support;
- Encouraging the child/youth to work with his/her family to resolve barriers to reunification;
- Providing opportunities for the family to visit, in order to assure that the parents are able to care appropriately for the child;
- Helping each family member to anticipate and constructively respond to conditions in the family unit that may endanger its stability;
- Helping the family to connect with a support network of individuals and resources who will be available to them in the transition process;

- Being available to the family for at least three months after reunification to help them remain stable. A trial home visit or aftercare services may be appropriate to help facilitate the transition. Please see the discussion regarding trial home visits and aftercare in Chapter XIII - Child Welfare Funding Manual for information on how to fund these services.

The agency's efforts and the results of involvement must be documented in the case record and court review documents in order to demonstrate that the agency has made reasonable efforts toward reunification.

A child who has been removed from the custody of a parent (or person acting **in loco parentis**) by a court order because of abuse or neglect may not be returned for any period of time without judicial review and findings of fact to show that child will receive proper care and supervision. A supervised visit does not fall within the meaning of the term "return" as long as a social worker is present at all times. The agency should work with its juvenile court to determine how the local judges interpret the law on trial visits.

In addition to the required time frames for court reviews, parents, the guardian ad litem and the respective agency have a right to ask for a motion for review so that the court may re-evaluate the plans for the child. Whenever there is a significant change in circumstances, a motion for review shall be filed by the agency. It is strongly recommended that a motion for review be filed with the court in all cases in which it is proposed that a child be returned, even on a trial basis, to a parent residing in another state. Parents have a legal right to ask the court for the return of their child even if the agency does not consider the situation appropriate. The agency may, of course, recommend against the return of the child at the time of the court hearing. The Court maintains the right to return the child against agency recommendations if it so determines. If a child was accepted for placement as a result of a court order, the Court must be kept informed of the child's progress.

2. **Adoption**

Adoption is the permanent plan offering the most stability to the child who cannot return to his/her parents. Factors to consider include whether or not the child is **likely to return home** and whether the child can be **freed for adoption**. In order for the child to be adopted, both parents must voluntarily relinquish their parental rights or their parental rights must be terminated by the court.

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The agency shall file a petition for termination of parental rights within 60 calendar days of the agency's decision that the permanent plan is adoption or within 60 calendar days of the hearing that determines that the plan is adoption unless the court makes other findings.³ There must be legal grounds to terminate each parent's rights.

If an Indian parent or custodian voluntarily consents to termination of parental rights, the consent is not valid unless procedures of the Indian Child Welfare Act are followed.⁴ This includes certification that the Indian parent or custodian fully understood the nature of their relinquishment of rights and that interpreter services were provided if necessary. (A copy of the Indian Child Welfare Act is appended to the Adoption Services chapter of the Family Services Manual.)

When the child is legally freed for adoption, the agency shall make every effort to locate and place the child in an appropriate adoptive home. When adoption becomes the plan for a child, the agency shall develop a child-specific written strategy for recruitment of an adoptive home within 30 days. At a minimum, the plan should document the child-specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state and interstate placements.

Adoption by relatives or kin may be an option to consider if the relative or kin are willing to adopt and can provide a safe home. Care should be taken in assessing this option to consider whether there may be conflict or divided loyalties between the parent of the child and the adopting relatives and how these issues would be handled. If an adoption by relative or kin can be achieved, the child's sense of identity and family history can be preserved.

Adoption by foster parents is often an appropriate plan, especially if the child has developed a close relationship with the foster family. Such a plan has the benefit of providing continuity for the child with a family that they already know without requiring an additional move. Increasingly, foster families are being recruited and trained to provide foster care, to work with the team toward reunification efforts, and to be willing to consider committing to the child permanently through adoption if reunification is not possible. These parents are sometimes referred to as "permanency planning families." Recruiting and training these families are key components of concurrent planning.

Sometimes the child's parent(s) recognize that they cannot be the permanent family for the child. When they know and respect the care that their child is receiving from the foster family, they may voluntarily relinquish their parental rights so that the child can be adopted by that family.

³ [N.C.G.S § 7B-907\(e\)](#)

⁴ Indian refers to a person who is a member or is eligible to be a member of a federally recognized tribe.

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The advantage in this situation is that it allows for the possibility that the child and birth parent continue some relationship while the child is raised by a committed and caring adoptive family.

When adoption by a relative, kin, or foster parent is not an option, the agency should place the child in an approved adoptive home. There may be approved families waiting that may be appropriate for the child, or potential adoptive families may need to be recruited specifically for the child. Recruitment activities should include the use of media resources. The faith community is another valuable resource when recruiting potential adoptive families. The County Departments of Social Services shall have current information available for prospective adoptive families that describes the kind of children needing placement, the availability of Adoption Assistance, and procedures for referring families they are unable to serve to other child placing agencies.

In any case, all children who are free for adoption and who are not in their identified adoptive home shall be referred for listing on the North Carolina Adoption Exchange and in the N.C. Photo Adoption Listing Service (PALS) book.

When adoption is being considered as a permanent plan, satisfactory answers to the following questions are needed:

- Have all relative placement options been considered and eliminated?
- Has the child's ethnic and cultural needs been considered and addressed? Please refer to Chapter IV; Section 1201; IV - Placement Decision Making for information on the requirements of the Multi-Ethnic Placement Act and the Indian Child Welfare Act.
- Has the best interest of the child been considered and documented?
- Are the parents willing to relinquish their rights, or is the agency ready to proceed with termination of parental rights?
- Do legal grounds for termination of parental rights exist?
- Is the child already living with caretakers who are willing to adopt?
- How soon can the child be placed in an adoptive home?

- How long will the court process take?
- Who will help the child through the placement process?
- Has a pool of potential adoptive families been recruited or is the agency willing to commit to child-specific recruitment?
- Has the child's particular needs and strengths been thoroughly assessed and evaluated?
- Has a placement option that will be able to meet the child's needs been identified?
- What is the child's relationship with siblings?
- Should the child be placed with siblings and, if so, can this be accomplished?
- Is the child able to accept "parenting?"

Agency responsibility when the primary or concurrent permanency plan is adoption:

- When adoption becomes the primary permanency plan for a child, the agency shall within 30 days develop a child-specific written strategy for recruitment of an adoptive home. At a minimum, the plan should document the child-specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state and interstate placements. The agency shall document its diligent and consistent efforts to locate and place the child in an appropriate adoptive home
- When adoption is the alternative or secondary permanency plan for a child, the agency shall search for an appropriate adoptive family. Both in-State and out-of-State options must be considered when making reasonable efforts to place the child in accordance with the permanency plan and to finalize the permanency plan.
- If adoption by a relative, kin, or foster parent is not an option, the agency should recruit an appropriate adoptive home for the child.

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Children and youth who are able to do so should be asked for their recommendations regarding potential adoptive families, since they may know individuals or families with whom they are comfortable.

- The agency shall conduct or arrange for an adoptive home study in accordance with agency policy.
- The agency shall have face to face contact with the child or youth at least monthly and shall keep the child appropriately informed about the agency's progress.
- Children who are free for adoption and who are not placed in their probable adoptive home shall be referred by the agency for photo listing with NCKids as well as regional and national adoption exchanges including electronic exchange systems, in order to facilitate matches between persons interested in adoption and the children who are available.
- If the agency is unsuccessful in locating a person willing to adopt the child within one year, the permanency plan shall be changed unless the agency is able to justify to the court why the plan should remain "adoption". Justification will include the agency's progress toward locating a person willing to assume legal responsibility for the child.
- Youth who are reluctant to consider adoption shall be given an opportunity to talk in a facilitated Child and Family Team Meeting about their concerns. Other permanency options shall be offered, and the adolescent's preferred plan should be given strong consideration whenever feasible. Adolescents who wish to reunite with their birth families should be given an opportunity to visit them under decreasing supervision, and provided with 24 hour access to emergency support should an unsupervised visit become untenable. The social worker shall work with the adolescent to process the visitation experience and to develop strategies to cope with problems that may come up in future visits.
- If a parent whose rights have been terminated has satisfactorily resolved the issues that led to termination and, along with the child/youth requests to re-establish a parental relationship, the agency shall evaluate their situation in a facilitated Child and Family Team meeting to determine whether or not the agency would support re-adoption by the birth parent.

Occasionally, a child may be placed in a “**legal risk**” placement. A legal risk placement is the placement of a child who is not legally cleared for adoption at the time placement occurs. The family selected for placement of a child in such situations should have completed the adoptive study process and be deemed suitable to meet the child's needs. Prior to placement, the family should be fully informed of the child's legal status and of the potential that the child will be removed from their home should legal clearance not be accomplished for some reason. The family should be given time to consider carefully and thoroughly all aspects of undertaking a legal risk placement.

The purpose of legal risk placement is to move the child into a permanent home as soon as possible without jeopardizing the legal or social well-being of the child. Since, in making a legal risk placement, the agency does not yet have authority to consent to the child's adoption, the home in which the child is to be placed must be licensed as a foster home or approved by a court order. Legal risk placements are appropriate when the child is not yet legally free for adoption but there is a high probability that parental rights will be terminated. Legal risk placements have the advantage of providing an early transition for the child into the family where they are expected to live.

The child and family can begin to form attachments with one another. Legal risk placements should only be used after careful consideration and preparation of the adopting family. It is strongly recommended that the agency consult with their attorney before pursuing this option

3. **Legal Guardianship**

When reunification efforts are determined to be contrary to the health, safety or best interest of a child who is in the legal custody or placement authority of the county DSS, the county shall assess relative or kinship placements as a permanency option, including the child's birth father and paternal relatives. If the family is willing to provide a permanent home for the child but is not willing to adopt, then guardianship and custody should be offered to the family as alternatives.

Juvenile Court Guardianship, as described in N.C.G.S. § 7B-600, assigns legal authority for the guardian to act on behalf of the child without further DSS involvement, but with continued supervision of the court. The legal authority of the guardian includes:

- the care, custody and control of the juvenile,
- the authority to arrange placement for the juvenile,

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- the right to represent the juvenile in legal actions before the court,
- the right to consent to actions on the part of the juvenile including marriage, enlisting in the armed forces, and enrollment in school.
- A guardian may consent to remedial, psychological, medical or surgical treatment for the juvenile.

The authority of the guardian continues until the court terminates the guardianship or until the child is 18 years of age or is emancipated by the court. A guardian may resign from the position of guardian, but his/her authority cannot be removed unless he is determined by the court to be unfit. Juvenile Court guardianship does not confer authority over the disposition of a child's estate or management of his income

Persons assuming legal guardianship of children in the custody of the DSS are not eligible for state foster care board payments. They are eligible for child support paid by the parents. The child may also be eligible for Medicaid, since the guardian's income is not considered. Countable income includes Social Security benefits, child support payments and, if applicable Guardianship subsidy.

If a person accepts guardianship of a child who was in foster care and later adopts that child, he will be able to receive adoption assistance payments on behalf of the child until the child is 18 years of age.

Agency responsibility when the primary or concurrent permanency plan is guardianship.

- Guardianship shall only be considered when reunification and adoption are ruled out as permanency options.
- The agency shall conduct and demonstrate diligent efforts to locate a suitable person who is willing to assume guardianship of the child. Both in-State and out-of-State options must be considered when making reasonable efforts to place the child in accordance with the permanency plan and to finalize the permanency plan. Such efforts shall be documented in the case record and the court report.

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- If the agency is unsuccessful in locating a person willing to assume guardianship of the child within one year, the permanency plan shall be changed unless the agency is able to justify to the court why the plan should remain "guardianship". Justification will include the agency's progress toward locating a suitable person willing to assume legal responsibility for the child.
- The agency shall assess the suitability of the home for guardianship placement and shall recommend to the court based on their findings.
- The agency shall assist the prospective guardian through the court process and shall help him understand the responsibilities of guardianship.
- The agency will assure that the guardian is aware of resources that may be available to the family should they later decide to adopt the child.
- The agency shall remain available to provide follow-up services to the guardian on an as-needed basis for six months, in order to assure the stability and health of the placement. Please see the discussion regarding aftercare in Chapter XII - Child Welfare Funding Manual for information on how to fund these services.

In concurrent permanency planning, relatives and kin should be identified early and assessed for their potential as a possible permanent placement for the child.

North Carolina law requires the judge who orders a child's placement or continued placement to consider whether an appropriate placement with a relative is available. If the judge finds that a relative is willing and able to provide proper care and supervision in a "safe home," the judge **must** order placement of the child with the relative. When placement with a relative for the purposes of foster care is made, consideration should be made as to the potential for that placement to become permanent through adoption or guardianship if reunification with the parent is not possible.

For relevant questions to be considered before identifying legal guardianship as the permanent plan, refer to the list of questions at the end of the discussion on legal custody. Legal guardianship can be given to a relative or any other person deemed suitable by the Court. Persons other than relatives to consider include foster parents or adults who have a kinship bond with the child, even if they are not related by blood

4. Legal Custody

Legal custody is an acceptable permanency option, although it does not have the same level of security or permanency as adoption or guardianship. Custody can be challenged before the court at any time there is a change in circumstances, regardless of the fitness of the custodian.

A judge can order legal custody of a child to a relative, foster parent, or other adult person deemed suitable by the court. The specific rights and responsibilities of the legal custodian are spelled out in the court order and may be as extensive as that of a guardian or limited. Legal custody is not well defined in statute, but typically implies responsibility for the oversight of a child's care, protection, training and personal relationships. Legal custody does not confer authority over the disposition of a child's estate or management of his income.

Agency responsibility when the primary or secondary permanency plan is custody.

- The agency shall conduct and demonstrate diligent efforts to locate a suitable person who is willing to assume custody of the child. Both in-State and out-of-State options must be considered when making reasonable efforts to place the child in accordance with the permanency plan and to finalize the permanency plan. Such efforts shall be documented in the case record and the court report,
- If the agency is unsuccessful in locating a person willing to assume custody of the child within one year, the permanency plan shall be changed unless the agency is able to justify to the court why the plan should remain "custody". Justification will include the agency's progress toward locating a suitable person willing to assume legal responsibility for the child.
- The agency shall provide information to the potential custodian about more permanent and legally secure options, including adoption and legal guardianship.
- A home study shall be conducted to assure that the placement is physically appropriate.
- Potential conflicts with the birth parent shall be evaluated and discussed with the custodian.

Legal custody is another permanency option for children, although legal custody does not have the same level of security as adoption or guardianship. Custody may be terminated on the basis of a change in circumstances, regardless of the fitness of the guardian. The judge can order legal custody of a child to a relative, foster parent, or other adult person deemed suitable by the court. Legal custody has most of the same advantages and disadvantages as legal guardianship. The specific rights and responsibilities of a legal custodian, however, are defined by the court order rather than being fully defined in law. The custodian must show the court order to prove their right to act in a parental role.

Questions to consider when determining the recommendation for legal guardianship or legal custody are as follows:

- What pre-placement relationship existed between the child and the potential guardian or custodian, and does the child have any attachment to them?
- Have the potential guardians or custodians been carefully evaluated? Is there a written assessment or home study? (Refer to the instructions for the Kinship Care Assessment (DSS-5204ins)).
- Have the potential guardians or custodians been included in the shared decision-making process?
- Have both maternal and paternal relatives been considered?
- Is placement with relatives or kin a way to protect the child's roots in the community?
- Will placement with a particular relative mean that the child must leave the community?
- Have sibling attachments been considered? Will placement with siblings be positive for this child?
- Is this potential guardian or custodian related to all the siblings, and are they willing to take all the siblings whether related or not?
- Will this placement support the child's ethnic and cultural identity? Please refer to Chapter IV; Section 1201; IV - Placement Decision Making for information on the requirements of the Multi-Ethnic Placement Act and the Indian Child Welfare Act.

- Is the potential guardian or custodian willing to provide a home for this child through the child's minority?
- Are there the same issues in the extended family that existed with the parents?
- What will be the on-going relationship with the child's parents? Will there be lifelong conflicts with the child's parents or is there a possibility of an unofficial return to the child's parents?

Legal custody is not well defined in statute, but implies responsibility for the oversight of the child's care, protection, training, and personal relationships. Neither guardianship of the person nor custody carries authority over the disposition of the child's estate. If the child either has an estate or receives income such as through SSA, separate court action should be initiated to establish guardianship of the estate.⁵

5. **Another Planned Permanent Living Arrangement (APPLA)**

APPLA means Another Planned Permanent Living Arrangement. It is **only** an appropriate primary permanency goal for youth who are between the ages of 16 to 18, or as a concurrent permanency goal for youth ages 14 to 18.

APPLA is:

- A permanent living arrangement for a youth age 14 or over who resides in a family setting which has been maintained for at least the previous six concurrent months; and
- in which the youth and caregiver have made a mutual commitment of emotional support and
- the youth has been integrated into the family; and
- the youth and caregiver are requesting that the placement be made permanent; and
- other permanency options, including adoption, guardianship, and custody have been determined to be inappropriate for the situation due to the youth's long-term needs.

⁵ For information on the appointment and responsibilities of the guardian of the estate, see [N.C.G.S. § 35A-1250](#), [N.C.G.S. § 35A-1252](#) and [N.C.G.S. § 35A-1253](#).

**NORTH CAROLINA DIVISION OF SOCIAL SERVICES
FAMILY SERVICES MANUAL
VOLUME I: CHILDREN'S SERVICES
CHAPTER IV: CHILD PLACEMENT**

Change # 10-2009

PERMANENCY PLANNING

DECEMBER 2009

- APPLA must be initially approved by the court and the Permanency Planning Action Team/Child and Family Team prior to the change in the permanency plan and periodically reviewed by the court. The youth shall participate actively in court decisions regarding APPLA either through direct testimony or written depositions to assure that the youth's preferences are heard and respected.

APPLA may be appropriate for relative or non-relative placements in licensed or court-approved non-licensed homes when the above criteria are met. The agency retains legal custody of the youth for the period of the APPLA. If the family is a licensed caregiver or becomes licensed, they shall receive standard board payments to help support the placement. If they are not a licensed foster care facility, they shall be informed of and given the opportunity to become licensed.

The agency shall be required to provide and document services as follows:

- Child Placement Services to ensure the child's ongoing safety and well-being needs are met,
- Provision of relevant LINKS services, based on a written, objective assessment, and a plan developed with the youth;
- Access to resources for the youth through the LINKS program and other resources as appropriate;
- Diligent efforts to help the youth to establish a strong personal support network with friends and relatives; and
- Post-placement support for the caregiver in order to avoid placement disruption. Please see the discussion regarding aftercare in Chapter XIII: Child Welfare Funding Manual for information on how to fund these services.
- APPLA must be reviewed at least every six months, or more often as needed, at a facilitated Child and Family Team (CFT) meeting, which includes the youth and caregiver, and their supports, as well as the agency LINKS liaison. The CFT shall review the plan and the agency's effort to maintain the stability of the placement and to assist the youth in his transition to independence.
- Permanency planning hearings shall be conducted at required intervals and shall review agency recommendations and reports of the placement.