



Policy on Foster Care and Adoption Placement Decisions for Children Under Guardianship of the Commissioner

Overview

This policy outlines requirements for responsible social service agencies to make and document foster care or adoption placement decisions for children under guardianship of the commissioner of the Minnesota Department of Human Services (the department). The procedures further address department staff review of, and response to, a responsible agency's adoption placement.

Reason for Policy

This policy ensures that foster care and adoption placements are made in a child's best interest, in consideration of all applicable statutes.

Applicability

This policy is applicable to foster care or adoptive placements of all children under guardianship of the commissioner.

Policy

- I. Legal authority for foster care and adoption placement decisions:
 - For children who are the subjects of a Child in Need of Protection or Services (CHIPS) order, where the court has transferred legal custody to a county social services agency, the county agency is responsible to make foster care placements.
[Minn. Stat., section 260C.201, subd. 1(a)(2)(ii)]
 - For children under guardianship of the commissioner of the Minnesota Department of Human Services, county social service agencies supervise them and act as agents of the commissioner in the placement of children in foster and/or adoptive homes.
[Minn. Stat., section 393.07, subd. 2]
 - The commissioner, through delegated authority, is required to be a signatory to the Adoption Placement Agreement, to fully execute the adoptive placement.
[Minn. Stat., section 260C.615, subd. 1 (b)(3); Minn. Rule 9560.0060, subp. 2, D]
 - For American Indian children, placement preferences must be consistent with the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.
[Minn. Stat., sections 260.751-260.835]

- II. Best interest standard for both foster care and adoption placement decisions:
 - Placement decisions must be based on the best interest of a child. To ensure a child's best interests are met, the law requires an *individualized* determination of a child's needs, based on 10 factors outlined in statute, and an assessment of how the selected placement will serve their needs.
[Minn. Stat., section 260C.212, subd. 2(a) and (b)]
 - Responsible social service agencies must consider placement consistent with a child's best interests, and in the following order, with (1) A person related to a child through blood, marriage or adoption, or (2) An important friend with whom a child has resided or had significant contact.
[Minn. Stat., section 260C.212, subd. 2(a)]
 - Placement of a child for foster care or adoption cannot be delayed or denied based on race, color, or national origin of the parent(s) or child.
[Minn. Stat., section 260C.212, subd. 2(c)]
 - Siblings should be placed together for foster care and adoption at the earliest possible time, unless placement together would be contrary to the safety or well-being of any of the siblings, or it is not possible after reasonable efforts by the responsible social services agency.
[Minn. Stat., section 260C.212, subd. 2(d)]

- Placement decisions for American Indian children are governed by the Indian Child Welfare Act of 1978 and the Minnesota Indian Family Preservation Act. [25 U.S.C. §1901 to §1923; Minn. Stat., sections 260.751-260.835]

Procedures

I. First step in making a placement decision – **Identify:**

- **Identify** the individual needs of a child under each of the 10 best interest factors outlined in statute, including child's:
 1. Current functioning and behaviors
 2. Medical needs
 3. Educational needs
 4. Developmental needs
 5. History and past experience
 6. Religious and cultural needs
 7. Connection with a community, school and faith community
 8. Interests and talents
 9. Relationships to current caretakers, parents, siblings and relatives
 10. Reasonable preference, if the court deems a child to be of sufficient age to express preferences.

[Minn. Stat., section 260C.212, subd. 2]
- Document a child's needs by describing how each of the 10 factors relates to a specific child. Information should include a child's strengths as well as needs, and those needs may be typical or atypical for other children of the same age. Be as descriptive as possible. This description is of a child's needs, and not dependent on a particular care provider.
- The individualized determination of a child's needs must be completed within the first 30 days of placement, and updated as needed depending on changes to child's age and other specific circumstances. Over the course of a case, there may be few changes in information, or a child's needs could change significantly over time.
- The county's placement documentation is statutorily required to include information regarding the individualized determination of a child's needs as identified in this first step. [Minn. Stat., section 260C.613, subd. 5]

II. Second step in making a placement decision – **Assess:**

- Use the determination of a child's needs from **procedure I**, and information known about any prospective care providers to **assess** how each provider is able, or not able, to meet a child's needs. Information about a prospective care provider should be obtained through a home study required under Minn. Stat., sections 260C.611 and 259.41, a background study required under Minn. Stat., section 245C.33, and any other information available, including:
 - If a prospective adoptive parent has a current child foster care license and is seeking to adopt a foster child in their home, the child foster care home study meets the requirements for an adoption home study, if specific conditions are met. [Minn. Stat., section 260C.611 (a)(1)(2)(3)(4) and (5)]
 - If a prospective adoptive parent has a foster care background study conducted for a current child foster care license and is seeking to adopt a foster child in their home, an adoption background study is not required, if specific conditions are met. [Minn. Stat., section 245C.33, subd. 1 (a)(1)(2) and (3)]
- The information in the second step is about the care provider, but is dependent on information about a child, specifically whether or not a prospective care provider is able to meet a child's needs. Be as detailed as possible about the prospective parent's strengths, areas of concern and capacities.
- The information in this step will change for each prospective parent, based on how the identified qualities of the prospective foster and/or adoptive parent(s) enable them to meet a child's needs.

- III. Third step in making a placement decision – **Document:**
- **Document** the individualized determination of a child’s needs based on the 10 best interest factors, and the assessment of how the *selected* placement meets a child’s needs.
 - Responsible social services agencies must document in a child’s county case file the reason for **every** child placement decision, both foster care and adoption.
[Minn. Stat., sections 260C.212, subd. 1(c)(1), and 260C.613, subd. 5]
- IV. Where to document foster care or adoption placement decisions:
- The Out-of-home Placement Plan (OHPP) includes a section to document placement decisions. The OHPP must be completed within 30 days of a child’s placement and updated every six months. It must also be submitted to the court for approval at every hearing.
[Minn. Stat., section 260C.212, subd. 1(c)(1)]
- V. Making an adoptive placement:
- Before formalizing an adoptive placement, the responsible agency must have received and reviewed the prospective adoptive parent’s home study, including required background studies, and provided the prospective adoptive parent a copy of the child’s social and medical history, required under Minn. Stat., sections 260C.609 and 259.43.
 - The responsible social service agency makes an adoptive placement by entering into an Adoption Placement Agreement (APA) with prospective adoptive parent(s) and submitting the APA plus the Adoption Placement Decision Summary and supporting documentation to the department.
[Minn. Stat., section 260C.613, subd. 1]
 - Required forms to be completed:
 - [Adoption Placement Agreement, \(DHS 0312\)](#)
 - [Adoption Placement Decision Summary, \(DHS 0312A\)](#).
 - Supporting documentation:
 - Current Out-of-home Placement Plan (OHPP)
 - Adam Walsh-compliant background study, including law enforcement and social service (maltreatment) findings for each required household member, as required by Minn. Stat., section 245C.33
 - Social and Medical History for a Child in Foster Care (DHS-6754A), **OR** Birth Parent Social and Medical History (DHS-3205) **AND** Background and Health History – All Children in Out-of-home Care (DHS-3235)
 - Court order relieving an agency of relative search efforts, if applicable
 - Court order approving sibling separation, if applicable.
 - This adoptive placement process applies to **every** child under guardianship of the commissioner.
- VI. Creating adoptive placement verification in Social Services Information System (SSIS):
- Responsible social service agencies must enter and verify information in SSIS to indicate an adoptive placement has been made.
 - SSIS data entry must be done at the same time the APA and Adoption Placement Decision Summary, according to **procedure V**, are sent to the department.
 - Data verified in SSIS-Worker (county) will automatically be submitted electronically to SSIS-DHS (state).
- VII. Commissioner’s review of an adoptive placement:
- Minnesota Department of Human Services, Permanency Support Unit, staff with delegated authority by the commissioner, review adoptive placements for **all** children under the commissioner’s guardianship to determine whether it is appropriate to sign the Adoption Placement Agreement (DHS 0312), making it a fully executed agreement.
 - This review ensures that the department has received all required documentation:
 - **Child’s identity and guardianship status:**
 - Child’s birth certificate

- Permanency court order (Termination of Parental Rights or court's acceptance of a parent's consent to adopt, pursuant to Minn. Stat., section 260C.515, subd. 3)
- Court order transferring guardianship to the commissioner.

Data has been entered into SSIS that verifies:

- Parent resolution and guardianship status
- Sibling details
- State Adoption Exchange details
- Adoptive placement event.

County's adoptive placement decision:

- [Adoption Placement Agreement, \(DHS 0312\)](#)
- [Adoption Placement Decision Summary, \(DHS 0312A\)](#)
- All documentation required to accompany DHS 0312A.
- Department staff will contact the responsible social service agency if additional or clarifying information or documentation is needed to make a determination.
- Department staff's review of the responsible social service agency's placement decision is to determine if the agency *considered* applicable statutes in making the placement decision. The main statutes that must be considered are related to: (1) Relative searches and relative placement considerations; (2) Sibling placement considerations; and (3) An individualized determination of a child's needs based on the 10 best interest factors, and an assessment of how the selected placement meets a child's needs.

VIII. Prospective adoptive parent with significant criminal or maltreatment history:

- If a prospective adoptive parent's background study, required by Minn. Stat., section 245C.33, reveals significant criminal history, including but not limited to a conviction for a barrier crime outlined in **procedure IX**, a substantiated child or adult maltreatment finding, or for another reason has been denied a foster care license or would be barred from licensure should an application be made, the responsible social service agency must provide the department additional documentation of the placement decision, as required in **procedure X**.
- If a prospective adoptive parent has a barrier crime under Minn. Stat., sections 256N.23, subd. 4, or 259A.10, subd. 4, and outlined in **procedure IX**, the parent is not eligible to receive adoption assistance, either Title IV-E or non-Title IV-E, on behalf of an otherwise eligible child.

IX. Barrier crimes to adoption assistance:

- Felony conviction at any time for: Child abuse or neglect; spousal abuse; crime against a child, including child pornography; or crime involving violence, including rape, sexual assault or homicide, but not other physical assault or battery.
- Felony conviction within the past five years for: Physical assault; battery; or a drug-related offense.

X. Additional placement decision documentation is required to be provided to the department if a prospective adoptive parent has a significant criminal history, substantiated maltreatment finding, or has been denied, or would be prohibited from receiving, a foster care license. This documentation should be reported in Section G of the *Adoption Placement Decision Summary (DHS-0312A)*, and must include:

- Description of the previous crime, maltreatment finding or issue, including specific details of the incident, when it happened, any extenuating circumstances related to the incident, and the punishment/sentence or other outcome
- Explanation of the person's current status, including specific details regarding how the person has overcome the incident
- Detailed assessment why adoption by this person is in the child's best interests in spite of the person's criminal or maltreatment history.

XI. Commissioner's approval or denial of adoptive placement:

- If placement is approved, department staff with delegated authority will sign the Adoption Placement Agreement. Once staff the commissioner's delegated authority signs the document, it is

a fully executed Adoption Placement Agreement. The department will keep a copy in its records and send the original and one copy to the responsible social service agency.

- The responsible social service agency must keep the copy for their county records and forward the original to the pre-adoptive parent(s).
- The responsible social service agency must notify the court and parties entitled to notice, according to Minn. Stat., section 260C.607, subd. 2, when there is a fully executed Adoption Placement Agreement.
[Minn. Stat., section 260C.613, subd. 1(c)]
- If placement is denied, department staff will send the responsible social service agency written notice.

XII. Department adoption program staff members are available for consultation on, and review of, adoptive placements and adoption assistance applications. Caseloads are divided by counties. If not sure which department adoption program consultant is assigned to your county, contact Julie Dutcher at 651-431-4682, or julie.dutcher@state.mn.us.

XIII. Send required forms and documentation regarding adoption placements to:

Mail: Minnesota Department of Human Services
Permanency Support Unit
P.O. Box 64944
St. Paul, MN 55164-0944
Fax: 651-431-7627

Form(s) that apply

[Adoption Placement Agreement for a Child Under Guardianship of the Commissioner \(DHS 0312\)](#)

[Adoption Placement Decision Summary for a Child Under Guardianship of the Commissioner \(DHS 0312A\)](#)

Related Policies and References

None

Training

None

Legal Authority

Minn. Stat., section 259A.01, subd. 23
Minn. Stat., section 259A.10, subd. 4
Minn. Stat., section 260C.007, subd. 27a
Minn. Stat., section 260C.201, subd. 1 (a)(2)(ii)
Minn. Stat., section 260C.212, subd. 1 (c)(1)
Minn. Stat., section 260C.212, subd. 2
Minn. Stat., section 260C.603, subd. 8
Minn. Stat., section 260C.613
Minn. Stat., section 260C.615
Minn. Stat., section 393.07, subd. 2
Minn. Rule 9560.0060, subp. 2, D

Standards

None

Definitions

Adoption Placement Agreement: The written agreement, on the commissioner's designated format, between the responsible social service agency, the commissioner and adopting parent(s), which reflects the intent of all the signatories to the agreement that the adopting parent(s) establish a parent and child relationship by adoption with a child under guardianship of the commissioner.

Child under guardianship of the commissioner: An individual under 18 years of age, who is under guardianship of the commissioner of the Minnesota Department of Human Services by court order, pursuant to Minn. Stat., section 260C.325.

Pre-adoptive parent: An adult who has signed an Adoption Placement Agreement regarding a child. This has the same meaning as adopting parent.

Prospective adoptive parent: An individual who may become a pre-adoptive parent, regardless of whether the individual has an adoption home study approving the individual for adoption, but who has not signed an Adoption Placement Agreement.

Responsible social service agency: The county social service agency that has legal and financial responsibility for care, custody and control of a child.

Policy Contact

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This policy and its procedures remain in effect until rescinded or updated.