Policy on adoptive placement decisions for children under guardianship of the commissioner

Overview

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

Reason for policy

This policy ensures that adoptive placement decisions are made in a child’s best interest, in consideration of all applicable statutes.

Applicability

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

Policy

I. Legal authority for adoptive placement decisions

1. The commissioner of human services supervises county social service agencies in their administration of Minnesota’s public child welfare program, including adoption of children under guardianship of the commissioner. [Minn. Stat., sections 393.07, subds. 1 (a) and 2; and 260C.615, subd. 2]
   a. County social service agencies act as agents of the commissioner in making reasonable efforts to finalize adoptions of children under guardianship of the commissioner. [Minn. Stat., sections 393.07, subd. 2; 260C.325, subd. 4 (e); 260C.601, subd. 2; 260C.605, subd. 1; and 260C.613]
   b. County social service agencies have exclusive authority to make adoptive placement decisions for children under guardianship of the commissioner. [Minn. Stat., section 260C.613, subd. 1(a)]
   c. The commissioner, through delegated authority to department staff, has an obligation to review and process Adoption Placement Agreements (APA) submitted to the commissioner by county social service agencies, and return them in a timely manner. [Minn. Stat., section 260C.615, subd. 1 (b)(3)]

II. Adoptive placement decision factors

1. Adoptive placement decisions must be made according to a child’s best interests. To ensure a child’s best interests are met, the law requires an individualized determination of a child’s current and future needs and an assessment of how a selected adoptive placement is willing and able to meet their current and future needs. [Minn. Stat., sections 260C.212, subd. 2; 260C.605, subd. 1 (b); and 260C.613, subd. 1 (b)]

2. County social service agencies must consider certain factors when determining a child’s current and future needs. Agencies cannot use one of these factors to the exclusion of all others, and must consider that these factors may be interrelated, when making adoptive placement decisions. These factors, known as the best interest factors, are a child’s: [Minn. Stat., sections 260C.212, subd. 2 (b); 260C.605, subd. 1 (b)]
   a. Current functioning and behaviors
   b. Medical needs
   c. Educational needs
   d. Developmental needs
   e. History and past experience
   f. Religious and cultural needs
   g. Connection with a community, school, and faith community
   h. Interests and talents
   i. Current and long-term needs regarding relationships with parents, siblings, relatives, and other caretakers
   j. Reasonable preference, if the court deems a child to be of sufficient age to express preferences
   k. Best interests according to the best interests of an Indian child as defined in MIFPA, if the child is an Indian child.

3. County social service agencies must consider relatives for adoptive placement of a child, consistent with a child’s best interests, prior to considering non-relatives. [Minn. Stat., sections 260C.212, subd. 2(a); 260C.221, subd. 4 (e); 260C.605, subd. 1 (d)(4); 260C.613, subd. 1 (c)]
   a. Relatives must be considered in the following order:
      1) A person related to a child through blood, marriage or adoption, including a legal parent, guardian, or custodian of a child’s sibling
      2) An important friend of a child or their parent or custodian, including a person with whom a child has resided or had significant contact, or who has a significant relationship to a child or their parent or custodian.
   b. For American Indian children, adoptive placements must follow the adoptive placement preference order specified under the ICWA, indicated below. Before a child may be placed for adoption outside of the established adoptive placement preference order, the court must
determine there is good cause to deviate from the order, according to MIFPA requirements. [25 U.S.C. § 1915; Minn. Stat., section 260.771, subd. 7]

1) Adoptive placement preference order as established by a child’s tribe, if an order has been established by the tribe

2) Member of the child’s extended family

3) Other members of the Indian child’s tribe

4) Other Indian families.

4. Placement of a child for adoption cannot be delayed or denied based on race, color, or national origin of a prospective adoptive parent or child. [Minn. Stat., sections 260C.212, subd. 2 (c); and 260C.613, subd. 4; 42 U.S.C. 671 (a)(18)(B)]

5. Siblings must be placed together for adoption, unless a sibling separation proposal has been reviewed by the court, and the court determines placement together is not in the best interests of at least one of the siblings, or it is not possible after reasonable efforts by the county social service agency. [Minn. Stat., sections 260C.212, subd. 2(d); 260C.605, subd. 1 (d)(10); 260C.613, subd. 3; and 260C.617; Policy on Sibling Placement, Separation, Visitation, and Contact]

6. County social service agencies must document their reasons for an adoptive placement decision for a child in the child’s adoption record, including:
   a. Individualized determination of a child’s needs
   b. Agency’s consideration of relatives, in the order specified by law, for adoptive placement
   c. Assessment of how the selected adoptive placement will meet the child’s identified needs.

   [Minn. Stat., section 260C.613, subd. 5]

III. Adoptive placement requirements

1. County social service agencies cannot place a child under guardianship of the commissioner into a home for adoption unless the prospective adoptive parent has a completed adoption home study approving placement of the child into their home for adoption. An approved adoption home study includes state- and federally compliant background studies completed on each prospective adoptive parent and all required household members. An adoption home study is valid if the written report was completed or updated within the previous 12 months of the adoptive placement. [Minn. Stat., sections 260C.212, subd. 2 (e); 260C.611; and 245C.33, subd. 1 (a)]
   a. If a prospective adoptive parent has a current child foster care license, and is seeking to adopt a child placed with them for foster care, the child foster care home study meets the requirements for an adoption home study, and a new background study is not required, provided specific conditions are met:
      i. The written home study on which the foster care license was based is completed in the commissioner's designated format, consistent with statutory adoption and foster care home study requirements.
ii. Background studies on each prospective adoptive parent and all required household members were completed according to Minnesota Statutes, section 245C.33:
   1. A background study was completed on persons required to be studied under Minnesota Statutes, section 245C.03, in connection with the application for child foster care licensure after July 1, 2007
   2. Each background study included a review of the information in Minnesota Statutes, section 245C.08, subdivisions 1, 3, and 4
   3. As a result of the background study, the individual was either not disqualified or, if disqualified, the disqualification was set aside under Minnesota Statutes, section 245C.22, or a variance was issued under Minnesota Statutes, section 245C.30.

iii. The commissioner has not issued, within the last three years, a sanction on the license under Minnesota Statutes, section 245A.07, or an order of a conditional license under Minnesota Statutes, section 245A.06.

iv. The legally responsible agency determines that the individual needs of the child are being met by the prospective adoptive parent.

2. The commissioner, through delegated authority to department staff, is required to be a signatory to all APAs for children under guardianship of the commissioner. Children are not considered placed for adoption until all parties to an APA have signed the agreement. [Minn. Stat., sections 260C.613, subd. 1 (a); and 260C.615, subd. 1 (b)(3)]

Procedures

I. Individualized determination of child’s current and future needs

1. Identify a child’s current and future needs using the best interest factors outlined in Policy, Section II.2.
   a. Because this individualized determination will be used to make a permanent adoptive placement decision, it is important to identify both a child’s short-term and long-term needs.
   b. Each factor must be considered; one factor cannot be used to justify a placement decision to the exclusion of all other factors. Factors may also be interrelated.
   c. There is no statutory preference or weight assigned to any one factor. When determining a child’s individualized needs, some factors may weigh more heavily for one child than they do for another.

2. Once identified, document a child’s needs in their out-of-home placement plan by describing how each of the best interest factors relates to that specific child.
   a. Information should include a child’s strengths as well as short- and long-term needs. Those needs may be typical or atypical for other children of the same age.
   b. Be as descriptive as possible. This description is of a child’s needs, and not dependent on a particular care provider.

3. Review and update individualized determinations of children’s needs as needed throughout a child’s case. Reviews should occur as a child gets older and whenever there are significant changes or experiences they encounter.
II. Assessment of prospective adoptive parent’s ability to meet current and future needs

1. Gather and review information known about each prospective adoptive parent to assess how each provider is or is not able to meet a specific child’s current and future needs, using the individualized determination of that child’s current and future needs completed according to Procedures Section I.
   a. Information about a prospective adoptive parent should be obtained through a completed adoption home study (or, if applicable, the home study used for foster care licensure), including background studies completed as part of the home study assessment process, and any other information available.
   b. While the individualized determination of a child’s needs is used during the assessment process of an adoptive placement decision, the assessment itself is about a prospective adoptive parent and their ability to meet a child’s needs. It is important to be as detailed as possible in gathering information about and assessing a prospective adoptive parent’s strengths, areas of concern, and capacities.
   c. The information from the assessment will change for each prospective adoptive parent, based on how the identified qualities of a prospective adoptive parent enables them to meet a child’s needs.

2. Consider each prospective adoptive parent’s ability and willingness to meet a child’s short- and long-term needs. Children’s needs change and develop as they grow older; it is important to factor this into a permanent placement decision.

3. Review background study information received from each prospective adoptive parent and required household member.
   a. If a prospective adoptive parent’s background study reveals significant criminal or maltreatment history, or criminal or maltreatment history is discovered through the home study assessment process, agency staff must provide Permanency Support unit staff additional information and/or documentation as indicated in the Adoption Placement Decision Summary (APDS).

III. Additional placement considerations

1. Consider relatives for adoptive placement prior to considering non-relatives, and in the order specified in Policy Section II.3.
   a. Any relative who wishes to be considered for adoptive placement of a child must be considered for adoptive placement, even if they were previously ruled out by the agency or court as a suitable foster parent.
   b. Individuals related by blood, marriage, or adoption, including adult siblings, as well as legal parents, guardians, or custodians of a child’s siblings, must be considered for adoptive placement before considering individuals who are important friends of a child or child’s parents or custodians, those with significant relationships to a child or their parents or custodians, and those with whom a child has resided or had significant contact, such as current or former foster parents.
   c. An agency may not rule out a relative based solely on the fact that the relative has not provided, or is not currently providing, care for the child, and/or is not currently aware of a child’s needs.
and what is needed to meet those needs. An agency must assess the relative’s capacity to meet a child’s needs, should the relative become the child’s adoptive parent.

d. Relatives must be considered regardless of the state or country in which they live. An agency must submit an Interstate Compact on the Placement of Children (ICPC) request for relatives who wish to be considered for placement if they live in a state other than Minnesota. Relatives who live outside of the United States can be directed to home study agencies who work with individuals in the country in which the relative lives.

2. Make every effort to place siblings together for adoption. See Policy on Sibling Placement, Separation, Visitation, and Contact (CountyLink).

IV. Making an adoptive placement and informing the commissioner

1. Ensure the prospective adoptive parent/s have a current, unexpired adoption home study (or child foster care license), including background study clearance/s, that meets requirements outlined in this policy.

2. Provide full disclosure of the child’s needs to the prospective adoptive parent/s before signing an APA. This includes giving them a redacted copy of the child’s social and medical history. See Policy on Providing Full Disclosure to Prospective Adoptive Parents of Children under Guardianship of the Commissioner (CountyLink).
   a. It is important to allow enough time for prospective adoptive parent/s to review information and ask questions. Adoption is a permanent, life-long decision. It should not be rushed. This also gives an agency time and the ability to provide additional resources around adoption and the child’s needs to prospective adoptive parent/s as may be needed or requested.
   b. After signing an APA, ongoing disclosure to a child’s adopting family should occur as new information becomes known to the agency.

3. Document reasons for a child’s adoptive placement decision per Policy Section II.6.
   a. Agency staff are required to document an adoptive placement decision in a child’s out-of-home placement plan (OHPP), in the section for documenting placement decisions.
   b. Agency staff may also document an adoptive placement decision in a child’s APDS that is submitted with a child’s APA.

4. Formalize an adoptive placement by entering into an APA with prospective adoptive parent/s. Once prospective adoptive parent/s are committed to adopting a child, legally responsible agency staff and prospective adoptive parent/s sign an APA. Child must be legally free for adoption at the time of signing an APA.

5. Create adoptive placement verification in Social Services Information System (SSIS) after signing an APA, but before submitting it with the APDS and supporting documentation to Permanency Support unit staff. See SSIS Adoption Workflow (CountyLink).

6. Submit the following forms and supporting documentation to the agency’s assigned records and eligibility consultant within the Permanency Support unit, either via secure email or Attached Documents in SSIS.
   a. Adoption Placement Agreement (DHS-0312), signed by agency staff and adopting parent/s on or after child became legally free for adoption
   b. Adoption Placement Decision Summary (DHS-0312A)
i. Current OHPP, if submitting in place of filling out sections A and B of the APDS

c. Child’s birth certificate (or if not available, other document verifying child’s identity and parentage)

d. State- and federally compliant background study for each adopting parent and required household member

e. Social and Medical History for a Child in Foster Care (DHS-6754A); do not include attachments

f. As applicable:
   i. Court order terminating parental rights
   ii. Court order accepting a parent’s consent to adoption, as well as the parental consent to adoption
   iii. Court order and/or other documentation verifying a parent’s death (such as a death certificate or obituary)

  g. Court order granting guardianship to the commissioner of human services

h. Court order approving agency’s sibling separation proposal, if applicable. See Policy on Sibling Placement, Separation, Visitation, and Contact (CountyLink).

V. Commissioner’s review of an adoptive placement

1. Permanency Support unit staff with delegated authority by the commissioner review submitted APAs with supporting documentation.

   a. Unit staff are available for consultation on, and review of, adoptive placements and Northstar Adoption Assistance applications. Caseloads are divided by counties. Email the Permanency Quality Assurance Team (PQAT) at northstar.benefits@state.mn.us if you are not sure which unit staff is assigned to your county.

   b. This review is to ensure that:
      i. Child is legally free for adoption
      ii. Agency considered applicable statutes and policies in making an adoptive placement decision
      iii. Adoptive placement decision was made based on a child’s best interests in accordance with requirements outlined in this policy and the law
      iv. Department received statutorily required documents.

   c. The main statutes that must be considered are related to:
      i. Relative search, engagement, and placement considerations
      ii. Sibling placement considerations
      iii. ICWA and MIFPA compliance
      iv. An individualized determination of a child’s needs based on the best interest factors
      v. An assessment of how the selected adoptive placement meets a child’s needs
      vi. Adoptive placement requirements, including home study and background study requirements
      vii. Adoption record requirements.

2. Unit staff will contact agency staff if additional or clarifying information or documentation is needed to make a determination.

3. If placement is approved:
a. Unit staff with delegated authority will sign the APA. This makes it a fully executed APA. The department will maintain a copy in the child’s SSIS-DHS case record and email a copy to the responsible social service agency.

b. The responsible social service agency must maintain a copy for their county records and send a copy to the pre-adoptive parent/s.

c. The responsible social service agency must notify the court and parties entitled to notice when there is a fully executed APA.

4. If placement is denied, unit staff will send the responsible social service agency written notice, including reason/s for denial.

**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**

*Policy on Sibling Placement, Separation, Visitation, and Contact*

*Policy on Providing Full Disclosure to Prospective Adoptive Parents of Children under Guardianship of the Commissioner*

**Training**

None

**Legal Authority**

Minn. Stat., section 245C.33, subd. 1 (a)
Minn. Stat., sections 260.751 through 260.835
Minn. Stat., section 260C.212, subd. 1 (c)(1)
Minn. Stat., section 260C.212, subd. 2
Minn. Stat., section 260C.325
Minn. Stat., section 260C.601
Minn. Stat., section 260C.609
Minn. Stat., section 260C.611
Minn. Stat., section 260C.613
Minn. Stat., section 260C.615
Minn. Stat., section 393.07, subd. 2
Standards

None

Definitions

**Adopting parent:** An adult who has signed an Adoption Placement Agreement regarding a child. This has the same meaning as preadoptive parent.

**Adoption Placement Agreement (APA):** The written agreement between the responsible social services agency, the commissioner, and the adopting parent/s that 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. The APA must be in the commissioner’s designated format.

**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.

**Prospective adoptive parent:** An individual who may become an adopting parent, regardless of whether the individual has an adoption home study approving the individual for adoption, but who has not signed an APA.

**Relative:** A person related to the child by blood, marriage, or adoption; the legal parent, guardian, or custodian of the child's siblings; or an individual who is an important friend of the child or of the child's parent or custodian, including an individual with whom the child has resided or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

**Responsible social service agency:** The county social services agency that has responsibility for public child welfare and child protection services and includes the provision of adoption services as an agent of the commissioner of human services.

**Sibling:** One of two or more individuals who have one or both parents in common through blood, marriage, or adoption. This includes siblings as defined by the child’s tribal code or custom. Sibling also includes an individual who would have been considered a sibling but for a termination of parental rights of one or both parents, suspension of parental rights under tribal code, or other disruption of parental rights such as the death of a parent.

Policy Contacts

Heidi Ombisa Skallet, heidi.ombisa.skallet@state.mn.us

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