

Child and Family Services Policy Manual: Substitute Care for Children Placement Procedures- Voluntary and Involuntary Placements

Decision to Place

Child Protection
Specialist Responsibility

Placement of a child in a setting outside of the home is appropriate when a child's life or health is seriously threatened by remaining in the home. Out-of-home placement may also be used as part of a specific treatment plan. The Child Protection Specialist and his/her supervisor are responsible for placement decisions for abused and neglected children or children adjudicated youth in need of care.

The worker will consult the Family Resource Specialist for assistance in identifying the most appropriate licensed placement available. Other professionals such as probation officers, physicians, nurses and school personnel and Tribal Social Services staff may be consulted when making placement decisions. These decisions include not only placement and type of care, but also what services are needed for the child and the family. Consultation with tribal staff regarding placement options as well as the application of culturally appropriate services should occur in each ICWA case. Appropriate services may be available through tribal programs and such options should be explored fully.

Voluntary Placements

There are some circumstances where a parent may seek to voluntarily place his/her child in foster care. If the Division is involved with the family or is going to make foster care payments, the worker should evaluate whether such care is appropriate before agreeing to place the child at the parent's request. This type of placement should not be accepted unless accompanied by the development of a specific plan for the return of the child to the home. The elements of the plan will depend upon the circumstances leading to the request for placement. The plan should be as extensive as is necessary to reunite the family.

Agreement for Foster Care Placement

The Division may enter into a written agreement with a parent or other person responsible for the child's welfare which allows the Division to place the child for up to 30 days in a temporary out-of-home placement. This agreement is a contract, which authorizes the Division to place the child(ren) in foster care at the request of the parent or legal custodian of the child. The agreement does not give the Division legal custody of the child but merely grants the Division permission to place the child.

A DPHHS-CFS-012, Agreement for Foster Care Placement must be used in conjunction with a DPHHS-CFS-202 Voluntary Protective Services Agreement when the parent(s) or legal custodian of the child and the Child Protection Specialist agree that temporary

Child and Family Services Policy Manual: Substitute Care for Children Placement Procedures- Voluntary and Involuntary Placements

placement of not more than 30 days is needed. Refer to policy section 201-1, Investigation, Legal Base.

Voluntary Placement of Indian Children

If a voluntary placement of a child who meets the definition of an Indian child as defined under ICWA is planned, the voluntary agreement for foster care must be signed before a judge and accompanied by the judge's certificate that the terms and consequences were fully explained in detail and were fully understood by the parent. The court must also certify that the parent fully understood the explanation in English or that it was interpreted into a language that the parent understood.

Note: If the child to be placed is an Indian child to whom ICWA applies, the DPHHS-CFS-ICWA-253 Birth Mother's Consent to Foster Care Placement and/or the DPHHS-CFS-ICWA-254, Birth Father's Consent to Foster Care Placement must be used. Refer to policy section 305-1, Indian Child Welfare Act, Voluntary Proceedings, pages 13 and 25-28.

A voluntary placement allows the parent to revoke the agreement at any time. If a parent asks to have the child returned, the child must be returned within two working days of the termination unless the Division files an abuse and neglect petition. If court action is necessary to assure protection of the child and placement is considered vital for the child's protection, the Child Protection Specialist shall seek an appropriate court order.

Voluntary placements may be appropriate when abuse or neglect has taken place, but does not pose a serious threat to the safety of the child and the parent(s) have signed a DPHHS-CFS-202 Voluntary Protective Services Agreement.

A voluntary placement may be appropriate when:

- the parent(s) is temporarily absent from the home (i.e., hospitalized); or
- the parent feels unable to provide adequate care for the child and the parent is willing to work with the agency to address the problems.

Child and Family Services Policy Manual: Substitute Care for Children Placement Procedures- Voluntary and Involuntary Placements

Voluntary placement agreements should not be used as legal authority to place a child in a residential treatment facility unless approved by the Regional Administrator.

Even when parents agree to place their children voluntarily, a petition should be filed if any of the following conditions exist:

- the child experienced life threatening abuse, multiple injuries, burns, head or central nervous system injury, sadistic injury, severe neglect, incest, or injuries which imply violent outbursts, or lack of impulse control);
- abuse or neglect has escalated or continued after the initial intervention;
- the parent's behavior is dangerous to the child (e.g., sociopathic, psychotic, suicidal, homicidal);
- the child has been exposed to the criminal production or distribution of dangerous drugs or the operation of an unlawful clandestine laboratory;
- the parents consistently deny problems and/or refuse to negotiate and sign a voluntary protective services agreement;
or
- the child is rejected or unwanted.

Involuntary Placement

When a child is in imminent risk of harm and emergency protective services are necessary to protect the child, the criteria and procedures to be followed are contained in Policy Section 302-1, Immediate Protection and Emergency Protective Services. If placement will be made with an unlicensed kinship provider, refer to Policy Section 402-4, Placement in a Kinship Care Home.

Documentation for Legal Authority To Place

All placements must be supported by one of the following:

- an affidavit supporting the need for emergency placement provided to the county attorney within 48 hours, excluding weekends and holidays;
- a petition for immediate protection and emergency protective services, temporary investigative authority, temporary, or

Child and Family Services Policy Manual: Substitute Care for Children Placement Procedures- Voluntary and Involuntary Placements

permanent legal custody must be filed with the court within 5 days (excluding weekends and holidays) of placement **and** a certified court order obtained granting the Division the right to place the child in protective custody must be obtained;

- an Affidavit of Waiver of all Parental Rights, Relinquishment of Child and Consent to Adoption (waiver or relinquishment) signed by the parents relinquishing all rights and responsibilities to the Division; or,
- a CFS-12, Parental Agreement for Foster Care Placement DPHHS-CFS-ICWA-253 Birth Mother's Consent to Foster Care Placement or the DPHHS-CFS-ICWA-254, Birth Father's Consent to Foster Care Placement signed by the custodial parent.

CAPS

If the child is not already a client in CAPS, the child must be made a client and the placement entered on CAPS.

The following CAPS screens should also be completed on the child: FINL/FIND for financial information, SPND for special needs, EDHL to record school changes and the appropriate medical screens MEDS, MMHD, MDTD to record relevant medical and mental health information. Refer to Appendix Section in OURS (Screen Flow Charts)

Placement Changes: Notice to Parent

Changes in foster care placements occur for a variety of reasons. The Division's policy is to keep such changes to a minimum.

- if parental rights have not been terminated, whenever possible the parent should be notified within three days of a change in the placement of his/her child. The notification may be made verbally and should be documented in the case record;
- if a parent's whereabouts is unknown, a reasonable effort to notify the parent shall be made and recorded in the case record;
- if parental rights have been terminated, the parents are not notified.

**Child and Family Services Policy Manual: Substitute Care for Children
Placement Procedures- Voluntary and Involuntary Placements**

Update placement and school changes in CAPS

**Youth Court
Probation or
Juvenile Parole
Responsibility for
Youth in Need of
Supervision and
Delinquent Youth**

Following an adjudication of a youth in need of care as a youth in need of intervention or as a delinquent youth, but prior to placement at Pine Hills School, juvenile probation is responsible for supervising the youth, including preparation of eligibility material and completion of forms for placement.

Upon discharge of an adjudicated delinquent youth from Pine Hills School, juvenile parole of the Department of Corrections is responsible for supervision of the youth. If the youth was adjudicated a youth in need of care prior to an adjudication of youth in need of intervention or delinquency, the juvenile parole officer will be responsible for supervision of the youth. The Child Protection Specialist who had the youth on his/her caseload prior to the youth's involvement with juvenile corrections should provide consultation to the parole officer.

References

Mont. Code Ann. § 41-3-101
 Mont. Code Ann. § 41-3-302
 Mont. Code Ann. § 52-2-601
 Mont. Code Ann. § 52-2-603
 Mont. Code Ann. § § 52-5-126 and 127.

Rev. 10/01
 Rev. 10/03
 Rev. 04/04
 Rev. 10/05
 Rev. 10/07
 Rev. 10/09
 Rev. 12/09
 Rev. 10/11