

# Foster Care Services Permanency Planning

## Service Chapter 624-05

**North Dakota Department of Human Services  
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Bismarck, ND 58505-0250**

## **FOSTER CARE SERVICES – PERMANENCY PLANNING**

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## **Foster Care Services Permanency Planning 624-05**

### **Definitions 624-05-05**

**(Revised 1/15/21 ML #3606)**

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1. "Abandon" means:
  - a. As to a parent of a child not in the custody of that parent, failure by the non-custodial parent significantly without justifiable cause:
    - i. To communicate with the child; or
    - ii. To provide for the care and support of the child as required by law; or
  - b. As to a parent of a child in that parent's custody:
    - i. To leave the child for an indefinite period of time without making firm and agreed plans, with the child's immediate caregiver, for the parent's resumption of physical custody;
    - ii. Following the child's birth or treatment at a hospital, to fail or arrange for the child's discharge within ten days after the child no longer requires hospital care; or
    - iii. To willfully fail to furnish food, shelter, clothing, or medical attention reasonably sufficient to meet the child's needs.
2. "Abandoned Infant" means a child who has been abandoned before reaching the age of one year.
3. "Active Efforts (ICWA)" means affirmative, active, thorough, and timely efforts intended primarily to maintain the child in the home, prevent removal of the child from the child's family, or, after removal, or reunite an Indian child with his or her family.
4. "Administrative Review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of or the delivery of services to, either the child or the parents who are the subject of the review.
5. "Age-Appropriate" means activities or events that are generally accepted as suitable for children of the same chronological age or level

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of maturity. Age appropriateness is based on the development of cognitive, emotions, physical, and behavioral capacity that is typical for an age group.

6. "Agency" means the North Dakota Department of Human Services, Children and Family Services Division or its designee, including any Human Service Zone.
7. "Aggravated Circumstances" means circumstances in which a parent:
  - a. Abandons, tortures, chronically abuses, or sexually abuses a child;
  - b. Fails to make substantial, meaningful efforts to secure treatment for the parent's addiction, mental illness, behavior disorder, or any combination of those conditions for a period equal to the lesser of:
    - i. One year; or
    - ii. One-half of the child's lifetime, measured in days, as of the date a petition alleging aggravated circumstances is filed.
  - c. Engages in sex offenses in which a child is the victim or intended victim, including corruption or solicitation of a minor, use of a minor in a sexual performance, sexual exploitation or assault, or incest (prohibited under sections 12.1-20-01 through 12.1-20-08 or chapter 12.1-27.2);
  - d. Engages in conduct that constitutes one of the following crimes, or of an offense under the laws of another jurisdiction which requires proof of substantially similar elements;
    - i. Murder, manslaughter, or negligent homicide (violations of section 12.1-16-01, 12.1-16-02, or 12.1-16-03);
    - ii. Aiding, abetting, attempting, conspiring, or soliciting murder, manslaughter, or negligent homicide (violations of section 12.1-16-01, 12.1-16-02, or 12.1-16-03); or
    - iii. Aggravated assault in which the victim has suffered serious injury (violation of section 12.1-17-02).
  - e. Engages or attempts to engage in simple assault, aggravated assault, reckless endangerment or terrorizing in which a child is the victim or intended victim (prohibited under sections 12.1-17-01 through 12.1-17-04); or
  - f. Has been incarcerated under a sentence for which the latest release date is:
    - i. In the case of a child age nine or older, after the child's majority; or

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- ii. In the case of a child, after the child is twice the child's current age, measured in days.
8. "Babysitting" is short-term care of foster children when the foster parents are temporarily away, however still available to respond if needed. A babysitter can be a responsible individual, between the ages of 14 and 21, secured to provide care and supervision for no more than eight consecutive hours in one day.
9. "Child" means an individual who is:
  - a. Under the age of eighteen years and is neither married and cohabiting with spouse nor in the military services of the United States; or
  - b. Under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years.
10. "Child care (daycare)" is planned care for a child required ongoing while the foster parents are at work, school, or otherwise engaged on a regular basis. If ongoing child care is needed, foster parents can be approved for reimbursement following policy set forth in Maintenance Chapter 623-05.
11. "Deprived child" means a child who:
  - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
  - b. Has been placed for care or adoption in violation of law
  - c. Has been abandoned by the child's parents, guardian, or other custodian;
  - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is required by a parent; or
  - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court.



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12. "Domicile (ICWA)" the domicile of an Indian parent or custodian's domicile is on the reservation; meaning their residence with intent to stay, or return.
13. "Fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under section 23 of this Act, to be a qualified person under Chapter 30.1-27, and who consents in writing to act as a legal guardian.
14. "Financially Responsible County" is the county where the child's parent has residence at the time of court intervention. The county of financial responsibility could change after a 60-day lapse in placement. If the parents do not have residence in North Dakota, then the financial responsibility exists in the county where the child resided at the time of court intervention. (Definition developed by county directors, 1997).
15. "Foster Care For Children" means the provision of substitute parental child care to those children described in Subsection vi of Section 50-09-01 of N.D.C.C. and includes the provision of food, shelter, security and safety, guidance and comfort on a 24-hour basis, to one or more children under 21 years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a licensed family foster home, group home, or residential child care facility.
16. "Foster Family Home" means an occupied family residence in which foster care is regularly provided by the owner or leasee thereof to no more than four children, unless all of the children in foster care are related to each other by blood or marriage in which case such limitations shall not apply.
17. "Federally Recognized Tribe" means any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native Village. 25 U. S. C. 1903(8)
18. "Group Home" means a licensed or approved residence in which foster care is regularly provided to at least four, but fewer than thirteen,

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unrelated children.

19. "Home" when used in the phrase "to return home" means the abode of the child's parent with whom the child formerly resided.
20. "Indian child" means any unmarried person who is under age eighteen and is either (a) a member or citizen of an Indian Tribe or (b) is eligible for membership or citizenship in an Indian Tribe and is the biological child of a member/citizen of an Indian Tribe. 25 U.S.C. § 1903 (4); 25 C.F.R. § 23.2. A child who meets this definition is subject to ICWA.
21. "Indian child's Tribe" means (a) the Indian Tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one Tribe, the Indian Tribe with which the Indian child has the more significant contacts. 25 U.S.C. § 1903(5).
22. "Imminent risk of serious harm" (used in risk only intakes and coordination with law enforcement) means:
  - a. Imminent - Having the potential to occur at any moment, or there is substantial likelihood that harm will be experienced.
  - b. Risk of Serious Harm - A high likelihood of a child being abused or experiencing negligent treatment or maltreatment that could result in one or more of the following outcomes:
    - i. Death
    - ii. Life endangering illness
    - iii. Injury requiring medical attention
    - iv. Substantial risk of injury to the physical, emotional, or cognitive development
23. "Normalcy" means giving children in foster care the opportunity to engage in typical growth and development. This includes the participation in age- appropriate activities, responsibilities and life skills.
24. "Permanency hearing" means a (judicial or Division of Juvenile Services [DJS] administrative hearing pursuant to N.D.C.C. 27-20) hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
  - a. Whether and, if applicable, when the child will be returned to the parent;

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- b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
  - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
  - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
  - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
  - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child is age sixteen or greater and placed in another planned permanent living arrangement;
  - g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether the out-of-state placement have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
  - h. In the case of a child who has attained age fourteen, the services needed to assist the child to make the transition from foster care to successful adulthood.
25. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
26. "Qualified Expert Witness (QEW)" means an individual qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. A QEW may be designated by the Indian child's Tribe, but ultimately is

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the responsibility of the custodial agency and/or court to secure QEW's for ICWA cases. The caseworker regularly assigned to the Indian child may not serve as a QEW in child-custody proceedings concerning the child.

27. "Qualified Residential Treatment Program" means a licensed or approved residence providing an out-of-home treatment placement for children.
28. "Reasonable and Prudent Parent Standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child participating in extracurricular, enrichment, cultural, and social activities.
29. "Reasonable efforts" means the exercise of due diligence by the agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family, or, after removal, to use appropriate and available services to eliminate the need for removal and to reunite the child and the child's family and to maintain family connections. If the child cannot return home, the agency must make reasonable efforts to make and finalize an alternate permanent placement of the child, including identifying appropriate in-State and out-of-State options. In the case of siblings removed from their home and not jointly placed, frequent visitation or interaction must be provided, unless it is contrary to the safety or well-being of any sibling. In making reasonable efforts and in determining reasonable efforts, the child's health and safety must be the paramount concern.
30. "Relative" means:
  - a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
  - b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
  - c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or

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- d. The child's stepparent.
- 31. "Respite care" is temporary relief care for a child with special medical, emotional or behavioral needs, which requires time-limited supervision and care by another licensed foster parent. Respite care cannot exceed 96 hours and is reimbursable through a formal agreement (SFN 929) pre-approved by a regional representative.
- 32. "Substitute care" is temporary care of foster children when the foster parents are unavailable to provide supervision and care for more than a portion of one day.
- 33. "Substitute caregiver" is a responsible adult, age 21 or older, temporarily providing care for a foster child in the absence of the foster parents for a portion of one day. If time exceeds one day, a licensed foster parent must provide substitute care if the primary foster parents are unavailable.

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### **Authority References 624-05-10**

**(Revised 12/1/15 ML #3461)**

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1. Chapter 50-11 of the North Dakota Century Code
2. Chapter 50-09 of the North Dakota Century Code
3. Chapter 27-20 of the North Dakota Century Code
4. Chapter 50-06 of the North Dakota Century Code and NDDHS Manual Chapter 110-01 (Confidentiality)
5. Title IV-B of the Social Security Act (SSA)
6. Title IV-A/E of the Social Security Act
7. Public Law 103-432 (SSA Amendments)
8. Adoption and Safe Families Act of 1997 (ASFA), P.L. 105-89.
9. N.D.A.C. 75-03-14-06. Permanency Planning.
10. Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)
11. Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)

## **Permanency Planning 624-05-15-10**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Permanency planning requires the foster care case manager to engage with the Child and Family Team to develop a goal for the child, tasks to achieve the goal, and defined roles and the responsibilities of all parties involved. Planning for a child's permanency includes activities to maintain children with their families or place them in the least restrictive most appropriate out of home placement, while maintaining or establishing meaningful connections in the child's life. Permanency varies depending on the child, family, and case circumstances, each case is unique and must be planned for accordingly.

Foster care case managers use a variety of strategies to achieve timely permanency for children. When children are placed in foster care it is important that custodial agencies seek a safe and stable placement as quickly as possible. In most circumstances, children can be reunited with their families, but permanency for some children includes identifying alternate long-term options. In North Dakota, the priority (supported by federal regulation) is to achieve permanency or reunify the child/ren within 12 months of removal. Reunification can occur prior to court order expiration as long as reasonable or active efforts are made to ensure the child's health and safety can be maintained in the home. If reunification is not possible, then reasonable or active efforts must be made to permanently place the child with a fit and willing relative, obtain a legal guardian, or seek an adoptive home, if the child is free for adoption.

**Court Proceedings 624-05-15-12****(NEW 1/15/21 ML #3606)**[View Archives](#)

Federal law, North Dakota law, administrative code and policy provides foster care case managers guidance for achieving permanency. Juvenile Court hearings are scheduled to review each case and to determine the permanency of foster children placed in out of home care.

**Pertinent federal laws involving court involvement:**

1. *Federal Title IV-E regulations 472(a)(2)(A)(ii)* of the Social Security Act (the Act) or regulations at 45 CFR 1356.21(b) detail specific court order language required for foster care.
2. *Adoption and Safe Families Act (ASFA)* of 1997 (P.L. 105-89) amended title IV-E of the Social Security Act in an effort to provide added safety and permanency for children in out-of-home care. ASFA placed an emphasis on improving planning and expediting decision-making for the permanent placement of children in the child welfare system.
3. *Fostering Connections to Success and Increasing Adoptions Act of 2008* (P.L. 110-351) added emphasis in the court room for sibling placements, guardianships and extended foster care options through 18+ Continued Care.
4. *Child and Family Services Improvement and Innovation Act* (P.L. 112-34) encouraged states to collaborate with the Court Improvement Program to improving court engagement with families.
5. *Preventing Sex Trafficking and Strengthening Families* P.L. 113-183 (2015) added specific language for judges to address Another Planned Permanent Living Arrangement (APPLA) directly with the youth and required the youth be at least age 16 if APPLA is the desired permanency plan.
6. *Indian Child Welfare Act (ICWA) (1978 and 2018)* federal law that governs the removal and out-of-home placement of American Indian children. ICWA established court requirements and practice standards for the placement of Indian children in foster and adoptive homes.
7. *Family First Prevention Services Act* (2018) further challenges placement decisions by requiring a 60-day court review for children placed in a qualified residential treatment program (QRTP) facility.



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Foster care case managers are responsible to work with the local State's Attorney assigned to the foster care case to ensure all paperwork is submitted timely to Juvenile Court. The foster care case manager must prepare a detailed affidavit with proper language and file it with the State's Attorney. Upon receipt, the State's Attorney will petition the court for a hearing and all notices are served to the parties involved. Foster care case managers must be prepared to present to the court all evidence about a child's removal from the home, services provided to prevent removal or return the child to their home, as well as any updates regarding the case plan/goal.

## **Child Welfare Court Hearings 624-05-15-13**

**(NEW 1/15/21 ML #3606)**

[View Archives](#)

A legal proceeding is a procedure or action established in a court of law to acquire a right, interest or benefit or to reinforce a remedy. Foster care case managers will engage in various types of court hearings.

### **Temporary Custody Order (TCO)**

The purpose of the temporary custody order is to remove the child from an unsafe situation with support from Juvenile Court until a shelter care hearing can occur.

1. A removal from the home can be authorized by law enforcement or a TCO must be issued by the Director of Juvenile Court (or designee).
2. If removal is authorized verbally, a TCO must be in writing within 24 hours.
3. Paperwork Requirements
  - a. Agency affidavit to request shelter care must be submitted to the Juvenile Court asap.
  - b. Juvenile Court will need documentation to create a court file and schedule a shelter care hearing.

### **Shelter Care Hearing**

The purpose of the shelter care hearing is to determine whether there is probable cause to believe the child is delinquent, unruly or deprived and if shelter care is required to protect the child, because the child may abscond or no parent/guardian is available to care for the child. The shelter care hearing is to be scheduled no later than 96 hours before a judge, with the exception of holidays and weekends.

1. The shelter care hearing will determine:
  - a. If the child shall remain in out of home placement under the care, custody, and control of a public agency;

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- b. If it was “contrary to the welfare” for the child to remain in the home upon removal; and
  - c. If reasonable or active efforts were made to prevent the removal.
2. An adjudication must occur within 60 days from date of removal (within 30 days if ICWA applies). Petitioner has 30 days from first placement to file a petition. However, in order to ensure proper service of the documents on the parties as required by court rules the filing of the petition should occur within the first 15 days.
  - a. If the petition is not filed within 30 days of the shelter care hearing, the child must be released from shelter care.
  - b. Some jurisdictions have an initial appearance on the petition, which is held within 30 days of removal. If that cannot be done, the shelter care order may be extended, but the required judicial determinations are required.
3. Paperwork Requirements
  - a. Agency case managers must collaborate with local State’s Attorney office to verify the amount of time needed to prepare court documentation and service of process on all parties.
  - b. In most cases, the affidavit in support of the deprivation petition must be submitted to State’s Attorney office as directed by the local State’s Attorney or at least 10 days before the petition is to be filed with Juvenile Court.

### **Initial Appearance**

This is the first time the parties of the case will appear in court to respond to the petition.

1. The Judicial Officer will:
  - a. Review the proceedings,
  - b. Acknowledge the parties who are present, and
  - c. Advise the respondents of:
    - i. The allegations,
    - ii. Their rights (counsel, admit, deny, go on to trial),
    - iii. The possible outcomes of the proceedings, and
    - iv. Consequences of an admission or denial.

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2. Elicit a response (admission or denial) from the respondents.
  - a. If they deny, then a pretrial conference, status conference, adjudication hearing or trial is scheduled.
  - b. If they admit, then either a disposition hearing will be held at that time or the case will be continued for a later dispositional hearing.
3. Paperwork Requirements
  - a. Agency must work with the State's Attorney to ensure no further information is required to be filed with the court prior to the hearing.

### **Adjudication Hearing**

The purpose of the adjudication hearing is to either accept admission to the allegations or to hear evidence submitted to prove the allegations as listed in the petition.

1. Evidence of **deprivation** must be proven by clear and convincing evidence:
  - a. Court must make findings as to whether the child is deprived,
  - b. Evidence of deprivation must be clear and convincing,
  - c. Admission of deprivation,
  - d. If deprivation found; move to disposition hearing.
2. Evidence of each **unruly** allegations must be found by proof beyond a reasonable doubt:
  - a. Court must make findings to whether the child is unruly,
  - b. Evidence of unruly behavior must be clear and convincing,
  - c. Admission of unruly,
  - d. If unruly is found; move to disposition hearing.
3. Evidence of each **delinquent** act must be found by proof beyond a reasonable doubt:
  - a. Court must make findings to whether the child is delinquent,
  - b. Evidence of delinquent act must be found beyond a reasonable doubt (27-20-29),

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- c. Admission of delinquency,
  - d. If delinquent is found; move to disposition hearing.
4. The hearing on the petition must be held and findings made within 60 days of initial removal (30 days if ICWA applies), unless a continuance is granted by the court under Rule 9 of the ND Rules of Juvenile Procedure.
5. In most cases, adjudication and dispositional hearing will be held at the same time.
6. Paperwork Requirements
  - a. Agency must work with the State's Attorney to ensure no further information is required to be filed with the court prior to the hearing.

### **Dispositional Hearing**

The purpose of the dispositional hearing is best suited to the protection and physical, mental, and moral welfare of the child. This will include whether to permit the child to reside with the child's parents, guardian or other custodian, subject to conditions and limitations as the court subscribes including supervision as directed by the court for the protection of the child such as a safety or treatment plan. The court may also consider whether it is in the best interests of the child to return home if the child was removed in a shelter care hearing prior to disposition.

1. This hearing may be combined with the adjudication hearing.
2. The court may receive evidence from any party relating to the disposition. The court listens to evidence regarding what services the parents have participated in to address the issues that brought the case before the court.
3. The court will also hear evidence regarding the child's placement, well-being, and service needs. The court looks at the efforts made by the agency to assist the family, and the best interests of the minor.
4. In determining who shall have custody of a child at the time of disposition, the court will review what is in the child's best interest.
5. In delinquent/unruly cases:

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- a. The court will hear evidence as to whether the child is in need of treatment or rehabilitation.
  - b. The burden of proof at this stage is clear and convincing evidence standard.
6. In deprived cases:
- a. The court can make any disposition listed at 27-20-30 which is “best suited to the protection and physical, mental, and moral welfare of the child”.
7. Paperwork Requirements
- a. Agency must work with the State’s Attorney to ensure no further information is required to be filed with the court prior to the hearing.

### **Review of Custody Hearing**

At any time, the child, parents or any party can request a review hearing as it is not required that a review be initiated by the custodial agency. The purpose of the hearing is to update the court on the progress of the case planning, the court to review the respondent’s request for release or any other issue which the respondent is requesting be reviewed by the court.

1. An agency can request for an early release of custody at this time if the family has met the terms of the case plan or can request the case be extended until the future permanency hearing to allow more time to achieve permanency goals.
2. A review hearing can also be combined with a permanency hearing and held as one hearing in judicial court proceedings.
3. Paperwork Requirements
  - a. Agency case managers must collaborate with local State’s Attorney office to verify the amount of time needed to prepare court documentation.
  - b. In most cases, the affidavit must be submitted to the state’s attorney at least 14 days before the needed hearing date in order to provide time for state’s attorney review, the filing of the necessary documents, and the service of the paperwork on the parties in the case.

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### Permanency Hearing

The purpose of the permanency hearing is to monitor the progress of the case goals set forth in the original order addressing the issues that brought the child into foster care.

1. The court will monitor the well-being of the child and carefully review issues regarding the child's placement, service needs, education, and family visitation and determine whether the original order should be extended for an additional period of time.
2. If permanency is not achieved within 12 months of removal, agencies must obtain judicial determinations that out of home care is required and that reasonable/active efforts were made to finalize the permanency plan and to indicate what the efforts were and the goal in place. Permanency goals may be either reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement of another planned permanent living arrangement.
3. A permanency hearing and a review hearing can be combined and held as one hearing in judicial court proceedings.
4. Paperwork Requirements
  - a. Agency case managers must collaborate with local State's Attorney office to verify the amount of time needed to prepare court documentation.
  - b. In most cases, the affidavit must be submitted to State's Attorney office at least 90 days prior to order expiration in efforts for the State's Attorney to file the notice of permanency or request for review timely with the court.

### 18+ Continued Care Permanency Hearing

The purpose of the 18+ hearing is to authorize placement and care responsibility to a public agency for a youth requesting continued foster care who meet specific eligibility. 18+ cases are no longer under the public custody of an agency.

1. 18+ Continued Care orders must be a permanency hearing and obtain permanency findings.
2. All 18+ cases must have a permanency hearing no later than 90 days of the effective date on the SFN 60, 18+ Continued Care Agreement.
3. Paperwork Requirements

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- a. Agency case managers must collaborate with local State's Attorney office to verify the amount of time needed to prepare court documentation.
- b. In most cases, the affidavit must be submitted to State's Attorney office at least 14 days before the petition or notice of permanency is to be filed with the court.

### **Termination of Parental Rights (TPR) Hearing**

The purpose of such a hearing is to review a request to terminate the parental rights of the parents in cases with the most extreme forms of deprivation. This may be the case where the child has been 'abandoned' by the parents (see 27-20-02(1) or where the child has been subjected to "aggravated circumstances", i.e. extreme forms of abuse or neglect. (see 27-20-02(3) or when the child is and has been deprived and all indications are that the deprivation will continue to the harm of the child.

1. A TPR is a complicated proceeding; the rights of all parties are given great merit because of the finality of the outcome.
2. Judge will advise parties of their right to counsel, appoints counsel as necessary, accept admissions or denials on the TPR petition and order parents to the adjudicatory hearing.
3. If a parent or legal custodian is absent, the court will evaluate the sufficiency of service and notice and make a determination as to whether the parent has defaulted to the TPR for failure to appear or whether another advisory hearing date should be set for that parent.
4. In order for a termination of parental rights to be granted, the evidentiary standard of clear and convincing or beyond a reasonable doubt (ICWA) must be met to prove the child is deprived, and:
  - a. The deprivation is likely to continue or will not be remedied; and
  - b. The child will suffer serious physical, mental, moral, or emotional harm because of this; or
  - c. The child has been in foster care for at least 450 out the previous 660 nights (can be less than 450 days); or
  - d. The parents' consent to the termination.
5. Paperwork Requirements
  - a. Agency case managers must collaborate with local State's Attorney office to verify the amount of time needed to prepare court documentation.



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- b. The affidavit must be submitted to State's Attorney office at least 60 days and some areas 90 days before the petition for termination of parental rights is filed.

### **Court Order Continuances**

Throughout the life of the case, there are times when the court "continues" the child's order without a hearing, this is typically done to ensure all parties have an attorney, etc. A continuance is an allowable function of the court, however the timeframe in which a continuance is granted is important for foster care cases.

1. Ongoing ~ Shelter Care/Disposition/Review Orders: If a court has made the requisite "contrary to the welfare" and "reasonable or active efforts to prevent removal" findings, a continuance issued under Rule 9 of the N.D. Rules of Juv. Pro. can occur and will, unless otherwise ordered, continue the existing custodial order. Continuances generally carry forward the existing judicial determinations, which is acceptable when the child remains in public custody and the case is not due for a permanency review.
2. Permanency Orders: If a case is due for 12 month permanency review, a court can make the decision to continue an order to maintain custody, however, the case must receive new permanency judicial determinations before the last day of the 13th month. Foster care federal regulations requires judicial determinations from the court that the agency has made reasonable efforts to finalize the permanency plan for the child. A continuance of a prior order does not bring forward the required new judicial determination, nor does a continuance allow the participation of the relevant parties in a hearing to address permanency. If the new (annual) permanency judicial determinations are not obtained by the end of the 13th month, NDDHS cannot make a foster care payment on behalf of the child.

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### **Reasonable or Active Efforts 624-05-15-15**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Child welfare agencies are required to demonstrate that reasonable or active efforts have been made to provide assistance and services to prevent the removal of a child from his/her home and to make it possible to be reunited timely with his/her family. Reasonable and active efforts are intended to support and document agency efforts to engage with families, maintain family connections, offer services and ultimately justify that the decision to remove a child from their home was made with the greatest care for the child's safety.

The agency shall provide a variety of services and resources to preserve the child's family and prevent inappropriate removals. The agency shall ensure the removal occurs **only after** reasonable or active efforts to engage the family in services to improve conditions have been provided and failed, offered and refused, or when there is a clear danger to the physical and emotional well-being of the child.

Active efforts are best practice for all foster care cases, but active efforts are only required for cases where ICWA applies and it is known that the child is an Indian child, enrolled or enrollable. The parents of the child cannot opt out of ICWA requirements; however, parents can provide feedback and desired decision making while actively engaging with the case manager. When ICWA does apply, case managers are to involve the Tribe immediately to notify and engage in planning, discuss possible solutions, and promote reunification as soon as imminent danger or risk has been eliminated.

Reasonable vs. Active Efforts ~ examples include, but not limited to:

<b><u>Reasonable Efforts</u></b>	<b><u>Active Efforts</u></b>
Referral for Substance Abuse Treatment	Identify with parent/s any barriers to begin treatment (transportation, childcare, employment, etc.) Together complete the

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	appointment/scheduling and referral/admissions paperwork.
Case management – meetings, visitation, updates to case plan	Proactive and diligent engagement with parents, consistent monitoring of and follow-up to support case goals and tasks; including ongoing telephone calls/text, face-to-face visitation with parent/s and social supports relevant to the case plan.
Standard case plan goals	Meet with the parent/s and Tribe’s ICWA Coordinator to discuss meaningful goals and tasks to aid in successful and timely achievement of the case plan.
Referral for parenting class	Review the list of available classes in the area, select a culturally appropriate session, identify with the parent/s any barriers to attend, assist in registering for the class and provide or arrange for transportation as needed.
Referral for economic assistance to provide financial help to parent/s	Meet with the parent/s to complete the online application for assistance and support the parent to call and follow-up on the application status.
Referral to individual therapy once per week to address mental health needs of the parent	Review the list of available therapists and behavioral health resources in the area, assist in appointment scheduling, transport the parent to his/her first appointment and maintain contact with the parent and service provider ongoing.
Document the child is eligible for enrollment with a Tribe	Engage with the parents to identify Tribal connections, contact the Tribal office and take necessary steps to secure tribal membership for an eligible child.
Placement of the child is made to an available foster home.	Review of ICWA placement preferences, meet with parent/s to discuss family options, identified relatives or available foster parents to ensure culturally appropriate placement.
Tribal engagement by emailing meeting or hearing notice and case plan updates.	Send regular informal emails or make phone calls to update the Tribe of case status using the ICWA Inquiry or Case Status form.

If removal is warranted, the court shall consider whether services to the child and family were:

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1. Relevant to the safety and protection of the child,
2. Adequate to meet the needs of the child and family,
3. Culturally appropriate,
4. Available and accessible,
5. Consistent and timely, and
6. Realistic under the circumstances.

Removal of a child from the home must be based on judicial findings stated in the court order and determined on a case-by-case basis in a manner that complies with Social Security Act 42 U.S.C. 620, 42 U.S.C. 6701 and 25 U.S. Code CHAPTER 21. These regulations require the initial court order and subsequent court reviews document the agency's reasonable or active efforts.

Federal law requires judicial determinations of reasonable or active efforts be made:

1. To prevent the removal of a child from their home;
2. To finalize a permanency plan for the child within 12 months of the date the child is considered to have entered foster care and every 12 months thereafter;
3. To maintain family connections; and
4. In the case of siblings not placed together, to provide for frequent visitation or interaction, unless this would be harmful to any of the siblings. A review of the efforts and such findings must be made at each hearing.

### Interstate Placement Considerations

The Safe and Timely Interstate Placement of Foster Children Act of 2006 (Public Law (P.L.) 109-239) requires reasonable efforts to:

- Consider interstate placements in Child & Family Team Meeting decisions, when appropriate;
- Consider both in-State and out-of-State permanent placement options at permanency hearings; and
- Identify appropriate in-State and out-of-State placements when using concurrent planning.

**Reasonable or Active Efforts - Exceptions**  
**624-05-15-15-05**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Reasonable or active efforts to prevent removal, or return a child home, are not required if:

1. A court of competent jurisdiction has determined that a parent has subjected the child to aggravated circumstances; or
2. The parental rights of the parent, with respect to another child of the parent, have been involuntarily terminated.

The agency must document in the affidavit such details and request the State's Attorney bring these points to the court's attention during the shelter care hearing. The agency must seek to assure that the court record documents the judicial finding that reasonable or active efforts are not required for a specific reason.

If the court makes a finding that reasonable or active efforts are not required, a permanency hearing must be held within 30 days of the removal or date of determination, unless the requirements of the permanency hearing are fulfilled at the hearing.

**Reasonable or Active Efforts - Preventing Removal  
624-05-15-15-20**

**(Revised 1/15/21 ML #3606)**

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Reasonable or active efforts to prevent out of home placement results in a unique set of community services and supports individualized for the child and family. The agency involved must make reasonable or active efforts to identify the least restrictive methods of care and services to benefit the family. The agency must assess and address the family's strengths, needs, risks and safety. Reasonable or active efforts may include documentation of Family Preservation Services designed to help families alleviate crises that could lead to out-of-home placement of children while maintaining the health and safety of children in their own homes.

ND law requires the reasonable or active efforts judicial determination is made in the initial court order. However, if the judicial determination is not obtained or is a negative finding, the agency has 60 days to gain a reasonable efforts findings per federal eligibility standards for foster care reimbursement. The case becomes reimbursable effective the 1st day of the month in which the judicial determination is obtained. The agency must document reasonable or active efforts to prevent placement removal in a formal case plan. This documentation may include:

1. Evidence of involvement with the agency through a treatment plan or permanency case plan describing efforts to prevent out of home placement.
2. Any other evidence of Family Preservation Services planned and/or provided, including:
  - In home program case management
  - Parent Aid Services
  - Respite
  - Mental Health Services
  - Drug and Alcohol Addiction Evaluation and Treatment Services
  - Psychological/Psychiatric Evaluation and Services
  - Child Care Services
  - Crossroad Program for Minor Parents

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- Sexual Abuse Treatment
- Case Management for children with severe emotional disturbances

Authorizations or reports of other services provided to the parent or child.

In efforts to minimize payment error, offer compliance with regulations as well as clarity to the case; the agency must provide the evidence of reasonable or active efforts to prevent removal to the court during the initial hearing, also referred to as the shelter care hearing. In addition, the agency and must seek to assure that the court record reflects the judicial finding with respect to such efforts.

### Court Order Active Efforts Example:

- Active efforts have been made to prevent the need to remove the child from the parental home by the agency. It was described in detail that prior involvement from the agency included efforts such as:
  - Coordinated, transported and provided mental health services for the parent and one of the three children;
  - Facilitated doctor appointment scheduling, which included medication management for one child and the parent;
  - Coordinated and engaged in weekly meetings with the parent and school; including two classroom teachers and the special education coordinator to discuss the educational needs of the children;
  - Developed a detailed safety plan specific to impending danger threats and parental capacities to ensure safety of the children in the home, through the social supports of local relatives; and
  - For the past four months, the agency has provided full In-Home case management to the family in the home, arriving onsite three times per week to engage and support mom in basic home management skill development (education on daily living, household budgets, establishing a family routine, monitoring a calendar of appointments and medication, while reviewing healthy boundaries.

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### Emergency Removals

Foster care case managers provided an emergency removal case shall engage the parent/s to identify a family member or friend available and appropriate to care for the child/ren in the emergency situation. Engagement may include developing a genogram or list of close contacts, relationship status to the individuals, Tribal affiliation as well as wishes of the parent/s. Cooperation from parent/s is not always possible, but a judicial determination remains required even for an emergency removal. Court order language to support agency efforts in an emergency may look like:

- Active efforts were made to prevent the removal of the child through assessment of imminent risk and safety of the child and knowledge of the family from previous case planning. Given the emergency situation, parental caregivers were not willing to provide updated contact information, however the agency continually engaged the parent to offer support with law enforcement and seek clarity from the parent regarding their desired wishes for placement of the children while the parent was temporarily incarcerated. Immediate removal was necessary and in the best interest of the child at that time, however since removal, further engagement with the family has occurred and relative caregivers have come forth to support the child. The agency continues to engage with the parent (mom) weekly, provide transportation to mental health appointments, and ensure she receives medication management and in-home support until reunification can occur.



## **Child & Family Team Meeting Process and Purpose 624-05-15-20**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

The permanency planning process begins when a child enters foster care and the case planning continues to address the child's need for permanency until case closure. The Child and Family Team Meeting (CFTM) process is intended to ensure the safety and well-being of the child and to secure a permanent plan of placement. Key benchmarks in the Permanency Planning process are as follows:

1. Child enters foster care
2. Initial Child & Family Team Meeting (within 30 days)
3. Quarterly Child & Family Team Meetings
4. 12 month Permanency Hearing
5. Case closure

### Purpose

The purpose of the Child & Family Team Meeting (CFTM) is to ensure the child is receiving appropriate care consistent with NDCC 27-20, NDCC 50-11 and NDAC 75-03-14. In addition, the team along with the assigned Children and Family Services Field Service Specialists serve as an administrative review body and together fulfill the review requirements of federal law. Although the review participants input is very helpful in the decision making process, the final decisions rest with the custodian pursuant to the authority and responsibility conferred on the custodian through N.D.C.C. 27-20-38.

Child & Family Team Meetings are mandatory and are multi-agency and multidisciplinary to best meet the needs of the child in placement.

### Function

The Child & Family Team has, at a minimum, the following functions:

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1. Periodically review the initial case plan and case review documents for every child in care.
2. Determine if a specialized payment is needed to meet the child's needs in the primary foster parents home. Discussion regarding the specialized payment and the required department approval must be documented in the child's case file.
3. Grant approval of foster care placements into therapeutic family foster care or a residential facility.
4. Ensure and document that parents/guardian, child (when appropriate) and foster parent(s) are invited to attend the CFTM's.
5. Develop, in writing, the case plan for the child, parent, agency, and foster parents with specified goals, tasks, and dates of the completion that address permanency for the child.
6. Enforce local policies in accordance with federal and state law, regulation and policy related to foster care.

### Notifications

The Safe and Timely Interstate Placement of Foster Children Act of 2006, mandated that foster parents of a child and any pre-adoptive parent or relative providing care for the child must be provided with notice of, and a right to be heard in, any proceeding with respect to the child. This is a Title IV-E requirement at 475(5)(G).

The custodial agency must notify the foster parent, pre-adoptive parent, or relative caregiver in writing. A copy of the written notification should be kept in the child's case file.

### FRAME

The data management system allows concurrent goals to be entered under the goals section of the placement tab. Every child with an open foster care program must have a primary goal identified.

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### **Date Child Enters Foster Care 624-05-15-20-05**

**(Revised 2/10/07 ML #3053)**

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The date the child enters foster care is explained in Section 05-15-35-05 of Service Chapter 624-05.

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### **Child & Family Team Membership 624-05-15-20-08 (Revised 1/15/21 ML #3606)**

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The custodial agency director or designee and the foster care case manager will co-chair the Child & Family Team Meeting (CFTM). The foster care case manager shall select and invite pertinent members to join the CFTM committee.

Local circumstances must be considered in selecting the Child & Family Team. Cooperation between the members is essential. The common goal must always be to arrive at a joint decision and provide the child's legal custodian a recommendation which is in the "best interests of the child."

#### Permanent CFTM members include:

1. Custodial agency director or designee
2. Department representative (Field Service Specialist) to engage in an administrative review. The administrative review must occur by the department every six months;
3. Parents or legal guardian;
4. Foster care provider where child is placed;
5. Foster child (when appropriate). When a foster child is age 14 or greater they have the opportunity to personally invite two additional members to join the CFTM.
6. Developmental Disabilities coordinator or designee when any case involves a child who is developmentally disabled or if there is a reason to believe the child may be developmentally disabled.

#### Other CFTM members may include:

1. A treatment or therapeutic professional working with the child and/or family;
2. Juvenile court supervisor or other court representative;
3. Tribal Government personnel (if appropriate);
4. Additional case management from partnering agencies (therapeutic foster care or AASK)

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5. School teacher or special education coordinator;
6. School designated foster care liaison;
7. Chafee Coordinator, if applicable;
8. Others identified by the child, family or case manager who has appropriate interest in the child or family.

### Goal of adoption:

Adults Adopting Special Kids (AASK) should be invited to meetings for children whose parental rights are in the process of being terminated or where there is concurrent plan that includes adoption. If the child has a concurrent plan involving adoption as an alternate plan, AASK must be invited to the CFTM following the change in the goal to adoption. Prior to inviting AASK, parents should be informed about concurrent planning and the roles and responsibilities of AASK. The adoption worker will have information regarding the potential for the child to be adopted and the availability of a potential adoptive family for the child.

It is appropriate for a representative from AASK to be at the CFTM when the child's parental rights have not yet been terminated if there is some thought being given to seeking termination of parental rights for the child. The child placing agency could provide information to aid in the case planning for the child. This gives teams another opportunity to explore every avenue possible in developing permanency plans for children in foster care.

The foster care administrative review completed by the Department must assure that the intent of permanency planning and the requirements of this chapter are carried out.

**Initial Child & Family Team Meeting 624-05-15-20-10**  
**(Revised 1/15/21 ML #3606)**

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The Child & Family Team Meeting, (CFTM), must occur within 30 days of the child's placement into foster care. It is the responsibility of the custodial agency to organize the CFTM and schedule the meeting dates. CFTM's may be conducted in a group face to face, virtual online meetings, telephone conference calls, or a combination of the three. Any member of the team may request that a case be reviewed and a formal CFTM be scheduled at any time.

The custodial agency case manager or agency designee is to:

1. Use the Child & Family Team Meeting outline (Outline) as a guide.
2. At the initial meeting, review information regarding the purpose of the team, function, membership, process, legal authority, confidentiality and responsibility of team members.
3. Review expectations of the team and emphasize how the agency is seeking input for case planning by identifying child and family strengths, needs, and risk factors to best meet the needs of the plan.
4. Present the case to the team, including demographic information and the child's health, educational requirements, and transition plan (when 14 years of age and older).
5. Prepare to report pertinent information about the child, the parents, the extended family, and the foster family when appropriate.
6. Review present and impending dangers that may have precipitated the need to consider the out of home placement, what services have been provided to prevent the placement and also information on how each parent and child has been functioning since placement occurred.
7. Prepare to discuss any items in the case plan, including safety plans and visitation allowances.
8. Complete the case plan documentation and distribute copies as required.
9. Maintain documentation in the child's case file including the signed signature sheet from the Child & Family Team Meetings and any case planning documents generated independently by the agency or from the case management system.

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Tribal Cases: The created case plan document must be signed and maintained in the child's foster care case file.

**Child & Family Team Case Review 624-05-15-20-15**  
**(Revised 1/15/21 ML #3606)**

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The Child & Family Team, serves as the ongoing gatekeeper and oversight in the administration of the individual foster care case plan for each child.

At a minimum, the team must meet at least every three months (quarterly) with the key people in the child’s life to review the child and families progress toward safety, permanency, and well-being. The quarterly team meetings focus on case progress towards the established goal with specific dates for completion and ongoing evaluation of the case plan to fulfill the stated goals. The team has the responsibility to provide planning input. At the conclusion of the meeting, the case manager is responsible for completion and distribution of the updated case plan. The updated case plan must be signed and maintained as a hard copy in the child’s foster care case file.

In addition to ongoing quarterly review of the case by the agency, an administrative review completed by the Department must be held at least every six months to assure that the intent of permanency planning and the requirements of this chapter are carried out.



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### **Documentation of the Child & Family Team Meeting 624-05-15-20-16**

**(New 12/1/15 ML #3461)**

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The Child & Family Team Meeting reports in FRAME are required for case plan and case review. All case plan and permanency planning review requirements are built into screens in the FRAME system. This is designed to ensure that federal mandates related to foster care have been met.

The eligibility specialist has on-line review access to foster care cases in FRAME, to assure that AFDC-Foster Care eligibility requirements and compliance issues are met. If the case is not on-line, hard copies of the reports must be sent to the eligibility specialist in the county of financial responsibility.

## **Permanency Hearing 624-05-15-20-20**

**(Revised 12/1/15 ML #3461)**

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**Every child in foster care must have a “permanency hearing” within 12 months of the child's entry to foster care or continuing in foster care following a previous permanency hearing.** The hearing must be held in a juvenile court or tribal court of competent jurisdiction (these replace the former dispositional hearings), or as an option, by the Division of Juvenile Services (DJS) for youth under its custody as a placement hearing under N.D.C.C. 27-21.

Agencies must obtain a judicial determination that it made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care, and at least once every twelve months thereafter while the child is in foster care. The requirement for subsequent permanency hearings applies to all children, including children placed in a permanent foster home or a pre-adoptive home.

In addition, a permanency hearing in the court or DJS must be conducted within thirty (30) days after a court determines that reasonable efforts are not required because:

1. A parent has subjected the child to aggravated circumstances; or
2. The parental rights of the parent, with respect to another child of the parent, have been involuntarily terminated.

The hearing shall determine the court-approved permanency plan for the child that determines, if applicable, when:

1. The child will be returned to the parent;
2. The child will be placed with a relative;
3. The child will be placed with a legal guardian;

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4. To place siblings in the same foster care, relative, guardianship, or adoptive placement, if appropriate;
5. In the case of siblings removed from their home and not jointly placed, to provide frequent visitation, or ongoing interaction, if appropriate;
6. The legal custodian (or State) will petition for termination of parental rights;
7. The child will be placed for adoption; or
8. The child age 16 or greater will be placed in another planned permanent living arrangement (APPLA). This applies in cases where the legal custodian has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption with a fit and willing relative or with a legal guardian. See 624-05-15-115-30-10 for judicial determination requirements.

The hearing shall also:

1. Consider in-State and out-of-State placement options in permanency hearings, and if a child is already in an out-of-State placement, the hearing must determine if the placement continues to be appropriate and in the child's best interests; and
2. In the case of a child who has reached age 16, the services needed to assist the child to make the transition from foster care to independent living.

All of the information gathered at the Child & Family Team meetings, initial and quarterly case reviews, must be available to the court or DJS for a permanency hearing.

Foster parents of the child and any pre-adoptive parent or relative providing care for the child must be provided with written notice of, and a right to be heard in, any proceeding with respect to the child. Email or letter notice constitutes written notice, if there is documentation of the letter or email on file.

A full hearing is required. Paper reviews, *ex parte* hearings, agreed orders, or other actions or hearings which are not open to the participation of the parents of the child, the child (if age appropriate), and foster parents or pre-adoptive parents (if any) are not permanency hearings.

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### **Reasonable or Active Efforts - Reunify the Child and Family 624-05-15-25**

**(Revised 1/15/21 ML #3606)**

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Reasonable or active efforts to reunify the child and family must be made and documented throughout a child's placement. In making reasonable or active efforts, the child's health, safety and well-being shall be the paramount concern. Foster care case managers must assess the needs and strengths of the child and family, and provide or refer to services designed to assist the family with reunification of the child.

**Reasonable or Active Efforts - To Finalize a Permanency Plan 624-05-15-25-05**

**(Revised 1/15/21 ML #3606)**

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Reasonable or active efforts to finalize the permanency plan are required within twelve months of the date the child entered foster care, and at least once every twelve months thereafter while the child is in foster care. Permanency goals include reunification, legal guardianship, placement with a fit and willing relative, another planned permanent living arrangement or adoption.

To support judicial determinations to finalize a permanent plan and to document reasonable or active efforts, the agency must organize and maintain its documentation of such efforts. This documentation includes:

1. Authorization or reports of other services provided to help in reunification of the child and family.
2. Any treatment plan or permanency case plan which describes efforts to reunify the child and family.
3. Visitation schedules and engagement strategies with the parent/s.
4. If reunification is not possible; evidence of efforts to recruit, locate, train, approve or license the alternate placement.
5. Details of the preparations for transition into a permanent placement.
6. Any other evidence of services planned and/or provided including the service outcome.

The agency must provide to the court evidence of reasonable or active efforts to finalize the permanent plan at every permanency hearing and must provide the court adequate information to assure that the court record reflects the judicial finding with respect to such reasonable or active efforts.

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NOTE: Whenever the court makes a determination that reasonable or active efforts to reunify are not (or no longer) required, a permanency hearing in court must be held within 30 days of such determination, unless the requirements of the permanency hearing are fulfilled at the hearing in which the reasonable or active efforts determination was made.

**Reasonable or Active Efforts - Maintain Family Connections 624-05-15-25-10**

**(Revised 1/15/21 ML #3606)**

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Reasonable or active efforts to maintain family connections and place siblings together are required. Agencies shall make every effort to place siblings in the same foster, relative, guardianship, or adoptive placement, unless it is determined to be contrary to the safety or well-being of any of the siblings. Also, in the case of siblings not placed together, a judicial determination must be made that reasonable or active efforts will be made to provide for frequent visitation or other ongoing interaction. An exception to maintaining connections is permissible only if such joint placement or contact would be contrary to the safety or well-being of one or more of the children.

The sibling provisions apply only to children with siblings and only to those removed from their home. However, visitation and ongoing interaction should be maintained between children in foster care and their siblings who have not been removed from their home.

Whenever possible, foster care case managers should make every effort to place siblings who come into foster care together in the same home. It is also necessary to:

1. Identify whether a child entering foster care already has siblings in public custody (aka: foster care.) If a sibling enters foster care, the case manager must determine if it is appropriate for the child to be placed in the same foster care setting as the sibling currently in care;  
or
2. If a different relative or foster family could provide care for all children;  
or
3. If a child already in foster care is being moved to a new foster home, consideration should be made whether or not placement with a sibling would be safe and consistent with the child's well-being; and/or
4. Review the sibling placements and family connections at each Child & Family Team meeting. All factors taken into account in making

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placement decisions, as well as decisions about maintaining contact between siblings who are not placed together, should be documented in the child's case file to demonstrate that reasonable or active efforts were made.

Agencies must make efforts to locate relative and non-relative families who are willing to care for a sibling group. All efforts for child placement must be in a location where the parent/s can have regular access to the child without undue economic, physical, or cultural hardship. When ICWA applies to an Indian child, placement preferences apply to each foster care, pre-adoptive, and adoptive placement, unless the court finds good cause to deviate from the placement preferences, or the Indian child's Tribe has established a different order of preference. Review ICWA policy 624-05-15-52 for more on this topic.

Services and supports should also be identified that would make it possible for relatives to care for the siblings together. It is known that financial assistance is more readily available to families who are licensed foster parents. If financial assistance is necessary to best meet the needs of the children, agencies must help relative caregivers apply for TANF Kinship Care or begin efforts to become licensed foster parents. ND does allow for non-safety related licensing waiver to be applied to relatives, on a case-by-case basis, for individual children in relative foster family homes. For example, this authority can be used to prevent certain licensing standards from hindering maintaining sibling placement.



## **Termination of Parental Rights or Legal Guardian Appointment 624-05-15-30**

**(Revised 1/1/11 ML #3256)**

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A court's order, "Termination of Parental Rights," terminates all the parent's rights and obligations with respect to the child and of the child to or through the parent arising from the parental relationship. The parent is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent any right to object to or participate in the child's adoption proceedings. The Agency's petition for Termination of Parental Rights must follow current instructions and formats for such petitions, set forth the facts plainly, and state clearly that the effect of the Termination of Parental Rights will be as described above.

A court's order appointing a legal guardian terminates any authority of a parent that is granted to the legal guardian under that order. A parent subject to such an order is entitled to treatment as a party at any subsequent juvenile court proceeding regarding the child.

After a termination of parental rights, if there is no other parent having parental rights, the court must: (N.D.C.C. [27-20-47](#))

1. Commit the child to the custody of the Department of Human Services or a licensed child-placing agency for adoptive or foster care placement;
2. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian; or
3. Establish some other planned living arrangement for the child.

Legal Custodian:

N.D.C.C. [27-20-38](#) (8/1/99). Rights and duties of legal custodian. A custodian to whom legal custody has been given by the court under this chapter has the right to the physical custody of the child and the right to determine the nature of the

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care, placement and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose. The custodian also has the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

(Consent for medical care for a foster child should come from the child's parent. If that is not possible, consent should come from the child's custodian, or the court, depending on the circumstances.)

If the child has not been placed for adoption within 12 months of the custody order and the court has not established a legal guardianship or other planned alternative arrangement for the child, the child must be returned to the court for entry of further orders for the care, custody, and control of the child.

**Termination of Parental Rights - Optional Filing  
624-05-15-30-05**

**(Revised 2/10/07 ML #3053)**

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The agency may file a petition to the court for Termination of Parental Rights at any time if any one of the three following conditions pertains:

1. The parent has abandoned the child.
2. The parent has given written consent to the Termination, acknowledged before the court.
3. The child is deprived and the court finds any one of the following:
  - a. The conditions and causes of the deprivation are likely to continue or not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or
  - b. The child has been in foster care or in the custody of the agency, county social service board, or the Division of Juvenile Services for at least 450 of the previous 660 nights; or
  - c. A court of competent jurisdiction has convicted the child's parent of one of the following crimes in North Dakota, or of a substantially similar offense under the laws of another jurisdiction: murder, manslaughter, or negligent homicide of a child of the parent; aiding, abetting, attempting, conspiring, or soliciting the same crimes; or aggravated assault in which the victim is a child of the parent and has suffered serious bodily injury.

**Termination of Parental Rights - Mandatory Filing  
624-05-15-30-10**

**(Revised 2/10/07 ML #3053)**

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The agency must file a petition to the court for Termination of Parental Rights:

1. On or before the day when the child has been in foster care, in the custody of the agency or the Division of Juvenile Services for 450 out of the previous 660 nights; or
2. Within 60 days after the court has found the child to be an abandoned infant; or
3. Within 60 days after the court has convicted the child's parent of one of the following crimes in North Dakota, or a substantially similar offense under the laws of another jurisdiction: murder, manslaughter, or negligent homicide of a child of the parent; aiding, abetting, attempting, conspiring, or soliciting the same crimes; or aggravated assault in which the victim is a child of the parent and has suffered serious bodily injury.

**Compelling Reason(s) for Determining that Filing a  
Petition to Terminate Parental Rights Would Not Be in the  
Child's Best Interest 624-05-15-30-15**

**(Revised 2/10/07 ML #3053)**

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These mandatory deadlines for filing a termination of parental rights do not apply, however, if one of the following is true:

1. The child is being cared for by a relative approved by the agency; or
2. The agency has determined that reasonable efforts to reunify child and family are required, the case plan indicates that services are necessary for the safe reunification, and such services have not been provided consistent with time periods prescribed in the case plan; or [Document this in the case plan (compelling reason not to file TPR). This must be available to the court at the next court hearing.]
3. The agency has documented in the case plan a compelling reason why Termination of Parental Rights (TPR) would not be in the child's best interests and has notified the court that the documentation is available for review by the court. The "compelling reason" must be a recorded statement which reflects consideration of all of the following:

The child's age,

- a. The portion of the child's life spent living in the household of a parent of the child,
- b. The availability of an adoptive home suitable to the child's needs,
- c. Whether the child has special needs, and
- d. The expressed wishes of a child age 10 or older.

Examples of "compelling reasons" include, but are not limited to, the following:

1. Adoption is not the best plan for the child.
2. The child has expressed a desire to avoid TPR and/or adoption.

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3. The child has a significant bond with a non-family member who wishes to serve as a legal guardian.
4. The parent and child have a significant bond, but the parent cannot care for the child due to parent's emotional or physical disability, and another permanency plan has been identified for the child.
5. The parent has made significant measurable progress and continues to make diligent efforts to complete the requirements of the case plan, but needs more time to do so.
6. The placement of the child is due primarily to the child's behavior despite continued parental efforts at control and supervision, and progress is being made on improving the child's behavior.
7. There are insufficient grounds for filing a TPR petition.

Please use SFN 348, "Compelling Reason(s) for Determining that Filing a Petition to Terminate Parental Rights Would Not be in the Child's Best Interest," to carefully document any compelling reasons.

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### **Responsibilities of the Custodian 624-05-15-30-20**

**(Revised 1/15/21 ML #3606)**

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Foster children are under the custody of a public agency (Human Service Zone, Division of Juvenile Services, or a Tribe), referred to as the “custodian”. The custodian is responsible to manage the case activity and engage the parent/s to achieve case permanency as timely as possible. There are many required duties assigned to the custodian, responsibilities include, but are not limited to:

1. Facilitate an agreed upon case plan.
2. Authorize releases of information, where applicable.
3. Approve routine medical treatment including medication changes for a child under direct care of a physician.
4. Approve planned for psychological or psychiatric testing and evaluation as part of a child's treatment.
5. Authorize a change in placement.
6. Authorize crisis bed or hospitalization if needed as part of a crisis plan/safety plan.
7. Manage ongoing issues or concerns surrounding family crisis.
8. Approve child's involvement in local events, concerts, or family activities (not high risk).
9. Approve participation in religious education, church sponsored activities or participation in significant religious ceremonies (baptism/confirmation).
10. Approve Individual Education Plans.
11. Approve school sponsored educational or sports activities.
12. Approve employment activities. Act to resolve any issues where a child has an interest in a trust, inheritance, or gift. Approve the commitment of a significant amount of the child's funds, unless there has been a conservator of the child's estate appointed.
13. Authorize releases of information where disclosure is controversial or required by another agency.
14. Authorize treatment for medical emergencies, surgeries, and hospitalizations, including unplanned psychiatric hospitalizations.
15. Approve participation in events with life changing consequences (marriage, enlistments, etc.).

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16. Authorize participation in high-risk activities (horseback riding, hunting, driving farm/yard equipment, operating water equipment, etc.).
17. Authorize participation to obtain a license, certification, and permit. Application of a minor for an operator's license may be authorized by an individual (responsible adult) who is willing to assume the obligation imposed under NDCC 39-06-08.
18. Authorize out-of-state trips as well as travel that have unusual circumstances or risk.
19. Authorize law enforcement interviews including the administration of polygraph tests.
20. Authorize the child's depiction in any media advertisements or publications including those for adoptive home recruitment.
21. Approve requests to interview or question a child, including instances where the child is a subject of a sexual abuse investigation.
22. Approve any loan, credit card applications, or checking accounts by the child, if applicable.
23. If concerns arise regarding the current placement, agency supervision will work with the foster care case manager to resolve concerns and seek alternatives if needed.
24. The custodian is responsible for the child through adoption finalization and must concur with the adoptive home selected. There are times when conflicting opinions will exist on Child & Family team. The goal is to resolve all conflicts at the lowest possible level. If issues cannot be resolved during the Child & Family Team meeting, the case manager, and assigned local supervisor may be asked to assist in reaching an agreeable resolution. If no resolution can be achieved, the foster care case manager may request conflict-free resolution and consultation with another Zone office. If resolution cannot be accomplished on the local level, the case may be referred to Children and Family Services.



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### **Computing Days in Care 624-05-15-35**

**(Revised 12/1/15 ML #3461)**

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In calculating the mandatory filing deadline, the agency needs to consider the dates the child enters and leaves care, and certain nights between those dates which are not counted among the 450 nights in case.

When there is a petition to terminate parental rights, a child is not considered to be in foster care for the purposes of calculating the 450 nights on any night during which the child is:

1. On a trial home visit; or
2. Receiving services at the Youth Correctional Center pursuant to an adjudication of delinquency; or
3. Absent without leave from the place in which the child was receiving foster care.

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### **Entry to Foster Care 624-05-15-35-05**

**(Revised 12/1/15 ML #3461)**

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A child is considered to have entered foster care on the earlier of:

1. The date of the first court order which finds that the child has been subjected to abuse or neglect, or
2. The date on which the child enters placement is removed from the home.

North Dakota recognizes a child is in foster care if:

1. A child meets the definition of “foster care for children” (NDCC 50-11);  
and
2. A current court order gives a public agency care, custody, and control.

Foster care placement and reimbursement to providers will vary depending on the best placement option for the child. ND can only issue payment to a licensed/approved provider; meaning not all foster care placements will have fiscal reimbursement. Examples of non-reimbursable foster care placements include, but are not limited to:

- A foster child is placed in an unlicensed relative home = No foster care maintenance payment will be issued for the child’s care.
- Foster children returned for a trial home visit = No foster care maintenance payment will be issued for the child’s care.

Please see Chapter 623-05 Foster Care Maintenance Rate Payment for more information

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### **Exit from Foster Care 624-05-15-35-10**

**(Revised 12/1/15 ML #3461)**

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A child is considered to leave foster care when any of the following is true:

1. The court enters an order:
  - a. Denying a petition to grant care, custody, and control of the child to the agency or to the Division of Juvenile Services,
  - b. Terminating such a custody order, or
  - c. Appointing a legal guardian; or
2. The court order under which the child entered foster care ends by operation of law; or
3. The child is placed in a parental home by the court or legal custodian other than the Division of Juvenile Services and the legal custodian lacks authority to remove the child without further order of the court; or
4. The child is placed in a parental home by the legal custodian with the intent for the child to remain home. (This is not a trial home visit.)

#### Vacating Court Orders:

If the custodian has a valid court order providing care, custody, and control on behalf of a foster child; custodians are required to continue to have monthly visitation with children in foster care, quarterly Child & Team Meetings, and oversee the case management of the child's case plan.

If the Child & Family Team determines foster care is no longer necessary (reunification occurs, fit and willing relative is secured, etc.) and the child is discharged from foster care, the custodian shall request to vacate the court order and close the foster care program in FRAME upon receipt of the vacated order.

#### Closing a Foster Care Case:

Custodians are required to close the foster care program in FRAME, no later than 30 days from the date of discharge from foster care. If no other

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services are being provided by the agency, the case should be closed in FRAME.

Foster Care Verification Form: For all youth discharged from foster care at the age of 16 or older, Custodians are required to complete the foster care verification form (SFN 1612). This form may assist youth with entry into the ND Chafee IL program, apply for FAFSA, receive educational scholarships, and if they "aged out" it could provide proof for Medical Assistance until age 26.

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### **Trial Home Visits 624-05-15-35-15**

**(New 2/1/17 ML #3487)**

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A trial home visit must be a planned, formalized, agency-supervised visit in the reunification home for a specified, limited period of time not to exceed six months unless otherwise authorized by the court. The trial home visit ends when the child is removed from the home and placed in an out of home placement or the child is reunified. The case manager must notify the financial county of the change in placement (SFN 45).

Trial home placements cannot exceed 6 months unless ordered by the court.

A trial home visit must be:

1. Determined appropriate at the Child and Family Team meeting,
2. Entered into a child's case plan (along with a safety plan), and
3. Updated in the data management system under placements.

Foster care maintenance payments are not made when a child is placed on a trial home visit.

**NOTE:** Casual or incidental short term visits (Ex: to attend a wedding or funeral with family) are not considered "trial home visits" even if they are part of the child's reunification plan.

#### Discharge: 18+ Trial Independence

Trial Independence is not a trial home visit (See 18+ policy 624-05-23). During Trial Independence all case management responsibilities end and the foster care program is closed.

## **Determination of Type of Placement 624-05-15-40** **(Revised 1/12/09 ML #3170)**

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Foster care is appropriate when it is used due to safety issues if the child remains at home. If the child must be placed out-of-home, a relative placement is preferable, then a foster family care home should be considered. Foster family homes require the child's ability to form some attachments and remain in the community.

Foster care case managers are frequently called upon to respond to family situations where a number of children must be removed from a home. Special consideration must be given to meeting the needs of sibling placements, with the emphasis on placing the entire sibling group in the same home if possible.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 added a requirement that states "consider giving" preference to **adult relative caregivers over non-relative caregivers** when considering placement of a child. This is consistent with the philosophy of placing a child in the "least restrictive environment."

Therapeutic family foster homes are less restrictive than group/residential care, and should be considered first.

Group homes and residential child care facilities are reserved for children who cannot maintain the close relationships required in family settings and/or are not capable of remaining in the community.

### Placement Assessment Guidelines

1. Child's age.
2. Child's readiness to accept family ties (form attachments).
3. Child's readiness to participate in family life.
4. Child's capacity to attend community schools.

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5. Child's capability of living in the community.
6. Psychological assessment of the child.
7. Parent input.
8. Indian Child Welfare Act.

**Case managers and supervisors are cautioned to carefully review and follow the requirements of NDDHS 624-05-05-15-50-15. Multiethnic Placement Act/Interethnic Adoption Provision (MEPA/IEP) in any foster care or adoption placement activity. MEPA/IEP compliance is a civil rights issue (Title VI).**

**Federal Parent Locator Services 624-05-15-41****(Revised 1/15/21 ML #3606)**[View Archives](#)

The North Dakota Department of Human Services or designee, in its provision of services under Title IV-E/IV-B of the Social Security Act, may have access to certain Child Support Enforcement Federal Parent Locator Service (FPLS) information for defined purposes. Information may only be accessed for the purpose of locating or facilitating the discovery of an individual who is a parent, alleged father, or relative of the child, as needed for IV-E/IV-B agencies to carry out their responsibilities of the IV-E/IV-B programs.

A search for an absent parent is required unless an individual has been granted 'good cause' for non-cooperation with the IV-D program (fear of serious physical or emotional harm to the child or parent). A copy of the custodian's final decision that 'good cause' does exist and the basis for the findings must be included with the relative search documentation. Every six months, the custodian is required to review cases in which 'good cause' was previously found to exist. If it is determined circumstances have changed and 'good cause' no longer exists, a search for the absent parent must be made immediately.

To access the FPLS information the following steps must be followed:

1. The case manager identifies a need to "locate" information. (Is the information needed for a parent, alleged father, or relative of the child, and is the purpose related to carrying out the responsibilities of the IV-E/IV-B programs?)
  - If the answer is "No" then FPLS information may not be requested.
  - If the answer is "Yes" then the case manager completes the Request for Use of the Federal Parent Locator Service (FPLS) for Child Welfare Services ([SFN 1944](#)).
2. The completed form is emailed to the Field Service Specialist.
3. The Field Service Specialist reviews the request for approval.



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4. The Field Service Specialist sends the approved SFN 1944 to the Child Support Enforcement State Parent Locator Service (SPLS) as an email attachment. ([csespls@nd.gov](mailto:csespls@nd.gov))

State Parent Locator Services receives the request and processes it. A request that includes sufficient information is submitted to FPLS the next Friday. (Federal law prohibits the disclosure of FPLS information on an individual for whom a IV-D program has placed a Family Violence Indicator (FVI). A FVI is placed on an individual when there is reason to believe that release of information may result in physical or emotional harm. Therefore, although uncommon, it may be that FPLS information will not be available due to the FVI.)

FPLS uses a variety of powerful sources, many of which produce information that would otherwise be confidential. Federal law and regulations prescribe what information FPLS provides in response to a request. SPLS will usually receive FPLS responses one to two weeks after submittal. However, this varies depending on the source of the information.

The SPLS worker sends the FPLS responses back to the Field Service Specialist via email. Upon receiving the FPLS responses, the Field Service Specialist provides the responses to the case manager by forwarding the email.

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### **Sibling Placement Policy 624-05-15-45**

**(Revised 10/15/12 ML #3341)**

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North Dakota policy is placement of siblings together whenever possible. When it is not possible to place siblings together, or if there is only one child in care, visitation between family members and the foster child must be determined and documented in FRAME. Visitations must be appropriate and must be sufficient to meet the needs and safety of the foster child(ren). Face-to-face contact is recommended. However, letters, phone calls, or interactive video is allowed.

Sibling placements present unique challenges to the foster care case manager. Some of these are requirements for the least restrictive placement, shortage of foster homes in some localities, licensing and placement limitations, and most importantly the needs of each child in the sibling group.

When considering a foster home with a child currently in their care, the needs of the child in care must be considered regarding placing more children in the home. How long has the child been in that particular foster home? How old is the child? How has the child adjusted? What is the plan? What is the projected length of care for the current child? What will be the impact on the foster parents and the current child if additional children are placed in that home?

Educational and medical needs of each child in the sibling group must be considered. Transportation related to meeting these needs may also be a factor.

The number of siblings is a determining factor in searching for placement resources. Keep in mind the statutory requirements (N.D.C.C. 50-11-00.1.) which states that a family foster home may have ". . . no more than four children, unless all children in foster care are related to each other by blood or marriage or unless the department\* approves otherwise for the placement of siblings, in which case the limitation in this subsection does

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not apply." (NOTE: foster parent's children are not included in the limitation of four.)

### **Example:**

A foster home is licensed for four children. They currently have two unrelated foster youth in care. It has been determined that a sibling group of three will be appropriate for this same foster home. Upon approval of the regional supervisor, the license is amended to reflect "5" children and the sibling group is placed in the foster home.

\*The 'department' refers to the regional supervisor who issues the license. Licenses will need to be amended to accommodate sibling groups which exceed the limitation of four. It will be necessary to contact the CCWIPS/FAME Help Desk to enter a number greater than four in the CCWIPS/FAME licensing screen.

## **Substitute Care 624-05-15-47**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Substitute care is when a foster child placed in a licensed or approved (Tribal Affidavit) foster home is in need of temporary care when the foster parents are unavailable to care for the foster child. **Substitute care policy does not apply to unlicensed foster care placements (Ex: Unlicensed relative care).**

A foster family providing care and receiving financial reimbursement to meet the needs of the foster child must be licensed or approved (Tribal Affidavit) by the department. Safety and well-being assurances include:

- A completed home study for safety of the physical property,
- A completed fingerprint based criminal background check on every adult in the home,
- Training specific to ND foster care service delivery,
- Supervision by an authorized licensing agency, and
- Oversight by and communication with foster care case management.

Federal law does not allow a licensed or approved (Tribal Affidavit) foster parent to place a foster child into the substitute care of another home that does not have the required safety and well-being assurances in place when the need is greater than a portion of one day. The federal government offered states this one exception; to allow foster parents the opportunity to utilize an unlicensed individual for only a portion of one day. This limited flexibility was granted after recognition that foster families have special events, which require their absence and the need for assistance to care for foster children placed in their home. Public agencies with care, custody and control of the child must be involved in the placement decisions of foster children.

### **Substitute Caregiver:**

A substitute caregiver must be a responsible adult, age 21 or older, temporarily providing care for a foster child in the absence of the foster

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parents. If the foster parent is unavailable and the child requires care for more than a portion of one day, substitute care must be provided by a:

1. Licensed or approved (Tribal Affidavit) foster parent; or
2. Identified relative of the child.

### **Substitute Care Authorization Process:**

Substitute care arrangements made when foster parents are unavailable to care for a foster child, require prior authorization for periods of time greater than a portion of one day. Authorization must be given by the custodian of the foster child. This authorization is granted to ensure law, rule and policy surrounding substitute care are in full compliance.

The foster child may not be removed from the state of North Dakota without the prior authorization from the custodian.

### **Payment:**

Public funds for the purchase of foster care for children may be used only in licensed or approved (Tribal Affidavit) foster homes. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a family home that does not have a license or approval issued by the department. (N.D.C.C. § 50-11-03.2.).

The licensed foster care provider is receiving payment. Substitute caregivers are not reimbursed by the department, however foster care payments do continue to be authorized and issued on behalf of the foster child to the primary foster parent for no greater than 14 days unless approved by the Department.

### **Normalcy:**

Federal law (PL 113-183) incorporated the reasonable and prudent parent standard. The reasonable and prudent parent standard is characterized by "careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a foster child under the responsibility of

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a public agency to participate in extracurricular, enrichment, cultural, and social activities.” (622-05-30-05-10 and 624-05-15-50-40) The reasonable and prudent parent standard allows foster parents the decision making authority that will afford “normalcy” to a foster child wanting to engage in school activities, sports camps, social events, church retreats, birthday parties, employment, etc. The reasonable and prudent parent standard does not grant foster parents the ability to make placement decisions that are contrary to law, rule or policy. If a foster parent is in need of substitute care they must contact the custodial case manager and discuss options available to best meet the child’s needs (identified relative or another licensed/approved provider). If the foster parent presents an option of an identified relative, the custodial case manager is responsible to complete an initial safety check on the individual/s in the home (ex: public search, sex offender registry, etc.)

### **Liability:**

NDCC 50-11-03.4 notes a person providing foster care for children in a licensed or approved facility (including family foster homes) is immune from civil liability for any act or omission resulting in damage or injury to or by a child in foster care if, at the time of the act or omission, the person providing foster care for children applied the reasonable and prudent parent standard in a manner that protects child safety, while also allowing the child in foster care to experience age or developmentally appropriate activities.

This immunity does not cover:

- An unlicensed or unapproved (Tribal Affidavit) substitute caregiver,
- A licensed or approved (Tribal Affidavit) foster care provider not in compliance with law, rule, and policy.

### **18+ Continued Care:**

Foster youth who have met the eligibility for 18+ Continued Care have chosen to remain in or return to foster care up to the age of 21. The youth enter a voluntarily agreement with the Human Service Zone or Tribe and foster care provider. The youth is not under public custody, rather “placement and care” of the agency. The youth is an adult in every other system and due to their age of majority is offered additional flexibilities in foster care. For example, an 18+ youth has the opportunity to live on

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college campus while in ND 18+ Continued Foster Care. Substitute care arrangements for 18+ youth must be reviewed on a case by case basis. A review of the youth's developmental abilities, decision making skills, as well as the length of time the foster parents will be unavailable must be taken into consideration when determining if the youth is not required to be cared for or supervised by a licensed foster care provider for a period of time. Case managers must authorize substitute care arrangements. The approval for 18+ substitute care arrangements must meet the safety needs and best interest of the foster child.

## **Respite Care 624-05-15-48**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Respite is available to children currently involved with a local Human Service Zone through child protection services, in-home services, or foster care programming. In addition, respite is allowed for children previously involved who have since entered guardianship or were adopted. Respite is also available to children under the custody of Tribal social services as Title IV-E eligible and Division of Juvenile Services open in the foster care program. Children in foster care may require additional support to maintain stability in their primary placement. Respite care is defined by foster care policy as temporary relief care for a child with special medical, emotional or behavioral needs, which requires time-limited supervision and care by a licensed provider.

**\*\*NOTE\*\*** Respite is not substitute care. There are times when a foster parent is unavailable to care for a foster child due to other commitments (vacation, funeral, special out of town event, etc.) Respite cannot be used when a foster parent is unavailable and in need of substitute care.

All children in North Dakota foster care are eligible for respite; even if the child is placed in unlicensed relative care or placed out of state. A foster child must be provided respite care by a licensed foster parent or a licensed child care provider. A licensed child care provider can only be utilized during daytime hours and respite cannot exceed 10 hr/week unless otherwise approved by the Field Service Specialist. The licensed provider must sign a respite provider agreement ([SFN 929](#)) and register on OMB vendor registry website as proof of a signed W-9 for reimbursement.

### Examples of Foster Youth who can Utilize Respite:

1. Primary Placement:
  - Foster child in a licensed foster home
  - Foster child in unlicensed relative placement



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- Foster child is on a trial home visit
- Foster child in kinship relative care (TANF recipient)

### 2. Appropriate scenarios for respite:

- Child is destroying property at the foster home; foster parents ask for help in re-grouping to see if a small stay elsewhere will help the child better engage in the primary home.
- Child is living with unlicensed relative (grandma). Child is very busy and Grandma is stating a weekend to recharge her battery would be helpful for her own mental health needs and to stabilize the placement ongoing.
- Child is living with unlicensed relative (grandma). The toddler foster child is very busy and Grandma is stating two mornings a week (8 hr/wk) for the next two months would be helpful so she can recharge her battery and complete household tasks she is unable to do when the child is in the home. A licensed child care provider could provide respite to grandma for the 8 hr/wk.
- Child is missing his siblings; because of this the foster parents indicate his behaviors are escalating in the primary placement. The case manager reaches out to see if the foster parents who have the other two siblings would be willing to offer respite for a weekend sibling visit and to monitor the placement stability, child behaviors, etc.
- Foster parents are going to a wedding where there will be loud music, lots of people, etc. They indicate the foster child with autism does not do well in large groups and would benefit from a short respite stay while they attend the wedding for two days. In this case, the case manager could approve respite if the child's behaviors would result in additional cares.

### 3. Inappropriate scenarios for respite:

- Foster parents are going to a wedding and they would rather not have to bring all of the children... this is substitute care, not respite.

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- Foster parents are asking to discontinue their responsibility as the primary placement. A new placement option should be identified in lieu of respite stays.

### Respite Referral/Request

Foster care case managers can request respite services by completing the SFN 925, Respite Care Referral. This form must be submitted in advance to the Children and Family Services assigned Field Service Specialist for pre-approval. The form was created to help Field Service Specialist verify the need for respite care, review the licensing capacity of the family being asked to provide the respite, while tracking the programs utilizing respite care.

### Respite Reimbursement

Respite care funds are maintained at NDDHS Children and Family Services (central office) and paid to licensed providers by NDDHS Fiscal. Reimbursement is allowed for pre-planned respite and will only occur if the respite arrangement is pre-approved by the Field Service Specialist. Respite care is limited to 96 hours at the “emergency rate” of \$38/day. However, if the child’s level of care is beyond the daily rate and the foster child is currently receiving an EMP, the higher daily rate may be reimbursed to the respite provider.

Respite care can cover additional costs of reimbursement if needed specific to child care and transportation to and from school of origin. If a foster child is with a primary provider who does not utilize child care during the week, but the respite provider does work fulltime and would need child care during the week; the child care costs to a licensed child care setting can be made to the respite provider to assist with the care of the child during the respite stay. All additional costs must be pre-approved by the case manager and approved by the Field Service Specialist.

Respite care can cover additional costs for licensed foster care providers specific to child care and transportation to and from school of origin. If a foster child is with a primary provider who does not utilize child care during the week because they do not work, however the respite provider does work fulltime and would need child care during the week; the child care

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costs to a licensed child care provider can be made to the respite provider to assist with the care of the child during the respite stay. All additional costs must be pre-approved by the case manager and approved by the Field Service Specialist.

Respite care provided by a licensed child care provider during daytime hours that exceeds \$38/day must have a receipt or bill provided to the Field Service Specialist to support the cost of the care. Child care costs vary per community standards, respite can pay the community rate. Respite in a child care setting is capped at 10 hours per week, unless approved by the Field Service Specialist.

- **Paid Placement:** The licensed foster parent providing respite care can claim the child care costs under the primary foster parent irregular payment category 40 (if applicable) or claim under “additional costs” on the form.
- **Unpaid Placement:** The unlicensed relative caregiver would need the child care provider to complete the form and claim the child care costs of \$38/day. If the cost of the respite offered by a licensed child care provider exceeds \$38/day, a receipt or bill would be required to justify the expense of the child care costs.

Respite payments are made outside of the foster care payment system and are in addition to the primary placement maintenance rate. Respite reimbursement will be made by NDDHS directly to the licensed provider listed on the SFN 929.

### Licensed Provider – Amendment to the license

The SFN 929, respite agreement, must be completed and pre-approved for a licensed foster home providing temporary respite. The Department is not required to amend the foster care license to accommodate the short-term respite placement, so long as the SFN 929 is signed and reviewed granting permissions to proceed. The Department must review the license with the requesting foster care case manager to discuss need, sleeping arrangements, bed space and appropriateness of the respite in lieu of amending the formal license.

### Relative Caregivers

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A foster child may be in a primary placement with an unlicensed relative caregiver. The relative caregiver can request respite care in efforts to support the child's needs and maintain stability in placement. The foster care case manager must receive approval from the Field Service Specialist in order to proceed with planning for a respite care arrangement. The case manager is responsible to assist with paperwork and seek to identify a licensed foster parent willing to offer temporary respite.

### Therapeutic Foster Care Providers

Agency providers offering therapeutic foster care services (Ex: PATH and LSS) have policy and procedure to administer respite payments within their agency structure. A therapeutic provider is required to sign the SFN 929, respite agreement, when:

- a. Respite to Non-Agency Client: In order to offer respite services to a child who is not a current client in placement with the agency, the provider must sign a SFN 929 to provide respite and be reimbursed directly from the Department.
- b. Respite to Agency Client: In order to offer respite internally from one agency provider to another, a SFN, 929, respite agreement is only required when the foster home is licensed for a specific number of beds, but the respite stay will bring the therapeutic provider over the licensing capacity. An additional Department payment is not associated with the internal agency respite payment structure, however, the Department must pre-approve these respite placements in efforts to eliminate the need to amend the license.

## **Babysitting 624-05-15-49**

**(NEW 7/23/18 ML #3535)**

[View Archives](#)

Foster parents have various events and activities that may temporarily require the need for a babysitter to care for children in their absence. Foster parents are required to follow the reasonable and prudent parent standard while selecting an appropriate individual to babysit. Foster parents are responsible to prepare the babysitter with necessary information to best care for the children, while maintaining confidentiality to protect the foster children.

Babysitting is distinguishably different from child care, substitute care and respite. Babysitting is the short-term care of foster children when the foster parents are temporarily away, however still available to respond if needed. A babysitter can be a responsible individual, between the ages of 14 and 21, secured to provide care and supervision for no more than eight consecutive hours in one day.

Initially, foster parents should discuss the need to seek a babysitter with the primary foster care case manager. After consultation, a foster care case manager may approve or deny the appropriateness of such future arrangements.

### **North Dakota Babysitting Criteria**

The individual selected to babysit foster children may not be left responsible for more than eight consecutive hours and must be:

- Between the ages of 14 and 21;
  - Individual's age 21 or greater meet the definition of a substitute caregiver allowed to care for foster children for a portion of one day. If time exceeds one day, a licensed foster parent must provide substitute care if the primary foster parents are unavailable.
- Able to demonstrate responsibility;
- Able to demonstrate skills and maturity to supervise others;
- Capable to provide adequate care to others; and

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- Pre-approved by the foster care case manager if asked to transport foster children. Approval would require evidence of a driver's license and insurance coverage.

The Foster Child: It is important to recognize how long the foster child has been placed in the foster home, the age of the foster child, how well the child knows the identified babysitter, and the complexity of the child's needs. In addition, the child's vulnerabilities, behaviors and how quickly the foster parents can respond will help determine when a foster child is ready to be left in the care of a babysitter.

The Individual Babysitting: It is important to be familiar with the individual selected to babysit. A foster family should know his/her maturity, emotional health, and physical and cognitive abilities to accommodate the length of time, time of day, number of children to supervise, etc. These standards must be taken into consideration when determining if an individual is appropriate to babysit foster children.

Babysitting Class: Foster parents should consider selecting an individual who has completed a babysitting certification class. Classes are offered by various organizations such as the American Red Cross, YMCA, Girls Scouts of America, NDSU Extension, Parent Resource Centers, local hospitals, and other agencies across the state. A babysitting certification course is not required by foster care policy, however highly encouraged as such classes do offer specialized training in first aid, CPR, emergencies, the planning of age appropriate activities, meal schedules, infant care, etc.

### **Can a Foster Child Age 14+ Babysit?**

Foster children who meet the policy criteria may be allowed to babysit and care for other children. If the foster child is asked to babysit; this would be an independent living skill assisting both employment and financial management. If appropriate, a responsible foster child should be given the opportunity to engage in the normalcy activity of babysitting. However, an adolescent foster child should not be relied upon to babysit children in their primary placement without agreement and compensation for their time.

### **Reimbursement**

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Babysitting costs are the responsibility of the party receiving the service. The cost for a babysitter varies depending on the babysitter's age, experience, number of children they are caring for, their ability to drive, length of time, time of day, etc.

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### **Case Plan 624-05-15-50** **(Revised 11/1/16 ML #3481)**

[View Archives](#)

Each child in foster care is required by federal law to have a case plan which must be a written document and a discrete part of the case record. The initial case plan must be developed within 30 days of entry into foster care.

The information in FRAME captures information essential to generate the individualized case plan to meet federal foster care requirements. The signed signature sheet from the Child & Family Team Meetings (FRAME generated) must be maintained as a hard copy in the child's foster care case file.

In those limited situations where the permanency planning preprinted forms (created outside of FRAME) are allowed, the created case planning document must be signed and maintained as a hard copy in the child's foster care case file.

Title IV-E of the Social Security Act, Sec. 475, specifies what must be in a foster care case plan. The child's case plan must:

1. Be a written document and made a discrete part of the case record.
2. Include a description of services offered and provided to prevent removal of the child from the home and to reunify the family.
3. A description of the type of home or institution in which the child will be placed, discussion of safety and appropriateness of the placement, how the responsible agency plans to carry out court requirements (i.e. reasonable efforts).
4. Assure the child receives safe and proper care; that services are provided to the parents, child, and foster parents in order to improve conditions in parents' home, facilitate return of child to their own safe home or the permanent placement of the child. It must include the most recent information available pertaining to child's health and education records, including a discussion of the appropriateness of the services that have been provided to the child as reflected in FRAME.



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5. Address visitations between the Foster child and his/her parent(s), and siblings in an effort to maintain family connections. The timeframes for these visits must be appropriate and meet the needs of the foster child and his/her family.
6. Include discussions of the appropriateness of the services that have been provided to the child as reflected in the data management system, FRAME.
7. Include discussions of how the plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s) when the case goal is reunification and a discussion of how the placement is consistent with the best interests and special needs of the child.
8. Include details stating (if applicable) why the placement is in the best interest of the child if placement is a substantial distance from the home of the parent(s), in a different state, or outside of the Tribal service area.
  - A. If the child is placed out of the community, state, tribal service area the case manager must make arrangements to complete the monthly face-to-face visitation with the child. Courtesy case management is allowed for children placed out of state.
9. Include the most recent information available pertaining to child's health and education records, including:
  - A. Educational Information
    1. Names and addresses of child's school/s of attendance;
    2. Child's current grade;
    3. Child's school record;
    4. A specific educational stability plan providing assurances:
      - a) Each foster care placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of foster care placement.
      - i. School of origin decisions must reinforce the child's best interest. School of Origin: The foster child's school of origin may change depending on their foster care placement. If a foster child's placement changes, the school of origin would be considered

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the school in which the child was enrolled at the time of the placement change.

ii. Example: The foster child was enrolled in District A when he/she entered foster care. The child was placed in a foster home of school District B when it was determined to be in the child's best interest for the child to remain in District A.

b) The foster care case manager has coordinated and communicated with the designated school district "foster care liaison", to ensure that the child remains in the school in which the child is enrolled at the time of foster care placement; or, if remaining in such school is not in the best interests of the child, assurances by the child welfare and educational agencies to provide immediate and appropriate enrollment in a new school, with request to transfer all educational records for the child.

c) Each school age child in foster care is enrolled as a student (or in the process of enrolling), or is a full-time \*elementary or secondary school student; or, is incapable of attending school on a full-time basis due to the medical condition of the child. If the child is incapable of attending school on a full-time basis, regularly updated information, must be included in the case plan that supports this determination; and

### **B. Medical Information**

- 1. Name and address of primary medical professionals;**
- 2. A record of child's immunizations;**
- 3. The child's known medical problems**
- 4. The child's medication;**

### **C. Any other relevant health and education information concerning the child determined to be appropriate and necessary for case planning.**

(\* The term "elementary or secondary school student" can include youth who are attending school in accordance with the State home school law, or youth who are seeking his/her GED through an independent study program in accordance with State law.)

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**NOTE:** The above information related to education and medical must be reviewed and updated at the time of each placement of the child in foster care. Also, included is a requirement that such records be supplied to the foster parents or foster care providers.

### Additional Case Planning Requirements Include:

- A. Permanency Goal:
1. If the child's permanency plan/goal is adoption or placement in another permanent home, federal law (ASFA) requires the plan must include:
    - a. Documentation of the steps the agency is taking to find an adoptive family or other planned permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize a legal guardianship.
    - b. At a minimum such documentation must include 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.
  2. If the child's permanency plan/goal is another planned permanent living arrangement (APPLA) the case plan must include:
    - a. Documentation of intensive, ongoing, and unsuccessful efforts made to return the child home or secure placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent, including the utilization of search technology to find biological family members.
    - b. Documentation ensuring the foster care provider is following the reasonable and prudent parent standard.
    - c. Documentation that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities.

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### **B. Age Specific Case Plan Requirements:**

1. A foster child who has attained 14 years of age, must be given the opportunity to:
  - a. Participate in the development and revision of their individualized permanency plan, which must include:
    - i. A written description of programs and services to help the child prepare for their transition to a successful adulthood. The case manager must assist the child in developing goals to meet their independent living needs.
    - ii. A signed copy of the ND Foster Youth Rights (DN 402) (see 624-05-15-50-49).
  - b. Personally invite two additional members to join the Child & Family Team, chosen by the child, who are not foster parents of, or a case manager for, the child.
    - i. Custodians may reject an individual selected by a child to be a member of the Child & Family Team at any time if there is good cause to believe that the individual would not act in the best interest of the child.
    - ii. One individual selected by the child to be a member of the child's team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.
2. A foster child who has attained 16 years of age and has been identified as "likely to age out of foster care"; will be considered a Chafee Independent Living Program "Priority 1" participant. Children age 16+ are required to be referred to the Chafee Independent Living Program (SFN 1613) for assistance to the case manager in assessing and addressing the needs for a child's transition to a successful adulthood.
3. A foster child who is nearing 18 years of age must have as part of their case plan:

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- a. A developed individualized transition plan (SFN 494) (see 624-05-15-10)
- b. A documented review of a health care directive (see 624-05-15-50-46).

### Notice of Child Proceedings

Foster parents, pre-adoptive parents, or relatives providing care for the child must be provided with written notice of and a right to be heard in any proceeding held with respect to the child during the time the child is in the care of such foster parent, pre-adoptive parent or relative caregiver. Email or letter notice constitutes written notice, if there is documentation of the letter or email on file.

For assistance in generating the child's foster care case plan on FRAME, please refer to the FRAME user manual.

### Abbreviated Case Plan

Every child in foster care is required to have an approved case plan which is a written document that is made a discrete part of the case record. For child in foster care on a short-term basis (less than 30 days), an abbreviated case plan is allowable. An abbreviated case plan must contain at least one completed factor, with goals and tasks, in FRAME's family assessment instrument.

All case plans must take into account the child's safety, permanence, and well-being. An approved case plan must be in FRAME before the foster care case can be closed.

### **NOTE: High Risk Youth (at risk of harming self or others)**

Great emphasis is placed on youth in foster care receiving safe and proper care. Each child's case plan must include strategies for dealing with any behaviors or emotional needs which place him/her in the high risk category. Upon identification of such behaviors or emotional needs, a safety plan must be developed immediately for implementation. A safety plan must be developed and distributed to all appropriate parties, specifically including the foster parents.

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Every child in foster care will have an individualized case plan developed and reviewed at least quarterly during the case review (Child & Family Team Meeting). See 624-05-15-50-03.

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### **Case Reviews 624-05-15-50-03**

**(New 12/1/15 ML #3461)**

[View Archives](#)

Detailed in the Title IV-E of the Social Security Act, Sec. 475(5), the case review system means a procedure for assuring that:

1. Each child has a case plan (FRAME) designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which:
  - a. If the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and
  - b. If the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, a case manager (from either State) visit such child in the home or institution where the child is placed, and every month, submit a report on the visit to the State agency (Children and Family Service Division).
2. The periodic review (North Dakota reviews are conducted quarterly and referred to as the Child & Family Team Meeting) determines the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating the causes which necessitated the foster care placement, and projects a likely date when the child may be returned to and safety maintained in the home or placed for adoption or legal guardianship.
3. The periodic review will also determine and assess the steps the agency is taking to ensure the child's foster family or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities to achieve normalcy.

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Foster parents, pre-adoptive parents, or relatives providing care for the child must be provided with notice of and a right to be heard in any review (Child & Family Team meeting) or hearing with respect to the child.

The FRAME case management system is designed to capture the information required to generate create the Child & Family Team Meeting Report. Hard copies of the FRAME information can be generated and copies made for distribution. Please refer to the FRAME User Manual for technical assistance.

In addition to the requirements outlined above, federal law requires the case plan to also include the following items:

1. The goal(s) of placement. Goals must be time framed and detailed. A child's permanency goal must be reviewed at each Child & Family Team meeting.
2. Identification of the specific circumstances which necessitated and cause the separation of the child from the family. Refer to the Agency View and Family View of Situation in the FRAME Case Plan.
3. Identification of the specific services to be provided by the agency in alleviating or helping to alleviate the conditions which led to the placements; project the date(s) by which each of these goals is to be accomplished. Refer to the Family Risk Assessment (FRA) located with the FRAME.
4. Identification of the specific actions to be taken by the parents in correcting the conditions which led to the placement and the date by which each of these activities is to be accomplished. Refer to the Goals and Tasks sections of the Family Risk Assessment (FRA) within FRAME.
5. Identification of the specific actions, when appropriate, to be taken by the child in correcting the conditions which led to placement and the date by which each of these activities is to be accomplished. Refer to the Goals and Tasks section of the Family Risk Assessment (FRA) within FRAME.
6. Identification of the specific services to be provided by the foster parents to the child. Refer to the Goals and Tasks section of the Family Risk Assessment (FRA) within FRAME.
7. Anticipated length of placement stated in months.
8. Written plan for visitation stating frequency, location and participation.



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9. Specific information addressing the health, safety, and well-being of the child. Refer to the Life Domains and Safety Plan in the Family Risk Assessment (FRA) within FRAME.

This information is included in the child's case plan on FRAME. Refer to the FRAME user information for technical assistance.

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### **Preparation of Child and Family 624-05-15-50-05 (Revised 2/10/07 ML #3053)**

[View Archives](#)

Preparation of the child and their family is crucial;

1. To decrease the damage done to child and family by the actual separation of the family.
2. To increase the success of achieving changes identified in placement and planning and to assist with reunification.

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### **School District Notification 624-05-15-50-07**

**(NEW 11/1/16 ML #3481)**

[View Archives](#)

NDCC 15.1-29-14 establishes school district responsibility for the payment of tuition, excess cost and, in the instance of handicapped children, excess educational costs related to special education. The law requires that foster care agencies placing children notify the interested school district of such placements to assure timely and orderly assumption of financial responsibility by the appropriate school districts.

The foster care case manager shall provide written or electronic notice regarding an initial placement and all subsequent placements to the superintendent of the student's school district of residence and to the superintendent of the admitting district:

1. Within five working days after a placement is made under court order;
2. Within five working days after an emergency placement is made; or
3. At least ten working days prior to any other placement.

In addition, the foster care case manager shall communicate with the school district's identified "foster care liaison" to ensure the opportunity to participate in permanency planning for the foster child attending school.

#### Online System Notification

Notifications (SFN 18119) are required when a child

1. Enters foster care (Initial Notification),
2. Has a change in placement resulting in a change of educator (Change in Educator),
3. Attends school annually (Annual Residency Notification), and
  - a. Must be completed each year while in foster care by September 15th - once established, the resident district remains unchanged until the following September 15th.
4. Discharged from foster care.

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The foster care case manager will see four boxes at the top of the form. Completing this form will update all parties and will keep the Educating District, Resident District and NDDPI all informed of the whereabouts of the foster child. Note: If a child does have a change in educator mid-year, the financially responsible district will remain the same (entire school year) and will not change until the following September 15th during the Annual Residency Determination allowed timeframe.

### **Online Procedure**

Department of Public Instructions' (DPI) form, SFN 18119, will serve as the official document in all instances for the notification required by NDCC 15.1-29. Electronic submission is the preferred method of submission. The electronic notification system can be accessed at:  
<https://secure.apps.nd.gov/dpi/ndteach/sclogin.aspx>.

This application requires workers to establish a ND State login ID, and link this ID to the placing agency. To determine if you have a current login, see link entitled, "Not Sure?" Also, Login ID users who have forgotten their ID's, or have forgotten their passwords, will have a link on the sign-in page which will provide assistance. If you do not have access to the site, you will need to create a login ID. This can be done by clicking on the link labeled "Register Now". You will be asked to provide your name, company name, address, email, and other security questions which help identify the user.

Training for the site can be accessed at  
<http://www.dpi.state.nd.us/speced/>.

**IMPORTANT:** After you have created a login ID, current entity users for your agency, or school, will need to add your user login to the current list of entity users. DPI Administrators may also add your user login ID for access. This step must be completed before you may gain access to the notification and contract system.

Questions related to the notification process can be answered by clicking the question mark- help icon on the website or by calling ND Department of Public Instruction at (701) 328-2175 or (701) 328-1678.

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### **Health Tracks 624-05-15-50-08**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Federal law specifies that all persons under 21 years of age who are eligible for medical services through Title XIX, including children in foster care, must be informed of Early Periodic Screening Diagnosis and Treatment (EPSDT), known in North Dakota as Health Tracks or a well child check, is designed to detect health problems at an early age.

Children in foster care are required to have their physical, mental, developmental needs assessed and addressed. Foster care case managers must ensure each foster child has a Health Tracks **or** a well-child check completed within 30 days of entry into foster care and at least annually thereafter. The screening must include developmental and mental health assessments, as well as assessments for physical, dental and optical health needs of the child, regardless of age. A formal dental exam must be completed for each foster child at first tooth eruption or by 1 year of age based on Medical Services policy and the American Association of Pediatric Dentistry recommendation.

The professional providing the Health Track screening will assist the child's foster care case manager in making referrals if additional services are needed. A copy of the Health Tracks screening must be placed in the child's case file and dates of the screening must be entered into the data management system.

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### **Medicaid Coverage 624-05-15-50-09**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Medicaid eligibility questions regarding foster children should be referred to the Human Service Zone financially responsible for the care of the child. If the child is eligible for Title IV-E benefits, this child becomes “categorically” Medicaid eligible. The eligibility worker will authorize Medicaid coverage accordingly. If the child is not eligible for Title IV-E benefits, a Medicaid determination must be made according to policy set forth by ND Medicaid policy. See [DN 1475](#) “Foster Children – Medical Services” for quick reference.

Foster Care Case Managers must know:

1. For each new foster care entry, case managers must complete the SFN 641 TITLE IV-E/TITLE XIX APPLICATION - FOSTER CARE.
2. To inform the child’s foster care provider and medical provider of the foster child's Medicaid ID.
3. If seeking placement with a therapeutic/treatment foster care provider, a child’s Medicaid eligibility must be determined prior to referral.
4. Excess medical expenses billed to the custodial agency, not reimbursable by North Dakota Medicaid or other insurance, are not a foster care expense and cannot be paid with foster care funding. It is important case management assist foster care providers in identifying and utilizing medical providers who accept ND Medicaid or who are willing to enroll as ND Medicaid providers.
5. Medicaid eligibility for young people aging out of ND foster care must meet the requirements of Medicaid eligibility policy in order to obtain and maintain Medicaid until the age of 26. See [DN 1476](#) “Former Foster Youth – Medical Services” for quick reference. Most importantly, the child must
  - a. Age out of ND foster care and
  - b. Upon aging out, the child must be also receiving ND Medicaid.

**Steps Recommended in Preparation for Placement  
624-05-15-50-10**

**(Revised 2/10/07 ML #3053)**

[View Archives](#)

1. Discuss all aspects of the placement plan with parents, child and foster parents.
2. Tell family members about the home where the child will be -- answer their questions.
3. Have at least one pre-placement visit in the new home when appropriate.
4. Share the initial case plan with the foster parents.
5. Encourage the family to pack the child's belongings, encourage them to include special toys and pictures to help the child feel at home.
6. Be clear about how the child and his family can keep in touch with each other, directly or through the agency.

## **Interstate Compact on the Placement of Foster Children 624-05-15-50-12**

**(NEW 11/1/16 ML#3481)**

[View Archives](#)

Custodians who identify placement options outside of North Dakota must follow Interstate Compact on the Placement of Children (ICPC) policy found in Manual Chapter 619-01. Questions regarding the ICPC paperwork or the required approval can be directed to Children & Family Services ICPC Administrator. ICPC approval must occur before the child leaves the state of ND.

**Family Foster Home Placements:** If a ND foster family is moving out of the state and the plan is for the ND foster child(ren) to move with them, the case manager must:

1. Follow ICPC policy
2. Discuss payment with the family noting that once the family leaves the state of ND, their foster care license terminates. Foster care funds cannot be authorized on behalf of the children's needs until the provider becomes licensed in their new state of residence.
3. Inform and provide the family with contact information to inquire about becoming licensed in their state of residence.

**Facility Placements:** Prior to a ND foster child being placed in a group home or residential child care facility outside of North Dakota, the case manager must:

1. Follow ICPC policy
2. Complete and receive denials from all appropriate in-state facilities. Foster youth who require residential care must be referred to all appropriate facilities within ND before consideration will be given to out-of-state facilities.
  - a) Out-of-state referrals can be made when it has been determined that the child's needs cannot be met within the state of North Dakota.



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b) Copies of denial letters must be included in all ICPC referral packets. If any denial letter is not available when an ICPC referral is submitted to CFS, a notation in the cover letter must identify the referral facility and the reason the child cannot be served in the facility.

c) If a youth is being referred to an out-of-state PRTF, Medical Services must approve the out-of-state referral in partnership with ND ICPC. Concurrent referrals through Medical Services and ICPC are suggested to expedite placement decisions.

**Payment Rates:** Foster care funds cannot be used to reimburse an unlicensed provider or a placement that does not meet ICPC compliance/approval.

1. When North Dakota is the receiving state in an Interstate Compact placement, the sending agency must reimburse the ND provider at a rate consistent with North Dakota's foster care daily maintenance rate.
2. When North Dakota is placing (sending) a child in another state through Interstate Compact, North Dakota will reimburse the out of state provider at the receiving state's daily maintenance rate.

**Multiethnic Placement Act/Interethnic Adoption Provision  
(MEPA-IEP) 624-05-15-50-15**

**(Revised 2/10/07 ML #3053)**

[View Archives](#)

Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996, amended the Multiethnic Placement Act of 1994 (MEPA), which prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved. The language of the 1996 provision is as follows:

A person or government that is involved in adoption or foster care placements may not –

1. deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child involved; or
2. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

For purposes of MEPA – IEP, “placement decision” means the decision to place, or to delay or deny the placement of, a child in a foster care or adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

The purpose of MEPA/IEP is to promote the best interest of children by:

1. Decreasing the length of time that children wait to be adopted.
2. Preventing discrimination in the placement of children on the basis of race, color, or national origin; and
3. Facilitating the identification and recruitment of foster and adoptive families that can meet children’s needs.

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MEPA/IEP also provides for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed. The diligent recruitment requirement in no way mitigates the prohibition on denial or delay of placement based on race, color, or national origin.

The 1996 changes to MEPA clarified that even where a denial is not based on a categorical consideration, which is prohibited, other actions that delay or deny placements on the basis of race, color, or national origin are prohibited. The changes made in the law removed areas of potential misinterpretation and strengthened enforcement while continuing to emphasize the importance of removing barriers to the placement of children. Any decision to consider the use of race as a necessary element of a placement decision must be based on the best interests of the individual child (good social work practice).

In summary, HHS cites focus on four critical elements:

1. Delays in placement of children who need adoptive or foster homes are not to be tolerated, nor are denials based on any prohibited or otherwise inappropriate consideration;
2. Discrimination is not to be tolerated, whether it is directed toward adults who wish to serve as foster or adoptive parents, toward children who need safe and appropriate homes, or toward communities or populations which may heretofore have been under-utilized as a resource for placing children;
3. Active, diligent, and lawful recruitment of potential foster and adoptive parents of all backgrounds is both a legal requirement and an important tool for meeting the demands of good practice; and
4. The operative standard in foster care or adoptive placements has been and continues to be "the best interests of the child." Nevertheless, as noted above, any consideration of race, color, or national origin in foster or adoptive placements must be narrowly tailored to advance the child's best interests and must be made as an individualized determination of each child's needs and in light of a specific prospective adoptive or foster care parent's capacity to care for that child.

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MEPA/IEP compliance is a civil rights issue (Title VI). The Office for Civil Rights receives and investigates complaints related to MEPA-IEP, and conducts independent reviews to test compliance within States.

Administration for Children and Families (ACF) will also conduct reviews focusing on or including MEPA-IEP compliance. Fiscal sanctions will be imposed on states for violations.

Entities subject to MEPA-IEP:

MEPA-IEP applies to any state or other entity that receives funds from the federal government and is involved in some aspect of adoptive or foster care placements.

### **ICWA:**

**MEPA-IEP has no effect on the application of The Indian Child Welfare Act (ICWA).**

The Indian Child Welfare Act or ICWA promotes the well-being of American Indian children by keeping them connected to their families, tribes, and cultural heritage. It covers tribal children from all American Indian and Alaska Native tribes listed in the Federal Register. ICWA supports Indian tribal authority over their members and the well-being of Indian children and families.

Under ICWA, a child is Indian if he or she is a member of a federally recognized tribe or if he or she is eligible for tribal membership and is the biological child of a tribal member.

ICWA requires that every effort be made to try and keep families together. If removal is necessary, "**active efforts**" must be made for reunification. This means that everything possible must be done to help the family resolve the problems that led to placement. If an Indian child is removed and placed in foster care or a pre-adoptive placement, ICWA requires placement to be in the least restrictive, most family-like setting which the child's special needs, if any, may be met. The child shall be placed within reasonable proximity to his or her home and preference shall be given, absent good cause to the contrary, to a placement with:

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### FOSTER CARE PLACEMENT:

1. A member of the child's extended family.
2. A foster home licensed, approved, or specified by the tribe.
3. An American Indian foster home licensed or approved by an authorized non-Indian licensing authority.
4. An institution approved by a tribe or operated by an American Indian organization that has a program suitable to meet the child's needs.

### ADOPTION PLACEMENT:

When placing an American Indian child for adoption, preference shall be given, absent good cause to the contrary, to a placement with:

1. A member of the child's extended family.
2. Other members of the child's tribe.
3. Other American Indian family, before placing the child in a non-Indian home.

## **Relative Care 624-05-15-50-20**

**(Revised 1/15/2021 ML #3606)**

[View Archives](#)

Federal law under title IV-E of the Social Security Act requires public agencies to consider relatives of the child as a placement preference while the child is in foster care, provided that the relative caregiver meets relevant standards. Relative placement minimizes loss, promotes timely reunification and placement stability, as children placed with relative's experience fewer placement disruptions than children placed with non-related foster parents. Preserving the child's existing personal and cultural connections can be achieved by engaging in placement with relatives.

N.D.C.C. 27-20. Uniform Juvenile Court Act:

"fit and willing relative or other appropriate individual" means a relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under chapter 50-11.3, to be a qualified person under chapter 30.1-27, and who consents in writing to act as a legal guardian.

N.D.C.C. 50-11 further defines placement of a child in a home other than parents, can be with an "Identified Relative":

- a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
- b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
- c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
- d. The child's stepparent.

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In order to verify prospective identified relatives, the agency must complete a comprehensive search via the relative search policy. Relative caregivers are not required to become licensed foster parents; however, the option should be offered if financial support is necessary to care for the child's needs while he/she remains in public custody. Foster care funding is available only to licensed foster care providers. In lieu of becoming a licensed foster parent, the relative may choose to apply for TANF Kinship program "**for child only**".

## **Relative Search 624-05-15-50-22**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

When a public agency (Human Service Zone, DJS, or Tribe) becomes the court ordered custodian of a child placed in foster care; the agency must identify and notify the child’s relatives.

Federal law under title IV-E of the Social Security Act requires public agencies to consider relatives of the child for placement preference while the child is in foster care, provided that the relative caregiver meets relevant standards. Relative placement promotes timely reunification and placement stability, as children placed with relative’s experience fewer placement disruptions than children placed with non-related foster parents. Preserving the child’s existing connections and relationships to familiar adults can be achieved by engaging in relative placements.

Upon removal from the primary caregiver, a relative search must be initiated for each child. The relative search can be conducted through discussion with the family, child, or the use of two approved search options (Federal Parent Locator Services and SENECA). Costs associated with relative searches are paid for by the Department through the Children & Family Services Division.

The custodial agency is required to:

1. Conduct a relative search for both the paternal and maternal families;
2. Conduct a reasonable and comprehensive search until a fit and willing relative is identified. If a relative is not identified, diligent search efforts must continue for at least six months.
3. Notify relatives of the need to locate a temporary placement to care for the child. If a relative is willing and available, consider placement without delay;
4. Inform the court that the agency has made reasonable efforts to prevent placement by securing relative care;
5. Consider a relative as a placement resource for subsequent future placement needs, even if the relative declined to care for the child at the time of removal;



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6. Provide notice to relatives when preparing for the permanency hearing or in anticipation of filing a Termination of Parental Rights;
7. Document relative search efforts; and
8. If applicable, continue to search for and contact relatives as an ongoing process throughout the life of the case. Foster care case managers should be contacting relative resources to explore their ability to either be a placement resource or ongoing emotional support for the child through letters and phone calls in efforts to maintain family connections while in foster care.

### When Parents Object to a Relative Search

The case manager must consider the request of a parent to not contact specific relatives. If a child's parent objects to the search for relatives, the agency must evaluate and address the parents' concerns by considering:

1. The child's and the parents' preferences about relatives and the reasons for those preferences;
2. The child's current relationships with relatives and impact of such placement versus placement with a foster family the child does not know;
3. Whether there are other relatives who may be contacted;
4. Whether any relatives have offered to care for the child;
5. Whether placement with relatives would interfere with the parents' ability to follow a case plan goals and tasks; or
6. If ICWA applies, the Tribe's position on contacting relatives.

When parent(s) object to the search for relatives, case managers must document details why the parent(s) have concerns and consider the individual circumstances. If objection continues, the agency must notify the court of the parents' request and the court can determine whether the request is in the child's best interest. Case managers must consult with supervision and the local state's attorney if it is contrary to the welfare for the child to return to the parent(s) and the parent(s) continue to object to relative engagement.

Federal Parent Locator Services: If the location of the absent parent is unknown, the results, or the status of a search through the Federal Parent Locator Services (FPLS\*) – Child Support must also be initiated. See 624-05-15-41 for FPLS process. If appropriate, efforts to locate and/or contact the absent parent should be made initially and no greater than 30 days

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from removal. Absent parent searches should take place prior to key decision points in the life of a case and continue no less than once every three months.

In order to initiate a Federal Parent Locator search, the foster care case manager collects and must e-mail pertinent information regarding the family to the Field Service Specialist. The information should be as complete as possible to enable a comprehensive search.

### SENECA:

**The child's case manager researches and collects pertinent information regarding the family to enable a comprehensive search.**

The following is a sample of the type of information required.

Child: Name, date of birth, social security number, address or last known address.

Parents: Name, date of birth, social security number, address or last known address.

Father: Name, including middle name if known, AKA, date of birth, social security number, occupation, last known address.

Mother: Name, including middle & maiden name if known, AKA, date of birth, social security number, occupation, last known address.

Add to this anything significant you determine may assist in locating relatives.

The foster care case manager must enter the information into the SENECA search site at  
<https://online.senecacenter.org//www/public/familyfinding/requestform.aspx>

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### **Responsibility of Relative Search:**

#### **Case Manager:**

- Collect relevant information and e-mail SFN 1944 for FPLS to the Field Service Specialist in a timely manner.
- Request relative search from SENECA website.
- Upon receipt of the search information.
  - Contact relatives identified and
  - Document findings in the data management system "relative search" field, include details specifying why a relative was ruled out in the comments box or in case activity logs.
- If results do not present immediate relative engagement, continue to gather and seek information to maintain family connections for the child ongoing.

#### **Children and Family Services - Field Service Specialist:**

- Receive the SFN 1944 detailing the child's specific relative information from the case manager.
- Forward the child's relative information to FPLS in a timely manner.
- Upon receipt of the child's FPLS relative search information, provide the details to the case manager in a timely manner.

#### **Children and Family Services - Administrative Support:**

- Authorize payment to SENECA upon completion of the search and billing received.

**Requirement for Notice to Relatives to Child's Removal  
624-05-15-50-23**

**(Revised 12/1/15 ML #3461)**

[View Archives](#)

Agencies are required to exercise due diligence to identify and provide notice to the following relatives: parents, parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult suggested by the parents, subject to exceptions due to family or domestic violence, within 30 days of child's removal.

For the purposes of this section, "sibling of the child entering foster care" means:

- a. A brother or sister who has at least one biological or adoptive parent in common;
- b. A fictive brother or sister with a significant bond as identified by the child or parent; or
- c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

The relatives must also be advised of all available options to become a placement resource for the child. The notice shall:

- a. Specify that the child has been or is being removed from the custody of the parent, or parents of the child;
- b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
- c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
- d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.

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The agency must provide this notice in a manner that reasonably ensures the relative has understood the notice. This could mean providing notice in a language the relative is fluent in. Or, the family's case manager may have to go over the written notice in person with the relative. If an individual has a visual impairment, the notice may need to be written using large print or Braille.

It is not required to provide notice to relatives that are identified beyond 30 days of the child's removal. However, agencies can consider, on a case-by-case basis, whether notification would be appropriate.

If a relative fails to respond to the initial notice, the relative may not have the opportunity to participate in the care and placement of the child.

A notification template, which outlines the relatives options to become a placement resource for the child, is available for case managers to use.

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### **TANF Kinship Care Program 624-05-15-50-25 (Revised 2/10/07 ML #3053)**

[View Archives](#)

The TANF Kinship Care program is available for kin/relatives of the 5th Degree which includes a child only TANF payment and supportive services (Refer to IM #4960 dated February 2, 2005 or contact Economic Assistance Division for further information).

**Case Management Monthly Visitation 624-05-15-50-30  
(Revised 1/15/21 ML #3600)**

[View Archives](#)

Federal Social Security Act, Section 422(b)(17) and Section 424(e)(2) require all foster children receive ongoing contact and visitation with parent(s), siblings and custodial case managers. A child in foster care should have at least one face-to-face visit with the custodial case manager each month the child is in foster care. During each monthly visit, the worker is required to assess and address the child's safety, permanency and well-being with quality and as necessary as needed to meet the needs of the child and family.

The primary foster care case manager supervising the placement of a child must have or arrange for regular contacts with the foster child, child's parent(s), and foster care provider while coordinating services for the foster child and family.

**North Dakota's minimum standards for foster care case manager monthly visitation:**

1. **Placement in North Dakota**
  - a. Personal face-to-face contact at least once per month is required with the children in foster care.
  - b. The goal of monthly face-to-face visitation is to ensure safety of the child, review, and work to achieve the permanency goal as quickly as possible.
  - c. Majority of the monthly face-to-face visits must occur in the location in which the child resides, which may be a relative caregiver, licensed foster home, residential facility, hospital or even the home where the child was removed, if on a trial home visit.
  - d. Face-to-face visits can be conducted by any authorized employee designated within the custodial agency. However, whenever possible the child shall have the opportunity to meet with his/her primary foster care case manager.

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- e. Face-to-face visits must address the child's safety, needs, issues, and conditions needed for reunification or permanency. The visit must also address the overall well-being of the foster child, foster care provider and his/her family.
- f. The use of interactive technology (Skype, FaceTime, etc.) does not meet the federal requirements of a 'face-to-face' visit. Monthly face-to-face visitation is required, while the use of technology and phone calls to engage in more frequent and ongoing communication is highly encouraged.

### **2. Placement Out-of-State**

- a. Custodial agencies must carefully consider the placement of a child out of the state. If it is the most appropriate placement option, face-to-face contact at least once per month is required.
- b. Custodial agencies can determine how visitation of children placed out of state will be accomplished as visitation standards are the same for children placed out of state as for those placed within North Dakota.

### **3. Special Circumstances – Contracting Visitation**

- a. On occasions when a face-to-face visit is not possible between the child's primary case manager or a designated employee within the custodial agency, the agency is allowed to contract visitation responsibilities.
- b. If visitation cannot occur with the primary case manager, an agency designee or contracted visitation worker must be provided the pertinent information regarding the child's case plan goals, needs of the child, needs of the parents/caregivers, and foster care providers.
- c. The agency designee or contracted visitation worker making the contact is responsible for assessing the safety and well-being of the child. Documentation of the visit must be provided to the child's primary case manager to be included in the child's case file and entered into the ND case management system. The contracted visitation worker shall be provided the monthly face-to-face visitation tool as guidance.



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- d. If utilizing a contracted visitation worker from another agency, a formal agreement must be signed and placed into the child's file to ensure understanding of expectations, consistency in case management responsibilities and authority to complete the monthly face-to-face visits on behalf of the custodian.
- e. If a child is placed out of state in a facility, the primary case manager may contact the Children and Family Services ICPC Administrator to see if there are any other North Dakota children placed in the same location. This would provide a collaborative arrangement for the North Dakota public agency (County/Human Service Zone, DJS or Tribe) to visit the children regularly as a joint effort. Securing an out of state visitation agency to complete the monthly face-to-face visit is an option, but the primary case manager or designee from North Dakota is preferred.

### Documentation Efforts:

The department developed a monthly face-to-face visitation tool (Tool) to assist foster care case managers in ensuring consistency in visitation, while meeting compliance with required topic areas. The foster care case manager or agency designee must:

1. Enter the face-to-face visitation details into the case management system as a new case activity log.
2. Enter whether or not the visitation took place in the foster child's residence. Entry codes mean:
  - a. FF = Face-to-face contact **not** in child's residence
  - b. FR = Face-to-face **in** child's residence

### Case Manager Visitation With Parents

The case manager must also meet with parents or primary caregivers from whom the child was removed at least monthly. "Parents" refer to the biological or adoptive parent(s), noncustodial parent who is involved or wishes to be involved in the life of the child, the primary caregiver(s) with whom the child was removed and the current foster care provider.

The frequency and quality of the visits between the case manager and the parents must be at the highest level of engagement, which may include

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one or a combination of face-to-face, telephone, FaceTime, texting, emailing, etc. The visitation with parents must be sufficient to address issues pertaining to the safety, permanency, and well-being of the children and promote achievement of case goals. The length of the visits should be of sufficient duration to address key issues with the child(ren) and in a location conducive to open and honest conversation. The documentation of the frequency and quality of visits with parents must be entered into the case management system monthly.

### Visitation Impact on Onsite Case Review (OCR)

States across the nation are required to engage in federal review for children in foster care. In completing the review, a team of Department Quality Assurance staff will use the national instrument, conduct case file reviews and case-related interviews with children, parents, foster parents, caseworkers, and others involved in the life of the child. Various review items highlight visiting with parents and siblings in foster care (item 8), preserving connections (item 9), engaging in parental and sibling relationship development (item 11), caseworker visits with child (item 14) and caseworker visits with parents (item 15).

### **Clothing Inventory 624-05-15-50-31**

**(NEW 11/1/16 ML#3481)**

[View Archives](#)

The foster care case manager is responsible to identify the clothing needs of the child upon entry into foster care and ongoing thereafter. Clothing purchased specifically for the child will become the property of the child and must accompany the child upon leaving their foster care placement.

An inventory must be conducted of a child's clothing prior to any placement or change in placement in foster care. A copy of the most recent inventory should be sent with the child at the time of initial placement as well as all other subsequent placements. A copy shall be kept by the agency making the placement, as well as the financial county.

For clothing reimbursement rates refer to Foster Care Maintenance Payment policy 623-05-30-10.

## **Human Trafficking 624-05-15-50-32**

**(New 12/1/15 ML #3461)**

[View Archives](#)

Custodial case managers must identify, report, determine services for and document the case activity involving any foster child who has been or is suspected to have been a victim of human trafficking.

Human Trafficking is defined in NDCC 12.1-41 as, “the commission of an offense created by sections 12.1-41-02 through 12.1-41-06; which include trafficking an individual, forced labor, sexual servitude, patronizing a victim of sexual servitude, and patronizing a minor for commercial sexual activity.

ND State law recognizes “human trafficking” as including many elements of exploitation. PL 113-183 (Preventing Sex Trafficking and Strengthening Families Act) specifies the identification of sex trafficking victims. Any minor under the age of 18 engaged in a commercial sex act is a victim of sex trafficking. Child sex trafficking is not limited to prostitution, but can include stripping, pornography, live-sex shows, or the exchange of sex acts for necessities such as food, shelter, and/or clothing. Under U.S. federal law, a victim of sex trafficking is a person who is recruited, harbored, transported, provided for, or obtained for the purpose of a commercial sex act. A victim of severe sex trafficking is one who is induced by force, fraud, or coercion, or is under the age of 18 to perform a commercial sex act (Trafficking Victims Protection Act of 2000 (TVPA)).

### Identifying Victims of Human Trafficking

While the suspected trafficker may not be a “person responsible for a child’s welfare” under North Dakota law, the reported victim, however must be considered an alleged deprived child(NDCC 12.1-41-12(4)). Please see NDCC 12.1-41-12 for information on immunity of minor.

Children who are at the greatest risk of human trafficking may have one or more common risk factors that should be taken into consideration, including, but not limited to: children for whom family connections are

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limited or severed; children in foster care, group homes, and juvenile justice custody; children with a history of physical or sexual abuse or neglect; runaway status; LGBTQ status; prior involvement with law enforcement; and those who have dropped out of high school.

### Indicators of Human Trafficking

#### Sub-Culture

- Items purchased by traffickers, such as clothing, jewelry, gifts, etc.
- Cell phone usage.
- Gang signals.
- Specific language and terminology.
- Information about locations which children used as housing.
- Names and nicknames of people with whom the child is familiar.
- Tattoos which are sometimes used to establish control or ownership; particularly tattoos around the neck and wrist.

### Living Conditions

- The child works where they live.
- The child's personal freedom of movement is restricted.
- The child's address has changed frequently.
- The child cannot identify their home address.
- The child possesses hotel keys.
- The child has frequently run away from home.
- The child lives with other unrelated youths and unrelated adults.
- The child receives gifts or clothing from unrelated youths or adults.
- The child returns to an unsafe living situation despite intervention.

### School Experiences

- The child has significant, unexplained, gaps in school attendance.
- The child displays severe exhaustion during the school day.
- The child does not participate or show interest in school activities.
- The child is not enrolled in school.

### Adults in the Child's Life

- The child has much older boyfriends or girlfriends, "friends".

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- The child does not live with their parent(s) or know the whereabouts of their parent(s).
- The child receives money from unrelated adults.

### Medical/Physical Condition

- The child has been treated frequently for symptoms of physical abuse.
- The child lacks an adequate medical history.
- The child is malnourished.
- The child shows signs of physical and/or sexual abuse, including physical restraint, confinement, or injuries from actual torture.
- The child has infections from unsanitary tattooing.
- The child has dental injuries; broken/missing teeth, gum disease.
- The child has bed bug bites.
- The child has infections or mutilations but nominal medical treatment.
- The child has contracted sexually transmitted diseases.
- The child has reproductive problems caused by unsafe abortions.
- The child has physical injuries related to sexual activity, such as pelvic pain and urinary tract infections.
- The child has substance abuse problems.

### Financial/Employment Coercion

- The child has to work but does not indicate where they work.
- The child has little or no access to earnings and no bank account.
- The child has an unusually large amount of money on them.
- The child is indebted to adults.
- The child reports working in a strip club, night club, or massage parlor.
- The child works excessively long or unusual hours.
- The child is not allowed breaks and is unusually restricted at work.
- The child was recruited through false promises concerning the nature and conditions of their work.

### Psychological Indicators

- The child may not always self-identify as a child or minor. Traffickers coach their victims to state they are eighteen years of age or older.
- The child tells inconsistent stories or stories lacking significant details.
- The child gives deceptive responses to questions.
- The child avoids eye contact with responders.

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- The child has symptoms of post-traumatic stress, including anxiety, depression, addictions, panic attacks, phobias, paranoia or hyper-vigilance, or apathy.
- The child has developmental delays, enuresis, or fecal incontinence.
- The child experiences culture shock when in strange communities.
- The child is not allowed or able to speak for themselves, especially when a third party insists on being present or translating.

### Environmental Indicators

- Large amounts of cash and condoms are present where child is found.
- The child's environment contains sparsely furnished rooms.
- The child's environment contains sex advertisements.
- The child's environment contains multiple televisions and pornography.
- The child's environment contains timers; used to time sexual services.
- The child's environment contains tinted windows, buzz-in entrances, video cameras, barred or locked windows/doors, security, etc.

### Reporting

In the event it is determined that the foster child was a victim or sexually exploited; case management will work to ensure needed medical screenings are initiated, services are provided to the child and all required documentation (SFN 960, safety planning, sentinel events, etc.) is completed. Reports of suspected child abuse and neglect that involve human trafficking of a minor are processed in the same manner as any other report of suspected child abuse or neglect.

### Determining Services

There is a high level of need for comprehensive and intensive therapeutic services for victims of human trafficking. Case managers should collaborate with the child and Child & Family Team to develop an individualized service plan specific to these needs. This plan should address the need for safe housing, physical and mental health services, substance abuse treatment, therapeutic foster homes and other services.

It is recommended that trafficking victims receive trauma focused therapy at the earliest possible time following identification as a victim of trafficking. A list of trauma-trained therapists throughout ND may be found at: <https://www.tcty-nd.org/index.php/users/>

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Services are best provided from a victim-centered perspective. While each case and victim of human trafficking will be different, victims typically have many of the same service needs. Below are some needs to consider when assessing the needs of individual victims:

### Concrete needs

Food (culturally appropriate) Clothing Safety/ Protection/ Safety plan	Food (culturally appropriate) Clothing Safety/ Protection/ Safety plan	Food (culturally appropriate) Clothing Safety/ Protection/ Safety plan
Safe Placement Emergency Housing Crisis Intervention Mental healthcare/ trauma informed care	Safe Placement Emergency Housing Crisis Intervention Mental healthcare/ trauma informed care	Safe Placement Emergency Housing Crisis Intervention Mental healthcare/ trauma informed care
Medical/ Dental /Eye care Substance Abuse Evaluation/Treatment Counseling and/or Case Management	Medical/ Dental /Eye care Substance Abuse Evaluation/Treatment Counseling and/or Case Management	Medical/ Dental /Eye care Substance Abuse Evaluation/Treatment Counseling and/or Case Management
Education/life skills training/ ESL Health education Transportation	Education/life skills training/ ESL Health education Transportation	Education/life skills training/ ESL Health education Transportation
Legal representation - Criminal/Civil/Immigratio n Interpreter/Translator Court Advocacy/ Victim Assistance	Legal representation - Criminal/Civil/Immigratio n Interpreter/Translator Court Advocacy/ Victim Assistance	Legal representation - Criminal/Civil/Immigratio n Interpreter/Translator Court Advocacy/ Victim Assistance
Psychiatric Care Assistance with Benefits Crime Victim Compensation	Psychiatric Care Assistance with Benefits Crime Victim Compensation	Psychiatric Care Assistance with Benefits Crime Victim Compensation
Job/income/Viable employment alternatives Tattoo Removal/Cover Up Childcare and/or parenting skills	Job/income/Viable employment alternatives Tattoo Removal/Cover Up Childcare and/or parenting skills	Job/income/Viable employment alternatives Tattoo Removal/Cover Up Childcare and/or parenting skills

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### Supportive needs

Respect Mentoring Acceptance	Respect Mentoring Acceptance	Respect Mentoring Acceptance
Nonjudgmental environment Healthy relationships Affirmation of skills and strengths	Nonjudgmental environment Healthy relationships Affirmation of skills and strengths	Nonjudgmental environment Healthy relationships Affirmation of skills and strengths
Recognition of abuse and trauma Understanding of the recovery process Engagement in positive community	Recognition of abuse and trauma Understanding of the recovery process Engagement in positive community	Recognition of abuse and trauma Understanding of the recovery process Engagement in positive community
Education to understand the issue(s) of trafficking/exploitation Opportunities to develop new skills and strengths Opportunity to be defined by more than abuse/trauma	Education to understand the issue(s) of trafficking/exploitation Opportunities to develop new skills and strengths Opportunity to be defined by more than abuse/trauma	Education to understand the issue(s) of trafficking/exploitation Opportunities to develop new skills and strengths Opportunity to be defined by more than abuse/trauma
Supportive peers Mentors /role models Leadership opportunities	Supportive peers Mentors /role models Leadership opportunities	Supportive peers Mentors /role models Leadership opportunities



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Holistic care Advocacy/Know your rights A sense of empowerment in one's own healing and restoration process	Holistic care Advocacy/Know your rights A sense of empowerment in one's own healing and restoration process	Holistic care Advocacy/Know your rights A sense of empowerment in one's own healing and restoration process
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Documenting

As with all other types of foster care case planning and record documentation; a human trafficking case must be documented in FRAME according to policies and procedures. This includes completion and updates to the care plan, safety plan, case activity log, etc.

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### **Sentinel Events and Incidents 624-05-15-50-33**

**(Revised 7/23/18 ML #3535)**

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The Risk Management incident report SFN 50508 must be completed by the Regional Supervisor and filed with State Risk Management within 24 hours. The on-line reporting system, [www.nd.gov/risk](http://www.nd.gov/risk), is used to report both a sentinel event or an incident.

Additional information may be attached to an incident report, not to include a SFN 960 unless requested by authorized staff. Any additional information must be filed with State Risk Management and also sent to the DHS Risk Manager and DHS Legal Advisory Unit Director.

If you are uncertain whether a situation is a sentinel event or an incident, consultation is available through the Regional Supervisor, CFS or the DHS Risk Manager. A sentinel event will always require an incident report, but every incident reported is NOT a sentinel event.

#### Sentinel Events:

A sentinel event is defined as any unexpected occurrence involving death or serious physical or psychological injury or risk thereof that is not related to the natural course of the individual's illness or underlying condition. Serious injury specifically includes inappropriate sexual contact. The phrase "or risk thereof" includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. They signal the need for immediate investigation and response.

An example of a sentinel event would be if a foster youth is seriously injured, (including inappropriate sexual contact), dies unexpectedly, or attempts suicide.

Regional Supervisors must report all sentinel events to the Regional Director, Institution Superintendent, or Local Risk Manager immediately. The event also must be reported to the DHS Executive Director, DHS Risk

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Manager and DHS Legal Advisory Unit Director as soon as possible, but no later than 12 hours after the occurrence. Initial notification may be made by phone, voice mail, or e-mail.

### Incidents:

An incident is an unplanned occurrence that resulted or could have resulted in injury to people or damage to property, specifically involving the general public and state employees. An incident can also involve issues such as harassment, violence, and discrimination. An incident may be referred to as an accident or near miss.

Utilize the Risk Management Fund Incident Report (SFN 50508) for general and employee incidents. The report should be completed by the employee that has the most information or first-hand knowledge about the incident. Incident reports should not be completed by non-state employees. An example of an incident that is not a sentinel event would be if a foster youth runs away.

If there are questions regarding this policy, please feel free to contact the CFS Foster Care Administrator or the DHS Risk Manager.

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### **Missing Children 624-05-15-50-34**

**(Revised 2/1/19 ML #3544)**

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The foster care case manager, upon determining that a foster child is missing, must make a report immediately, and in no case later than 12 hours using three specific steps:

1. Immediately report the incident and pertinent information to local law enforcement. This includes requesting that law enforcement enter the pertinent information into the National Crime Information Center (NCIC).
2. Immediately report the incident and pertinent information to the National Center for Missing and Exploited Children (NCMEC) at 1-800-THE-LOST (1-800-843-5678) or enter the information online at <http://cmfc.missingkids.org/home>.
3. Immediately report the incident and pertinent information to the regional office.

Pertinent Information means, but is not limited to the following:

- Who, what, where, when, exact time.
- Description of the child's appearance; i.e. hair color/style, clothing, identifying marks. Supply photo if available.
- Provider name, address, and telephone number.
- Who saw the child last?
- Date, time, relevant content from the last case manager visit.
- Is this the first time the child has been "missing"? If not, provide a brief history of prior "missing" episodes.
- What was going on with the foster child at the time, including the possible primary factors that contributed to the foster child being absent from care?
- Is there any suspicion of foul play such as abduction, human trafficking, or sexual exploitation?

[Return of the foster child.](#)

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Once the foster child is found, the above three steps should be repeated to inform all involved parties that the foster child is no longer missing or on the run.

The foster care case manager must screen the foster child to determine both the primary factors that led to the foster child running away, and the foster child's experiences while absent from foster care. This includes determining if the foster child was a possible human trafficking victim. The ND Runaway & Missing Youth Screening ([SFN 573](#)) shall be used to help identify if a child missing from foster care was a victim or exploited. The foster care case manager should determine how to best integrate this screening tool upon the missing child's return to foster care. Attention should be paid to the child's ability and willingness to participate in the screening. Every effort should be made to complete the screening before NCMEC is notified that the child has been located.

**In the follow-up contact being made to the National Center for Missing and Exploited Children (NCMEC), the case manager will be asked if there was suspicion of or actual human trafficking/sexual exploitation while the child was absent from foster care.** If the screening is not completed prior to contacting NCMEC and later it is determined the child was exploited, case management shall notify NCMEC of the findings.

In the event it is determined that the foster child was a victim or sexually exploited; case management will work to ensure needed medical screenings are initiated, services are provided to the child and all required documentation (960, safety planning, sentinel events, etc.) is completed.

### Documentation by the Foster Care Case Manager

- What action was taken by the case manager and foster care provider to expeditiously locate the missing foster child?
- What primary factors led to the foster child running away?
- How will case management respond to the primary factors identified in current and subsequent placements?
- The date and the results of the screening determining whether or not the child was a victim or exploited while missing from foster care.

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Children and Family Services (CFS) must be notified by the regional office when a foster child is missing and when the foster is located.

Additional resources to assist case management with runaway clients can be found on [www.missingkids.com](http://www.missingkids.com).

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### **High Risk Youth 624-05-15-50-35**

**(Revised 10/15/12 ML #3341)**

[View Archives](#)

#### Suicidal Youth

Any time a foster youth is expressing suicidal ideation, contact your local human service center (24-7) and request, at a minimum, a consultation and/or an evaluation with appropriate staff or risk team to determine the risk level.

Whenever a youth enters foster care and information is available related to a history of self-harm or suicide indications, a safety plan needs to be developed and implemented within 24 hours. A plan for evaluations and/or treatment resources must be identified and all local and regional staff must be advised of the treatment plan. This safety plan must also become a part of the case plan for that youth.

For youth being discharged from an inpatient treatment facility and who has any related behavior of self-harm, follow-up treatment services must be arranged prior to discharge. Case managers must actively participate in the discharge planning with treatment facility staff and are required to follow-up with treatment facility staff (daily, if needed) as to the progress and/or safety of youth.

Documentation of the above must be included in the child's case plan.

**Reasonable & Prudent Parent Standard - Normalcy  
624-05-15-50-40**

**(Revised 12/1/15 ML #3461)**

[View Archives](#)

The reasonable and prudent parent standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child participating in extracurricular, enrichment, cultural, and social activities.

The goals of the reasonable and prudent parent standard are to:

- Provide children in foster care with a “normal” life experience.
- Empower foster care providers (homes, group homes, facilities) to encourage children to engage in extracurricular activities that promote child well-being.
- Allow foster care providers (homes, group homes, facilities) the ability to make reasonable parenting decisions without waiting to obtain additional permissions from the custodial case manager or the Child & Family Team. (Ex: Field trip permissions, attendance at school functions, carpools, etc.)

When using the reasonable and prudent parent standard, providers should consider:

- The child’s age, maturity and developmental level;
- Potential risk factors of participating in the activity;
- The child’s best interest;
- Whether or not the activity will encourage the child’s emotional and developmental growth; and
- Whether or not the activity will offer the child a family-like living experience.



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Normalcy is giving children in foster care the opportunity to engage in typical growth and development. This includes the participation in age-appropriate activities, responsibilities and life skills.

Age appropriate activities are events generally accepted as suitable for children of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age group.

**Example:** It may be age appropriate and “normal” for a 14 year old to go to a school ball game without parental supervision. It may not be age appropriate and “normal” for a 14 year old to go camping with friends without parental supervision.

In an effort to make decisions in the best interest of the child; it is important to engage the child to understand their desire and abilities. Providers may have personal beliefs that would influence participation in requested activities. The Child & Family Team is a resource in finalizing decisions that may present risk.

### Typical Activity Requests

Foster children request permission to participate in various activities. Requests that seem “normal” to young people may include but are not limited to:

- Extra-curricular activities (participate in school sports, band, theater, etc.)
- School related activities (attend a dance, ball game, field trip, etc.)
- Working – Babysitting
- Using a cell phone
- Staying up late
- Watching television
- Using the internet – social media
- Dating
- Driving
- Playing video games
- Attending Summer Camp (Sports, Boy Scouts, etc.)
- Riding in a vehicle with others

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- Sleepovers
- Vacations (in-and-out of state)
- Haircuts/ tattoos/ piercings
- Operating an ATV or snowmobile
- Boating
- Hunting
- Rodeo
- Skiing

### High Risk Activities

The child's custodian has the discretion to approve the child's participation in what may be considered high risk activities; i.e. skiing, hunting, horseback riding, BMX dirt bike racing, etc. This decision should be made through discussions at the Child & Family Team Meeting. It is recommended that the child attend any safety course available that may relate to the activity prior to participating in the activity; i.e. hunter's safety, rider's safety training, etc. Approval should be documented in the child's case file.

### Making Decisions

**The custodian will specify upon placement or at the first CFT meeting the parameters for provider decision making authority.**

**The custodian must:**

- Detail the agencies expectations supporting the provider's ability to engage in reasonable and prudent parenting,
- Define and address "normal" activities the child is already participating in,
- Discuss additional interests and desires the child may have, and
- Identify if there are any barriers.

**Example:** Upon placement, the custodian acknowledges and supports "reasonable and prudent parenting" and agrees that the provider can sign school field trip permission slips, sign documents at clinic appointments, approve who the child can ride with to and from basketball practice (carpools), allow for participation in Girl Scouts, and grant permissions to attend after school events/functions. The custodian also noted that the provider must consult with the agency and Child & Family Team in order to give permission for the child to visit with extended family members.

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Providers utilizing the reasonable & prudent parent standard take into account varying factors to make decisions to best meet the needs of the child in placement. Questions include, but are not limited to:

- If appropriate, have the biological parents been consulted about their thoughts regarding their child's participation in the activity?
- Does the activity promote the child's social development?
- Will the activity encourage "normalcy" for the child?
- If the child has medical needs; will the child be able to tell others how to help them if necessary?
- Has the child shown maturity in decision making abilities?
- Would I allow my own child to participate in the activity?
- Who will also be attending or participating in the activity?
- Will the timing of the activity interfere with a scheduled sibling or parent visit, therapy or medical appointment? If so, other options to accommodate the activities and family engagement/ treatment will need to be pursued.
- Does the foster child understand the set expectations regarding curfew, approval for last minute changes to the plan and the consequences for not complying with the expectations?

### Immunity for Providers

A person providing foster care for children in a licensed or approved family home, group home, or facility is immune from civil liability for any act or omission resulting in damage or injury to or by a child in foster care if, at the time of the act or omission, the person providing foster care for children applied the reasonable and prudent parent standard in a manner that protects child safety, while also allowing the child in foster care to experience normalcy through age or developmentally appropriate activities.

### Documentation

The case manager must document child engagement in developmentally appropriate activities:

1. In the data fields of FRAME (CFTM notes, case activity logs, etc.)
2. In the affidavit to the court for a permanency hearing, the custodial agency must detail the steps taken to ensure that:
  - a. The child's foster care provider is following the reasonable and prudent parent standard; and

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- b. The child has regular, ongoing opportunities to engage in age or developmentally appropriate activities.

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### **Motor Vehicle Operation by Youth in Foster Care 624-05-15-50-41**

**(NEW 11/1/16 ML#3481)**

[View Archives](#)

The Department, as a custodian, is not able to authorize a minor to secure a driver's license. Even though it is desirable and the Department would like to provide this experience for young people, it is prohibited by the absence of insurance protection. The complete policy related to operation of motor vehicles by youth in foster care is found in NDDHS Manual Chapter 622-05-60.

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### **Credit Reporting 624-05-15-50-43**

**(New 12/1/15 ML #3461)**

[View Archives](#)

This policy is specific to foster youth under the custody of County Social Services, the Division of Juvenile Services (DJS), and Title IV-E Tribal Social Services. The intent of the federal law is to:

1. Identify if the youth has been subject to identity theft;
2. Assist youth in understanding the importance of having a credit check completed;
3. Teach the youth how to review a credit report;
4. Educate the youth on the process to continue this practice upon discharge from foster care.

ND Children and Family Services (CFS) will obtain an annual credit report from each of the three Consumer Reporting Agencies (CRAs); TransUnion, Equifax, and Experian for North Dakota foster youth over the age of 14. CFS will request youth credit reports before the 15th of the month and documentation will be electronically forwarded to the custodial case manager within 45 days.

Every other month CFS will run a FRAME report to identify foster youth who will turn 14 years old or greater, with an open court order in an open foster care service period. CFS will review data from three months prior to see if any youth who recently turned age 14 or greater entered foster care since the last credit report request. It is critical that information is entered into FRAME in a timely manner; especially when opening a new case or closing a foster care service program. Ex: If a youth is no longer in foster care, but the foster care program has not been closed in FRAME; CFS will obtain that youth's credit report. Youth turning age 18 will be eliminated from retrieving their own "free credit report" post discharge because ND already obtained their free annual report.

Report Request Schedule:

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<b>ND Foster Youth Birthday Months</b>	<b>Retrieval Month</b>
January & February	January
March & April	March
May & June	May
July & August	July
September & October	September
November & December	November

### **Credit Report Results:**

Many youth under the age of 18 will likely not have a credit report, as many do not have credit history. Therefore, the request of a credit report for a youth in foster care will simply be confirming that no report exists. However, when a credit report does exist, it indicates that there is likely a need to correct information and to take action to protect the identity and future credit worthiness of the foster youth.

### What if discrepancies are found?

Case managers will be responsible to remedy a false credit report. Below are steps on how to respond to discrepancies found in a credit report:

1. Discuss with the youth the results of the report asking if they are aware of anyone using their identity to secure finances (housing, utilities, cell phone).
2. Contact the companies where an account was fraudulently opened or misused. The youth's custodial agency must discuss the logistics of the accounts and indicate there is false credit out in the minor youth's name. Companies will have different procedures to follow in the effort to remedy fraudulent activity.
3. After receiving more information, discuss with the youth the need or desire to file a police report.
4. If needed, contact the Credit Reporting Agency where the activity was identified;
  - a. To place an initial fraud alert on youth's name;
  - b. To initiate a credit freeze for the youth's name;

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5. If needed, file a report with the Federal Trade Commission (FTC) [www.ftc.gov](http://www.ftc.gov) or call 1-877-IDTHEFT (1-877-438-4338);

### **In order to be in compliance; case managers must:**

1. Place a copy of the credit report or message indicating a report does not exist sent by CFS in the youth's case file;
2. Provide a copy of the results to the youth;
3. Assist the youth in understanding why the credit report was obtained, interpreting the results, and resolving inconsistencies (flyer created to use if desired);
4. After communicating with the youth, document the independent living opportunity for the purposes of National Youth in Transition Database (NYTD) federal reporting. Case managers will select "Budget-Financial Management" in FRAME under the Independent Living Services (NYTD) tab.



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### **National Youth in Transition Database 624-05-15-50-45 (New 12/1/15 ML #3461)**

[View Archives](#)

The National Youth in Transition Database (NYTD) is required federal reporting to track the services and outcomes of youth transitioning from foster care. NYTD requires state child welfare agencies to collect and report data in two specific areas:

1. **Independent Living Services** – document all independent living services provided to foster youth age 14+ with an open FRAME foster care episode. Data collection and entry is to be completed by the public agency custodians and Chafee IL Coordinators (when applicable) into FRAME. Custodians may ask foster care providers for assistance in collecting the information. Independent living service categories include but are not limited to mentoring, academic support, career preparation, and health education. All independent living service categories can be found in FRAME under the Case Management tab in the Independent Living Services (NYTD) section.
  - a. The federal report is submitted every six months.
  
2. **NYTD Survey** - administer and collect survey data via a three part survey of eligible youth in foster care at age 17, again at age 19, with a final survey completed at age 21.
  - a. Every three years (FFY 2011, 2014, 2017....) North Dakota will survey a new cohort of 17 year old foster care youth. NDDHS Children and Family Services will identify eligible youth from FRAME and will communicate with case managers for assistance in administering the NYTD Survey as needed.
  - b. The **voluntary nature** of the NYTD survey is important for case managers and youth to understand. Youth in foster care are not required to complete the NYTD survey, rather the state of North Dakota is required to ask the youth if he/she would like to participate. At age 17, if the youth declines to participate, there is no penalty to the youth or to state funding. However, North Dakota will be subject to fiscal penalty if a youth takes the first

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NYTD survey at age 17 and then chooses not to participate or cannot be located at age 19 and 21.

- c. It is important that youth understand if they choose to take the NYTD Survey at age 17 they are willing to be part of the ND NYTD Survey Cohort and will remain in contact with ND Children & Family Services until they reach age 21 and complete the last of three NYTD surveys.

NDDHS Children and Family Services created the NYTD Handbook to better assist professionals with procedures, data entry requirements, and an understanding of roles and tasks. The **NYTD Handbook can be found at:** <http://www.state.nd.us/robo/projects/62410/62410.htm>.

## **Health Care Directives 624-05-15-50-46**

**(New 12/1/15 ML #3461)**

[View Archives](#)

All foster youth who will be discharged from foster care at the age of 18 or greater must be informed about the importance of designating another individual to make health care treatment decisions on their behalf if they become unable to do so, and they do not want or do not have a relative who could make these decisions. A "health care directive" is a document that enables youth to make decisions now about medical care in the future.

### Resources:

- Forms and directions related to health care directives can be found at [www.legis.nd.gov/cencode/t23c065.pdf](http://www.legis.nd.gov/cencode/t23c065.pdf).
- A brochure, "Health Care Directives, A Guide to Assist Youth Aging Out of Foster Care," [DN 35](#), is available to give to youth when developing the youth's transition plan.

## **Foster Youth Rights 624-05-15-50-49**

**(New 12/1/15 ML #3461)**

[View Archives](#)

The case plan for any youth age 14 or older must include a list of rights with respect to education, health, visitation, and court participation, the right to be provided with credit reporting documents, and the right to stay safe and avoid exploitation. The custodial case manager must explain the list of rights (DN 402) to each youth in a developmentally and age appropriate manner.

The list of rights must be reviewed and signed annually by the custodian and the youth. A copy of the signed rights must also be given to the youth for their records.

Foster Youth Have The Right To:

1. Know why they are in foster care and plans for their future.
2. Be treated with respect, along with their family members.
3. Receive food, clothing, a bed, and items for personal hygiene.
4. Live in a safe, clean place with a reasonable amount of privacy and safety for their personal property.
5. Take personal items, clothing and any gifts or possessions that have been acquired when leaving a foster care placement.
6. Receive medical, vision, and dental care.
7. Be safe from exploitation, physical, sexual, and verbal abuse or neglect.
8. Be treated fairly and without discrimination related to race, gender, age, sexual orientation, disabilities, and religious beliefs.
9. Practice cultural traditions and religious faith in reasonable ways.
10. Receive an education and help with emotional, physical, intellectual, social and spiritual growth.
11. Be given the opportunity to participate in school and community activities.
12. Participate in the development of their case plan and attend Child & Family Team meetings.

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13. Contact and be granted visitation with family as approved by the legal custodian.
14. Communicate with case manager.
15. Express concerns about safety, permanency and well-being.
16. Participate and be represented in judicial proceedings.
17. Receive a copy of their annual credit report obtained by the state office.

DN 402

## **Child Care for Foster Children 624-05-15-50-50**

**(Revised 2/1/19 ML #3544)**

[View Archives](#)

Foster children may require child care during the work hours of their foster parent. North Dakota does offer reimbursement for child care if the foster child is:

1. Placed in a licensed or approved (tribal affidavit) family foster home, and
2. In need of child care.

The foster care case manager is responsible to identify the needs for child care and assist the foster family in securing reimbursable child care options. In order for the foster parents to claim reimbursement for child care expenditure, the need for child care must be pre-approved by the case manager, discussed ongoing by the Child and Family Team and documented in the foster child's case plan. A new written approval is required from the case manager when a foster child's:

1. Placement changes to a new licensed provider home or
2. Child care provider changes.

To approve a child care setting for reimbursement, foster care case managers must verify if the child care provider meets the state Early Child Care licensing regulations. Foster care case managers can work with the county child care licensor to assist in verification if needed.

**NOTE:** After school programs and summer day camps often times are not licensed, meaning they do not meet the reimbursement guidelines for child care reimbursement.

Foster care case managers must provide specific information to the eligibility staff for eligibility file compliance. Items include, but are not limited to:

1. Signed approval prior to reimbursement;
2. Invoice from the child care required for reimbursement; ([SFN 920](#))

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3. Obtain a copy of the child care provider's placement and billing agreement when available; and
4. Assistance in remedying error/questions related to child care expenses for the foster parent (different rates, need for bill/invoice, etc).

Irregular payment approval form can be found in FRAME under the forms tab.

## **Indian Child Welfare Act (ICWA) 624-05-15-52 (New 7/23/18 ML #3535)**

[View Archives](#)

Foster care case managers are responsible to comply with the Indian Child Welfare Act (ICWA) for all eligible children who enter foster care. ICWA is a federal law passed in 1978 in response to the high number of Indian children removed from their homes; the law was revised in 2016. The intent of ICWA is to protect the best interests of Indian children and to promote the stability and security of Indian Tribes and families (25 U.S.C. § 1902). ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized Tribe.

ICWA promotes the well-being of American Indian children by keeping them connected to their families, Tribes, and cultural heritage. If removal is necessary, "active efforts" must be made for reunification. ICWA reinforces foster care placements should be in a least restrictive, most family-like setting where the child's needs may be met. ICWA only protects American Indian and Alaska Native children who are:

1. Unmarried;
2. Under 18 years old; AND
3. A tribal member; OR
4. Eligible for tribal membership AND have a biological parent who is a tribal member.

There are various areas of compliance that must be met for ICWA cases.

### **A. Verification of Child's Indian Status**

Foster care case managers must determine a child's Indian status as soon as possible to serve in the best interests of the child, the Tribe and to preserve the child's culture. If determined by the CPS worker at the time of initial assessment that the child is a Tribal member or eligible for membership in an Indian Tribe, the foster care case manager will ensure the necessary notifications have been completed. If a determination has not been made, the foster care case manager must:



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1. Ask the child and family how they self-identify as part of the initial assessment (i.e. Family Assessment Instrument), and before every change or potential change in custody.
2. Use due diligence to identify and work with the Tribe(s) of which there is:
  - a. Reason to know the child may be a member or eligible for membership AND
  - b. Verification the child is a member or their biological parent is a member and the child is eligible for membership;
3. Treat the child as an Indian child, until it is determined on the court record that the child does not meet the definition of an Indian child. Include a minimum of one monthly contact to the Tribe(s) to request help in contacting the family or identifying family affiliation until the Tribe responds.
4. Contact each Tribe where there is reason to know a child may be a member or eligible for membership. A child may be eligible for membership in more than one Tribe, however can only be enrolled in one Tribe at a time.

If the foster child does not meet the definition of “Indian child” outlined in the act, ICWA would not apply to the child’s case. Only a Tribe can determine whether a child is a member of their Tribe.

### When the Child is Eligible for Tribal Membership

The foster care case manager must confirm the membership status of the biological parent. The response to both the Indian child’s and biological parent’s status must be documented in the case record, including date and source of documentation. The foster care case manager must:

1. File in the case record the Tribe’s written statement declaring the Indian child’s eligibility for membership; AND
2. Incorporate into any court hearing the Tribe’s written statement declaring the Indian child’s eligibility for membership and the biological parent’s membership; AND
3. Assist the family in formally enrolling the Indian child or establishing membership of the Indian child (if necessary, the foster care case manager may counsel parents hesitant to enroll their Indian child by emphasizing the positive benefits of tribal membership, particularly in child welfare and adoption proceedings).

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### **B. Contacting a Tribe**

If the foster care case manager does not have accurate contact information for a Tribe, or the contacted Tribe fails to respond to written inquiries, foster care case manager must:

1. Seek assistance from the BIA local or regional office; OR
2. Seek assistance from the BIA's Central Office in Washington, DC (see [www.bia.gov](http://www.bia.gov)); OR
3. Find the Tribe's designated tribal agent for service of notice.
  - a. BIA publishes a list each year in the Federal Register
  - b. The list is also available at: [www.bia.gov](http://www.bia.gov) under the "Office of Indian Services" and "Division of Human Services"

### **C. ICWA Exemptions**

ICWA does not apply to:

1. Custody of Indian child to one of the parents.
2. Tribal court proceedings;
3. Proceedings including criminal act(s) when the youth is adjudicated delinquent; as status offenses are not considered criminal if committed by an adult (Ex: truancy, running away from home, violating curfew, underage use of alcohol, etc.)

ICWA may apply in a juvenile delinquency proceeding when the out-of-home placement is based upon the fitness of the parents (deprivation) and not the act of the child (delinquency).

Parents cannot ask for an exemption or request to "opt out" of ICWA or application for their children. A parent can request the case not be transferred to a Tribal Court, but cannot decline ICWA regulations if ICWA applies to the child.

### **D. Non-ICWA Cases**

It may be determined that ICWA does not apply to an Indian child when a Tribe responds that the child is not a member or eligible for membership. When this occurs, the foster care case manager must:

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1. Provide a written statement to the court documenting the Tribe has declared the Indian child is not a member and is not eligible for membership.
2. Document in the case activity log each contact made with the Tribe, as well as when a Tribe responds declaring the Indian child is not a member or eligible for membership.
3. Change the Indian child's ICWA status in the data management system (FRAME) to "no".
4. Develop a culturally appropriate case plan for the child.

### **E. Indian Child Placement Preferences and Relative Search**

The foster care case manager is required to discuss placement preferences with the child's parent(s) and/or Tribe on an ongoing basis; preference review should be done during each Child and Family Team meeting, each court proceeding, etc.

All efforts for child placement must be in a location where the parent can have regular access to the child without undue economic, physical, or cultural hardship. When ICWA applies to an Indian child, placement preferences apply in any foster care, pre-adoptive, and adoptive placement, unless the court finds good cause to deviate from the placement preferences, or the Indian child's Tribe has established a different order of preference than those identified by ICWA law.

1. Order of Placement Preference are:
  - a. a. A member of the child's extended family.
  - b. b. A foster home licensed or specified by the Tribe.
  - c. c. An American Indian foster home approved by the state.
  - d. d. A group home or facility approved by a Tribe or operated by an American Indian organization that has a program suitable to meet the child's needs.
2. Good Cause - Placement Preferences

The foster care case manager must follow placement preferences unless good cause exists not to comply. ICWA states that the party asserting that there is good cause to deviate from the placement preferences must state on the record, in court or in writing to the parties, the reason for that assertion or belief. Good cause should be based upon:

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1. Preference of parents after reviewing placement options,
2. Request of the child,
3. Presence of sibling(s),
4. Unavailability of placement after a diligent search, or
5. Unavailability of a placement based on the Indian community's cultural standards.

Good cause not to follow placement preferences cannot be based on ordinary bonding and attachment or the socioeconomic status of one placement versus another.

### **F. Court Proceedings**

The foster care case manager must be prepared to present to the court all the evidence it has about a child's connection to a Tribe. If ICWA does apply, the court is responsible to follow specific criteria for Indian children. ND Supreme Court created an ICWA hard card for the Judicial Bench book; a tool to help prepare proper language for the affidavit presented to the court regarding ICWA.

ND foster care case managers must request that the court make a finding on the record at every custody proceeding (emergency, involuntary, voluntary, etc.) if any participant knows or has reason to know that the child is an Indian child and whether ICWA applies.

If the court does not have sufficient evidence to confirm that the child is an Indian child, the court must make diligent efforts to work with the Tribe(s) where there is reason to know the Indian child may be affiliated. The court will proceed by applying ICWA until they have confirmation that the child is not an Indian child or ICWA does not apply. The Tribe believed to be the child's Tribe is the only entity that can make a determination of whether a child is an Indian child or not.

### **Emergency Removals**

ICWA regulations state that emergency removals are authorized to protect an Indian child in imminent physical damage or harm, but they should cease immediately when the placement is no longer necessary to prevent imminent harm.

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1. ICWA regulations state that emergency removals should not last longer than 30 days unless the court makes required determinations.
2. ICWA regulations require the court and/or custodial agency or its agent provide a Qualified Expert Witness (QEW) be present at the removal hearing.

### Notice in Child Custody Proceedings

ICWA requires that notice must be provided by the party seeking placement or termination of parental rights to the parent(s), Indian custodian, and child's Tribe. If a court proceeding has been scheduled, notice must be

1. Sent by registered mail, return receipt requested.
2. A copy of this notice should be filed in the case file and with the court, along with any returned receipts.
3. No requests for a court proceeding (with the exception of emergency removals) can be made until:
  - a. At least 10 days after receipt of notice by parents or Indian Custodian, or after 30 days if 20 additional days are requested by the parents or Indian Custodian to prepare for the proceedings; OR
  - b. At least 10 days after receipt of notice by the Tribe, or after 30 days if the Tribe requests an additional 20 days to prepare or the proceeding; OR
  - c. No fewer than 15 days after receipt of notice by the Bureau of Indian Affairs.

### If the Tribe Does Not Respond

If a Tribe does not respond to an official notice sent, or if it replies that it does not wish to intervene in the proceeding, the foster care case manager must continue to send the Tribe notices of every proceeding. The Tribe can intervene at any point in the proceeding and therefore it has the right to notice of all hearings related to the case.

### Transfer of Jurisdiction to Tribal Court

A request for transfer of jurisdiction may be made orally on the record in court or in writing by either a parent or the Indian child's Tribe. The right to request transfer is available at any stage of child custody proceedings. ICWA regulations contain five factors that the court cannot consider in

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determining whether good cause exists not to transfer jurisdiction, including:

1. Whether the proceedings are at an advanced stage when the Tribe, parents, or Indian custodian have not received notice of the proceedings until an advanced stage
2. Whether transfer was requested in prior proceedings
3. Whether transfer could affect the placement of the Indian child,
4. The Indian child's cultural connections to the Tribe, or
5. Socio-economic conditions or any negative perception of tribal or BIA social services or judicial systems.

### Late Evidence

If the court determined on the record that there was no reason to know the child was an Indian child and it was determined that ICWA did not apply, and a party later comes forward with reason to know ICWA does apply, the court shall to apply ICWA standards to the case. If new evidence is identified during a case that gives reason to know the child is an Indian child; such as

1. A Tribe changing eligibility requirements over the course of a case where a child is a member or eligible for membership, or
2. A Tribe has recently received federal recognition; the child's foster care case manager must bring new evidence to the court's attention. 25 C.F.R. § 23.107(a).

### Qualified Expert Witness (QEW):

The foster care case manager must request a QEW be present to support removal and termination (including contested termination). A QEW shall testify regarding whether the child's custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. A QEW:

1. Must be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe.
2. Cannot be the case manager regularly assigned to the Indian child.

The court and/or custodial agency or its agent must provide a QEW be present at the removal hearing and ongoing hearing thereafter. If an agency is experiencing challenges in locating QEW, they may request assistance from the Tribe.

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### **G. Active Efforts Required in ICWA Cases:**

“Active efforts” means not just an identification of the challenges a family faces and providing solutions. It also requires a foster care case manager make efforts to actively assist a family in making the changes necessary for an Indian child to return safely to their home and reunify with family.

Active efforts must be undertaken to provide remedial services after an investigation and before a decision is made to place the Indian child out of the home. However, active efforts must also be provided after the Indian child has been removed in order to prevent the breakup of the family by working toward reunification.

Active efforts can be demonstrated by the following:

1. Making a strength-based evaluation of the family’s circumstances that takes into account the prevailing social and cultural conditions and way of life of the Indian child’s Tribe.
2. Intervening only when necessary. Foster care case managers conducting such an intervention must:
  - a. Develop a case plan with assistance from the parents or Indian Custodian that involves use of Tribal Indian community resources; AND
  - b. Seek out the necessary family preservation services to support the family with the Indian child in the home, except where imminent physical or emotional harm may result; AND
  - c. Involve the child, if of sufficient age, in the design and implementation of case plan
3. Assisting parents or Indian Custodian and Indian child in maintaining an ongoing family relationship, and
4. Engaging the Indian child’s Tribe early and working closely with the Indian child’s Tribe to access culturally relevant resources and informal support networks.

### **H. Termination of Parental Rights**

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ND foster care case managers must be prepared to present to the court all the evidence detailing a child's connection to a Tribe, case planning, permanency goals, active efforts, etc. A foster care case manager must:

1. Petition to terminate parental rights,
2. Notify the Tribe, biological parents, Indian custodians, and all relevant parties,
3. If a Tribe does not respond after 12 months to the agency's required attempts to determine if the child is a member or eligible for membership, the foster care case manager will consult with BIA Regional Director to establish if the foster care case manager applied due diligence in trying to obtain a response from a Tribe.
4. If the review of information documented by the foster care case manager's efforts to contact the Tribe determines that additional efforts must be made, the case manager must make those efforts before presenting the termination of parental rights to the court.
5. If the court determines on the record that there is no reason to know the child is an Indian child and it is determined that ICWA does not apply, a party who later comes forward with reason to know ICWA applies can request the court to apply ICWA standards before proceeding with a termination of parental rights.
6. If new evidence is identified during a case that gives reason to know the child is an Indian child (such as a Tribe changing eligibility requirements over the course of a case where a child is a member or eligible for membership, or a Tribe has recently received federal recognition), the child's foster care case manager must bring new evidence to the court's attention. 25 C.F.R. § 23.107(a).

### **I. Abandoned Child - Domicile**

If a public agency obtains custody of a child, and the agency has reason to know a child is an Indian child due to the domicile or residence of the child's parent or custodian is on a reservation (25 CFR sec. 23.107(c)(4), the case must be treated as an ICWA case until it is determined the child does not meet the definition (25 CFR sec. 23.107(b)(2)). The foster care case manager would need to determine if the child or parent's domicile is on the reservation; meaning residence with an intent to stay, or return. If domicile of the parent is in fact on the reservation, the agency will need to work directly with the Tribe to determine if ICWA applies.

The Tribe is the only entity who can determine if a child is an Indian child, and a public agency cannot (25 CFR 23.108(b)). A blood or DNA test will



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not confirm to an agency if ICWA applies to a child; tribal membership is not about race it is a matter of citizenship.

### **J. ICWA Resources**

Various resources have been developed nationwide to assist case managers with full compliance of ICWA regulation.

1. ND Court Hard Card
2. ND Court Desk Reference
3. A Guide to Compliance with the Indian Child Welfare Act
  - a. This guide is designed to help individuals understand ICWA's requirements.  
[http://www.nicwa.org/Indian\\_Child\\_Welfare\\_Act/documents/2015\\_Guide%20to%20ICWA%20Compliance.pdf](http://www.nicwa.org/Indian_Child_Welfare_Act/documents/2015_Guide%20to%20ICWA%20Compliance.pdf)
4. Casey Family Programs Indian Child Welfare Programs
  - a. Technical assistance and resources, education, training and support to state and county-based child welfare systems to improve ICWA compliance.  
[www.casey.org/OurWork/DirectoService/icw.htm](http://www.casey.org/OurWork/DirectoService/icw.htm)
5. Federal Register
  - a. Provides names and addresses of federally recognized Tribes for service of notice of proceedings subject to ICWA  
<http://www.bia.gov/cs/groups/public/documents/text/idc012540.pdf>
6. ICWA Inquiry Form: To be used by all ND child welfare workers when notifying the appropriate Tribe concerning an ICWA or potential ICWA child/family. This form does not take the place of formal notice of court proceedings, but does meet initial criteria outlined by the ICWA federal regulations and guidelines as a means to notify the Tribe. ND ICWA Inquiry Form Fillable - ICWA Inquiry Form Instructions

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### **Need for Early Planning 624-05-15-55**

**(Revised 2/10/07 ML #3053)**

[View Archives](#)

Permanency planning must begin immediately. If appropriate, concurrent planning should be initiated as soon as possible. The difficulties inherent with children adrift in foster care can be reduced by starting efforts for permanency prior to or as soon as the child enters foster care.

In permanency planning for a child, keep in mind the safety issues for the child, and the philosophy of the Adoption and Safe Families Act of 1997 – foster care is not a place to grow up. Children deserve permanency, safety, and well-being.

Immediately after the child is removed, parents have usually not yet adjusted to their loss and are more apt to be motivated to change the conditions that led to the removal of their child. If intensive case management services through the Wraparound process does not begin immediately after the child has been placed in foster care, the original problem(s) may become obscure. The parents may have adjusted to life without the child and may be unable to reincorporate their child into their home without major changes in their lifestyle. In addition, they may resist treatment/services because they are reluctant to open old wounds and to face the possibility of again failing to meet society's expectations of them as parents. If the decisions in permanency planning/the Foster Care Child & Family Team meetings are delayed, the parents may leave the jurisdiction making the task of replacing the child in their home more difficult to achieve. The agency will be handicapped when trying to evaluate from a distance the parents' potential to care for their child or children. This can be time consuming, and the results are far too often inconclusive or non-existent.

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### **Periodic Review Requirement 624-05-15-80**

**(Revised 10/15/12 ML #3341)**

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All children in foster care (including children on trial home visits), including those in the custody of the Division of Juvenile Services, will come under the review of the Foster Care Child & Family Team meetings (permanency planning), but the review frequency will differ depending on how long the child has been in care in a specific placement. At a minimum, the committee will review every three months the cases of all Foster Care children.

The Adoption and Safe Families Act (ASFA) provides tightened time frames for children in foster care, twelve-month disposition hearings, filing of petitions for termination of parental rights when a child has been in foster care a certain period of time, and an emphasis on moving the child into adoption, relative care, guardianship, or alternate permanent setting quickly.

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### **Placement Review 624-05-15-80-05**

**(Revised 10/15/12 ML #3341)**

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Children in foster care in North Dakota will continue to be reviewed by the committee/team on a quarterly basis subsequent to the first permanency planning committee meeting (where the case plan is developed) within the first 30 days of initial placement.

Periodic permanency planning/team reviews at three-month intervals are required for all children and documented in FRAME as a Permanency Planning Committee Progress Report. The three-month review requirement is dictated by the ASFA mandates to move children into permanent situations, and to help agencies meet the various ASFA deadlines, such as permanency hearings. It is anticipated that the result of this emphasis on planning and services to foster children will result in shortened times in foster care and diminished recidivism.

The periodic permanency-planning requirement does not substitute for monthly reviews of the case by the case manager and supervisor.

**Review of Children in Out-of-Home Care More than 1 Year  
624-05-15-80-05-10**

**(Revised 2/10/07 ML #3053)**

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The Adoption and Safe Families Act requires that we look at cases to develop an alternate permanency plan for a child that cannot be reunified. Consider the age of the child and whether the goal is realistic if it has not yet been achieved. Consider also if concurrent planning is appropriate; and, if services the family needs have been provided. The basic premise is that the child needs permanency. The longer a child has been in care, the less chance they have for reunification with their family or adoption.

Suggested Questions to ask at review of longer term placement.

1. What reasons necessitated placement?
2. What is the permanent planning goal for this child?
3. Is the plan realistic?
4. What is the current family situation, what conditions are preventing return of the child (absence, condition, conduct). What do they want in a plan?
5. Is there a concurrent plan?
6. What is the current situation of the child? Where are his/her psychological ties, what does he/she want in a plan?
7. What is the current situation of foster parents, relatives or others who have been caring for the child? What is the role and planning process for the relatives and foster parents? How do they fit into the permanent plan?
8. What is the independent living plan for youth 16 and over?
9. Do safety issues prevent child's return home?

**Assessment of Child and Family in Planned Permanency  
Living Arrangements 624-05-15-80-10**

**(Revised 2/10/07 ML #3053)**

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ASFA requires scrutiny of every case situation, even if the child has been in the foster care system for a long period of time. It requires agencies to take a new look at the circumstances of each case and to be open to changing the child's case plan in an effort to provide the child a permanent living situation. Keeping in mind the emphasis in ASFA of safety, permanence, and well being, consider concurrent planning while providing the family services within structured time frames. Begin by assessing the current situation of the child, the child's family, and the foster family through the Strengths Discovery and Permanency Planning Committee/Foster Care Child & Family Team meeting process. Involve the extended family if appropriate. Consider a relative placement.

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### **Family 624-05-15-80-10-05**

**(Revised 1/15/10 ML #3206)**

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Assess the current situation with the child's biological family. Look at each category, decide which sections describe the family and follow the outlines below.

Absence - This refers to the lack of consistent contact between the parent and child over a period of time.

1. Conduct a diligent and exhaustive search of missing parents. The following is a list of resources to be used and/or contacted in conducting a search:

- Federal Parent Locator Services (FPLS)
- Letters to last known address
- Registered letters to last known address
- Friends
- Relatives
- Last known place of employment
- Telephone directory
- Other social service agencies (public welfare, mental health, etc.)
- Utility companies
- Employment services
- Probation/parole authorities
- Labor unions
- School and colleges parent attended
- Social Security Office
- Police departments
- Motor Vehicle Registration Office
- Hospitals/clinics
- Child Support Unit (IV-D)
- Bureau of Indian Affairs (Social Services)
- Tribal Enrollment Office

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### Other:

Letters to parent c/o relatives, friends, previous employers, etc. With or without a social security number, address a letter contained in an unsealed envelope to the parent, enclosed with request that it be forwarded - mail to:

Social Security Administration  
Bureau of Data Processing  
Baltimore, MD 21232

### Contact:

Federal Bureau of Investigation  
Records Department  
Washington, DC

Condition - This refers to qualities within the parent which prevent adequate nurturing. These qualities should have a diagnosis and prognosis.

1. Make use of professional consultation if necessary in obtaining a clear diagnosis and prognosis of the parent's condition. These are minimal items to request:
  - What is the parent's condition-specific diagnosis and a description in lay language?
  - How does, or could, this condition prevent adequate parenting?
  - What is the prognosis (future) of the parent's condition: including ability to parent, and expected time for improvement or recovery from condition?
  - What indicators of future stability exist?

Conduct - This refers to parental behavior which is detrimental to the child.

1. Define in behavioral terms the parental conduct which is preventing return home.
2. In what specific ways is this conduct detrimental to the child?



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3. What conduct indicates genuine caring for the child?

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### **Child 624-05-15-80-10-10**

**(Revised 2/10/07 ML #3053)**

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Assess the child's current situation. Look at each category to determine what plan will be appropriate for the child.

Attachments - This refers to the feelings a child has about where they belong and who is their family.

Consider the following in making your assessment:

1. Length of time in care - what percentage of their life has been spent in care.
2. Number of placements and length of time for each.
3. Where the child says they belong.
4. What relationships does the child want to maintain.
5. Request assessment of bonding from a psychologist or psychiatrist for help if this is necessary.
6. The child's attitude toward permanency in their lives.

Condition - This refers to qualities within the child which prevent him from receiving the care and nurturing they need in their home. These qualities should have a diagnosis and prognosis.

1. Make use of professional consultation in obtaining a clear diagnosis and prognosis of the child's condition. These are minimal items to request.
  - What is the child's condition - specific diagnosis and a description in lay language.
  - How does this condition affect the parenting that this child will need.
  - What is the prognosis (future) of the child's condition and how might it be affected by various placement plans.

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Conduct - This refers to a child's behavior which is disruptive to the family.

1. Define in behavioral terms the child's conduct.
2. In what specific ways will the child's behavior influence plans for placement?
3. What special parenting will this child need as a result of the child's behavior?

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### **Foster Family 624-05-15-80-10-15**

**(Revised 2/10/07 ML #3053)**

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Assess the foster family's current situation. Each foster family must be evaluated in terms of their commitment to the child, the child's future, and the best interests of the foster family.

1. Length of time the child has been in placement.
2. Assessment quality of the relationship between the foster parents and the child.
3. Bonding with the child.
4. Assess foster family's ability to accept the child's family.

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### **Periodic Review Requirement for Group Homes and Residential Child Care Facilities 624-05-15-85**

**(Revised 2/10/07 ML #3053)**

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For those children placed into an in-state group care facility or residential child care facility, it shall be the continuing responsibility of the legal custodian (i.e. county, or in the case of a TPR, county where court action initiated) or the Division of Juvenile Services representative responsible for the case plan to continue the periodic review process. (See Reference [N.D.A.C. 75-03-16.](#))

Arrangements must be made to ensure that the county having financial responsibility for foster care payment receives at least quarterly written reports from any facility in which the child is placed.

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### **Periodic Review for Children Committed to the Division of Juvenile Services 624-05-15-90**

**(Revised 2/10/07 ML #3053)**

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All youth committed to the Division of Juvenile Services who are pending placement or who are placed in foster care must be initially and periodically reviewed with the permanency planning committee/Foster Care Child & Family Team as outlined in this chapter. This review must be initiated by the Division of Juvenile Services worker as the case manager.

**Legal Authority Child & Family Team Meeting  
624-05-15-100**

**(Revised 12/1/15 ML #3461)**

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The custodial agency has the final responsibility for the case plan and what happens to the child. The Child & Family Team essentially serves in an advisory or recommending posture in relation to the case plan. The agency and team by working cooperatively through multi-agency and multidisciplinary approaches can provide a wider variety of support services to the parents, foster child, and foster parent to carry out the treatment for the case plan. The team makes a recommendation as to whether a petition should be filed for termination of parental rights; if and when the child should be returned to their own homes; the parent's willingness and ability to benefit from counseling and treatment services; potential for the parents to ever be able to provide and care for their child and other critical decisions. No single profession has the total knowledge of what is the best plan for a child. By utilizing a multi-agency, multidisciplinary permanency planning/team approach, we broaden the input and allow for more ideas into the important planning decisions. This has proven to be very valuable when it is necessary to go to court on behalf of children and their families. (Reference N.D.A.C. [75-03-14.](#))

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### **Responsibility for Permanency Planning 624-05-15-100-05**

**(Revised 2/10/07 ML #3053)**

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Permanency Planning is the responsibility of the custodian.

In out-of-state foster care placements in family foster homes or in group or residential child care facilities, permanency planning is the responsibility of the legal custodian.

The county of financial responsibility maintains all case management responsibility not vested in the custodian.



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### **Services Following Termination of Parental Rights 624-05-15-100-10**

**(Revised 2/10/07 ML #3053)**

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The county where court action terminating parental rights was initiated shall continue to exercise responsibility for permanency planning until the adoption is finalized (as required by federal law). This should be done in cooperation with the private agency adoption worker.

For information on determination of financial responsibility for foster care payment, refer to: Manual Chapter 623-05.

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### **Responsibilities of County of Financial Responsibility 624-05-15-105-10**

**(Revised 2/10/07 ML #3053)**

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Financial responsibility for the case always rests with the "financial county."

The financial county enters the payment information on CCWIPS, unless an agreement to do so is negotiated with another county.

The county of financial responsibility maintains all case management responsibility not vested in the custodian. In cases where the financially responsible county is also the custodian, the county has complete responsibility for the case, including eligibility and payment and all activities associated with placement and supervision of the child.

In certain circumstances, the financial/custodial county may negotiate an agreement with another county to provide specific services, such as placement and supervision. In such an instance, the financial/custodial county remains responsible for ensuring that permanency planning/Foster Care Child & Family Team meeting takes place, and that the case is documented, for example, in preparation for audit.

**Responsibility by Type of Care and Custodian  
624-05-15-105-15**

**(Revised 10/15/12 ML #3341)**

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1. Family Foster Care:

The financial county for family foster care (not therapeutic family foster care) is the county where the child's parent has residence at the time of court intervention.

2. Therapeutic Family Foster Care:

In therapeutic family foster care, the procedures for financial county are similar to procedures for children in group/RCCF/PRTF care. The custodian refers the child, ensures that permanency planning takes place, maintains the documentation ensuring that custodial duties are carried out and compliance issues met. The financial county (where the child's parent has residence at the time of court intervention) is frequently the same as the custodial county. In some instances, there may be an exception to this. Please refer questions to the regional supervisor.

3. Group/Residential/PRTF:

The county of financial responsibility for children and youth in foster care in group/RCCF, in or out of state, is the county where the child's parent has residence at the time of court intervention. Financial responsibility will remain with that county as long as the individual remains in care.

4. Division of Juvenile Services:

Division of Juvenile Services (DJS), as custodian, is responsible for those case management duties involved in permanency planning as found in NDDHS 624-05. This includes, for example, contacting the regional supervisor to ensure that the DJS case is permanency planned, ensure placement in the least restrictive environment, is

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reviewed regularly in permanency planning, and that appropriate permanency planning documentation is in place.

### 5. Tribal Foster Care Cases:

Above guidelines are followed.

The eligibility worker in the appropriate county has the responsibility to see that permanency-planning reports are on FRAME. If not, the eligibility worker will notify the appropriate tribal social worker.

For tribal case plans (Permanency Planning Committee Initial Report) and quarterly reports (Permanency Planning Committee Progress Report), the involved county starts the case plan on CCWIPS (generating available information from the system), printing it out, and mailing it to the appropriate tribal social worker for completion.

It is the responsibility of the tribal social service worker (case manager) for the specific case to ensure that permanency planning is done in a timely manner and that the policies in Service Chapter 624-05 are followed. It is the responsibility of the tribal social worker to ensure that the tribal court is notified if hearings are due, etc.

Please refer to Service Chapters 447-10 and 623-05 for more information.

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### **Discharge & Transition Planning 624-05-15-110**

**(Revised 12/1/15 ML #3461)**

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#### Discharge Planning

Discharge planning efforts begin the day a child enters foster care. The Child & Family Team, including the child when age appropriate, need to develop a comprehensive discharge plan, focusing on the individualized needs of the child. Special attention must be given to the child's mental health, substance abuse, and developmental issues.

Federal law requires that all children in foster care should be discharged with the following items at no cost to the child:

1. Personal items
2. Legal documents
  - a. Copy of birth certificate
  - b. Copy of Social security card, and/or
  - c. Identification card (if applicable)
3. Medical information
  - a. The extent of the medical history and records provided upon discharge is to be determined by the case manager as necessary and appropriate for the child's continued care.
4. Education records
  - a. History of schools attended
  - b. School grade level
  - c. Copy of the child's IEP (if applicable)
5. Credit report results
  - a. Only required for children over the age of 14
6. Transition Checklist ([SFN 494](#))
  - a. Only required at age 18 for children "aging out" of foster care

#### Transition Planning

For a child "aging out" of foster care at the age of 18, transition planning occurs in conjunction with discharge planning.

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A transition plan is required for all children “aging out” of foster care and must be completed within 90 days prior to their 18th birthday. The transition plan must be developed and personalized at the direction of the child and made part of their foster care case plan (either attached or embedded in the case plan). Transition planning is also required 90 days prior to the 18th birthday for a child who is interested in remaining in the 18+ Continued Care program. The transition plan can be updated as needed.

North Dakota requires the use of SFN 494 “Transition Checklist” for all children aging out of foster care regardless of the length of time the child has been in foster care. For placements less than six months, custodians should make concerted efforts to gather required documentation noted on the Transition Checklist. This document will assist the Child and Family Team in developing transition goals and organizing all required information that must be provided to a child aging out.

**All efforts must be made to ensure that foster youth are not discharged into homelessness.**

## **Goals in Foster Care Placement 624-05-15-115**

**(Revised 12/1/15 ML #3461)**

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It is impossible to develop any plan for children in foster care without establishing goals, either single or concurrent, with specific deadlines and a specific time frame established to reach those goals (See Wraparound Case Management Manual Chapter 641-10).

Foster care lends itself to situations that are extremely difficult to define. It is imperative that a plan be developed with the Child & Family Team related to strengths, needs, risks, and safety issues with specific measurable and time-limited goals and tasks that will achieve permanency for the child. The safety, permanency, and well being of children and their families must be the priority for everyone involved in the case planning to assure timely permanence and goal achievement.

The primary purpose of the case plan for each child is to document the intent and the steps under way to achieve the goals, including both reunification goals and/or alternate permanency goals. Federal law, in particular, requires that the case plan documents the goals and progress being made toward those goals.

In particular, with respect to a child whose permanency goal is adoption or placement in another permanent home, the case plan must document the steps which the agency is taking to find an adoptive family or other permanent living arrangement, to place the child with an adoptive family, a fit and willing, relative, a legal guardian, or in another planned permanent living arrangement (APPLA), and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of the state or national adoption exchanges.

For foster youth 14 years of age and older, independent living goals must be developed in their case plan by the custodian. When the child reaches

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age 16, a referral can be given to the Chafee Independent Living program. Refer to Manual Chapter 624-10, Independent Living Policy.

The following sections are some examples of the goals that can be established to meet the needs of the children, when to select the goal, how to implement it, and when a selected goal may not work.



## **Return Home 624-05-15-115-05**

**(Revised 12/1/15 ML #3461)**

[View Archives](#)

This refers to the return of a child in foster care to the home of one or both parents.

### When to Select this Goal:

The goal of return home is generally the first choice for a permanent plan. It maintains family roots, requires few legal procedures and is usually the least traumatic.

The goal of return home should be considered when the assessment/Strengths Discovery indicates the following:

- The parent is able to provide safely and adequately for the child's well being.
- The parent will be able to provide safely and adequately for the child's well being in a reasonable period of time.
- The parent wants to have the child returned home.
- The child wants to return home.
- Conditions in the home are sufficiently positive after the parents have met the treatment plan goals.

### How to Implement this Goal:

To return a child to the home of his parents, there are two steps to follow:

1. The development of a clear plan which includes the roles of the parent, child, natural supports (neighbors, minister, relative, etc.), foster parents, and agencies as described in the single plan of care.
  - a. Future specific tasks the parent and the child, where appropriate, must complete in order to provide adequately for the child's permanence, safety, and well being.
  - b. A visitation plan designed to strengthen the parent-child bond.
  - c. Target date for return home.
  - d. Follow-up plan/safety plan for family support after the child is returned home.

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2. Clarification of the legal status of child and family.

### When Not to Select this Goal:

The goal of return home would not be appropriate under the following circumstances.

- The parent does not want to have the child returned.
- The child strongly objects with good cause to returning home.
- The parent cannot or will not provide adequately for the child's safety and well being.
- The parent will not be able to provide adequately for the child's safety and well being within a reasonable period of time.
- The parent(s) refuses to participate in treatment

## **Placement with Relatives 624-05-15-115-10**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

Federal law under title IV-E of the Social Security Act requires public agencies to consider relatives of the child as a placement preference while the child is in foster care, provided that the relative caregiver meets relevant standards. Relative placement is allowable and can be the selected permanency goal, if reunification is not possible timely. Relative care, also known as kinship care, means the child lives in a home environment with persons to whom he/she is related or a close relationship already exists.

Relative caregivers are not required to become licensed foster parents; however, the option should be offered if financial support is necessary to care for the child's needs while he/she remains in public custody. Foster care funding is available only to licensed foster care providers. In lieu of becoming a licensed foster parent, the relative may choose to apply for TANF Kinship program "**for child only**".

### When to Select "Place with Relative" as the Permanency Goal:

The goal of placement with relatives is one of the least restrictive options. Placement with relatives should be selected under these circumstances:

- The agency is granted court ordered custody of the child.
- The goal of returning home timely has been ruled out.
- The relative is willing and able to provide care safely and adequately.
- The relative is willing to participate in the child's treatment plan.
- The relative is willing to make a commitment to care for the child.
- The child wants to be placed with the relative.

### How to Implement "Place with Relative" as the Permanency Goal:

To place a child with relatives, as case manager must:

1. Locate relatives as possible placement resources. If relatives have not already come forward to express an interest in caring for the child, search and locate family members to determine who might be interested.

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2. Assess of the relative's home by considering:
  - a. Space and resources the relatives have for providing for the child in a safe and stable environment.
  - b. Commitment and willingness to nurture the child.
  - c. Flexibility and adaptability to accommodate changes the child will bring to the home, participate in appointments, communicate with various professional staff regarding care planning, assist with reunification efforts with the parents, etc.
  - d. Stability relatives have with their current relationships, employment, housing and social circumstances.
  - e. Nurturance capacity of the relative.

**\*\*IMPORTANT\*\*** If the relatives live in another state, request an assessment of their home through Interstate Compact before deciding to place the child out of state.

3. Develop a case plan. The plan should be developed with the relatives and the child (when appropriate) and contain the following:
  - a. Placement transition plan to remain in the relative home post discharge.
  - b. Specific tasks the relative must complete in order to provide adequately for the child's needs post discharge.
  - c. A visitation plan designed to develop and strengthen the bond between child and relative.
  - d. Discharge plan/safety plan for family support post discharge.
4. If permanent placement is achieved with the relative, the foster care case manager must ensure clarity of legal authority concerning the child (power of attorney, guardianship, etc.). The relative should be educated on their legal authority before a public custody order is vacated with the agency.

### When Not to Select "Place with Relative" as the Permanency Goal:

The goal of placement with relatives may not be appropriate under the following circumstances:

- No relatives are willing to care for the child long term.
- The child strongly objects to placement with relatives.
- The parents strongly object to placement with relatives.

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- The relatives cannot provide safely and adequately for the child's needs, or provide protection (i.e. sexual and physical abuse cases) and will not be able to within a reasonable period of time.
- The relatives are not willing to participate in the required treatment, plan or they are not willing to accept supervision and involvement from the agency.

## **Adoption 624-05-15-115-15**

**(Revised 12/1/15 ML #3461)**

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This refers to the situation where the legal rights and responsibilities of a parent to a child are terminated and assumed by another individual who becomes the child's legal parent.

### When to Select this Goal:

Adoption is the permanent goal offering the most stability to the child who cannot return home to his parents. It is also the most traumatic to the family since it generally involves permanent separation of child and family. All reasonable efforts should be made to reunite the family before moving to adoption. The goal of adoption should be considered under the following circumstances:

- The goal of return home has been ruled out.
- The parents through words or action have shown an inability or unwillingness to care for the child. The biological parents will not be able to provide for the child's safety and well being within a reasonable period of time.
- The parents want the child to be adopted, or parental rights have been terminated.
- An adoptive home is available or can be found within a reasonable period of time.
- The child wants to be adopted.

### How to Implement this Goal:

The goal of adoption involves permanent separation of child and family, and this will require considerable work by the agency. There are two basic steps in the adoptive process:

1. Developing a plan for placement including the referral to AASK for adoptive placement. A referral must be made to AASK no later than when the petition for termination of parental rights has been filed. A referral to AASK should be made when a goal (or concurrent goal) for adoption has been established.

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### 2. Freeing the child for adoption.

The release of a child for adoption is a legal procedure. Before continuing with adoption plans, consult with your agency attorney, court or another attorney familiar with adoption laws in your state and get the following information:

1. What statutes pertain to adoption?
2. What procedures must be followed if a parent wants to voluntarily relinquish their parental rights?
  - a. What are the grounds necessary to terminate a parent's rights when they will not release the child voluntarily?
  - b. Many statutes permit termination of parental rights based upon:
    - i. Absence - Abandonment of the child for a long time or a series of shorter periods of abandonment.
    - ii. Condition- A parental condition which can be diagnosed as precluding parental ability to care for the child adequately.
    - iii. Conduct- Parental behavior which has demonstrated the parents unwillingness or inability to provide adequately for the child's well being.
    - iv. Best interest of the child - The child has formed strong ties with another family and/or will be damaged by a return to the biological parents.

ASFA requirements and timelines have expanded the reasons for termination of parental rights. Refer to the 1999 amendments to N.D.C.C. 27-20-20.1. Petition to terminate parental rights – When brought – Definitions, for complete information.

- c. What factual evidence is necessary and admissible in court if parental rights are to be terminated?
- d. What if one parent will release the child and the other won't, or you cannot locate one parent?
- e. What is the appeal process?

A plan should be developed to initiate general recruitment for an adoptive family at the first Foster Care Child & Family Team meeting following a termination of parental rights. General recruitment is not necessary if the child's current placement resource has committed to adopting the child. Current caregivers should be given sufficient support to make their decision to adopt the child which will transition a child to permanence within a

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timely manner. It is not appropriate to delay a child's adoption while waiting indefinitely for a placement resource's decision.

### Development of the Goal:

A clear and specific goal should be developed with all parties involved which includes the following:

1. Preparation of the child for adoption, including explaining reasons for termination of parental rights, development of a life history books, counseling around loss of parents.
2. Visitation plan designed to build the adoptive parent-child relationship.
3. Target date for placement.
4. Procedures for handling disagreements in the planning process.
5. Specific plans for follow-up services to child and family following placement.
6. Procedures necessary to finalize adoption.

### Prepare the Adoption Case:

Review your case record, case plan, your notes, all letters and correspondence concerning the child. Develop a chronology of your information for termination of parental rights.

For example, list in chronological order the following information about both parents:

1. Reason, date and plan for placement. Note court orders, etc. that document these items.
2. Visits between child and parent, including dates, who made the arrangements, where the visit occurred, how the child and parent behaved and failure to show for visitation by parents.
3. Gifts given to the child - include cards and letters. Note appropriateness, whether one child in a family was left out, dates gifts were given and who gave them.
4. Financial support for child. Who paid what and when, was their court order requiring payment.
5. Parental involvement in case work plan for child's return. Document plans developed, note success and failures at goal achievement, note referrals made to other treatment providers.
6. Document parental conditions which necessitate termination of parental rights.



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7. Review all documentation kept by the foster parents throughout the course of the placement.
8. Agency service provision to the family to help in rehabilitation. Include dates of contacts, document services provided. List failed scheduled treatment appointments.
9. Periods of abandonment and agency attempts to locate missing parents.
10. Child's reaction and preference.
11. Parents reaction to situations regarding their child while in placement.

Review your chronological record with regard to state statutes for termination of parental rights.

- If you believe you have a strong case, meet with your attorney to plan to take your case to court.
- If your case is weak, begin NOW to collect the information you need. If the agency has failed to provide adequate services, you may need to plan for return home with a clear casework plan. Should that plan fail you will then have a clear documentation for termination at a future time.

When you have determined that you are ready to go to court, prepare the parents for what is to happen. This applies to voluntary as well as involuntary terminations.

1. Explain clearly to parents the nature of the court proceedings which will occur.
2. Explain clearly to parents their rights to counsel.
3. Explain to the child, if they are to be involved in this process, what is going to happen in the court proceedings.
4. Explain, when appropriate, to the foster parents the process and what is going to happen in the court proceedings.
5. Explain that foster caregivers must be provided timely written notice and the "right" to be heard in any proceeding held with respect to the child.

### When Not to Select This Goal:

This goal of adoption should not be selected under the following circumstances:

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1. The child's own family wants the child and can provide adequately for their safety and well being.
2. The child wants to return to the parents.
3. The child strongly objects to being adopted.
4. The child cannot be freed for adoption.
5. No adoptive home can be found following an exhaustive search for such a home, including use of national resource exchanges.

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### **Guardianship 624-05-15-115-20**

**(Revised 2/10/07 ML #3053)**

[View Archives](#)

The Adoption and Safe Families Act of 1997, (Title IV-E of the Social Security Act) recognizes guardianship as a permanency option for some children.

A legal guardianship means a judicially created relationship between child and caretaker. This can be accomplished without termination of parental rights. (See: N.D.C.C. [27-20-48-1](#) and N.D.C.C. [30.1-27.](#)).

The North Dakota Department of Human Services has developed a subsidized guardianship program for those older youth in foster care who do not have the option of returning home, living with a relative, or adoption.

Guardianship is a permanent arrangement and should be considered only after exhausting all other permanency options.

Please refer to NDDSH Service Chapter 623-10, "Subsidized Guardianship," for more information.

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### **Alternate Permanency Placements 624-05-15-115-25**

**(Revised 12/1/15 ML #3461)**

[View Archives](#)

The Adoption and Safe Families Act (ASFA) regulations effective March 27, 2000 require significant changes in practice related to long-term foster care, independent living, and emancipation. The changes are consistent with discouraging the use of long-term foster care, and the preference for another permanency arrangement for the child such as adoption or guardianship. Federal ASFA regulations note references to “another planned permanent living arrangement,” and no longer references to long-term foster care, independent living, or emancipation.

The Supplementary Information to federal regulations issued January 25, 2000, clarifies that it is not permissible for courts to extend their responsibilities to include ordering a child’s placement with a specific foster care provider. The child’s placement and care responsibility must be with a public agency (the State agency or another public agency with whom the State agency has an agreement). Once a court has ordered a placement with a specific provider, it has assumed the State agency’s placement responsibility.

The terminology regarding “dispositional hearing” has been replaced in ASFA at 475(5)(C) by “permanency hearing.” The requirements at 475(5)(C) require a permanency hearing no later than 12 months after foster care entry, and not less frequently than every 12 months thereafter, “. . . which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement . . . .”

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1356.21(h)(3): (Federal Regulation effective 3-27-2000)

If the State concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in another planned permanent living arrangement, the State must document to the court the compelling reason for the alternate plan ...

The requirement for the 12-month permanency hearing (and every 12 months thereafter) applies to the child “in another planned permanent living arrangement.”

### **Children entering “another planned permanent living arrangement” (APPLA):**

When other options such as reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative have been ruled out, and it is concluded that “another planned permanent living arrangement” is the most appropriate plan for the child, the agency must document to the court the compelling reason for the alternate plan. The child must be age 16 or greater in order to select this goal as permanency option.

The child’s case plan along with the “compelling reasons” document must be available to the court for review during the next permanency hearing.

### **Permanency Planning Requirements:**

The quarterly Child and Family Team meetings apply to all children in foster care. This will ensure that the placement is reviewed and the case plan kept up-to-date for the court’s yearly review at the 12 month (or sooner) permanency hearing.

## **Another Planned Permanent Living Arrangement (APPLA) 624-05-15-115-30**

**(Revised 7/23/18 ML #3535)**

[View Archives](#)

Another Planned Permanent living Arrangement (APPLA) is a permanency alternative permitted under ASFA that allows a young person age 16 or greater to have a "permanent home" that is not the child's home of origin, adoption, guardianship, or kinship care.

### When to Select this Goal:

APPLA should be selected as a permanency goal only for a child:

1. Age 16 or greater
2. After reunification, adoption, legal guardianship, and relative placement have been ruled out.

ASFA explicitly prohibits long-term foster care as a permanency option. APPLA either will involve a permanent adult caregiver of the child or adult parental figures playing permanent and important roles in the child's life.

APPLA is intended to be planned and permanent. Planned means the arrangement is intended, designed, considered, premeditated, or deliberate. Permanent means enduring, lasting, or stable. In other words, the agency must provide reasons why the living arrangement is expected to endure. The term living arrangement includes not only the physical placement of the child, but also the quality of care, supervision and nurturing the child will receive.

### How to Implement this Goal:

If the custodian concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency goal for the child age 16 or greater another planned permanent living arrangement (APPLA), the custodian must document to the court the compelling reason for the alternate plan.

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The case plan should focus on building relationships between the child and those adults who will be his or her network of support upon discharge from foster care. APPLA can certainly include family foster care, but it will usually be foster care with a particular family or individual. Most importantly, the plan should focus on the caregiver's familial relationship with the child continuing after the youth is discharged from foster care.

Examples of a compelling reason for establishing a goal of APPLA:

1. The case of a child age 16 or greater who specifically requests the custodial agency to allow them to "age out of care";
2. The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or
3. The Tribe has identified APPLA for the child.

In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged 16 or older, will be placed in another planned permanent living arrangement. The court shall:

1. Verify the child is age 16 or greater;
2. Ask the child whether the child has a desired permanency outcome of APPLA,
3. Make a judicial determination explaining why APPLA is the best permanency plan for the child, and
4. Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.

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### **Basic and Specialized Family Foster Care 624-05-20**

#### **Basic Family Foster Care 624-05-20-05**

**(Revised 2/10/07 ML #3053)**

[View Archives](#)

This is 24-hour care and supervision of a foster child provided by a licensed family foster home. It includes safety and well being for the child as well as teaching basic life skills such as feeding, cleanliness, and self discipline and provides economic, recreational and social experiences and education which are appropriate to a child's age and mental and physical capacity. This level of care is intended for children who would experience the usual foster child separation, placement, and developmental problems but would have no other severe outstanding problems. Payment for this type of care includes maintenance payments and irregular items as indicated in North Dakota Department of Human Services Service Chapter 623-05.



**Specialized Family Foster Care - Excess Maintenance  
Payments (EMP) 624-05-20-10****(Revised 7/23/18 ML #3535)**[View Archives](#)

This specialized family foster care involving an excess maintenance payment is intended for the 24-hour care and supervision of a foster child with special problems, the severity of which places undue demands on the foster parent's physical, emotional, and/or material resources beyond the demands expected in normal foster parenting. Specialized care is offered in licensed family foster homes. An excess maintenance payments (EMP) can be made. An excess maintenance payment (EMP) can be approved and authorized to meet the needs of the individual child requiring special services or difficulty of care.

These special services would involve an unusual amount of time, physical work, skill, stress, or cost to the foster parent. In the area of time, an unusual amount could be required for feeding, dressing, and/or supervising. In regard to the physical work in special situations, there could be a need for an unusual amount of washing, cleaning, lifting, and/or transporting. In the area of skill, the foster parent would need ability in teaching, and in the handling of behavior and/or medical problems. In the area of stress, consideration would be given to the strain on the foster parents when the child's needs require performing distasteful tasks, constant supervision, the meeting of frequent acute situations, and/or the handling of significant behavior problems. In the area of costs, consideration would be given to the destruction of household equipment and unusual wear and tear.

Approximately 25% of the children in family foster care in North Dakota fall within this category. Payments to foster parents providing specialized care include the age appropriate foster care maintenance, and an irregular payment as stated in North Dakota Department of Human Services Manual Chapter 623-05.

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### **Examples of Problematic Behavior or Needs**

**624-05-20-10-05**

**(Revised 2/10/07 ML #3053)**

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Some examples of problematic behavior or needs of the foster child which might qualify the foster parent for the EMP payment include stealing, lying, swearing, alcohol/drug abuse, runaway, emotional problems, self destructive behavior, suicidal thoughts, continuous supervision related to a medical condition, unusual special dietary needs, teaching the child self-help skills (primarily for the blind, deaf or developmentally disabled), and others. The above list is to serve as a guideline and is not intended to be all inclusive.

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### **Required Training for Foster Parents Providing Specialized Care 624-05-20-10-10**

**(Revised 10/15/12 ML #3341)**

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Foster parents receiving specialized payments (EMP) are required to take the following training:

1. Initial orientation
2. PRIDE Core Service Course
3. PRIDE Core Training Curriculum, as appropriate
4. Annual Training – 12 hours

The initial orientation training is to be conducted by the county social service board, regional human service center staff, the private agency or a combination of these agencies. Foster parents licensed July 1, 1985 to January 1, 1998, were required to take the basic foster family course within six months of licensure. Since January 1, 1998, prospective foster parents must also take the PRIDE Pre-service Course prior to licensing. (PRIDE training for foster parents commenced January 1, 1998, and availability has increased since that time.) The foster parents must take, if provided or approved, at least twelve hours of training per year effective July 1, 1985. Initial and annual fire safety training hours will not be counted toward the minimum number of training hours required for initial and annual foster parent licensure. Foster parents must also be willing to take the specialized training PRIDE Care modules that will be required when available and prior to receiving the enhanced maintenance payment.

It is the responsibility of the county social service boards and regional human service centers or the private agency to assure that this training is made available, either through direct provision or written approval to the foster parents providing specialized care. It is the responsibility of the foster parent to avail themselves of the training when provided or approved.

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Foster parents who do not take the above identified training even though it is available to them and even though they are providing foster care to a child whose behavior would qualify them as providing specialized care will not be eligible for excess maintenance payments. It is the responsibility of the regional foster care supervisor to assure that all foster parents receiving EMP's care meet the above requirements. The regional foster care supervisor does have the authority to waive the required training under appropriate circumstances. (Example: If a foster parent had a degree in special education and was caring for a mentally retarded child, then it would be appropriate to waive the training in this type of situation.)

## **Approval of Excess Maintenance Payments (EMP) 624-05-20-10-20**

**(Revised 1/12/2021 ML #3606)**

[View Archives](#)

An Excess Maintenance Payment (EMP), also known as a specialized family foster care irregular payment, may apply when undue demands to care for a child are present. An EMP is allowed for a licensed or approved (Tribal Affidavit) family foster home when physical, emotional, and/or material resources are greater than expected in normal foster parenting.

Foster care case managers are required to:

1. Complete the [SFN 1865](#) - "Specialized Family Foster Care/Adoption Assistance Level of Care Evaluation Form" (SFN 1865) when an excess maintenance payment (EMP) is being considered for a child in foster care. Case managers must gain approval from the assigned Field Service Specialist before the EMP is submitted to eligibility for reimbursement to a provider.
2. Facilitate the completion of and obtain signatures needed on the signed SFN 904, "Agreement to Furnish Specialized Family Foster Care Services, Excess Maintenance Payment". The duration of the signed SFN 904 agreement cannot exceed six months from the effective date **or** cannot exceed the placement end date of the primary provider in which the agreement is signed.

Review of the need for an EMP is required at each quarterly Child and Family Team meeting. However, at any time a foster parent or other member of the Child & Family Team may request the EMP be re-evaluated if there is a significant change in the child's functioning

## **Therapeutic Family Foster Care 624-05-20-15** **(Revised 1/15/21 ML #3606)**

[View Archives](#)

North Dakota’s model of Therapeutic Foster Care (TFC) is intended to meet the needs of children in a least restrictive family setting placement who present severe mental, emotional or behavioral health needs. This includes medically fragile or developmentally delayed foster children whose physical and emotional health needs require more intense intervention than can be accommodated in a traditional family foster home.

### **Characteristics of the North Dakota TFC model include:**

1. A trained and licensed family foster home to offer a therapeutic level of care to a **maximum of two children**; unless exception is granted for additional placements by the Department. Additional placements may include a sibling who does not require TFC level of care, rather the need to maintain sibling connections.
2. Case management provides supports for the child in need of placement and the foster family. TFC case managers serve an average of 8-10 clients. This smaller caseload allows the TFC case manager to provide a more intense level of support and availability to the TFC foster home and custodial case manager in efforts to best meet the needs of the child.

### **Licensing & Placement Limits:**

A Licensed Child Placing Agency (LCPA) is granted authority by the Department as an authorized licensing agency with the ability to recruit and retain foster parents to offer therapeutic foster care. The agency offering TFC may assess and recommend licensure of a family home to provide a specific level of therapeutic foster care. The two levels of therapeutic foster care include:

1. **Therapeutic Foster Care (TFC):** Highly trained family setting where the foster parent/s provide care to children with mental, behavioral and emotional needs in a home environment. Licensing includes:
  - a. Department family foster home licensing compliance,

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- b. Agency specific training requirements,
  - c. Agency supports offered in the foster home, and
  - d. Participation, as defined by the TFC agency, in child appointments and meetings noted in the care plan.
2. **Intensive Therapeutic Foster Care (ITFC):** A specialized family setting where highly trained foster parent/s provide care to children with complex needs in the structured home environment. Licensing includes:
- a. Agency specific TFC level of care, plus:
    - i. One stay at home parent,
    - ii. Additional training requirements, and
    - iii. Additional agency supports offered in the foster home.

The Department grants authority to the authorized licensing agency to assess and determine the number of placements a family can best accommodate at one time. At any time, the authorized licensing agency may request the Department amend the license for additional placements if further assessment of the family is completed and the household can accommodate additional children in need of placement. Ongoing assessment of the family is completed by the authorized licensing agency to determine appropriateness of the placements and the ability of the foster parent/s to provide necessary care to the child/ren.

Adoptive Placement: If a TFC home has been approved for adoptive-placement, the family license shall be assessed to determine if the family is able to accommodate a TFC placement. If appropriate, an amendment to the TFC license may be requested to increase bed capacity in the home. When the adoption is finalized, the adopted child becomes a member of the household and does not count against licensed bed capacity.

### **Financial Zone:**

The administrative county for all Human Service Zone custodial cases is the Human Service Zone identified host county. The custodial agency of the foster child will make a referral. Upon acceptance into the TFC program, the custodial case manager will maintain full case management responsibilities of the child; ensuring permanency planning takes place,

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child and family team meetings are held, monthly face-to-face visits occur, payment invoices are submitted timely for reimbursement, etc.

### **Referrals to Therapeutic Family Foster Care:**

Custodial agencies must contact the local TFC agency office to review the referral procedures. A current universal application (SFN 824) is required to be submitted along with recent assessments, necessary documentation and relevant releases of information to the TFC agency. Upon acceptance into the TFC program and placement into the licensed TFC foster home, a group home approval request must be submitted via the case management system for Children and Family Service Field Service Specialist approval.

### **Vacant TFC Home - Cross Regional Referrals:**

The licensed Therapeutic Foster Care agency has the authority to determine available resources to best meet the needs of the child/ren being referred for placement. If the TFC agency and custodial case manager determine an available TFC home located outside of the geographical area is appropriate, notification to the Department is only required if an amended license is requested to meet bed capacity.

### **Multiple Placements – Cross Regional Referrals:**

The licensed Therapeutic Foster Care agency has the authority to determine available resources that best meet the needs of the child/ren being referred for placement. If multiple placements are considered for one TFC home and there is more than one custodial agency involved; the TFC agency must:

1. Assess the foster home capacity to provide for multiple placements based on individual child needs;
2. Determine if a license amendment is required to serve multiple placements. If so, the authorized licensing agency must request an amendment for increased bed capacity from the Department;
3. Inform the custodial agencies (Zone, DJS, or Tribe) of the TFC approval to place an additional child into the TFC home with the current placement/s; and
4. Facilitate a conference call with the involved custodial agencies to:



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- a. Discuss and review the needs of the child/ren currently in the home and the needs of the child/ren approved to place in the home;
- b. Discuss any opposition or concerns regarding the placement; and
- c. After notification to and consultation with all parties, if an agreement is not made collectively, the final determination for additional placement/s into a TFC home shall be made by the Department as the licensing agency.

### **TFC Eligibility:**

1. The child must be in need of the TFC level of care as specified by the TFC agency. Custodial agencies must consider least restrictive placement options (regular foster care or relative care) prior to referral.
2. The child's referral and entry to a TFC home should be planned.
3. For foster children, a valid court order granting care, custody and control to a public agency (Zone, DJS or Tribe) must be on file.
4. DSM-5 diagnosis.
5. Department approval granted in the case management system, for a specified period of time, to allow for foster care reimbursement.

Length of stay in TFC varies according to the child's needs and progress. TFC is not intended to be used as emergency or shelter care placement, nor is it intended to develop into a long-term placement. TFC in North Dakota is a limited resource, a dual approach is required to maximizing the availability of this resource for children in need of TFC placement. Custodial case managers must:

1. Ensure that referral to TFC is made only for children in need of the enhanced level of family foster care;
2. Begin discharge planning at the onset of TFC placement;
3. Engage in ongoing assessment of appropriateness of placement; and
4. When ready for a less restrictive environment, all efforts are made to transition the child.

### **Rate for Therapeutic Foster Care:**

Refer to NDDHS 623-05 for Therapeutic Family Foster Care rate information and billing procedure.

## **QRTP Placements 624-05-20-17**

**(NEW 1/15/21 ML #3606)**

[View Archives](#)

Family First Prevention Services Act (FFPSA) seeks to restrict the use of residential settings and instead emphasizes placement of foster children in family settings. Federal regulations grant authority to states to place in approved foster care settings; one being a qualified residential treatment program (QRTP). A QRTP shall use a trauma-informed treatment model and employ registered or licensed nursing staff and other licensed clinical staff to engage in short term treatment. The QRTP placement is only available to:

1. Children under the public custody of a Human Service Zone, Tribe or Division of Juvenile Services and
2. Children, not in public custody, who have been approved for placement and reimbursement by the NDDHS Voluntary Treatment Program.

### **CANS Assessment**

North Dakota has elected to utilize the Child and Adolescent Strengths and Needs assessment which is a multi-purpose tool developed to support decision making, level of care and service planning, while monitoring outcomes. The CANS assessment will be completed by the Qualified Individual and an assessment report will be provided to the custodial case manager.

- If interested in learning more about the CANS tool "Standard CANS Comprehensive 2.0", it is available at:  
<https://praedfoundation.org/general-manuals-cans/>

### **Qualified Individual**

The term 'Qualified Individual' means a trained professional or licensed clinician who is not an employee of the state child welfare program and who is not connected to, or affiliated with, any public agency or placement setting in which children are placed.

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The Department contracted with an independent third-party vendor, Maximus Ascend, known to ND as “Ascend” in efforts to hire contracted employees to complete a third-party formal assessment for the QRTP level of care. The contracted employees hired by Ascend will be located throughout North Dakota and assigned cases based on geographic area and ability to meet timeliness standards. All Qualified Individual assessment efforts will be monitored and reviewed by an Ascend Utilization Review Clinician located in the headquarter office of Tennessee. The Qualified Individual will complete the assessment and provide a recommendation to Ascend. The Ascend Utilization Review Clinician will review the recommendation along with supporting documentation to determine the child’s level of care eligibility based on the North Dakota algorithm. Random cases will be reviewed and staffed by Ascend with the Department of Human Services QRTP Clinical Alignment Team (Administration from DHS Children and Family Services and Field Services).

The Qualified Individual will:

1. Receive the referral information including the Universal Application (SFN 824) and all supporting documentation from the custodial case manager via fax.
2. Work in conjunction with the custodial case manager, family and members of the child and family team to complete interviews timely.
3. If the child is placed as an emergency placement the Qualified Individual will also speak with the QRTP therapist and/or QRTP treatment coordinator.
4. Meet with the custodial case manager in a mutually convenient location where the child is also able to participate in the interview for assessment, likely the case manager’s office or in the QRTP if already placed. If the assessment visit is being completed onsite at a QRTP, the QRTP shall ensure and provide the Qualified Individual with a private office space in order to complete the assessment and interviews in private.
  - a. If a child is placed out of state, Ascend can complete the CANS assessment via, Skype, FaceTime or Telephone call.
  - b. The Department has granted one out of state exception; if a North Dakota child is placed in the Moorhead, Minnesota Detention Center a Qualified Individual can arrange to visit

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the child in the detention center location. This exception was granted based on a contract for detention center services in the Fargo-Moorhead area.

5. Complete required interviews within 5 working days of the referral date.
6. Assess the strengths and needs of the child using Child and Adolescent Needs and Strengths (CANS) assessment tool.
7. Determine whether the needs of the child can be met with family members or through placement in a family foster home or, if not, recommend a type of setting that would provide the most effective and appropriate level of care for the child in the least restrictive environment.
8. Determine whether the needs of the child are consistent with goals for the child, as specified in the case plan for the child.
9. Develop a list of child-specific short and long-term goals.
10. Provide, in writing, a formal QRTP Assessment Report to the custodial case manager within 10 working days of the referral date.

The Qualified Individual has the authority to make an approval or denial determination based on the ND Qualified Residential Treatment Program (QRTP) level of care. The Qualified Individual cannot dictate which QRTP a child can be placed; their role is to determine if the QRTP level of care is appropriate.

### **Grandfathered in Youth**

Youth will be “grandfathered in” to a North Dakota licensed QRTP if placement occurred prior to October 1, 2019. The youth will receive a formal baseline CANS assessment initiated by Ascend. Ascend will contact the custodial case manager with the details regarding arrangements to complete the required assessment. Upon notice from Ascend, the custodial case manager will be responsible to:

1. Submit a new Universal Application (SFN 824)
2. Submit supporting documentation and rationale as to why the QRTP level of care is the most appropriate.

Grandfathered in youth will either be determined:

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1. Approved for the QRTP Level of Care,
  - a. The 90-day approval period starts on the date of the QRTP level of care determination.
  - b. The placement maximum date starts effective October 1, 2019.
  
2. Denied for the QRTP Level of Care,
  - a. A new placement must occur within the 30-days from the date of the QRTP denial.
  - b. If the custodial case manager chooses to seek a reconsideration of the denial and the denial is upheld, the 30-day time frame starts on the date the initial denial was made. If the appeal was overturned, the 90-day approval starts on the date the initial determination was made.

### **Emergency Placement**

An emergency placement into a QRTP is allowable prior to a completed assessment by the Qualified Individual. It is the responsibility of the custodial case manager to submit the Universal Application (SFN 824) and relevant supporting documentation to Ascend and the desired QRTP's for admission acceptance.

- If the child is placed as an emergency placement and is approved by the Qualified Individual for the QRTP level of care, the child's 90-day approval period starts on the date of admission.
  
- If the child is placed as an emergency placement and is denied by the Qualified Individual, the child's length of stay in a QRTP is not to exceed 30 days from date of admission. The Department will allow reasonable discharge planning and payment to occur, not to exceed 30 days.
  
- Emergency placements "back to back" are prohibited. If the child was placed on an emergency basis and is denied, a child may not re-enter the QRTP as an emergency placement. Back to Back is further defined that an emergency placement cannot occur for 30 days from discharge unless an onset or increase of high-risk behaviors are present. High-risk behaviors include danger to self or others, self-injurious behaviors, sexual aggression, fire setting and runaway if

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present with additional dangerous behaviors, or the youth runs to unsafe environments where the likelihood to be victimized is high. If an emergency placement is determined necessary in less than 30 days, the custodian must request permission from the central office via [dhscfs@nd.gov](mailto:dhscfs@nd.gov). This will provide authorization to place a child back into a QRTP as an emergency placement. If reviewed and approved by the central office, the case manager will be notified and responsible to submit a reconsideration request to Ascend.

- Although the custodial case manager is primarily responsible to work directly with Ascend, the QRTP is expected to ensure an approval is granted for a child to remain in that level of care. If the QRTP does not receive notice that the placement has been approved within 15 days of admission, the QRTP should be asking the custodial case manager for the assessment report.

### **Placement Approvals into QRTP**

A child who has been approved and placed at the QRTP will be granted an approval for a 90-period beginning at the date of placement. The custodial case manager does not need pre-approval from either Ascend or the Court before placement can occur.

- 30-day window: The approval to be placed in a QRTP is valid up to 30 days; meaning a child must be placed in the QRTP within 30 days of receiving the approval from the Qualified Individual. If the QRTP placement is not available for more than 30 days, a new SFN 824 and CANS assessment must be completed.
- Pending Approval: There may be cases where the child is in need of acute hospitalization to stabilize prior to a QRTP treatment stay. The CANS assessment may indicate a pending approval for a QRTP, not to exceed 10 days. If the child successfully discharges from acute hospitalization the pending approval would allow transition into a QRTP upon discharge. The custodial case manager would need to notify Ascend of the acute discharge via fax to ensure the pending approval remains valid.
- Bed Hold: If a child who has been approved and placed at QRTP is in need of temporary psychiatric hospitalization, the temporary acute care is allowable. If the QRTP is willing to accept the child back into placement, the facility is allowed a 14-day bed hold for

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reimbursement to the QRTP and a new assessment is not required.

- Transition: A child may be transitioned from one QRTP to another if it is determined in the best interest for their treatment. The current Ascend QRTP approval will follow the child to their new QRTP location, while the placement maximums and approval timeframes remain.

### **Placement Maximums**

QRTP placement is closely regulated by federal regulations and the age of the child. A foster child 13 years of age and older shall not exceed placement into a QRTP for more than 12 consecutive months (365 days) or 18 non-consecutive months (545 days). A foster child age 12 and younger shall not exceed placement in a QRTP for more than 6 consecutive months (180 days).

- A child who has been placed at a QRTP for 12 consecutive months may not re-enter a QRTP facility for a period of 90 days unless high-risk behaviors are present. High-risk behaviors include danger to self or others, self-injurious behaviors, sexual aggression, fire setting and runaway if present with additional dangerous behaviors, or the youth runs to unsafe environments where the likelihood to be victimized is high. If placement is determined necessary in less than 90 days, the custodian must request permission from the central office via [dhsdfs@nd.gov](mailto:dhsdfs@nd.gov). This will provide authorization to place a child back into a QRTP. If reviewed and approved by the central office, the case manager will be notified and responsible to submit the universal application and supporting documentation to Ascend.
- Example: If a 12-year-old is placed at the QRTP and turns 13 during their placement stay, those days already placed at a QRTP are part of their placement maximums of 12 consecutive months because the child is now 13. The placement maximums in this example begin the date the child entered the QRTP when he/she was 12. The child is 12 and six months of placement is expiring, however the child will soon turn age 13 and has a valid QRTP approval that extends beyond the child's 13th birthday, a placement extension request must still be made to the Department. This is a notification of the current placement, birthday of the child, approval to continue treatment and a request to extend until the 13th birthday to fill the gap.

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The placement maximums are specific to the QRTP level of care, not individual facilities. It is important that case managers are aware of and track the placement maximums, while recognizing the importance of referring children to a QRTP only if he/she needs treatment. If the length of stay is greater than the federal requirements, state approval from the ND Department of Human Services Executive Director is required. This process for a placement extension will be requested by the custodial case manager at least 30 days prior to reaching placement maximums.

In order to request a placement extension, the custodial case manager must:

1. Complete the SFN 826;
2. Write a summary indicating the child's needs and barriers to achieving treatment goals requiring a longer stay in the facility;
3. Provide supporting documentation of progress and discharge plans;
4. Detail the requested/estimated amount of time required to complete the treatment; and
5. Submit the required paperwork to the Department via [dhscfs@nd.gov](mailto:dhscfs@nd.gov) with an email subject titled "QRTP Placement Extension Request".
6. The QRTP Clinical Alignment Team will review the request within 3 working days of submission.
  - a. If determined unnecessary to submit to the Executive Director, the custodial case manager will receive notice to discharge.
  - b. If determined necessary to submit to the Executive Director, the custodial case manager will receive a final decision of placement extension.

### **Case Manager Responsibility**

The custodial case manager is responsible to seek least restrictive most appropriate placement settings for each child in foster care. It is the responsibility of the custodial case manager to ensure all referral information and supporting documentation is provided to Ascend and the desired QRTP. If the required referral paperwork is not filled out and supporting documentation is not submitted with the application, Ascend



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has the authority to reject and send back or be denied due to insufficient information.

The custodial case manager is responsible to:

1. Complete the referral paperwork in its entirety inclusive of the Universal Application (SFN 824) and supporting documentation. Supporting documentation may include a recent psychiatric evaluation, diagnostic evaluation, treatment plan, specialist evaluation, IQ Testing, IEP, etc.
2. Submit referral documentation to:
  - a. Each QRTP desired for placement and
  - b. Fax to Ascend at 877-431-9568 to begin the assessment; each fax must include, an Ascend Referral Fax Cover Sheet. A copy of the cover sheet can be obtained from the Ascend website.
  - c. If the child was placed at a QRTP on an emergency, the SFN 824 to Ascend shall also include any intake assessments completed onsite by the QRTP.
3. Engage in discharge planning upon admission to the QRTP.
4. Track the length of stay a child is in a QRTP during the approval periods. If a child remains in a QRTP after an approval period ends, the QRTP is at risk of non-payment and the custodial agency will be responsible for reimbursement.
5. Submit evidence at each court review and each permanency hearing held with respect to the child demonstrating that ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a family setting at this time. Custodial case managers want to ensure the court grants general placement and care authority in the court order, this allows the flexibility to move a child to a higher or lower level of care as appropriate. If the court order limits the child's placement to only a family setting or a QRTP level of care, the case will need to go before a judge to be granted authority to move the child if a different level of care is warranted.
6. Seek least restrictive family setting placements ongoing. Federal regulation specifically indicates that the unavailability of a family

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foster home is not a sufficient reason to place a child in a QRTP. Federal regulations emphasize that a shortage or lack of foster family homes is not an acceptable reason for determining that the needs of the child cannot be met in a lower level of care.

7. Communicate with the child, as developmentally appropriate, about the placement decisions being made to assist in meeting their permanency plan.
  - a. The client may request to remain at the QRTP level of care, however, level of care determination is made specific to the appropriateness of a treatment setting and not equivalent to the comfortability of a child's placement preference.
  - b. Residential settings are intended to be limited for treatment needs and services. It is important for the child to know the QRTP (whom they have a relationship with) will be providing aftercare services for up to six months. This requirement of aftercare services offers continuity of care and connections to not only the QRTP, but service providers and supports locally in the child's community.
  
8. Submit the approved QRTP Assessment Report to:
  - a. The QRTP facility accepting placement to ensure appropriate and ongoing services are provided to meet needs of the child, and
  - b. The Field Service Specialist to ensure accurate placement approval dates in FRAME and for timely reimbursement of payment to the QRTP. Group Home Approvals will be approved for the timeframe in which the QRTP assessment report reflects. However, if the court order expires prior to the 90-day approval, the group home approval cannot exceed the court order expiration date.
  - c. Discharge option placement provider, TFC agency or foster parent upon request.

### **Universal Application (SFN 824)**

The state form is completed by the custodial case manager detailing current and immediate need for out of home treatment. In addition to this form; the custodian must attach additional supporting information to determine placement to best meet the needs of the child. This form must be submitted to Ascend and the desired QRTP.

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- The state form must be completed electronically.
- The state form is fillable and savable for future editing.

### **Continued Stay Review (SFN 826)**

The state form is completed by the custodial case manager for all children placed in a QRTP for treatment. The continued stay review form must be completed no greater than 30 calendar days prior to placement approval expiration and **no less than 20 calendar days before the placement approval expires**. The Qualified Individual will have 10 working days to review the request to continue in a QRTP.

- The state form must be completed electronically.
- The state form is fillable and savable for future editing.

### **Continued Stay Review (CSR) Timelines and Process**

- **3 months** = A document review. The Ascend utilization Reviewer will conduct a phone interview with the custodial case manager.
- **6 months** = A full review. The Qualified Individual will conduct in-person interviews with the custodial case manager, the youth, the QRTP treatment coordinator and any other relevant parties.
- **9 months** = A document review. The Ascend utilization Reviewer will conduct a phone interview with the custodial case manager.
- **12 months** = A full review. The Qualified Individual will conduct in-person interviews with the custodial case manager, the youth, the QRTP treatment coordinator and any other relevant parties.

Ascend will coordinate and lead all continued stay reviews to determine ongoing approval in the QRTP level of care.

### **Approval Extension Request Form**

Ascend, as the contracted Qualified Individual vendor, generated a form for custodial case managers to complete in order to request an extension for the QRTP approval period. The extension may be granted for a period of up to 14 days. If approval is needed for longer than 14 days, the continued stay review (SFN 826) shall be completed. The Extension Request Form is only required when a discharge plan and discharge date has been identified and an extension is requested to meet the discharge plan. The form can be found on the Ascend website.

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### **Reconsiderations- Submit to Ascend**

If a child receives a denial for the QRTP level of care, it is the responsibility of the custodial case manager to reconvene necessary parties to identify local or in-state resources to meet the child's needs. If it is determined, information needed for the QRTP approval was missing, the custodial case manager may choose to submit a reconsideration request to Ascend.

If requesting a reconsideration, the custodial case manager must:

- Submit a reconsideration request form found online on the Ascend website;
- Any documentation not previously submitted resulting in the denial or any new supporting information or documentation;
- Detailed rationale as to why the QRTP level of care is most appropriate; and
- Submit to Ascend within 5 working days of receiving the initial denial.

Ascend will review the information within 5 working days of receipt of the reconsideration and determine an approval or denial for QRTP. While awaiting the decision of the reconsideration, custodial case managers must simultaneously work to identify a community care plan, resources and supports to best meet the needs of the child.

### **DHS Temporary Approval**

QRTP Clinical Alignment Team may consider granting a temporary approval on a case by case basis in efforts to not disrupt a child's treatment. A temporary approval will allow the custodial case manager permission to submit a second "reconsideration request" to Ascend detailing new information before the required discharge.

Ex. Youth has completed the assessment process with Ascend and was recommended a higher level of care. During the window to discharge, there were no higher level of care beds available. While attempting to locate appropriate level of care placement, the youth began engaging in treatment at the QRTP and has stabilized in efforts to remain at the QRTP level of care in lieu of transition. With a DHS temporary approval, a custodial case manager may submit a second reconsideration to Ascend with new information regarding the child's engagement at the QRTP. Such

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reconsiderations are prohibited from being submitted to Ascend without temporary approval form DHS.

In order to request a DHS temporary approval, the custodial case manager must:

1. Write a summary indicating the child's recent change in treatment engagement;
2. Provide supporting documentation of clinical treatment team notes and recommendations;
3. Submit to [dhscfs@nd.gov](mailto:dhscfs@nd.gov) with an email subject titled "DHS Temporary Approval Request".
4. The QRTP Clinical Alignment Team will review the request within 3 working days of submission.
  - a. If determined unnecessary to submit to Ascend, the custodial case manager will receive notice to discharge.
  - b. If determined necessary to submit to Ascend, the custodial case manager will receive a final decision of temporary approval to complete a second reconsideration.

### **Managing QRTP Denials**

The role of Ascend is to determine an approval or denial into a QRTP. If the determination results in a denial of QRTP, Ascend will recommend higher or lower categories of care. If a lower level of care is recommended, the custodial case manager may seek any combination of lower levels of care to meet the child's needs in the least restrictive environment.

If a case is denied the QRTP level of care, the custodial case manager shall reconvene necessary parties to identify local or in-state resources to meet the child's needs; which may include members of the Child and Family Team. If necessary, the custodial case manager may submit all supporting documentation to the Regional Review Team Coordinator. The Regional Review Team Coordinator will determine if the case requires a Regional Review Team meeting. Regional Review Team members shall ensure all resources have been exhausted to transition or accommodate the individual in the least restrictive environment.

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Regional Review Teams operate under clinical administration of the regional Human Service Centers. The custodial case manager shall refer to the Human Service Center office affiliated with the county in which the case originated.

On occasion, local teams may be unable to identify sufficient resources and services to meet the child's needs. The Regional Review Team Coordinator may request a State Review Team meeting. The Regional Review Team Coordinator shall submit all supporting documentation provided by the case manager including:

1. Rationale as to why QRTP remains the least restrictive level of care;
2. The submitted Universal Application (SFN 824), which received the denial;
3. Current supporting information, inclusive of mental health evaluations, treatment plan, diagnostic evaluations, specialist evaluations, completed IQ Testing, IEP, previous placement setting tried and failed, as well as current options sought including all in state and out of state placement options; and
4. Email such documentation to the State Review Team Coordinator at [SRT@nd.gov](mailto:SRT@nd.gov) with an email subject line indicting 'Region #: QRTP Denial'

The State Review Team Coordinator will communicate with the QRTP Clinical Alignment Team to review denials and determine if the case does rise to the level of a formal state review. The QRTP Clinical Alignment Team will meet within 3 working days of receiving the request. If warranted, the State Review Team will meet within 3 working days of the QRTP Clinical Alignment Team receiving the denial request.

The Department of Human Services recognizes the need for staffing cases when local resources/supports are insufficient to meet identified needs. However, local agencies and Human Service Zones are required to engage families, case plan, develop resources, identify service gaps, while recruiting and retaining viable placement resources to meet local needs. The intention of the State Review Team is to not identify placements, rather to support regions in promoting resiliency by providing technical assistance and access to financial resources and supports if a community care plan is developed to meet the complex needs of a child.

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### **QRTP Aftercare Services**

When a child is approved and admitted for treatment, the child is required to be provided aftercare services by the QRTP facility per NDAC 74-03-40 post discharge.

- If a child was grandfathered in on October 1, 2019 and remained placed beyond 30 days the child does meet the eligibility of a treatment resident and is eligible for aftercare services.
- If a child is placed as an emergency placement and denied for QRTP level of care, the child does not meet the eligibility of a treatment resident and the facility is not required to provide the aftercare services.

Aftercare services shall include coordinating of services, supporting the current placement location (relative, foster home, parent, etc.), tracking of client outcomes and other tasks as defined by the QRTP. The outcomes will be collected by the QRTP in conjunction with the youth and the family for six-months post-discharge.

### **Out of State Placements**

Foster children placed in a residential facility out-of-state prior to October 1, 2019 may remain in placement until treatment is complete. The out-of-state facility remains eligible because the residential facility is licensed in that state of jurisdiction and approved by that state's IV-E plan; making the placement reimbursable with foster care funding.

Placement length of stay maximums do not apply to out of state facilities as the child is not placed in a licensed QRTP.

The Department does not prohibit children from being placed outside of the state of North Dakota, however it is highly discouraged to place a child away from their connections and reunification or permanency plan options. If seeking an out of state placement, Interstate Compact for the Placement of Children (ICPC) must be followed. Before seeking out of state residential placement, in-state QRTP facilities must deny the child for admission. The

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current list of approved out of state facilities is located online at the Children and Family Services website.

### Ascend Contact Information

Fax: (877)-431-9568

Phone: (844) 933-3772

Email: [ND\\_FFPSA@MAXIMUS.com](mailto:ND_FFPSA@MAXIMUS.com)

Website: [https://maximusclinicalservices.com/svcs/north\\_dakota\\_ffpsa](https://maximusclinicalservices.com/svcs/north_dakota_ffpsa)

- Fax Coversheet
- Desk Reconsideration Request Form
- Extension Request Form
- Trainings and Education



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### **QRTP - Court Involvement 624-05-20-18**

**(NEW 1/15/21 ML #3606)**

[View Archives](#)

Federal regulations require the Qualified Individual to provide notification to the designated court of jurisdiction. Ascend is required to contact the court directly.

State Court Cases, Ascend will:

1. E-file documentation using the child's court file number provided on the Universal Application (SFN 824),
2. Submit the Universal Application; and
3. Submit Assessment Report – detailing the decision of approval or denial for a QRTP.

Tribal Court Cases, Ascend will:

1. Email the assessment report and completed Universal Application (SFN 824) to Tribal Court.

#### **State Juvenile Court Review Process:**

The North Dakota Juvenile Court administrative review process will require a Juvenile Court Director or designee to complete and file QRTP review documents in the child's court file. Federal regulation allows up to 60 days for court approval for placement into a QRTP; however, North Dakota Juvenile Court has shorter timeframes and will be alerted when the Ascend QRTP assessment report is e-filed.

The Juvenile Court Director or designee must:

1. Consider the assessment, determination, and documentation made by the Qualified Individual conducting the assessment;
2. Determine whether the needs of the child can be met through placement in a family foster home or, if not, whether placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether

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- that placement is consistent with the short- and long-term goals for the child; and
3. Review and provide a letter of approval or denial to the custodial case manager.

If the Qualified Individual has denied placement of a child into a QRTP, North Dakota Juvenile Court will not take further action. Any party to the case may request a review hearing, it is possible the Ascend Qualified Individual could be subpoenaed to detail rationale as to why the QRTP denial occurred. The option to request a review hearing is available to any party to the case per state law.

If the Juvenile Court Director reviews the QRTP assessment report indicating an approval and has further questions regarding the case, placement or permanency plan, the Juvenile Court Director has the authority to contact the custodial case manager directly in efforts to receive additional information to finalize the court administrative review.

### **Court Orders ~ QRTP Placements**

NDCC 27-20 grants care, custody and control of a child to a public agency. The agency has the authority to seek placement options to best meet the needs of the child. The flexibility in court orders granting placement and care authority allows custodians to move a child quickly and efficiently from one provider to another without going back into a court hearing. The QRTP approval requirement by a Qualified Individual is a federal mandate (FFPSA PL 115-123) to restrict congregate/residential placements as ongoing options to children in foster care. The QRTP level of care was required by the federal government as a short term intensive, trauma informed treatment option to support case planning and child needs. Title IV-E federal foster care regulations prohibit specifying a provider in a court order. Court orders shall not indicate specific language related to the decision of the QRTP approval/denial process.

Case managers will want to ensure the affidavit offers flexibility to the agency regarding level of care in efforts to move the child when appropriate without going back to court for permission to place or discharge a child from a placement.

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- Court Order Eligible Example: “The court grants County/Human Service Zone the placement and care responsibility for the child. It is known to the court and the court agrees the child requires a temporary residential treatment placement until goals are met and the child can be transitioned to a lower level of care. When treatment goals are met, the agency has the authority to place the child in the level of care, which best meet the child’s needs.”
  - **This language in a court order would be eligible for payment to the QRTP provider.**
  
- Court Order Ineligible Example: “The court agrees the child requires a QRTP treatment placement at Home on the Range.”
  - **This language in a court order would be ineligible for payment to the QRTP provider.**

## **18+ Continued Care 624-05-23**

**(Revised 1/15/21 ML #3606)**

[View Archives](#)

A child in 18+ Continued Care is still considered to be a “child” for the purposes of foster care as noted in NDCC 27-20. The child is considered an adult in all other systems; therefore, relevant releases of information are needed.

### **Program Qualifications**

18+ Continued Care is available to eligible foster care children up to the age of 21 if the child meets certain criteria. 18+ child must:

1. Have aged out of foster care while under a valid court order granted to a North Dakota public agency; Human Service Zone, Tribal Social Services and the Division of Juvenile Services (DJS).
2. Not have obtained the age of 21.
3. Need continued foster care services.
4. Qualify in at least one of the participation categories.
5. Sign the 18+ Continued Foster Care Agreement (SFN 60).
6. Return to foster care within six months of their last discharge date, unless otherwise approved by the Department. Requests to re-enter beyond six months must be presented to the Department by the public agency seeking care and placement authority.

The length of time that a child is in foster care does not determine their eligibility for 18+ Continued Care.

A child, who ages out of foster care under the custody of another state, is not eligible for North Dakota 18+ Continued Care even if they move to North Dakota. Interstate Compact Placement of Children (ICPC) does not apply to those over the age of 18.

### **Return to Foster Care**

18+ Continued Care participants must have been discharged from foster care at the age of 18 or greater from a North Dakota public agency. The agency where the child last exited foster care will be the point of contact

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for the child requesting a return to foster care. The child has six months to return to foster care from their last discharge date. There is no limit to the number of times a child can return to foster care.

### **Children under the custody of Division of Juvenile Services**

The North Dakota Department of Human Services has a formal agreement with the ND Division of Juvenile Services (DJS) to offer foster care placements for children in need of out of home care. ND law prohibits DJS from case managing a child who is not in their court ordered custody. If a DJS child ages out of foster care and requests to continue in 18+ Continued Care, the DJS case manager is responsible to refer the case and discuss transfer details with the county social service office.

### **Children under the custody of Tribal Social Services**

The North Dakota Department of Human Services has a formal agreement with Standing Rock Sioux Tribe, Three Affiliated Tribes, Turtle Mountain Band of Chippewa and Spirit Lake Sioux Tribe. The Title IV-E agreements allow the Tribe to retain jurisdiction of children interested in participating in the 18+ Continued Care program. The Tribe remains responsible for providing full case management to the foster child and all documentation for eligibility determination and case management to the county. Eligible maintenance payments for the care of an 18+ child will be authorized by the county and paid by the state.

1. Tribal Title IV-E: A child under the custody of Tribal Social Services, who was Title IV-E eligible and meets the criteria of “aging out”, is eligible for 18+ Continued Care.
2. Tribal Non-Title IV-E: A child under the custody of Tribal Social Services, who was not Title IV-E eligible upon “aging out”, may qualify for 18+ Continued Care. The child must apply and have their eligibility determined. If found to be Title IV-E eligible as “child only”, the child would be eligible to participate in the 18+ Continued Care program. If the child loses Title IV-E eligibility or reimbursability while participating in the 18+ Continued Care program, the county will close the case and the state will no longer be financially responsible.

### **Participation Categories**

Verification of initial and ongoing eligibility for program participation is the responsibility of the foster care case manager or the agency’s agreed upon

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designee. A release of information between the agency, child and verifying entity (school, employer, etc.) is needed.

Verification documentation is required in the child's foster care file, however, is not required in the eligibility file for payments. The child is expected to meet the criteria in one or a combination of the following categories in order to participate in 18+ Continued Care:

### **1. Education**

**Eligibility:** The child must participate in secondary, post-secondary or vocational education on a full or part time basis. A child who is attending school on a part time basis is encouraged to also work or volunteer. Arrangements should be negotiated between the child and the case manager. If the child is on an extended school break (i.e. summer break) or if the next school session is more than 30 days away, the child should work or volunteer until the session begins.

**Verification:** Verification must be provided in the form of an enrollment or acceptance letter, copy of grades, a letter from the school, class schedule, tuition receipt, etc. The frequency of verification must be every 9 weeks, quarter, or semester depending on the program in which the child is involved or more often if required by the case manager. Compliance of continued eligibility must be discussed at the monthly case manager visitation meeting and at every quarterly Child and Family Team Meeting.

### **2. Employment**

**Eligibility:** The child must work at least 80 hours per month.

**Verification:** Verification must be provided in the form of a pay stub, letter from employer, a copy of an application for employment, etc. The frequency of verification must be monthly or more often if required by the case manager. Compliance of continued eligibility must be discussed at the monthly case manager visitation meeting and at every quarterly Child and Family Team Meeting.

### **3. Employment Preparatory Program**

**Eligibility:** The child must attend a program that is designed to promote or remove barriers to employment. There could also be educational components tied to this type of programming; for example, Job Corps or a welding certificate training program. If the start of the next program session is more than 30 days away, the child should work or volunteer until the program begins.

**Verification:** Verification must be provided in the form of an application, enrollment or acceptance letter, copy of grades, a letter from the program, program schedule, tuition receipt, etc. The frequency of verification must be every 9 weeks, quarter or semester depending on the program in which the child is involved or more often if required by the case manager. Compliance of continued eligibility must be discussed at the monthly case manager visitation meeting and at every quarterly Child and Family Team Meeting.

### **4. Medical Condition or Disability**

**Eligibility:** The child must be unable to participate in educational or employment activities stated above due to a medical condition or disability. A medical condition or disability would have likely been identified long before a child enters 18+ Continued Care. If a child is incapacitated and unable to sign the documentation required to participate in 18+ Continued Care; a public agency case manager can sign on their behalf if the program is explained to the child and relevant parties.

**Verification:** A statement signed by a licensed physician, physician's assistant, psychologist, or Vocational Rehabilitation Counselor that documents the child's medical condition or disability (which can include a mental health diagnosis) and their inability to go to school, work, or participate in job training. Compliance of continued eligibility must be discussed at the monthly case manager visitation meeting and at every quarterly Child and Family Team Meeting or more often if required by the case manager.

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### **Grace Period**

In the event a child does not fully meet a category set forth above, a 30-day grace period is allowable to maintain program eligibility. During the grace period, the child should engage in volunteer work while he/she awaits an offer for employment or acceptance to an educational program.

### **18+ Child Living Arrangements**

The 18+ Continued Care program encourages youth to stay in family foster care while they continue to pursue independence.

The following types of living arrangements are allowable:

- Licensed Foster Home;
- Licensed Supervised Independent Living (SIL) program;
- College Dorms;
- Job Corps; or
- Residential Treatment Facility (if pre-approved).

A child generally will not be eligible for 18+ Continued Care if they are living in an apartment not connected to a supervised independent living program. Special circumstances to allow this will need to be discussed and approved by the central office.

Higher level of care pre-approval: 18+ children in need of a higher level of care (therapeutic or facility placement) will require a group home approval. Facility placements require pre-approval from the central office.

Out of State: A child may be placed out of state providing there is a signed SFN 60. Courtesy case management requests of out of state partners is allowable and encouraged. Interstate Compact on the Placement of Children does not apply to those over the age of 18.

### **18 + Continued Foster Care Agreement**

The 18+ Continued Foster Care Agreement (SFN 60) is a provider specific three-party agreement signed by the agency, the child, and the foster care provider. A change in foster care provider requires a new 18+ Continued Foster Care agreement.



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Custody that extends beyond the child's 18th birthday will remain in effect and foster care will continue until the court order expires or is vacated. **An 18+ Continued Foster Care Agreement is not required if a custody order is in effect.**

### **18+ Permanency Court Order Requirements**

The 18+ Continued Foster Care Agreement (SFN 60) allows for a bridge in service and payment authorizing the agency placement and care responsibility until a formal court order can be obtained. Upon receipt of the signed three-party agreement, the agency will complete a detailed 18+ affidavit seeking the required judicial determinations including reasonable efforts to finalize a permanency plan.

An 18+ permanency court order with required judicial determinations must be obtained within 90 days of the effective date of the 18+ Continued Foster Care Agreement (SFN 60). The 18+ permanency court order must be the result of an actual hearing. Permanency hearings are required initially upon entry into 18+ Continued Care program and every 12 months thereafter.

- Special attention should be given to children who "remain" in foster care. The permanency hearing may be on a different track than a child that "returns to" foster care. In effort to avoid error; all 18+ Continued Care cases will receive a permanency hearing within 90 days of signing the three-party agreement.
- Title IV-E eligible children continuing in 18+ Continued Care require permanency findings within 12 months of the last permanency hearing, which may require court action before the 90 days.

### 18+ Court Order Highlights:

1. The agency must notify the foster care provider of any hearing held with respect to the child. A copy of the written notification should be kept in the child's case file.
2. Majority of the cases will have a permanency plan of Another Planned Permanent Living Arrangement (APPLA). The court order must address the agency's efforts to prepare the child to meet the permanency goal and ask the child if he/she agrees with the goal.

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3. Every child age 18 to 21, remaining or returning to foster care, must have the required permanency judicial findings noted on the Hard Card – 18+ (DN 752).
4. No foster care payment can be made to support an 18+ child in care without the required permanency judicial determinations.
5. It is highly recommended the foster care case manager request the affidavit containing the case details be “incorporate by reference” and made part of the final court order.
6. ICWA requirements do not apply in 18+ Continued Care.

### **Criminal Background Checks**

A child who remains in or returns to foster care in 18+ Continued Care is considered a “child” for the purposes of foster care as noted in NDCC 27-20. A child remaining in foster care is not required to complete a fingerprint-based criminal background check. However, it is encouraged for agencies to conduct a free web-based search on the 18+ child if he/she is returning to foster care.

- <http://www.ndcourts.gov/Search/Query.asp>
- <http://publicsearch.ndcourts.gov/default.aspx>
- <http://pa.courts.state.mn.us/default.aspx>

### **Case Management Responsibilities**

All case management responsibilities applicable to children under the age of 18 in foster care will continue for a child participating in 18+ Continued Care. Case management requirements continue regardless of the child’s eligibility and program category engaged in for participation. The case is subject to quality assurance reviews as guided by state or federal regulations.

#### Case Management Highlights:

1. Transition Plan: The case manager must develop the required transition plan (SFN 494) within 90 days of the child’s 18th birthday. The case manager must advise the child of the availability to continue in foster care and receive benefits until they reach the age of 21. To assist with educating the child, an 18+ brochure (DN 1174) is available on the Children and Family Services website. Transition planning must continue throughout the life of the 18+ case.

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2. If a child currently in foster care notifies the agency of their intent to participate in 18+ Continued Care, the agency will work with the child's foster care provider to determine if the continued placement would be appropriate. If the placement is not appropriate, recruitment efforts for a new placement resource should begin.
3. For a child returning to 18+ Continued Care, the case manager must complete a safety and risk assessment. If the child is in crisis, the case manager should provide crisis intervention services (i.e. connecting the child with resources that provide temporary housing, food, emergency medical care, etc.). If a foster care placement is not available at the time the child requests to return to foster care, the agency will begin recruitment efforts immediately. A child is not in 18+ foster care until a placement resource is identified and all three parties sign the 18+ Continued Foster Care Agreement (SFN 60).
4. The foster care case manager must provide and ensure the child completes the required documents required to continue or return to care:
  - a. If the child was previously Title IV-E eligible and child wishes to continue in foster care, no redetermination is necessary. However, income and assets must be reviewed to determine the child's reimbursability.
  - b. If the child was not previously Title IV-E eligible, an eligibility determination is required specific to the child.
  - c. The 18+ child must complete the documentation and the case manager must provide it to the eligibility worker. After the determination is made, the eligibility worker will notify the case manager of the eligibility determination outcome for the child.
5. School District Notification: 18+ Continued Care requires agencies to follow existing policy on school district notifications. Communication with the Department of Public Instruction is encouraged to determine tuition standards.
6. Family Connections: Agencies must document the child's interest in pursuing involvement with their family after they turn age 18. If the child is interested in maintaining family connections, the agency must provide for visitation or other ongoing interactions, unless such interaction would be harmful to the child. Documentation in the case file regarding family connections must meet the requirements of all quality assurance case file reviews.

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7. Chafee Transition Program: Participation in the voluntary Chafee Transition Program is encouraged. Chafee Transition program eligibility criteria and program standards can be found in policy chapter 624-10.
8. Foster Care Recruitment: 18+ Continued Care may require specialized recruitment efforts for foster homes. Agencies are encouraged to include these efforts in their recruitment and retention plan as well as complete statewide search to locate the best provider match if needed.
9. Substitute Care: When a foster child placed in a foster home needs temporary care when the licensed provider is unavailable to care for the child, substitute care is arranged. Substitute care arrangements for 18+ participants must be reviewed on a case by case basis. A review of the child's developmental abilities, decision making skills, as well as the length of time the foster parents will be unavailable must be taken into consideration when determining if the child requires ongoing supervision by a licensed provider. Case managers must authorize substitute care arrangements. The approval for 18+ substitute care arrangements must meet the safety needs and best interest of the child.
10. Secondary Placements: Secondary placements from one primary foster care provider to another, such as pre-placement visits in a family home, are not allowed in 18+ Continued Care. Payments are limited to the primary foster care provider only, as the 18+ Continued Foster Care Agreement (SFN 60) does not include any placement resource other than the primary foster care provider. If an 18+ child must be hospitalized and the primary foster care provider agrees to remain engaged with the case and continues to offer support to the foster child during that time, the primary foster care provider is entitled to reimbursement. An 18+ child that require hospitalization beyond 14 days will require the foster care case manager to staff options with the central office. \*\*The data management system does not allow for a secondary placement to be entered for 18+ cases.
11. Termination from 18+ Continued Care will occur if the permanency goal is reached, one of the three parties requests to terminate the agreement, or the child reaches the age of 21.
  - a. If termination is requested by the child, the agency must inform the child they have the option to return to foster care within six months from their last date of discharge.
  - b. If termination is requested by the agency, the agency must notify the child via letter sent to his/her last known address detailing the decision to terminate the 18+ Continued

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Foster Care Agreement. A copy of this notification will become part of the child's case file.

- c. Child is discharged and the foster care program is closed.

### **Eligibility and Reimbursability**

A child that is not Title IV-E eligible when aging out of foster care or was not Title IV-E eligible in the prior foster care episode and wishes to return to the 18+ continued care program requires a new eligibility determination.

Case managers must provide the eligibility staff with the following documents for an 18+ child continuing or returning to foster care:

### **Title IV-E eligible child aging out and continuing in foster care**

- SFN 45 Notice of Change indicating child's continuation in the 18+ Continued Care program
- SFN 60 18+ Continued Foster Care Agreement
- 18+ Court Order (permanency) (must be obtained within 90 days of 18+ agreement effective date or sooner)

### **Non-Title IV-E eligible child aging out of foster care**

- SFN 45 Notice of Change with the following sections completed:
  - Closing Foster Care Information. Child must be discharged from the current foster care episode effective the expiration date of the court order or upon the child's discharge from foster care age 18 or greater.
  - Change/Add Placement provider information with an initial placement start date equal to the 18+ Continued Foster Care Agreement
  - Change in Child's Status – 18+ Continued Care
- SFN 641 Title IV-E Title XIX Application–Foster Care – completed and signed by 18+ child
- SFN 60 18+ Continued Foster Care Agreement
- 18+ Court Order (permanency) (obtained within 90 days or sooner)

### **18+ Child Returning to Care**

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- SFN 45 Notice of Change with the following sections completed:
  - Change/Add Placement
  - Change in Child’s Status – 18+ Continued Care
- SFN 641 Title IV-E Title XIX Application–Foster Care – completed and signed by 18+ child
- SFN 60 18+ Continued Foster Care Agreement (establishes new foster care program effective date)
- 18+ Court Order (permanency) (must be obtained within 90 days or sooner)

### **Payments**

All 18+ Continued Care children remain eligible for foster care maintenance payments. The process and items covered are consistent with policy for foster children under the age of 18. Refer to 623-05 for further details.

Foster care maintenance payments are authorized to the foster care provider in efforts to meet the needs of the child, even if the 18+ child is going to college and living on campus. The Child & Family Team must determine what portion the maintenance payment a provider will distribute to the 18+ child to assist in meeting the child’s needs. If the 18+ child requires minimal supervision or is not living in the home, the purpose of the maintenance payment is to support the 18+ child’s monthly living and help provide supervision regarding budgeting and independence.

### **Social Security Benefits**

An 18+ child in receipt of social security must meet formally with the social security office when they turn 18 to get a full understanding of their entitlement and representative payee information, etc. Typically, social security benefits for children over the age of 18 are sent directly to the child. Social security must be notified immediately when a child is no longer under the custody of the agency and when the child has exited foster care. For a child that continues in foster care and if deemed necessary, a representative payee may be assigned if the beneficiary is determined by SSA to be incapable of handling their money or determined legally incompetent.

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The primary purpose of the SS payment is to meet the beneficiary's current needs for food, housing, medical care, and other items for personal comfort. Case managers must work with the beneficiary to identify their needs (additional services, medical needs, expenses, etc.) and establish a budget to support the ongoing needs. It may be determined the costs of the child's needs exceed the social security payment requiring access to foster care irregular payments.

### **IV-E Trial Independence**

Trial independence is limited to Title IV-E eligible children discharged from foster care at the age of 18 or greater. The child will automatically exit care on a six-month trial independence. While discharged to trial independence, all case management responsibilities end, there is not a valid court order and the foster care program is closed. If a child returns to 18+ Continued Care and later is discharged, he/she will again be discharged on a trial independence.

A new eligibility determination is required upon return to 18+ Continued Care for a child that is not Title IV-E eligible prior to discharge.

### **Data Management System - Foster Care Program**

The previous eligibility determination is very important when considering the case planning and data management data entry requirements for children interested in the 18+ Continued Care program.

#### **1. A Title IV-E Child:**

- a. Continuing in the 18+ program, does not require a new foster care program or eligibility determination. The case and IV-E payments continue under the current foster care episode.
- b. Returning to the 18+ program from a trial independence will retain their Title IV-E eligibility status. A new 18+ Continued Care Agreement is required to open the foster care program.

#### **2. A Non-Title IV-E Child:**

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- a. Continuing in the 18+ program requires the current foster care program to close effective the expiration date of the court order. The 18+ agreement will start a new foster care episode beginning the day following the court order expiration; the program is entered in the same service period. The closure from foster care will allow for the child's eligibility to be redetermined specific to the child and their dependent children.
- b. Returning to the 18+ program will require a new eligibility determination. A new 18+ Continued Care Agreement is required to open the foster care program.

### 3. **Multiple 18+ Agreements:**

- a. When the 'effective date' of the 18+ Agreement is entered into the data management system, the duration dates automatically populate. The end date reflects the day prior to the child's 21st birthday.
- b. When an 18+ Agreement is no longer valid, the case manager must "edit" the end date to accurately reflect the date the 18+ Agreement ended with a specific provider.

**Additional 18+ Policy:** 18+ eligibility policy can be found in 447-10 and 18+ maintenance payment policy can be found in 623-05.



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### **Permanency Planning Forms 624-05-25**

**(Revised 2/1/19 ML #3544)**

[View Archives](#)

The following forms are necessary to carry out the permanency planning foster care program in North Dakota.

Foster Care Case Management Commonly Used Forms:

1. [SFN 45](#), Notice of Change
2. [SFN 327](#), Foster Family Claim of Property Damage
3. [SFN 348](#), Compelling Reasons
4. [SFN 573](#), Runaway & Missing Youth Screening
5. [SFN 772](#), Absent Parent - Relative Search
6. [SFN 904](#), Agreement to Furnish Specialized Family Foster Care Services
7. [SFN 929](#), Agreement to Furnish Respite Care
8. [SFN 1537](#), Foster Care Visitation Agreement

Foster Care Eligibility/Reimbursement Forms:

1. [SFN 630](#), Foster Care Placement Notification
2. [SFN 641](#), Title IV-E/Title XIX Application – Foster Care
3. [SFN 642](#), Title IV-E/Title XIX Redetermination – Foster Care
4. [SFN 920](#), Foster Care – Child Care Invoice

Youth in Transition (Age 14+):

1. [DN 402](#), Foster Youth Rights
2. [SFN 60](#), 18+ Continued Care Agreement
3. [SFN 494](#), Transition Checklist
4. [SFN 1612](#), Foster Care Verification
5. [SFN 1613](#), Chafee Referral – Current Foster Youth
6. [SFN 1614](#), Chafee Referral – Foster Care Alumni

Guardianship

1. [SFN 1833](#), Application for Subsidized Guardianship

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Foster parent licensing forms can be found in manual chapter 622-05.

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### **Court Order Hard Cards 624-05-30-10**

(NEW 4/1/17 ML #3507)

[View Archives](#)

Two resources have been created to assist in reviewing foster care court orders.

- [Foster Care DN 751 \(Red\)](#)
- [18 Plus Foster Care DN 752 \(Yellow\)](#)

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### **Purpose of SFN 904 624-05-30-15-05 (Revised 1/15/21 ML #3606)**

[View Archives](#)

The agreement to furnish specialized family foster care services as a foster care excess maintenance payment, SFN 904 must be completed before a specialized foster care payment can be made to the family foster care provider. The form is initiated after a need for an excess maintenance payment (623-05-30-30) is determined.

The dollar amount or level to be paid is determined based on the evaluation score from the SFN 1865. Payments identified on the SFN 904 must be reviewed at quarterly Child and Family Team meetings and cannot exceed six months in duration or the end of the primary placement, whichever comes first.

Signatures are required on the SFN 904 from the foster parent, custodial agency foster care case manager, and the assigned Field Service Specialist. Copies of the signed SFN 904 must be distributed accordingly.

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### **Voluntary Parental Placement Policy 624-05-30-20-10 (Revised 11/1/16 ML #3481)**

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Voluntary parental placement agreements are not common. However, in the event that such an agreement is necessary to protect the rights and needs of a child, a voluntary placement agreement between the parents and the agency can be entered into for up to 45 days of placement for children under the age of 18. Voluntary placement agreements require the approval of the regional supervisor. The agreement must be entered electronically in CCWIPS.

Foster care funds cannot be used for the payment of voluntary placements when a public agency does not have care, custody, and control of the child. If voluntary treatment is a desire of the family, the families are to be redirected to the NDDHS Behavioral Health Division Voluntary Treatment Program in an effort to avoid unnecessary relinquishment of parental custody.

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### **Foster Care Visitation Agreement, SFN 1537 624-05-30-25**

#### **Purpose and Use of SFN 1537 624-05-30-25-05 (Revised 10/15/12 ML #3341)**

[View Archives](#)

SFN 1537 is prepared and implemented to provide a uniform and consistent program for visitation. This will allow parents and foster children to maximize their time together. As it is the intention of foster care to reunite the family whenever possible, the very importance of good, productive visits is recognized. The importance makes it absolutely necessary to schedule this valuable time into the case plan. This agreement will allow for the foster home routine, the social life of the child, and the parental visits to work in harmony and in the interest of ALL parties.

Unless mutually agreed upon by all parties involved, visits should not disrupt the planned activities of the foster home, school process (including extra curricular activities, sports or youth organizations) and/or religious activities of the foster child.

This agreement is entered into by all parties, and failure to comply with this agreement shall give cause to review this agreement which may require action to limit and/or discontinue visits in the future.

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**Compelling Reason(s) for Determining that Filing a  
Petition to Terminate Parental Rights Would Not be in the  
Child's Best Interest, SFN 348 624-05-30-30**

**Purpose of SFN 348 624-05-30-30-05**

**(Revised 10/15/12 ML #3341)**

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Click [here](#) to visit this form.

<http://www.nd.gov/eforms/Doc/sfn00348.pdf>