

# Engaging and Building Family Networks The Key to True “Permanency”

*Bob Friend, LCSW  
Kelly Lynn Beck, JD*

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## PERMANENCY IS NOT A WORD FAMILIES USE

*Can we define it?*

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## *Relational and Legal Permanence*

### **ACYF-CB-IM-20-09 (handout) - "Achieving Permanency for the Well-being of Children and Youth"**

Key Observations related to permanency-youth with lived experience in care were interviewed in 12 regional roundtables across the U.S.

- These youth often reference 'relational permanency' as something they need to thrive. Legal permanence alone doesn't guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being.
- Youth recounted experiences of being separated from siblings, some losing contact altogether.
- Still others aged out of care only to find that they had relatives and kin living in close proximity to them, yet no efforts were made to preserve those connections.



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## *Relational and Legal Permanence*

### **Reunification**

- Most reunifications occur within the first two years of entry, after which reunifications became less likely.
- Children who entered foster care between the ages of 9 and 13 who do not reunify within the first two years may stay in foster care longer – either waiting to be adopted or aging out.
- Extensive CFSR reviews determined that agencies made concerted efforts to support reunification in less than half of all foster care reviews!

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## Relational and Legal Permanence

### Reunification

- Trauma-informed services, transportation, and visitation services were often insufficiently available
- It is critical that parents of infants be given ample opportunities to safely bond with their children and develop attachments that are critical for those children to thrive.
- Research makes clear that high quality legal representation, particularly multi-disciplinary legal representation, is impactful in helping to achieve and expedite reunification.

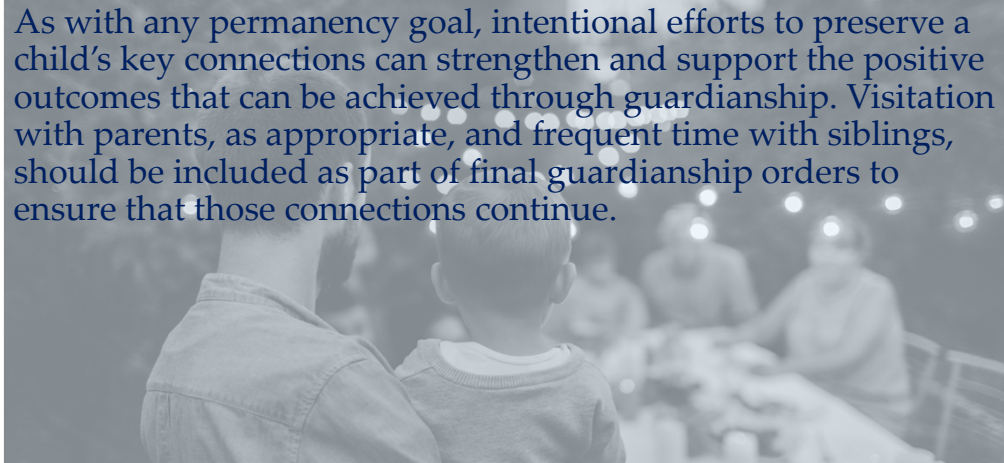
## Relational and Legal Permanence

### Rethinking Adoption Practice

- We must work to safely preserve children's key attachments and support them as they build new attachments with resource parents and new permanent caregivers. *Children do not need to have previous attachments severed in order to form new ones.*
- In fact, they will be better positioned to develop new relationships if we work to preserve their original connections, sparing them from additional grief and loss.

## Relational and Legal Permanence

As with any permanency goal, intentional efforts to preserve a child's key connections can strengthen and support the positive outcomes that can be achieved through guardianship. Visitation with parents, as appropriate, and frequent time with siblings, should be included as part of final guardianship orders to ensure that those connections continue.



“[Understand that] you cannot grow up in this world alone. That you actually do better with people around you, supporting you...people in your life that are going to help you get there, achieve your goals...Try to get youth to really think long-term and help them understand the importance of securing permanent figures in their life who can support them wherever they are. When my social worker explained what adoption was, I was like, ‘Oh my gosh. I want that!’ As much as I loved my birth mom, I knew I needed to be looked after. I knew I needed a better chance at life.”

*—Jo, adopted at age 11*

Child Welfare Information Gateway. (2019). Belonging matters—Helping youth explore permanency. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.



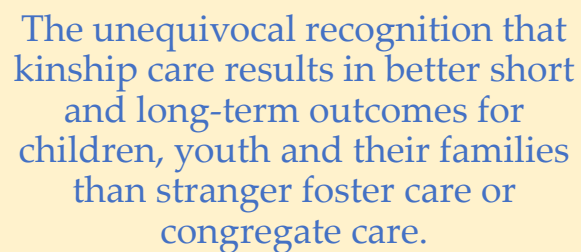
# THE SHIFT

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We are rapidly shifting nationally from a model designed to protect children *from* their families to one that *helps* families to keep their children *safe*.

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Evidence that collaborative practice  
produces better results than isolated,  
agency-centered practice



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Finally, 21st century science has determined that the impacts of  
separation, isolation and loneliness are devastating to human  
health, and even more so to the developing brain and DNA of a  
child.

Furthermore, that relationship-rich networks of love and support  
are far more powerful in healing than any trauma-based or  
evidence-based practice delivered by professionals.

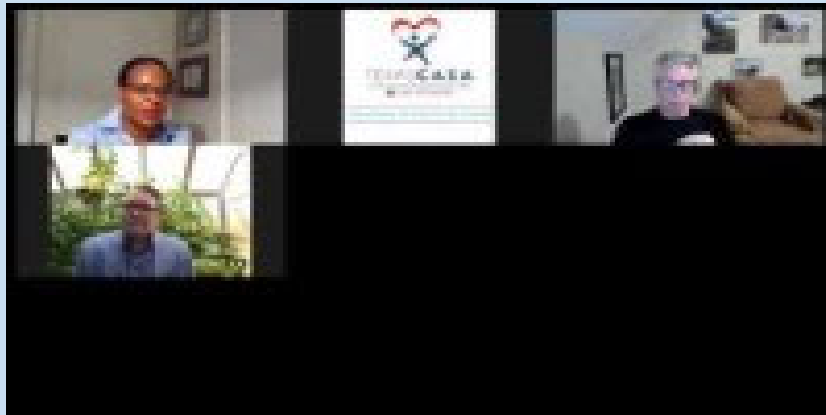


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## *Bruce Perry and Kevin Campbell — Power of Relationship-Rich Networks*



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The primary intervention to promote healing to repair trauma is the consistent and sustained development of *relationally-rich* networks.



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## FAMILY CONNECTIONS

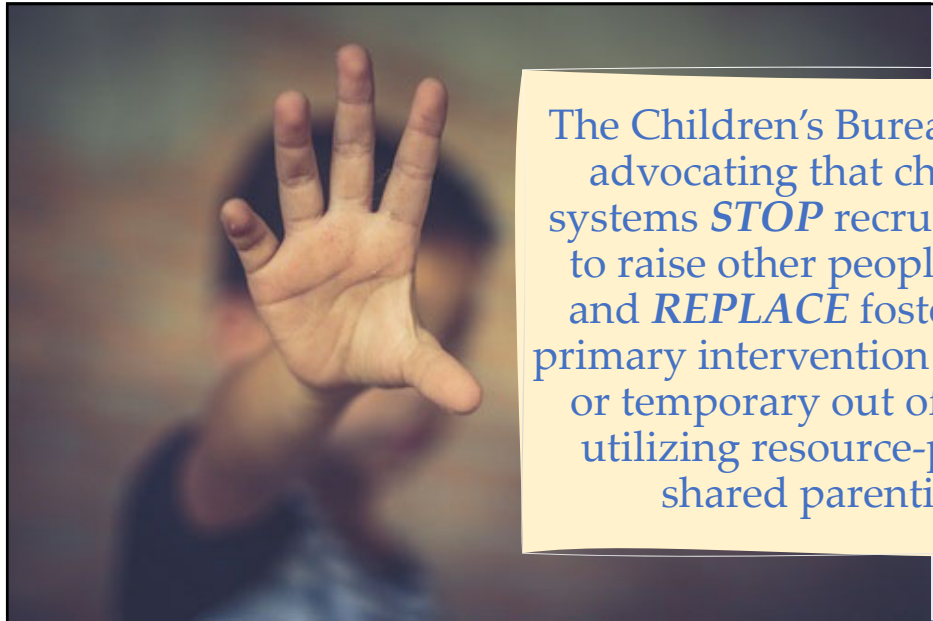
"Re-establishing family connections for teens before they exit out of care, no matter what age they are, is the strongest and most positive youth development program the child welfare system can offer..."

*\*Avery, Rosemary, Examination of theory and promising practice for achieving permanency for teens before they age out of foster care, 2010*




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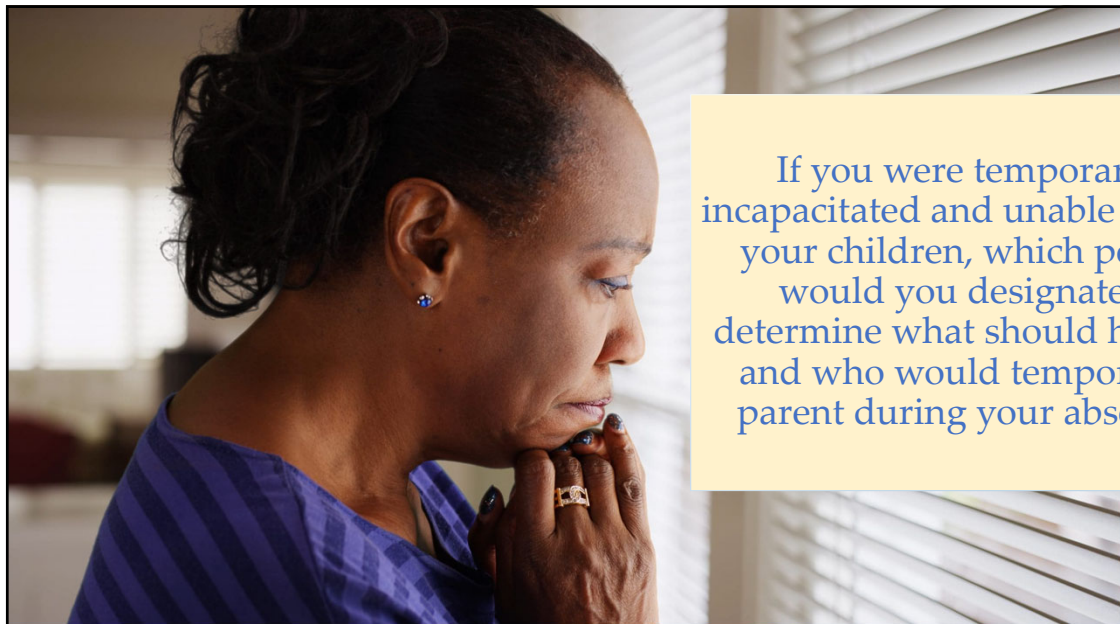


The Children's Bureau is strongly advocating that child welfare systems **STOP** recruiting families to raise other people's children, and **REPLACE** foster care as its primary intervention with in-home or temporary out of home care, utilizing resource-parents in a shared parenting role


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If you were temporarily incapacitated and unable to raise your children, which people would you designate to determine what should happen and who would temporarily parent during your absence?

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Therefore, all processes, policies, procedures and practices that have intentionally or unintentionally isolated or disconnected children from their families must be revisited, including how those decisions are being made, and who is making them.

Otherwise, we are knowingly perpetuating harm to those we are committed to serve.



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*What if child welfare agencies and all systems partners adopt and consistently align to the values and principles that:*

1. Families, beginning with parents, are the primary asset needed for the health and safety of their children

2. Families, beginning with parents, are the foremost experts in their own lives, and the lives of their kin

*Therefore, all decision-making about family must include those family experts, beginning but not limited to, parents.*

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Do you think it is a good idea to build a team of natural supports to help youth make decisions about their lives?

***Do a self-rating from 0-4:***

*0 meaning a terrible idea*

*4 meaning consistently essential*



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## *Assess and Address*

### **Begin with yourself...**

1. What beliefs are your rating based on?
2. Why are you not at x-1? What about your beliefs leads you to rate yourself at x?
3. What concerns limit you from rating yourself at x + 1?

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# WHERE CHANGE IS NEEDED

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*ACYF-CB-IM-20-09, Issuance date 1-5-2021  
Achieving Permanency for the well being of Children  
and Youth: Conclusion p23*

**Child welfare systems have a high duty and legal responsibility to achieve and support improved permanency outcomes for children and youth in foster care.**

The first step toward improvement requires that stakeholders agree that family relationships and connections are key to child wellbeing, family relationships and connections directly influence a child's sense of permanency, and that more meaningful efforts toward reunification should be an urgent priority.

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*ACYF-CB-IM-20-09,  
Issuance date 1-5-2021  
Achieving Permanency  
for the well being of  
Children and Youth:  
Conclusion p23*

Child welfare systems must center all work on preserving and creating such relationships as a critical component of child and family well-being.



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Achieving Permanency for the well being of Children  
and Youth: Conclusion p23 Continued*

We strongly encourage all title IV-B/IV-E agencies to commit to the practices that ensure the preservation and continuity of family relationships and connections for all children and youth in foster care.

Prioritizing those efforts will ensure that we achieve permanency for children in a way that strengthens their connections, healthy attachments, and sense of belonging to support lifelong thriving.



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To implement this approach successfully, agency and court leaders must mobilize service providers, attorneys, and resource families in every community to promote this view of permanency. We must make every effort to protect and preserve connections for all children and youth in foster care.


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# STRATEGIES THAT WORK

*Evidence for judicial decision making.  
What information is needed and how can we get it?*

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*Let's begin with this ...*

How do we engage and interact with families and youth?

- Mattering – Let's Start
- Disempowering Practices – Let's Stop

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## *Marginalizing*

You are offering yourself as a listener, an audience, a means to validate an existence. The stories you hear or witness matter in what existence is validated.

When we insist on hearing/witnessing only stories of problems, victimization and the effects of trauma, then we run the risk of this being the totality of the existence we validate.

*Mike Mertz*

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## *Mattering or Marginalizing*

When some “family” members resist being involved or struggle with engaging, it could be connected to a sense (or real experience) that they don’t feel mattered by us.

Our private professional meetings center us and our knowledge while moving the network further to the margins. If we want engagement and involvement, then we must matter people.



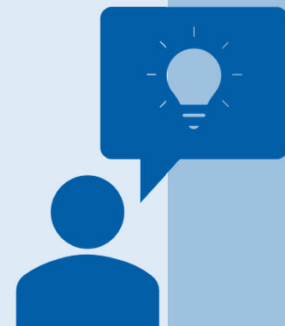
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## *Mattering*

- What practices do you engage in that might have the effect of “mattering” people?
  - curious, allow decision making, ask for stories, etc.
- How do you do these things? If I had a video of you “mattering” someone, what would I see you doing?



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## *Mattering practices include*

- Getting to know people outside of their problems
- Learning the values, purposes and history of families, as well as their broad and local cultural practices and beliefs, as a core and consistent part of their engagement.
- Furthering conversations about strengths that also involve the purposes and intents, as well as the history of their strengths
- Inviting AND welcoming families to all key planning and decision-making meetings involving their kin, and ensuring their participation and perspectives are heard, valued and considered


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## *Inadvertent Disempowering Practices*

What is one professional practice in your work context that may have disempowering effects on clients and is troubling to you? (Pick a practice that you have engaged in.)

- What troubles you about this practice?
- In this situation, what organizational factors and professional discourses might discourage you from initiating conversations with colleagues about the effects of these kinds of practices?

Madsen, William: 'Conversations about inadvertent disempowering practices'. The International Journal of Narrative Therapy and Community Work, 2005 v1.



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# QUALITY HEARINGS

*Family and Youth Engagement in and outside of the Courtroom*

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## *Child Welfare Hearing Quality Research: What Legal Professionals Should Know*

### **Activities & Behaviors Related To Hearing Quality:**

- ✓ The judge & court participants discuss key topics in a meaningful way
- ✓ Parents attend & engage meaningfully in hearings
- ✓ Children attend & engage meaningfully in hearings
- ✓ Parents are provided quality legal representation
- ✓ Children have quality representation

<https://www.acf.hhs.gov/opre/report/child-welfare-hearing-quality-research-what-legal-professionals-should-know>

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## Why Does Judicial Inquiry Matter?

- Judicial inquiry is one way a judge can drive the content and depth of information presented in court;
- When a judge asks questions, more topics may be discussed during the hearing which can reduce the time children spend in out of home care;

1 Richards, T., Summers, et al Conceptual model of judicial decision-making and hearing quality in child welfare (ORE Report 2021-86)

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## Sneak Peek ➡

### Child Welfare Hearing Quality Research: What Legal Professionals Should Know

As legal professionals practicing in child welfare courts, you can better prepare for and participate in court hearings if you understand how hearing quality affects the case process and outcomes. Research is starting to explore what activities and behaviors are associated with child welfare hearing quality. This document highlights both what is currently known and gaps in understanding.

Hearing Quality Components*	What activities and behaviors are associated with hearing quality?
Judicial inquiry and engagement of hearing participants	Research shows the following activities and behaviors are related to child welfare court hearing quality:
Breadth, depth, and relevance of discussion	✓ <b>The judge and court participants discuss key topics in a meaningful way.</b> How the judge gets information during the hearing and the number and kinds of questions judges ask can affect hearing quality. Discussion is high-quality when judges ask direct questions, ask follow-up questions, <sup>1</sup> ask about different topics, <sup>2</sup> expand discussion on topics, <sup>3</sup> and ask relevant questions. <sup>4</sup> The number of topics discussed at a hearing may play a role in reducing how long children spend in temporary care and whether they reunify with their parents. <sup>5</sup>
Parent attendance and engagement	✓ <b>Parents attend and engage meaningfully in hearings.</b> Research shows when parents attend court hearings their children's permanency outcomes, such as family reunification, improve. <sup>6</sup> When judges seek parent input during hearings, the child may be more likely to be placed temporarily with family
Child attendance and engagement	
Child welfare agency attendance and engagement	
Quality of representation for the parent, child, and child welfare agency	
Attention to and application of legal standards	

\*For more information about these components, see Richards, T., Summers, A., Gatowski, S., Fromknecht,

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## Bench Cards - Why? Easy Reference for Judges (and you)

- High turnover on the Dependency Court Bench
- High caseloads
- Bench Cards such as flow charts and checklists of judicial tasks at a hearing can help judges better organize their decision-making.<sup>1</sup>
- Bench cards lead to better judicial inquiry ⇒ better info provided during hearings ⇒, which leads to higher quality decisions ⇒ ultimately improved children's safety, permanency & well-being.<sup>1</sup>
- Using bench cards to prepare questions for participants may shift judges' behaviors in court, such as increasing their engagement of parties in the hearing.<sup>1</sup>

<sup>1</sup> Richards, T., Summers, et al Conceptual model of judicial decision-making and hearing quality in child welfare (ORE Report 2021-86)



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### APPENDIX 1: QUESTIONS CHILDREN/YOUTH WANT JUDGES TO ASK THEM Every Hearing youth or their representative is present



The perspectives of youth currently or formerly in foster care offer meaningful insights into the importance of permanency and what it takes to achieve lasting permanency. Voice for Adoption (VFA) is in continued communication with current and former foster youth. VFA's publication "Questions Youth Would Like Judges to Ask," incorporates those perspectives. Many of the questions below are adapted from that publication.

#### Notes:

1. If the youth cannot participate in person, the court could set up a telephone appearance for the youth or require the young person's representative to gather and present the information in another format.
2. Children/youth sometimes will not be able to speak freely, either because they feel intimidated by the courtroom environment or they might feel pressure from their parents/social worker/relative/caregiver. The court can consider and implement ways to make the court setting more comfortable for the child/youth to speak freely in answering these questions. Some ideas to consider are hanging art done by children on the walls and/or placement of the judge's desk at the same level as where the youth sits. To remove the pressure a youth might feel from others in the courtroom, the court can consider speaking to the child/youth in chambers or removing individuals from the courtroom who are not entitled to attend and whose presence may prevent the child from speaking freely.

- How are you? How's it going?
- What are your goals for the future? How do you plan to achieve them? Where do you see yourself in 5 years? What support do you need from me to get there? Who in your life can also help you achieve this?
- Outside of school, what things or activities do you like to do? Do you need any help to make sure you can participate in those activities?
- Who is important to you? Who do you miss? Who do you think misses you?
- Is there a place or person you feel really supports you? Where do you feel connected? Where do you feel loved? Have you ever lived with someone where you felt you truly belonged?
- What do you like and dislike about where you live now? (consider asking outside the presence of caregiver)
- Do you know what is in your case plan? Let's go over it now. Is there any other support you need at this time that is not in your case plan?
- Is there anything you want us to know about what we've been talking about?
- How can I help you? Is there anyone else that you think could help?
- How do you feel about having a family that belongs to you, where you can grow up and be part of for your whole life? What would you want that family to be like? Is there anyone that you could see being part of that family?
- Have you talked to your social worker and your attorney about people that you are connected to and may



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## NCJFCJ Bench cards Enhanced Resource Guidelines

### Initial Hearing Bench card

- *Engage Parents*
  - What language are you most comfortable speaking and reading?
  - Do you understand what this hearing is about?
  - What family members and/or other important people should be involved in this process with us?
  - Do you understand the petition? (review petition with parties)
- *Closing Questions to ask Parents, Children and Family Members*
  - Do you understand what happened here today?
  - Do you understand what are the next steps?
  - Do you have any questions for the court?

NCJFCJ.org

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## Guiding Questions for Attorneys Regarding Placement Advocacy

### Four questions to guide inquiry and analysis of placement at any stage of the case:

1. Has the Department made reasonable efforts to allow the youth to remain safely in the home?
2. If removal is necessary despite making reasonable efforts, is the youth placed with someone the youth and/or family identifies as being actual or fictive kin? If not, why not?
3. If the youth is not placed with kin, is the placement in a foster family setting? If not, why not?
4. If the youth is not with a foster family, is the institutional care placement the least restrictive placement available to meet the youth's needs?

<https://www.aecf.org/resources/every-kid-needs-a-family>

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## Quality Improvement Center - NCJFCJ

### Four ways court professionals can engage children and youth authentically to ensure their involvement in all decisions being made about their lives:

1. Use court hearings as opportunities to build relationships with children and youth.
2. Create a child-and-youth-friendly court environment.
3. Create opportunities to engage children and youth between court hearings.
4. Partner with people who have lived expertise to create a court process and an environment that promote success.

*Administration for Children & Families (ACF) of the United States (U.S.) Department of Health & Human Services (HHS) funded study.*

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## Questions/Inquiries about the "Network"

- "Where did/do you feel most comfortable?"
- "With whom did/do you feel most comfortable?"
- "Can you tell me about a time when you felt most comfortable?"
- "Can you tell me about the places you were where you felt most at home?"
- "Can you tell me about the people with whom you feel most comfortable?"
- "Can you tell me whom you trust?"
  - If they say, "No one", ask: "Can you tell me with whom you would like to build a trusting relationship?"
- "Who do you want to be connected to in the future, next year, in 5 years or more?"
- "When something great happens to you, who do you feel like calling?"
- When something bad happens, is there an adult that seems to understand you better than other people do?"
- "What it would be like to try to build a family for yourself from your network of caring adults?"
- "Who really listens to you and follows through for you?"
- "What adult do you know whose advice your respect (even if you don't feel you can take it right now)?"
- "Who do you want to help you plan for your future?"
- Ask questions about connections in the future and look for hints of hopefulness despite the risks.

*Bob Lewis, Families for Teens, Asking Key Questions*

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## Engagement Tools

### Employed early and often

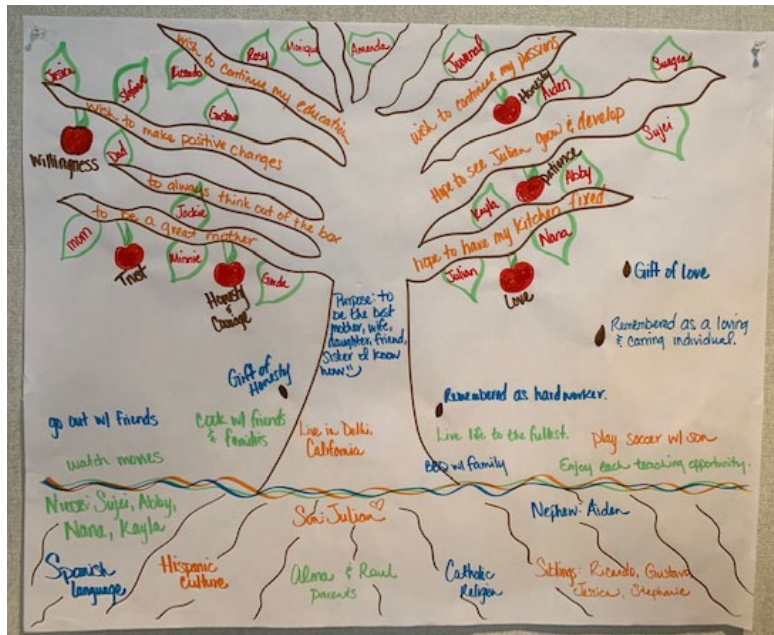
Allows for the young person to:

- share their story
- build relationships/trust
- work through grief and loss
- be part of the process
- find and/or rebuild "connections"

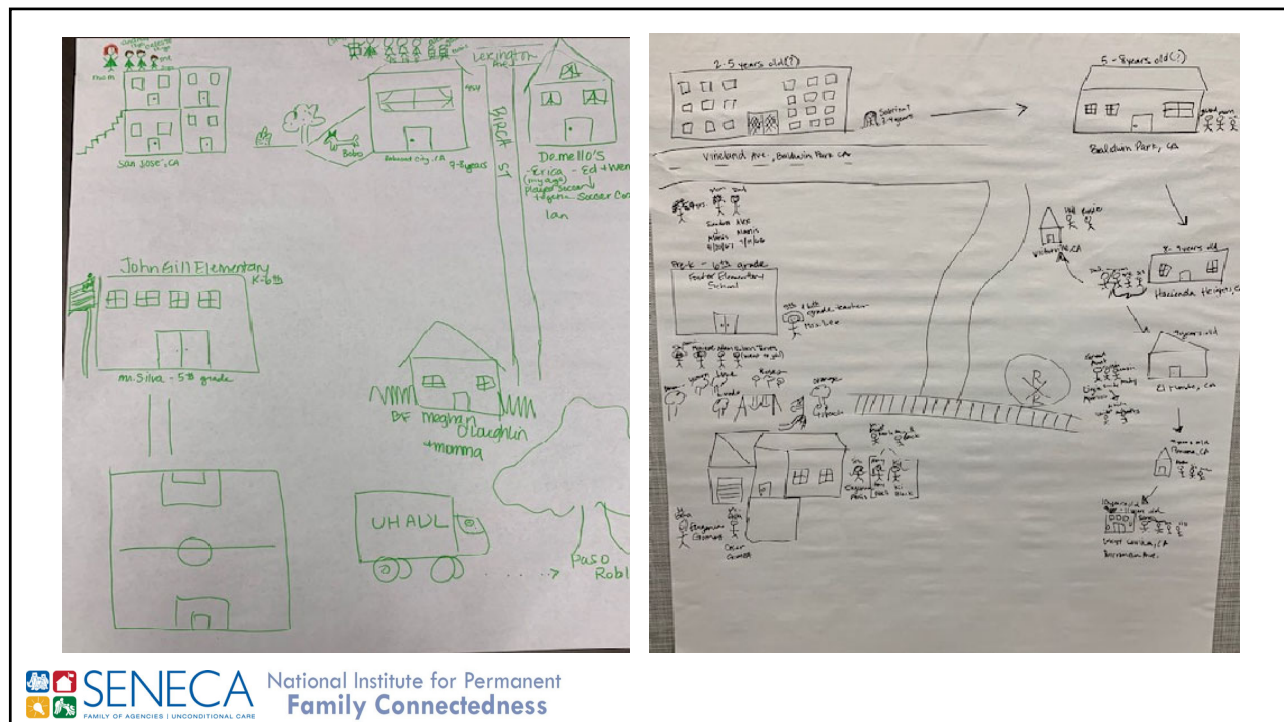
### Most effective tools

- Conversations (Engagement)
  - Handout
- Tree of Life
- Remembered People Chart
- Mobility Mapping

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## Contact Information

### National Institute for Permanent Family Connectedness

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## *Additional Resources*

- **American Bar Association:**  
[https://www.americanbar.org/groups/public\\_interest/child\\_law/](https://www.americanbar.org/groups/public_interest/child_law/)
- **National Council for Juvenile & Family Court Judges:** [www.ncjfcj.org](http://www.ncjfcj.org)
- **National Association of Counsel for Children:** <https://www.naccchildlaw.org>
- **National Center for State Courts:** <https://www.ncsc.org/>
- **Justice Works Family of Services:** <https://www.justiceworksyouthcare.com/>
- **Jerry Milner and David Kelly [Former HHS Leadership]**
- **Kinnect to Family – Ohio:** <https://kinnectohio.org>
- **Supporting Kin-First Culture in the Courtroom [Resource Library]**
- **California Judicial Council, CFCC, Permanency Bench Card:**
  - [https://www.courts.ca.gov/documents/Permanency\\_Bench\\_Card\\_Appendices.pdf](https://www.courts.ca.gov/documents/Permanency_Bench_Card_Appendices.pdf)
  - <https://cacfs.memberclicks.net/permanencybenchcards>

<b>ACF</b>  <b>Administration for Children and Families</b>	<b>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES</b> <b>Administration on Children, Youth and Families</b>	
	<b>1. Log No: ACYF-CB-IM-20-09</b>	<b>2. Issuance Date:</b> January 5, 2021
	<b>3. Originating Office:</b> Children's Bureau	
	<b>4. Key Words:</b> Title IV-B, Title IV-E, Court Improvement Program	

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Titles IV-E and IV-B of the Social Security Act, and State and Tribal Court Improvement Programs.

**SUBJECT:** Achieving Permanency for the Well-being of Children and Youth

**LEGAL AND RELATED REFERENCES:** Titles IV-B and IV-E of the Social Security Act (the Act).

**PURPOSE:** To provide information on best practices, resources, and recommendations for achieving permanency for children and youth in a way that prioritizes the child's or youth's well-being. Using an analysis of child welfare data, this Information Memorandum (IM) also outlines typical patterns in exit outcomes for children and youth in foster care. This IM reviews the permanency goals of reunification, adoption, and guardianship and emphasizes the importance of state and tribal child welfare agencies and courts focusing on each child's unique needs, attachments, and connections when making permanency decisions.

This IM is organized as follows:

- I. Background
- II. Key Data Observations Regarding Permanency
- III. Best Practice Guidance for Achieving Permanency and Well-Being across Permanency Goals – Reunification, Guardianship, Adoption
- IV. Conclusion

## **I. BACKGROUND**

In previous IMs, the Children's Bureau (CB) provided recommendations for implementing primary prevention networks aimed at strengthening families (ACYF-CB-IM-18-05)<sup>1</sup>, ensuring appropriate family time during foster care placement (ACYF-CB-IM-20-02)<sup>2</sup>, and utilizing foster care as a support for families (ACYF-CB-IM-20-06)<sup>3</sup>. This IM builds on those best practices

<sup>1</sup> <https://www.acf.hhs.gov/sites/default/files/cb/im1805.pdf>

<sup>2</sup> <https://www.acf.hhs.gov/sites/default/files/cb/im2002.pdf>

<sup>3</sup> <https://www.acf.hhs.gov/sites/default/files/cb/im2006.pdf>

and key principles with a continued focus on the importance of preserving family connections for children as a fundamental child welfare practice. CB believes that efforts to achieve permanency for children and youth must include safe and deliberate preservation of familial connections in order to successfully ensure positive child well-being outcomes. This focus on family connections is imperative in the work done by agencies and courts because it can mitigate the effects of trauma that children and youth in foster care have already experienced and can also reduce further trauma.

Children have inherent attachments and connections with their families of origin that should be protected and preserved whenever safely possible. This is what fuels CB's commitment to two overarching goals: (1) strengthening families through primary prevention to reduce child maltreatment and the need for families to make contact with the formal child welfare system; and (2) dramatically improving the foster care experience for children, youth, and their parents when a child's removal from the home and placement in foster care is necessary. While focused on achievement of permanency, this IM outlines best practices which also influence each of these goals. Emphasizing a child's attachments and connections while ensuring safety, rather than solely prioritizing timeframes in efforts to achieve permanency will serve to strengthen and preserve families; prevent future maltreatment from occurring after permanency is achieved; and significantly improve a child's foster care experience.

We believe there is much to learn from the patterns we see in the data available to CB from the Adoption and Foster Care Analysis and Reporting System (AFCARS), as well practice trends in the qualitative data gathered through the Child and Family Services Reviews (CFSR). Since reunification is the primary goal for nearly all children entering foster care, we are particularly concerned about what the data reveal regarding the likelihood of achieving reunification. An analysis of AFCARS data on exits for children and youth entering foster care, shows us that while over 85 percent of children and youth will eventually achieve permanency through reunification, guardianship or adoption (after four to five years), less than 50 percent will return to their families of origin through reunification<sup>4</sup>. Additionally, data gathered through round three of the CFSR<sup>5</sup> indicate that agencies and courts made concerted efforts to achieve reunification in a timely manner in 49 percent of the applicable cases.

Federal law and regulation clearly emphasize the importance of working to preserve families and for agencies to make reasonable efforts to prevent removal and finalize permanency goals.<sup>6</sup> The law also emphasizes preserving family and community connections for children and youth in foster care. CFSR findings<sup>7</sup> related to these requirements indicate that states need to make improvements in these areas. In order to improve permanency outcomes and preserve

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<sup>4</sup> This analysis can be found the "Context Data" that are provided to supplement the Statewide Data Indicators that are distributed semi-annually.

<sup>5</sup> See [https://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_aggregate\\_report\\_2020.pdf](https://www.acf.hhs.gov/sites/default/files/cb/cfsr_aggregate_report_2020.pdf)

<sup>6</sup> "Reasonable efforts" are a title IV-E agency requirement to obtain a judicial determination that the child welfare agency has made efforts: (1) to maintain the family unit and prevent the unnecessary removal of a child from the home, as long as the child's safety is ensured, and (2) to make and finalize a permanency plan in a timely manner (sections 471(a)(15) and 472(a)(2)(A) of the Act).

<sup>7</sup> See [https://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_aggregate\\_report\\_2020.pdf](https://www.acf.hhs.gov/sites/default/files/cb/cfsr_aggregate_report_2020.pdf)



connections for children, it is critical that courts provide active judicial oversight over agency efforts to:

- Thoroughly explore existing familial relationships and maternal and paternal relatives as possible placements (section 471(a)(29) of the Act);
- Safely place children with relatives or fictive kin and people who they know, when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards (section 421 and 471(a)(19) of the Act);
- Make all reasonable efforts to keep siblings together unless such a joint placement would be contrary to the safety or well-being of any of the siblings (section 471(a)(31) of the Act);
- Keep children in their communities, including in their schools, and connected to classmates and teachers, if remaining in such school is in their best interests, (section 471(a)(30) and 475(1)(G) of the Act);
- Thoroughly review the status of each child during periodic reviews and permanency hearings, specifically assessing: 1) the safety of the child and the continuing necessity for the child's placement in foster care; 2) progress made toward alleviating or mitigating the causes necessitating placement in foster care; and 3) the extent of compliance with the case plan (including the agency's provision of appropriate services for the child and parents to improve the condition of the parent's home) (sections 475(1)(B), and (5)(B) and (C) of the Act); and
- Apply the exceptions for filing a petition for termination of parental rights when, at the option of the state, the child is placed with a relative/fictive kin, when there is a documented compelling reason not to file based on the best interest of the child (which would include consideration of a child's key attachments), or when the state has not provided such services to the family as the state deems necessary for the safe return of the child to the child's home (section 475(5)(E) of the Act).

These requirements are intended to preserve a child's family connections and support meaningful efforts toward reunification. Data analysis presented later in this IM reveals that children whose parents' parental rights have been terminated may have longer durations in care that may not result in a finalized adoption. Therefore, we must carefully consider on an individual basis for each child and family, whether terminating parental rights is truly in the best interest of the child. This IM seeks to emphasize the importance of safely guarding and protecting family relationships while pursuing permanency for children and youth. Agencies and courts must be certain that termination of parental rights is necessary to achieve what is best for the long-term well-being of children and youth.

As CB continues to advance national efforts to transform the child welfare system into one that promotes primary prevention, family well-being, and healing, we must pause and consider the trajectory we have been on, the outcomes that children and youth are experiencing, and where

course correction may be needed. While we are mindful of the length of time children spend in foster care, and do not want to unnecessarily prolong that, timeliness should not be the primary driver when considering how to best achieve permanency for children and youth. We believe that we will see reunification achieved more often, and with more expedience, by improving efforts to place children with relatives/fictive kin at the onset of foster care placement, nurturing children's relationships with their parent(s) during foster care placement, and making concerted efforts to provide parents with the services and supports they need to achieve reunification. We believe that this will result in improvements in outcomes related to both permanency and child and family well-being. When reunification cannot be achieved safely, focusing on family connections can improve the likelihood that children exit foster care to guardianship or adoption with relatives/fictive kin. When a child's experience in foster care is marked by safety, meaningful family time, preserved and nurtured connections, and high quality, family-centered, trauma-informed service provision, children and youth have a better chance of achieving meaningful permanency in a way that enhances their well-being.

## **II. Key Data Observations Related to Permanency**

Using AFCARS data, CB conducted three separate analyses which are referenced in this IM. All three analyses are based on an entry cohort approach in which all children who enter care within a fiscal year are selected to establish a cohort, and multiple unique entry cohorts are established by identifying entries from multiple fiscal years.

The first set of analyses selected entry cohorts for each year from FY 2013 to FY 2018 (six entry cohorts in total) and follows children in the cohorts from their entry date to their date of discharge, or September 30, 2019 (the end of FY 2019), whichever comes first.<sup>8</sup> Children are not observed beyond FY 2019 because FY 2019 is the most recent year for which we have complete data. The purpose of this analysis is to describe the exit outcomes of children when maximal time is allowed to observe exits, and to observe how these exit outcomes vary.

The second set of analyses selected entry cohorts for FY 2015 to FY 2017 (three entry cohorts in total) and followed each child for exactly two years from their date of entry. In contrast to the first set of analyses that allowed maximal time to observe exits, this approach uses a standard amount of time (two years) so that each entry cohort, and each child in each cohort, is followed for the same amount of time. The purpose of this analysis is to describe the exit outcomes children experience within two years of entry, rather than eventual exit outcomes with maximal time to observe exits.

The third set of analyses selected entry cohorts for FY 2013 to FY 2015 (three entry cohorts in total) and follows children to September 30, 2019, or their date of discharge, whichever comes first. In that respect, it is identical to the first set of analyses. The primary difference in the third set of analyses is that children are distinguished based on whether their parents' parental rights

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<sup>8</sup> Each subsequent entry cohort is followed by one fewer full years than the preceding entry cohort because each entry cohort has the same endpoint (September 30, 2019), but the entry cohorts are separated by a year. For example, the 2013 entry cohort is followed for up to seven years, the 2014 entry cohort is followed for up to six years, and so on.

were terminated or not. The purpose of this analysis is to describe the population of children who become legally free and to characterize what their eventual exit outcomes are.

Taken together, the three sets of analyses allow us to make objective statements about the most frequent, or typical, exit outcomes for children who enter foster care when a maximum amount of time is allowed to observe outcomes (the first and third analyses), or when a fixed, abbreviated amount of time is allowed to observe outcomes (the second analysis). These analyses allow us to identify patterns that have been typical for children who have entered foster care in recent years, and to use those patterns to project what we might expect for children who newly enter care. These patterns then provide critical context for the best practice considerations outlined in the next section.

We refer to the first two sets of analyses to establish what exit outcomes have been typical. We focus first on answering the following questions based on allowing for maximal time to observe exits:

- What exit outcomes are most likely for children and youth entering care?
- What differences are observed when the data are disaggregated by age at entry?

Secondly, to examine the typical outcomes within two years of entry, we answer the following question:

- What exit outcomes can be observed within two years or less of entry into care?

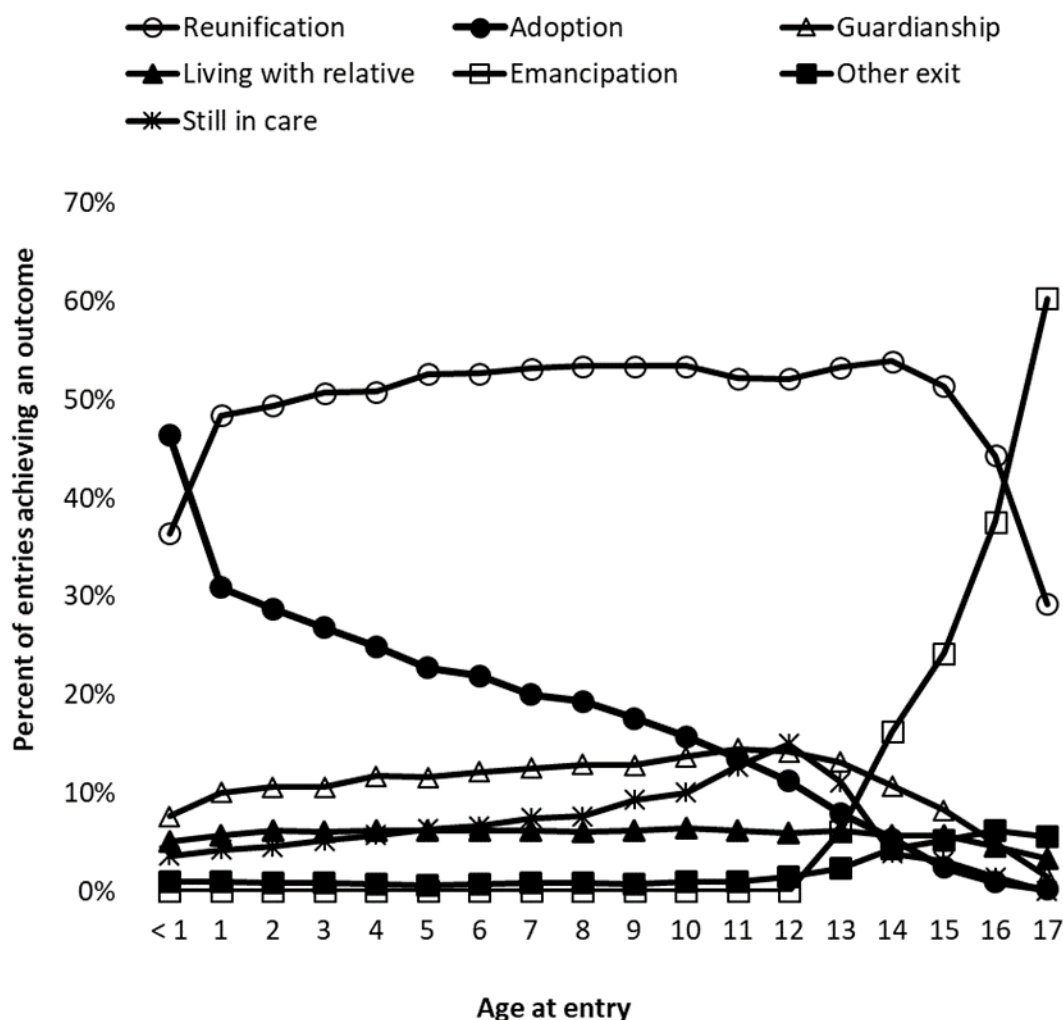
#### What exit outcomes are most likely for children and youth entering care?

- Typically, just under 50 percent of children and youth who enter care are reunified.
- Typically, just under 25 percent of children and youth who enter care are adopted.
- Typically, about ten percent of children and youth who enter care exit to guardianship.
- Typically, about six percent of children and youth exit to live permanently with relatives other than the ones from whom the child was removed. (These exits could also include guardianship by a relative).
- Typically, about eight percent of all children and youth who enter care are emancipated.

What differences are observed when the data are disaggregated by age at entry?<sup>9</sup>

The graph below displays the outcomes typically experienced by children and youth who entered care in FY 2015 and were followed for up to five years following their entry, displayed by their age at entry.

**Figure 1: Exit Patterns for Children/Youth Entering Care in FY 2015, by Age at Entry**



Based on what typically happens to children who enter care, we can extrapolate to what is likely to happen to children who enter care. The following observations of likely outcomes are derived from the graph above:

<sup>9</sup> An earlier version of this graph appeared in Beyond Common Sense: Child Welfare, Child Well-Being, and the Evidence for Policy Reform, F. Wulczyn, R.P. Barth, Y.T. Yuan, B.J. Harden, and J. Landsverk, 2005, in which the authors make the case that child welfare outcomes should be understood from a developmental perspective, and child welfare policies should reflect that perspective.

- Generally, reunification is the most likely outcome for children and youth who enter care between the ages of 1 and 16 years.
- Children less than age 1 who enter care are the only group for whom adoption is the most likely outcome. The likelihood of exiting to adoption decreases the older the child is when they enter care.
- The likelihood of exiting to guardianship increases the older the child or youth is when they enter care, until approximately age 13.
- Children and youth most likely to still be in care after four years are those who enter care between the ages of 9 and 13 years.
- For youth who enter foster care between the ages of 13 and 17 years, the likelihood of exiting to emancipation significantly increases the older the youth is when they enter care.

(“Other exit” noted in the graph includes discharges to run away, death of child, and transfer to another agency. These are mostly observed at older ages except for death of child, which can occur at any age.)

Turning to the second analysis, which looks to see how many children/youth achieve permanency within two years of their entry, we asked the following question:

What exit outcomes can be observed within two years or less of entry into care?

- Sixty-five percent of children and youth entering care will achieve permanency of some kind within two years.
- Forty-four percent of children and youth who enter care exit to reunification within two years.
- Nine percent of children and youth who enter care exit to adoption within two years.
- Eight percent of children and youth who enter care exit to guardianship within two years.
- Five percent of children and youth who enter care exit to live permanently with relatives within two years.
- Except for adoption, most exits to permanency are achieved within the first 12 to 18 months of entry into care.

Taken together, the first two sets of analysis reveal the following patterns:

- Although permanency was the most frequent outcome, it can take some time. Within two years of entry, 65 percent achieved permanency and 88 percent of entrants achieve permanency within seven years.
- Most reunifications occur within the first two years of entry, after which reunifications became less likely.
- Children who entered foster care between the ages of 9 and 13 who do not reunify within the first two years may stay in foster care longer – either waiting to be adopted or aging out.
- For youth entering at age 16 or older, emancipation is the most likely outcome. Additionally, those who are not reunified within the first year are much less likely to be reunified in subsequent years when compared to younger children who enter care and do not reunify in the first year.

We refer to the third set of analyses to describe the experiences of children whose parents' parental rights were terminated after the child entered care. We answer the following questions based on allowing for maximal time to observe exits.

- How frequently do children and youth who enter foster care have their parents' parental rights terminated and what differences are observed by age at entry?
- What exit outcomes are observed for children and youth who have had their parents' parental rights terminated and what differences are observed by age at entry?
- After entry, how long does it take for children and youth to have their parents' parental rights terminated and what differences are observed by age at entry?

How frequently do children and youth have their parents' parental rights terminated and what differences are observed by age at entry?

- About a quarter of children and youth who enter care have their parents' parental rights terminated.
- Over half of the newborns (0 to 3 months at entry) who enter care have their parents' parental rights terminated.
- Just under a quarter of children who enter between the ages of 6 and 10 have their parents' parental rights terminated.
- Just over 10 percent of the children who enter between the ages of 11 and 16 have their parents' parental rights terminated.



What exit outcomes are observed for children and youth who have had their parents' parental rights terminated and what differences are observed by age at entry?

- Children who enter care and have their parents' parental rights terminated more frequently fail to discharge and stay in care longer than children whose parent's parental rights are not terminated. As the age at entry increases, the likelihood of these children staying in care also increases.
- Typically, 95 percent or more of the infants (under age 1) who have their parents' parental rights terminated are adopted.
- Typically, 90 percent of children who enter care between the ages of 1 and 5, and have their parents' parental rights terminated, are adopted.
- Typically, 85 percent of children who enter care between the ages of 6 and 10 and have their parents' parental rights terminated, are adopted. Those in this age group who are not adopted are most likely to stay in care when compared to younger children or children of the same age whose parents' parental rights are not terminated.
- Typically, 55 percent of children who enter care between the ages of 11 and 16, and have their parents' parental rights terminated, are adopted. And 28 percent of the children and youth in this age group who are not adopted age out of care.

How long does it take for children and youth to have their parents' parental rights terminated and what differences are observed by age at entry?

- Most children and youth who have had their parents' parental rights terminated experienced that within two years of entry.
- Of children who enter care under age 1 and have their parents' parental rights terminated, 32 percent have parental rights terminated within one year. In contrast, of those children who are between the ages of 1 and 5 years at entry, and have their parents' parental rights terminated, 21 percent have parental rights terminated within one year. This pattern continues as age at entry increases.

## **Placement of Siblings**

It is important to note that children may enter foster care as sibling sets, but we are unable to ascertain whether exits to permanency occur in the same way (same goal, same timeframe) for siblings based on current AFCARS data. Placing siblings together is a critical aspect of securing permanency for children and must be prioritized. Data from round 3 of the CFSR<sup>10</sup> indicates that children were placed with their sibling in only 46 percent of the 1,547 applicable cases. While it was determined that a valid reason for separation existed in 65 percent of cases, we urge agencies and courts to consider the lifelong implications of separating siblings and make every

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<sup>10</sup> See [https://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_aggregate\\_report\\_2020.pdf](https://www.acf.hhs.gov/sites/default/files/cb/cfsr_aggregate_report_2020.pdf)

effort to reunite siblings, especially in their permanent homes. Permanency plans that result in severing sibling attachments do not support the lifelong connections and relationships associated with permanency and well-being for children and youth. It is a grievous consequence of foster care that we must prevent at all cost.

### **III. Best Practice Guidance for Achieving Permanency and Well-Being across Permanency Goals – Reunification, Guardianship, Adoption**

The term “permanency” is used to define one of three outcomes we aim to achieve for children in foster care. All three interconnected outcomes (safety, permanency and well-being) allow a child to truly thrive; therefore it is important that our efforts to achieve permanency do not sacrifice safety or well-being. For children in foster care, experiencing permanency and well-being should be one and the same. The statute is clear that the best interest of the child is paramount in permanency planning and is a compelling reason not to terminate parental rights in certain circumstances. CB strongly urges agencies and courts to remain mindful of child development needs, and the unique needs of an individual child, and ensure that those needs are not eclipsed by haste to comply with timelines and process. Such haste may be contrary to the best interest of children.

We do not want children to stay in foster care longer than is absolutely necessary to keep them safe, and we also do not believe that it is in a child’s best interest to sever parental attachments and familial connections in an effort to achieve “timely permanency.” Timeliness is but one of a host of considerations when meeting the needs of children and should not be the lone or primary driver for determining what is best for children. Placing timeliness above the substance of thorough execution of case plans and reasonable or active efforts to achieve them runs the risk of placing process over substance and promoting shortcuts in practice that can be harmful to children and families.

By focusing on preserving a child’s connections and nurturing parental attachment while a child is in foster care, we can steward a child’s time in foster care in such a way that true healing can occur, and families can be reunited safely. In situations where guardianship or adoption is determined to be the most appropriate goal for a child’s long-term well-being, agencies should consider how they can safely preserve the child’s original family attachments through adoption or guardianship with relatives/fictive kin.

Children in foster care should not have to choose between families. We should offer them the opportunity to expand family relationships, not sever or replace them. We recognize that reunification is not always possible<sup>11</sup>; however, CB believes that the vast majority of children in foster care have relative or fictive kin relationships that are of great value to them. When we nurture and protect relationships with siblings, family, and fictive kin, we increase the chances for youth to achieve permanency. When these relationships are prioritized, protective factors are increased, which promotes current and future well-being. The most critical factors for

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<sup>11</sup> Note that in instances where aggravated circumstances and severe physical/sexual harm exists it may not be appropriate for parental or family involvement to continue as described in this IM. There are also instances of children who are abandoned. Statistically these situations make up a very small percentage of the foster care population.

consideration in permanency planning should be the safety of the family home and a child's key attachments and family connections. These factors, rather than the number of months spent in foster care, or even a child's new attachment to resource parents, should drive permanency decisions. By keeping the focus on what really matters for positive child outcomes, we believe agencies, tribes and courts can dramatically improve the likelihood of reunification and permanency with relatives for the vast majority of children and youth in foster care, reduce the duration of time children and youth spend in foster care and improve the well-being of children and youth during and after foster care.

There are critical aspects of practice that serve to protect and preserve a child's core identity and sense of belonging. These include things like crafting meaningful plans for family time (with siblings and parents) at the onset of placement, conducting exhaustive and ongoing kin searches, doing the difficult work of supporting resource parents to co-parent rather than replace a parent, and making placement decisions that carefully consider a child's connections to their community. When agencies and courts don't invest time and effort in these practices, we prevent children from experiencing true permanency and well-being. Research also indicates that kinship placement, early stability, and intact sibling placement are predictors of permanency achievement.<sup>12</sup> Agencies and courts cannot afford to settle for available placements that separate siblings, or make case plan decisions that take children and youth away from all that they know and love and unnecessarily terminate parent-child relationships.

While children who have had their parents' parental rights terminated no longer have legal parents, they most often still have living parents, other relatives that they are connected to, and fictive kin with whom they have existing relationships. Children and youth in foster care have stories and memories that make up who they are, and they deserve to have all of those things safely preserved for them while they endure the trauma of being removed and displaced from all that they know. This is why Permanency Outcome 2 (and the five items that comprise it) in the CFSR aims to ensure the preservation of connections and continuity of family relationships. It is a child welfare outcome for states to achieve for all children in foster care because of how critically important each practice (shared below) in that outcome is:

- Place siblings together in foster care (CFSR, Item 7);
- Ensure frequent and meaningful family time experiences for children with their parents and with siblings who are placed separately (CFSR, Item 8);
- Preserve key connections such as a child's school, neighborhood, community, faith, extended family, Tribe, and friends (CFSR, Item 9);
- Place children with relatives (CFSR, Item 10); and

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<sup>12</sup> Becci A. Akin, Predictors of foster care exits to permanency: A competing risks analysis of reunification, guardianship, and adoption, *Children and Youth Services Review*, Volume 33, Issue 6, 2011, Pages 999-1011, ISSN 0190-7409, <https://doi.org/10.1016/j.childyouth.2011.01.008>.

- Make efforts to promote, support, and/or maintain a positive relationship between children and their parents through activities that go beyond visitation (CFSR, Item 11), such as:
  - Encouraging parents to participate in school activities, extracurricular activities, and health appointments (and providing transportation for parents to be able to participate).
  - Providing therapeutic opportunities to help parents strengthen their relationship with their child.
  - Encouraging resource parents to mentor or serve as support role models for parents.
  - Facilitating contact with a parent unable to participate in family time due to distance or other barriers.

These permanency practices are the key to ensuring that children have positive, healthy, and nurturing attachments and relationships with their parents, siblings, and others. These healthy relationships become the foundation for lifelong thriving — we must ensure that all children and youth exit care with this foundation. Over the past four years, through multiple roundtable discussions and meetings, CB leadership has met routinely with young people around the country, to include the recent completion of 12 regional roundtables with young leaders across the United States.<sup>13</sup> We heard directly from young people who described their experience in foster care as missing these critical attachments and relationships. Youth recounted experiences of being separated from siblings, some losing contact altogether. Still others aged out of care only to find that they had relatives and kin living in close proximity to them, yet no efforts were made to preserve those connections. These youth often reference ‘relational permanency’ as something they need to thrive. Legal permanence alone doesn’t guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being.

We must work to safely preserve children’s key attachments and support them as they build new attachments with resource parents and new permanent caregivers. Children do not need to have previous attachments severed in order to form new ones<sup>14</sup>. In fact, they will be better positioned to develop new relationships if we work to preserve their original connections, sparing them from additional grief and loss.

What ultimately matters for permanency are relationships and connections, so we must ensure that our efforts to achieve permanency reflect this understanding. We must work to ensure that the expectations outlined in CFSR Permanency Outcome 2 are put into practice (preserved connections should be routinely assessed in case planning meetings, court hearings and reviews because of the influence they have on achieving permanency and well-being). These practices must not be thought of as ‘extra’ things that are only applicable for children with a goal of reunification, but they should be viewed as some of the most important things children need to thrive long-term with any permanency goal.

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<sup>13</sup> See [CB Letter](#) summarizing roundtables.

<sup>14</sup> Centre for Parenting & Research Research, Funding & Business Analysis Division. (2006). The importance of attachment in the lives of foster children. [https://earlytraumagrief.anu.edu.au/files/research\\_attachment.pdf](https://earlytraumagrief.anu.edu.au/files/research_attachment.pdf)

CB has been promoting system transformation with the priority of keeping families safely together. This value of preserving families must be present at every stage of the work in our child welfare systems if we want to improve outcomes for children and families. It must be the compass that guides our path to achieving the permanency goals of reunification, adoption, and guardianship so that the well-being of every child is also achieved.

## **Achieving Reunification**

The analysis in section II of this IM indicated that children and youth who enter foster care have a less than 50 percent chance of being reunified. This pattern reveals that our efforts to strengthen and preserve families have been profoundly inadequate. Outside of situations of egregious abuse and neglect to children by their parents, a finding of aggravated circumstances, or abandonment, the goal for a child placed in foster care is most often reunification. Federal law<sup>15</sup> requires title IV-B/IV-E agencies to provide reasonable efforts to make it possible for children to reunify with their parents safely. The qualitative data we gather through the CFSR, which considers the circumstances for the child, and the nature of the efforts made by the agency and courts, also confirms that significant improvement is needed. Round three results<sup>16</sup> of the CFSR found that agencies made concerted efforts to achieve reunification within 12 months of the child's entry into foster care in 49 percent of foster care cases.

As we consider the best practices that are required to achieve reunification, we must start with assessing the parent-child relationship, including attachment, and prioritizing that in services. Some parents working toward reunification may need the support of a trauma-informed counselor or therapist who can help them learn to work through their own past trauma, along with the trauma their children have experienced from abuse or neglect and removal, as they seek to repair and restore parent-child attachments and relationships. Parents love their children deeply, but may not have experienced healthy parent-child attachment for various reasons. Assessing and supporting the parent-child relationship is critical to enable safe and timely reunification, but is often missing from the array of services offered to parents. Round three CFSR<sup>17</sup> results related to service array noted that trauma-informed services, transportation, and visitation services were often insufficiently available.

The analysis in section II of this IM noted that infants have the least opportunity to be reunified as termination of parental rights and adoption are pursued quickly for that population in particular. While we recognize that infants are the most vulnerable to abuse and neglect, we also want to ensure that parents are given every opportunity to reunify with their infant children. For parents struggling with substance abuse in particular, treatment opportunities that allow them to have their children live with them offer the kind of support that parents need to overcome addiction while safely developing and demonstrating their parenting skills. It is critical that parents of infants be given ample opportunities to safely bond with their children and develop attachments that are critical for those children to thrive.

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<sup>15</sup> Section 471(a)(15)(B)(ii) of the Act

<sup>16</sup> [https://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_aggregate\\_report\\_2020.pdf](https://www.acf.hhs.gov/sites/default/files/cb/cfsr_aggregate_report_2020.pdf)

<sup>17</sup> Ibid

The results of our analyses that are described in section II suggest that another population that may benefit from focused attention is children and youth who entered care between the ages of 9 and 13 years. This age group is most likely to still be in care after four years, so agencies and courts should ensure that adequate efforts are being made to work toward reunification and ensure connections are being preserved in a meaningful way to support their well-being while they are in care.

This work of repairing and supporting attachment and relationships during foster care takes time, particularly when parents may also be dealing with other issues such as poverty, housing instability, substance use disorders, or domestic violence. But this is the distinctive and challenging work of child welfare. Agencies must emphasize the importance of these efforts at all times and frontline staff must see it as a critical responsibility. Agency culture, policy and practice must be designed and implemented to provide parents the time and resources they need to effectively work through all that is necessary to bring healing to their families. If agencies have done the work to improve the child's experience in foster care, by preserving their connections, implementing meaningful family time, and utilizing foster care as a support for families, then the length of time the child stays in foster care will facilitate healing.

In addition to practices focused on supporting the parent-child relationships, preserving connections, and utilizing foster care as a support for families, there are a few other critical practice areas and systemic processes assessed in the CFSR<sup>18</sup> outcomes and systemic factors that influence concerted efforts to achieve reunification:

- Agencies conducted a comprehensive assessment of parents' needs and provided appropriate services to address needs of parents in 42 percent of foster care cases (Well-Being Outcome 1, Item 12B).
- Children and parents were adequately engaged in case planning in 55 percent of foster care cases (Well-Being Outcome 1, Item 13).
- Agencies conducted frequent, quality caseworker visits with parents in 41 percent of foster care cases (Well-Being Outcome 1, Item 15).
- Two states achieved substantial conformity with the Case Review systemic factor.
  - 37 states received a strength rating for ensuring timely periodic reviews and permanency hearings; however, concerns noted with agency efforts in working with children and parents in Permanency Outcomes 1 and 2 and Well-Being Outcome 1 signal opportunities for courts to improve the quality of reviews and hearings to assess these efforts as required.

States must ensure that parents receive adequate comprehensive assessments of their needs in order to properly inform service planning. Successful engagement of parents is critical for obtaining the information needed to inform a proper assessment of a parent's needs.

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<sup>18</sup> Ibid



Engagement must be nurtured through frequent, meaningful worker contact. The very act of assessment also serves to reinforce engagement – as parents are asked to share their stories and workers demonstrate empathy and care in response, trust is built. This trust builds rapport and provides the best foundation for effective ongoing case planning.

Stakeholders interviewed through the CFSR report that some agencies contract out an assessment of parents and, as a result parents, may go months before having any of their needs, their history or their relationships assessed. Many parents have experienced their own trauma, have been in foster care themselves as children, or have compounding needs that leave them feeling overwhelmed. Additionally, CB leadership has met regularly with parents across the country who have lived experience and expertise to share related to having a child involved with the child welfare system. These meetings have reinforced the need for robust parental supports and services to help support parental resiliency, protective capacities, and healing. It is vital that the child welfare workforce be trained, supported, resourced, and equipped to do the work of engaging parents and assessing their needs, even if additional outside assessments are needed. This aspect of case practice is so critical because of its implications for developing a trusting relationship. Outsourcing assessments completely can prevent effective parental engagement from occurring which can negatively impact outcomes.

The initial opening of a case is the most critical time for engaging parents. Agencies should convey to parents that the goal of the agency and court is to keep families safely together, clearly explain what makes their family home unsafe for their child, and share the steps for how they can address those safety threats. Agencies should demonstrate in written case plans and through verbal explanations to parents: 1) why placement is necessary for safety; 2) how foster care will be used as a support for their family; 3) how the agency and court will ensure that they have everything that they need to achieve reunification; 4) how changes in the safety of the home will be assessed; and 5) how family time will be arranged to offer them as much time with their children as safely possible. That approach of clear communication, focused on what matters most, indicates to parents that the agency and court are invested in preserving and supporting their relationship with their child. That can help buffer the grief parents experience due to separation, which often is displayed as anger toward the child welfare agency. Many parents have expressed to CB that when agencies approached them as people who love their children, but are in need of help, rather than treating them punitively and assuming they don't care about their children, they were much more receptive to being engaged.

Ensuring high quality legal representation for parents and children is critical to preventing unnecessary parent child separation, promoting the well-being of children and parents, ensuring that reasonable efforts<sup>19</sup> and active efforts are made, and achieving all forms of permanency when a child or youth becomes known or involved with the child welfare system.<sup>20</sup> Research

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<sup>19</sup> “Reasonable efforts” are a title IV-E agency requirement to obtain a judicial determination that the child welfare agency has made efforts (1) to maintain the family unit and prevent the unnecessary removal of a child from the home, as long as the child’s safety is ensured, and (2) to make and finalize a permanency plan in a timely manner (sections 471(a)(15) and 472(a)(2)(A) of the Act).

<sup>20</sup> The CB issued Informational Memorandum [ACYF-CB-IM-17-02](#) that provides details on representation concepts, benefits, and resources that are helpful for developing or strengthening legal representation programs. See also, [Technical Bulletin](#) on Frequently Asked Questions: Independent Legal Representation for more information.

makes clear that high quality legal representation, particularly multi-disciplinary legal representation,<sup>21</sup> is impactful in helping to achieve and expedite reunification.<sup>22</sup>

### *Reinstatement of Parental Rights*

A review of exits from foster care over the past three years reveals that 15 percent of youth who aged out of care<sup>23</sup> had their parents' parental rights terminated prior to their exit from foster care. The analysis shared in section II on children and youth who have had their parents' parental rights terminated showed that that group is more likely to still be in care than children and youth who have not had parental rights terminated (over 25 percent will go on to age out of care). In many instances, this results in children staying in foster care for long periods of time, often without the important connections to familial support that are necessary for their well-being. Together these data points demonstrate that there are groups of children or youth who will enter care, have their parents' parental rights terminated, and then will have longer stays in care that will end without permanency. As of current AFCARS reporting for 3/31/2020, there are 73,200 children and youth in foster care who have had their parents' parental rights terminated but have still not achieved permanency. For some of these children and youth who are still in foster care, there may be just cause to reconsider reunification with one or both parents. That is, we should consider the possibility that reunification may be a viable option for these children and youth.

Currently, 22 states have laws that allow for reinstatement of parental rights.<sup>24</sup> These statutes are most often grounded in the best interest of the child legal standard and are grounded in the understanding that life circumstances can and do often change for the positive for parents. A parent or parents who may not have been able to safely or adequately care for a child in the past may become a safe and appropriate option in the future.<sup>25</sup> Numerous state statutes also speak to the age and maturity level of children and youth, length of time in care, and failure of agencies to achieve stated permanency goals despite making reasonable efforts.<sup>26</sup> Inherent in these laws is the recognition that the nature of the safety issues that may have existed at the time of termination for a young child may no longer pose the same threats to safety for an older child or youth, or that concerns that existed at the time of termination may no longer exist due to successful parental recovery or other forms of sustained progress. Reinstatement of parental rights and reunification with a parent or parents may be particularly appropriate for older youth in foster care as they are better able to express their preferences and concerns and have better developed protective capacities than younger children.

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<sup>21</sup> See <https://familyjusticeinitiative.org/advocacy/high-quality-representation/>

<sup>22</sup> An important [study](#) conducted in New York City in 2019 provides especially compelling evidence of the effectiveness of the multi-disciplinary approach in achieving reunification. A companion, [qualitative study](#) released in 2020 lends further support to the model. See, [ACYF-CB-IM-17-02](#) for a summary of additional research demonstrating the connection between legal representation and reunification.

<sup>23</sup> There are differences across states based on whether children who transition to extended foster care are considered to "age out" when they turn 18, or when they discharge from extended foster care. This figure includes all emancipations, regardless of whether the child was over 18. Of these emancipations, 16 percent were over 18 at the time of emancipation.

<sup>24</sup> See <https://www.ncsl.org/research/human-services/reinstatement-of-parental-rights-state-statute-sum.aspx>

<sup>25</sup> Id.

<sup>26</sup> Id.

In light of the fact that permanency is focused on relationships and connections, and recognizing that many parents may not have received adequate supports to achieve reunification before termination, while others may have experienced significant positive changes in their life since the time of termination, reinstatement of parental rights and reestablishment of the legal connection is an important addition to the permanency continuum that can promote well-being.

CB encourages states that have such statutes to exercise the option actively when appropriate. CB further strongly encourages states that do not currently have reinstatement of parental rights statutes in place to give thoughtful consideration to crafting and enacting legislation to provide this important permanency option for children and youth.

## **Achieving Guardianship**

Guardianship is an appropriate permanency goal. This is particularly true in cases where parental rights should not be terminated but the best plan for the child based on case circumstance is that he or she not be reunified. This permanency goal legally preserves parental rights while ensuring another caregiver bears the responsibility for direct care and custody of the child. The following parental rights are transferred to the legal guardian per section 475(7) of the Act: protection, education, care and control of the person, custody of the person, and decision making. There are a number of circumstances where parents themselves may decide that guardianship with a relative is best for their child, or a relative caregiver may indicate a desire to pursue this permanency option. For youth who do not want their parents' parental rights terminated, but desire to have another legal caregiver, guardianship may offer just what they need. If safety concerns exist with maintaining parental rights, adoption would be the more appropriate permanency goal to pursue.

Guardianship can be achieved with a relative or non-relative and may include a subsidy<sup>27</sup>. All of these benefits should be discussed with families to determine what would contribute to the best long-term outcome for the child. Whether guardianship occurs with relatives or non-relatives, all guardians should have access to post-guardianship services to ensure that they can meet the needs of the children in their care. Unfortunately, children can still experience instability after guardianship, so concerted efforts must be made to prepare families for this permanency option and offer a range of supportive services that families can access even after guardianship is legalized. Families must be educated about all of the services older youth are eligible for, including eligibility for the John H. Chafee Foster Care Program for Successful Transition to Adulthood and Educational Training Vouchers (section 477 of the Act).

For children with a permanency plan of guardianship, federal law (section 475(1)(E) and (F) of the Act) requires agencies to document, in the child's case plan, the steps the agency is taking to place the child with a legal guardian, and to legalize the guardianship. At a minimum, the law requires that the documentation must include: information about the child-specific recruitment efforts that have been conducted; steps that the agency took to determine that it is not appropriate for the child to be reunified or adopted; reasons why guardianship is in the child's best interests; reasons for any separation of siblings during placement; the child's eligibility for title IV-E

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<sup>27</sup> Section 473(d) of the Act

kinship guardianship assistance; efforts made to discuss adoption by relative as a more permanent alternative to guardianship; and efforts made by to discuss with the child's parents the guardianship arrangement. An assessment of these required efforts should occur during periodic reviews and permanency hearings to ensure appropriate progress is being made in achieving the goal.

To ensure successful guardianships, efforts must be made to help potential guardians understand the child's needs, particularly as it relates to the impact of trauma, issues of attachment, and the losses associated with foster care placement (removal, any loss of connections, inability to reunify, etc.) that may impact children differently due to age and circumstances. CB funded the National Adoption Competency Mental Health Training Initiative (NTI)<sup>28</sup> to provide comprehensive training on these issues to child welfare workers, supervisors and mental health practitioners in order to improve outcomes for children being cared for by resource families, adoptive families, and guardianship families. By training the workforce who supports those pursuing guardianship, potential guardians can be better prepared to know how to understand and address behaviors that are likely linked to trauma, attachment or loss.

As with any permanency goal, intentional efforts to preserve a child's key connections can strengthen and support the positive outcomes that can be achieved through guardianship. Visitation with parents, as appropriate, and frequent time with siblings, should be included as part of final guardianship orders to ensure that those connections continue. Post-permanency services and community-based supports are critical to the long-term success of guardianship. Access to those services should also be noted in final orders to ensure that agencies and courts have thoroughly considered and provided all that the family needs.

## **Achieving Adoption**

Adoption is a critically important permanency option for children in foster care who are unable to be reunified with their parents. While child welfare agencies and courts should strive to ensure that children are safely preserved with their own families whenever possible, we acknowledge that there will be circumstances where a child must be permanently removed from harmful family dynamics and unsafe relationships. Adoption provides the permanent security of a new forever home for children who need that.

For children with a permanency plan of adoption, federal law (section 475(1)(E) of the Act) requires agencies to document, in the child's case plan, the steps the agency is taking to place the child with an adoptive family and finalize the adoption. At a minimum, the law requires that the documentation must include information about child-specific recruitment efforts that have been conducted. An assessment of these required efforts should occur during periodic reviews and permanency hearings to ensure appropriate progress is being made in achieving the goal.

Adoption may occur with a child's relatives or with unrelated resource parents. In either case, adoption should be viewed as an opportunity to expand a child's experience of family rather than

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<sup>28</sup> <https://adoptionsupport.org/nti/>

replace their previous family. Unless safety concerns prevent connections from being preserved, adoptive families should acknowledge the child's previous family connections and relationships and work to sustain those. Many state laws (currently 29 states and the District of Columbia)<sup>29</sup> allow for continuing to support relationships with parents through open adoption and post adoption contact agreements and this can include siblings and extended family.

Federal law (section 471(a)(31) of the Act) requires that every effort should be made to have siblings adopted by the same family. When that cannot occur, there should be a clear plan in place for how sibling relationships will be preserved through consistent and quality contact. Ongoing sibling relationships, regardless of the age of the child, should always be preserved for children. Relationships with parents and other extended family may also be preserved when ongoing connection does not pose a threat to safety and preserving those relationships is best for the child. In situations where children had been having regular contact with parents prior to termination, that contact should continue with support from a counselor to help the parents and child adapt to new roles.

Pre-adoptive families who wish to sever the child's family connections for any reason other than safety should receive training and supportive counseling to understand the impact that will have on the child. Decisions for adoption finalization should be contingent upon whether the family will in fact support what is best for the child in preserving connections. Agencies and courts should insist on protecting a child's key connections even if it means losing a potential adoptive family. Agencies must proactively prepare potential adoptive families to understand the importance of connections and the impact that has on child well-being.

Adoptive families have the unique privilege of stewarding a child's past in a way that can promote healing and positive outcomes for their future. By committing to love and nurture a child forever, adoptive families accept all that a child is, including their family history. Honoring that history will look different for each child, depending on case circumstances and the child's needs, but it must be carefully considered.

Similar to guardianship, there are risks to stability in adoption as well. Researchers estimate that between five and 20 percent of children and youth who exit to guardianship or adoption experience some form of instability.<sup>30</sup> To ensure successful adoptions, efforts must be made to help adoptive parents understand the child's needs, particularly as it relates to the impact of trauma, issues of attachment, and the losses associated with foster care placement (removal, any loss of connections, inability to reunify, etc.) that may impact children differently due to age and circumstances. There may be a tendency for adoptive parents to assume that offering to adopt a child and give them a new family will significantly or automatically change a child's sense of connection with their birth families. They must be prepared to understand how attachment and connection works for children so they can have appropriate expectations and know how to best support their child through the transition.

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<sup>29</sup> <https://www.childwelfare.gov/pubpdfs/cooperative.pdf>

<sup>30</sup> White, K. R., Rolock, N., Testa, M., Ringeisen, H., Childs, S., Johnson, S., & Diamant-Wilson, R. (2018). Understanding post adoption and guardianship instability for children and youth who enter foster care. Washington, DC: Office of Planning, Research, and Evaluation, the Administration for Children and Families, U.S. Department of Health and Human Services.

The National Adoption Competency Mental Health Training Initiative<sup>31</sup> is a tremendous resource for working with adoptive families. All adoptive families should be referred to an adoption competent therapist who can be an ongoing resource as their child experiences developmental changes so they can be prepared to understand and address behaviors that are likely linked to trauma, attachment or loss. Parents who adopt infants and younger children may not see the impact of trauma and attachment issues in behaviors until the child gets older but it's important that they begin to implement parenting techniques that take into account the child's history of trauma and can help form and support healthy attachment.

As the research and related resources for trauma and attachment have continued to grow in recent years, there is growing understanding in the field that many families who adopted children from foster care years ago may not have been provided adequate training and support related to these issues. As a result, CB has heard of situations where parents were left unprepared to handle the significant behaviors that their children experienced. Many of these families have been in crisis with nowhere to turn. Young people from the ACF Youth Engagement Team,<sup>32</sup> in addition to other youth CB has spoken to, have echoed the importance of providing trauma-informed services to adoptive families. It is critical that agencies and courts ensure that families are adequately connected to an array of post-adoption services so that they have access to what they need at any time. These services could include support groups, adoption-competent therapeutic supports, and attachment specialists.

### *Reinvigorating and Reinvesting in Efforts to Achieve Permanency for Older Youth*

To achieve the legal requirements around permanency and well-being, CB urges states to evaluate and invest in their continuum of permanency services. The continuum of services should be centered on supporting and strengthening family and kinship bonds, as well as include services to develop new supportive relationships when needed. The continuum should include services that can be delivered as system prevention services and services that can help maintain permanency following an exit from the system. Given the large numbers of older youth who continue to leave the system without permanency, 20,000 annually<sup>33</sup>, and the increasing likelihood, shown in the AFCARS analysis, that youth who enter care at age 15 or older will emancipate, it is crucial that states evaluate their continuum of permanency practices and services to ensure that they are effective for older youth and their families.

All children and youth need the benefit and foundation of family to experience healthy child and adolescent development. All the research available, as well as the voices of young people, demonstrate that permanency is crucial to a successful and secure transition to adulthood. Agencies should evaluate their permanency continuum to ensure that services to support reunification, adoption, and guardianship are tailored to adolescents and young adults,

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<sup>31</sup> <https://adoption-support.org/nti/>

<sup>32</sup> The ACF Youth Engagement Team was developed in 2020 in order to gather expertise from former foster youth in identifying key recommendations for the ALL-IN Foster Adoption Challenge and state and federal efforts toward achieving permanency for all waiting children and youth.

<sup>33</sup> The AFCARS Report <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport27.pdf>



including their families and support networks. This means, first and foremost, listening to young people as a group of experts that can guide agencies in improving practice and as individuals in their own cases. Federal law requires that youth 14 and older be consulted about their case plans and have a case planning team (section 475(1)(B) of the Act). The law also requires youth age 14 and older be consulted title about IV-E guardianship (section 473(d)(3)(A)(iv) of the Act).

Young people overwhelmingly say that they want permanency, but they want their voices to be heard about who they care about and who is important to them. Young people want to work towards permanency with skilled professionals who they can build trust with and who will show them respect. Valuing and listening to the voices of young people allows agencies to increase the odds that both legal and relational permanency can be achieved for older youth. As states and agencies evaluate and build their continuum of permanency services, we encourage states to consider the following:

1. Integrate practices that uphold the expectation that permanency must be achieved for older youth and is central to a successful transition to adulthood (communicated across the agency, including by those in leadership positions).
2. Establish processes that provide youth-centered and youth-led permanency and transition planning and that actively engage the community and family the youth identifies.
3. Train caseworkers on how to engage young people in the permanency planning process and the work necessary to achieve permanency. This should at least include: training in insights from adolescent brain development, the impact of trauma on permanency and relationship building; practical strategies for engaging youth in the discussion of permanency; and steps for repairing and building trust and relationships. Agencies should have mechanisms in place to determine if meaningful engagement is occurring, such as surveys, data collection, and youth advisory councils. Youth should be members of leadership committees and workgroups to ensure that engagement is occurring system wide.
4. Provide a wide array of permanency services to young people, including, but not limited to: reunification and family preservation services; family finding and engagement; child specific recruitment that focuses on family; kin and non-kin; grief and loss counseling; family counseling; and post-permanency services.
5. Establish processes, such as case reviews, team meetings and executive approval, to ensure the continued pursuit and finalization of permanency efforts, including reunification, adoption, and guardianship.
6. Establish processes to ensure that the option of having youth reside with a parent or guardian as an allowable supervised independent setting, is being exercised, when that would be the most appropriate option for a young person.<sup>34</sup>
7. Ensure that practices and services are in place to increase the odds that joint placement can occur for siblings, that regular visitation occurs when joint placement is not possible

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<sup>34</sup> See [CWPM section 8.3A.3 Question/Answer #3](#)

due to safety issues, and that therapeutic supports are provided to nurture sibling relationships when needed.<sup>35</sup>

8. Schedule ongoing agency-wide planning opportunities for where young people lead and help to develop innovative and effective ways to provide legal and relational permanency to older youth. This planning should build upon existing discussions and work in the field being led by alumni groups. Child welfare agencies and courts are encouraged to take action to make the existing permanency plans (reunification, adoption, and guardianship) more responsive to the needs of adolescents and young adults and to be open to new and creative ways that allow young people to establish and maintain multiple strong, long-lasting, and nurturing relationships that provide them the love, support and family identity they need as they age.

### *Timeliness*

All permanency planning and practices require thoughtful attention to timeliness. The statutory requirements for timelines, most notably, the termination of parental rights timelines<sup>36</sup> (TPR), were established in part to prevent children and youth from remaining in foster care longer than necessary. However, the statute also contains specific provisions allowing for: exceptions to the timelines in the form of aggravated circumstances that allow for expedition in certain circumstances; and documentation of compelling reasons why terminating parental rights is not in the best interest of the child (section 475(5)(E)(ii) of the Act). These options were included in the law in recognition that all families are unique and that there must be flexibility in the law to make prudent decisions based on the individual circumstances of each family and child. While timeliness is essential, and it is critical not to cause undue delay in the lives of children and families, CB cautions agencies not to place timeliness before the substance of what best supports familial relationships and the best interest of the child.

On June 23, 2020, CB issued a letter strongly encouraging all child welfare agencies to thoughtfully consider decisions of whether to file for termination of parental rights in instances where services and supports have been interrupted, are not available to meet specific needs, where family time has been inadequate, or where court operations are unable to offer hearings of needed due to COVID-19.<sup>37</sup> The letter emphasized that such decisions should always be made on the individual child and family's unique circumstances. Although the letter was issued to provide guidance during the COVID-19 pandemic and public health emergency, the legal requirements it highlights are equally important during times of normalcy and times of natural disasters or public health crises. A child welfare agency may choose not to file a petition for termination of parental rights if the agency documents compelling reasons for determining it is not in the best interest of the individual child, including instances where a child is living with a relative (section 475(5)(E)(ii) and (iii) of the Act) or when guardianship would be an appropriate

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<sup>35</sup> See also sections 473(d)(3)(B) and (e)(3) related to siblings and the title Iv-E adoption assistance and guardianship programs.

<sup>36</sup> Sec 475(5)(E) of the Act. These timelines were first added to statute by Adoption and Safe Families Act (ASFA) Public Law 105-89. Timeliness is also reflected in the requirement that a permanency plan be established within 60 days (see 45 CFR 1356.21(g)).

<sup>37</sup> CB Letter issued June 23, 2020: [https://www.acf.hhs.gov/sites/default/files/cb/parental\\_rights\\_adoption\\_assistance.pdf](https://www.acf.hhs.gov/sites/default/files/cb/parental_rights_adoption_assistance.pdf)

permanency goal. The consistency and availability of services, supports, and family time, and how such availabilities impact parents, children and their relationship, are important factors in decision making.

#### **IV. Conclusion**

Child welfare systems have a high duty and legal responsibility to achieve and support improved permanency outcomes for children and youth in foster care. The first step toward improvement requires that stakeholders agree that family relationships and connections are key to child well-being, family relationships and connections directly influence a child's sense of permanency, and that more meaningful efforts toward reunification should be an urgent priority. Child welfare systems must center all work on preserving and creating such relationships as a critical component of child and family well-being. We strongly encourage all title IV-B/IV-E agencies to commit to the practices that ensure the preservation and continuity of family relationships and connections for all children and youth in foster care. Prioritizing those efforts will ensure that we achieve permanency for children in a way that strengthens their connections, healthy attachments, and sense of belonging to support lifelong thriving. To implement this approach successfully, agency and court leaders must mobilize service providers, attorneys, and resource families in every community to promote this view of permanency. We must make every effort to protect and preserve connections for all children and youth in foster care.

**Inquiries:** [CB Regional Program Managers](#)

/s/

Elizabeth Darling  
Commissioner  
Administration on Children, Youth and Families

Disclaimer: IMs provide information or recommendations to States, Tribes, grantees, and others on a variety of child welfare issues. IMs do not establish requirements or supersede existing laws or official guidance.

#### **Resources**

Partnering with relatives to promote reunification. Child Welfare Information Gateway. (2020). [https://www.childwelfare.gov/pubPDFs/factsheets\\_families\\_partner\\_relatives.pdf](https://www.childwelfare.gov/pubPDFs/factsheets_families_partner_relatives.pdf)

Partnering with Parents to Promote Reunification. Child Welfare Information Gateway (2019). [https://www.childwelfare.gov/pubPDFs/factsheets\\_families\\_partnerships.pdf](https://www.childwelfare.gov/pubPDFs/factsheets_families_partnerships.pdf)

Strategy Brief: What are some effective strategies for achieving permanency? Casey Family Programs (2018)

[https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF\\_Effective-strategies-for-achieving-permanency.pdf](https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF_Effective-strategies-for-achieving-permanency.pdf)

Guardianship Assistance Policy and Implementation, A National Analysis of Federal and State Policies and Programs. Casey Family Programs (2018)

[https://caseyfamilypro-wpengine.netdna-ssl.com/media/Guardianship-Assistance-Policy-and-Implementation\\_Technical-Report.pdf](https://caseyfamilypro-wpengine.netdna-ssl.com/media/Guardianship-Assistance-Policy-and-Implementation_Technical-Report.pdf)

Information Packet: How have states implemented parental rights restoration and reinstatement? Casey Family Programs (2018)

[https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF\\_Parental\\_Rights\\_Restoration\\_Reinstatement.pdf](https://caseyfamilypro-wpengine.netdna-ssl.com/media/SF_Parental_Rights_Restoration_Reinstatement.pdf)

Working with Kinship Caregivers. Child Welfare Information Gateway (2018).

<https://www.childwelfare.gov/pubPDFs/kinship.pdf>

The Quality Improvement Center for Adoption and Guardianship Support and Preservations

<https://www.qic-ag.org/>

Child and Youth Connections: Results from CFSR Round 3 (2015-2018) .Report found at

<https://www.cfsrportal.acf.hhs.gov/resources/cfsr-findings>

# Child Welfare Hearing Quality Research: What Legal Professionals Should Know

As legal professionals practicing in child welfare courts, you can better prepare for and participate in court hearings if you understand how hearing quality affects the case process and outcomes. Research is starting to explore what activities and behaviors are associated with child welfare hearing quality. This document highlights both what is currently known and gaps in understanding.

## Hearing Quality Components\*

### Judicial inquiry and engagement of hearing participants

### Breadth, depth, and relevance of discussion

### Parent attendance and engagement

### Child attendance and engagement

### Child welfare agency attendance and engagement

### Quality of representation for the parent, child, and child welfare agency

### Attention to and application of legal standards

\*For more information about these components, see Richards, T., Summers, A., Gatowski, S., Fromknecht, A., & Ruben, J. (2021). *Conceptual model of judicial decision-making and hearing quality in child welfare* (OPRE Brief No. 2021-86). Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

## What activities and behaviors are associated with hearing quality?

Research shows the following activities and behaviors are related to child welfare court hearing quality:

- ✓ **The judge and court participants discuss key topics in a meaningful way.**  
How the judge gets information during the hearing and the number and kinds of questions judges ask can affect hearing quality. Discussion is high-quality when judges ask direct questions, ask follow-up questions,<sup>1</sup> ask about different topics,<sup>2</sup> expand discussion on topics,<sup>3</sup> and ask relevant questions.<sup>4</sup> The number of topics discussed at a hearing may play a role in reducing how long children spend in temporary care and whether they reunify with their parents.<sup>5</sup>
- ✓ **Parents attend and engage meaningfully in hearings.**  
Research shows when parents attend court hearings their children's permanency outcomes, such as family reunification, improve.<sup>6</sup> When judges seek parent input during hearings, the child may be more likely to be placed temporarily with family members,<sup>7</sup> and the child may achieve permanency faster.<sup>8</sup> Parents are more likely to keep attending their hearings when they are represented by an attorney and engaged in early hearings.<sup>9</sup> Some research finds the number of topics discussed increases when parents attend their hearings.<sup>10</sup>
- ✓ **Children attend and engage meaningfully in hearings.**  
Having children attend and engage in their court hearings is often required by state law unless it will harm the child. This gives the child a chance to be seen and heard directly and have input in the judge's decisions in the case. While few studies have looked at the impact of children attending and engaging in their hearings, one study found that when children are present and actively participating in court they may spend less time in foster care waiting for a permanent home.<sup>11</sup>



## Research Gaps

More child welfare court hearing research is needed to expand our understanding and address study limitations, such as small sample sizes and limited geographic scope. Areas for future research include:

- ✓ How judges and attorneys apply legal and professional practice standards
- ✓ How the depth and breadth of discussion at court hearings influences case processing and outcomes
- ✓ Whether addressing specific topics at hearings influences case processing and outcomes
- ✓ The role of racial and ethnic bias in judicial decision-making and hearing quality
- ✓ Whether and how judicial engagement of parents at hearings later in the case affects case processing and outcomes
- ✓ Whether specific judicial engagement strategies with parents are more effective at improving case processing and outcomes
- ✓ Whether specific strategies used by parent attorneys influence the quality of child welfare court hearing practice
- ✓ How children's participation in court hearings influences case processing and outcomes
- ✓ How child welfare agency attendance, engagement, and representation influence hearing quality and case processes and outcomes

### ✓ **Parents are provided quality legal representation.**

The presence, quality, and timing of legal representation for parents and children are believed to affect hearing quality. Parents represented by attorneys at hearings are more likely to participate in discussions and be heard during hearings.<sup>12</sup> Quality parent representation also improves permanency outcomes, such as increased reunification and timely permanency.<sup>13</sup> Research shows that parents represented by attorneys who follow professional practice standards receive higher-quality representation.<sup>14</sup> Some research finds that when parents do not have a lawyer they are more likely to have negative case outcomes, such as their children staying in foster care longer.<sup>15</sup>

### ✓ **Children have quality representation.**

Differences exist in the type of representation provided to children (lawyer versus nonlawyer) and models used (representing the child's expressed wishes versus the child's best interests). These differences make it hard to draw broad conclusions from existing studies. However, some evidence suggests that having a lawyer represent the child's expressed wishes influences the likelihood and type of permanent home a child achieves.<sup>16</sup> Having a lawyer gather supportive evidence, advocate for appropriate services and supports, and argue in court on behalf of the child increases the likelihood of achieving the child's desired permanent placement.

As a child welfare court professional, you can help by participating in research to understand and strengthen child welfare court practice. Your local [Court Improvement Program](#) is a good place to learn about research opportunities.

### Endnotes

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# Four Ways That Courts Can Actively Engage Children and Youth Involved in Child Welfare Proceedings



Children and youth are experts on their own lives, but often they are not engaged meaningfully in their own child welfare cases by court professionals. They frequently have little or no power over important aspects of their lives that are impacted by court involvement. Court professionals need to engage authentically, meaningfully, and directly with children and youth to determine what they want and which options will work best for them and their families. Children and youth who are involved in child welfare proceedings are not always able to communicate

fully what they need. As a result, engagement strategies need to be tailored to each individual's age and level of development. Even though the roles of stakeholders vary, everyone on the court team needs to work to ensure that children and youth feel empowered to have a voice and a choice about their futures. Following are four ways that court professionals can engage children and youth of all ages authentically and can ensure their involvement in all decisions being made about their lives.

# 1. Use court hearings as opportunities to build relationships with children and youth.

Depending on the court's structure, hearings may be the times when court professionals and children and youth have the most contact with one another. To encourage and to set the expectation that all children and youth attend their own hearings, the court should create a policy requiring this<sup>1</sup> and should schedule hearings after school hours so that the children and youth will not have to miss school in order to attend.

In court, professionals should ensure that the voices of children and youth are heard. All stakeholders need to engage and to build relationships with children and youth in hearings by acknowledging their presence and thanking them for attending. Court professionals should introduce themselves and allow

children and youth to do the same. Judicial officers need to provide an overview of the child welfare case process and the purpose of the hearing in plain language. When speaking to and about children and youth, professionals should be respectful and give them ample time to speak and to ask questions. Additional engagement strategies include speaking directly to children and youth by referring to them by their chosen names, asking if they understood the proceedings, and explaining the next steps in the legal process for them. Judges and court professionals should engage children and youth in age-appropriate conversations about their overall well-being, including their education, current placements, family time, physical and mental health, and normalcy<sup>2</sup>.



The following resources describe practical ways to engage with children and youth in a courtroom in a manner that is developmentally informed:

[Engaging Children and Youth in the Courtroom: Judicial Bench Cards](#)

[American Bar Association Youth Engagement Project - 1: Youth Engagement in Court](#)

[Seen, Heard, and Engaged: Children in Dependency Court Hearings](#)

[Virtual Hearings Tip Sheet](#)

<sup>1</sup> National Council of Juvenile and Family Court Judges Board of Trustees. (2012, January 20). [NCJFCJ Children in Court Policy Statement](#). Coronado, CA.

<sup>2</sup> Gatowski, S., Miller, N., Rubin, S., Escher, P. & Maze, C. (2016). Enhanced resource guidelines: Improving court practice in child abuse and neglect cases (pp. 74-78). Reno, NV: National Council of Juvenile and Family Court Judges.



## 2. Create a child-and-youth-friendly court environment.

The court process and environment can seem overwhelming and stressful for children and youth involved in child welfare proceedings. To help them feel more comfortable participating in their hearings and the court process, court teams can work to create an environment that is transparent and centered on the needs of children and youth.<sup>3</sup> Some strategies for creating a child-and-youth-friendly court environment include:



### Explain the Process

Produce orientation materials and procedures that explain the court process for children and youth of different ages. This can include handbooks and pamphlets as well as informational videos.



### Invite to Attend

Prepare an invitation from the judge that encourages children and youth to attend their own hearings and describes what will happen in court. The invitation should describe various ways that children and youth can participate in their hearings (such as in person, virtually or by writing a letter).



### Plain Language

Create hearings that are less formal by using written and verbal communications that are child-friendly and in plain language to reduce legal jargon and to increase children and youth's understanding of the hearings. In addition, have judges step off the bench and remove their robes to sit at eye level with children and youth to build trust, to reduce anxiety, and to share power.



### Welcoming Environment

Include child-sized seats, reading materials and toys, plus child-friendly artwork in waiting areas and courtrooms to create welcoming environments.<sup>4</sup>

The following examples describe practical ways to create a child-and-youth-friendly environment:

[Child-Friendly Courtrooms: Items for Judicial Consideration](#)

[Hearing Your Voice: A Guide to Your Dependency Court Case](#)

<sup>3</sup> Ibid. (p. 51)

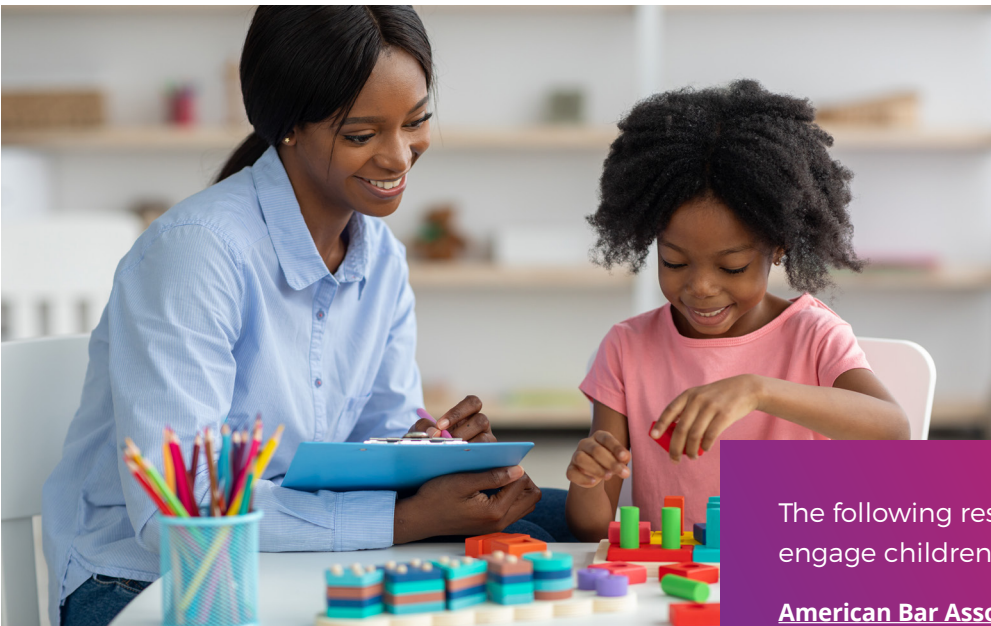
<sup>4</sup> DeVault, A., Helfrick, V.A., Marsh, S.C., & Snider, K.M. (2018). Environmental Considerations for Trauma-Responsive Juvenile and Family Courts: A Review of the Literature with Recommendations for Practice. *Juvenile and Family Court Journal* 69(2), 5-20.

### 3. Create opportunities to engage children and youth between court hearings.

Hearings should not be the only times when court professionals connect and engage with children and youth involved in child welfare proceedings. Court professionals need to take action to engage children and youth at all stages of their cases and between scheduled hearings. One way to do this between hearings is to conduct regular family group decision-making meetings where stakeholders — including children and youth, parents, other family members, and other supportive individuals — come together to discuss information related to their cases and to collaborate in making decisions about the case plans. Children and youth should have as much input as possible into the creation of their own service plans and any modifications to these plans that are needed. They should have input as well about their permanency and concurrent plan preferences,

any permanency transitions needed and any other aspect of their cases. These meetings need to be family-focused, strengths-based, community-based, and culturally appropriate.<sup>5</sup> Agency and court staff can work together to organize and to facilitate these meetings.

In addition, guardians ad litem (GALs), court appointed special advocates (CASAs), and attorneys for children and youth should meet with them regularly to observe how they are doing and to discuss their needs while updating them about the progress of their cases. These regular check-ins offer opportunities to invite children and youth to their upcoming hearings and to help determine whether more frequent court reviews are necessary.



The following resources describe ways to engage children and youth between hearings:

[American Bar Association Youth Engagement Project - 2: Permanency and Transition Planning](#)

[Team Decision Making: Key Resources for Assessing Child Risk and Safety](#)

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<sup>5</sup> [Enhanced Resource Guidelines \(pp. 70-72\).](#)

## 4. Partner with people who have lived expertise to create a court process and an environment that promote success.

The court system has much control over the lives of children and youth yet rarely is developed with their input and needs in mind. This does not set children and youth or court professionals up for success. Persons with lived expertise have unique insights into the system and can help to identify opportunities for its improvement. By partnering with persons with lived expertise, court professionals can create a court system that puts the needs of children and youth at the center of operations and prepares them for success. To develop a system that authentically engages children and youth, court teams should implement one or more of the following strategies:



### Feedback from Youth

Conduct surveys to gather feedback from youth about their court experiences. These surveys can be conducted at various points in the case process but are most common at case closure. Surveys allow children and youth to provide honest feedback about what could have been improved and what worked well for them.



### Peer Mentors

Train youth or adults who have lived expertise to become peer mentors for children and youth currently in the child welfare system.



### Advisory/Advocacy Group

Develop an advisory or advocacy group that includes persons with current and past involvement with the child welfare system. Task this group with examining policies and practices that affect the lives of children and youth in care.

The following resources describe practical ways to engage people with lived expertise:

[Strategies for Engaging Youth and Families with Lived Experiences](#)

[So You Want to Include a Lived Experience Expert](#)



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## **An Attorney Advocacy Guide for Reducing Reliance on Institutional Placements**

Research, best practices, and federal law point to a common understanding that most youth in foster care experience better outcomes when they grow up in family settings. Services to support and strengthen individuals and families are best provided in the home and in their community, whenever that is safely possible. If a youth is removed from the home, federal and state statutes require placement in the least restrictive, most family-like setting to meet their needs.<sup>1</sup> Yet, statistics reveal reality is not consistent with the law, policy, and best practices.<sup>2</sup> Attorneys play a critical role in changing this practice and improving outcomes for youth and families.

This guide was created to provide a framework for attorneys' advocacy efforts to keep youth in families and family settings. It is based on multi-disciplinary research, as well as other resources and guidelines, and draws on best practices for professionals within the child welfare field.<sup>3</sup> Attorneys are encouraged to familiarize themselves with the cited references, as well as the resources and research on the *Every Kid Needs a Family* site, to further strengthen their legal advocacy.

The guide starts with the premise that every kid needs a family. A young person should grow up in a family unless there is a well-documented, professionally recommended clinical and/or behavioral need that is beyond the ability of a family to meet, even with appropriate community services in place. Youth engagement and voice is also critical; although not dispositive, youth preferences and opinions should guide the determination of whether institutional care is appropriate in a particular case. The cornerstone question is whether institutional care<sup>4</sup> is necessary and appropriate to meet the youth's needs.

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<sup>1</sup> See, e.g., 42 USC § 657 (5) (A).

<sup>2</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, [A National Look at the Use of Congregate Care in Child Welfare](#) (2015)

<sup>3</sup> See, e.g., Annie E Casey Foundation, [Every Kid Needs a Family: Giving Children in the Child Welfare System the Best Chance for Success, Kids Count Policy Report](#) (May 2015); Building Bridges Initiative, [Best Practices for Residential Interventions for Youth and their Families: A Resource Guide for Judges and Legal Partners with Involvement in the Children's Dependency Court System](#) (February 2017).

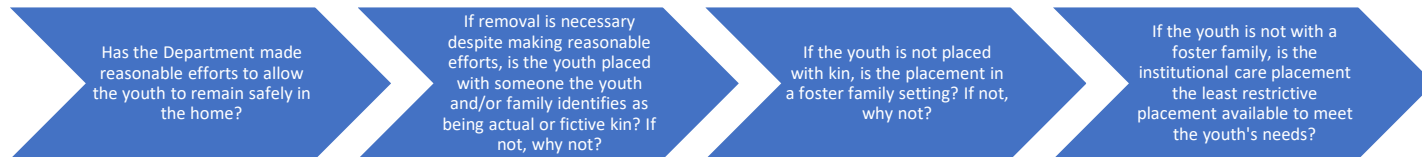
<sup>4</sup> For purposes of this toolkit "institutional care" includes group homes, institutions, emergency shelters, residential treatment facilities, or other congregate care settings.





## I. Guiding Questions for Attorneys Regarding Placement Advocacy

The four questions below guide inquiry and analysis of placement at any stage of the case. After a thorough, independent investigation of the facts, attorneys should gather applicable laws and social science research to prepare to assert arguments to the court.<sup>5</sup>



### 1. Has the Department made reasonable efforts to allow the youth to remain safely in the home?<sup>6</sup>

- A. Did the Department make reasonable efforts to prevent the removal of the youth from the home? Did the Department provide services and support that would have allowed the youth to remain safely in the home and eliminate the need for placement? Were there such services and supports that could/should have been explored? Why/why not?
- B. Did the Department offer services that were appropriately tailored to the family? Especially if Title IV-E funding was used to fund such prevention services, were the services trauma-informed, evidence-based, and rendered by a qualified clinician?
- C. What efforts did the Department make to engage the family in services? How many engagement attempts did the Department make? How were services offered/delivered?
- D. What protective factors were explored/recommended to the family? Were family supports considered (as respite, temporary placement, caregiving support, etc.)?
- E. Did the Department provide/offer/design services with the family's preferred language and culture in mind?
- F. Did the Department make efforts to address any economic barriers (assistance with public benefit applications; referrals to job placement programs; exploration of childcare options; referrals to housing programs and services)?

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<sup>5</sup> Relevant statutes, statistics, data, social science, and other research can be found throughout the *Every Kid Needs a Family* site.

<sup>6</sup> For resources regarding the harm of removal and preventing removal, see Vivek Sankaran, ["A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families."](#) Christopher Church and Monique Mitchell, co-authors. *Marq. L. Rev.* 102, no. 4 (2019): 1163-94; Shanta Trivedi, [The Harm of Child Removal](#), 43 *NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE* 523 (2019); Judge Mary Tabor, [Transformation in Child Welfare](#), *The Iowa Lawyer* (June 2020): 10-12.



- G. Did the Department refer the family to a civil legal aid provider to help prevent removal, for example through advocacy in housing, family law, domestic violence, or public benefits matters?
- H. Did the Department ask the youth whether they wanted to remain in the home? Does the youth want to remain in the home? Why/why not? Does the youth feel safe in the home? Why/why not?

**2. If removal is necessary despite making reasonable efforts, is the youth placed with someone the youth and/or family identifies as being actual or fictive kin? If not, why not?**

- A. Has the Department asked the youth and parents to identify close relatives?
- B. Has the Department explained who can qualify as a relative under local law/Department policy, and asked the youth and parents about non-relatives they consider to be kin (step-family members, godparents, friends, neighbors, community members, church members, etc.)?
- C. If no kin were identified, has the Department conducted a diligent search, and if so, how recently? What steps did the diligent search include? Has the diligent search been comprehensive, to include public records, social media, etc.? Was the diligent search tailored to this particular family or did the Department follow the steps it does for every family?
- D. Have maternal AND paternal relatives been identified and contacted (even if either parent is absent)?
- E. If there are identified kin, but none are currently serving as a placement, what are the barriers? Can those barriers be addressed and ameliorated by the court and/or Department (e.g., licensing waivers, services for the kinship provider and/or youth, assistance with school transportation)?
- F. Are there services or supports that might support or accelerate the youth's placement with kin (e.g. kinship navigator services)?
- G. Did the Department ask the youth where they would like to be placed? Does the youth want to be placed with kin? Why/why not?
- H. Has the Department re-explored kinship placement possibilities throughout the case, particularly when a placement disrupts, and considered the changing circumstances of the youth, family, and kinship options?

**3. If the youth is not placed with kin, is the placement in a foster family setting? If not, why not?**

- A. Is there a foster family available and willing to serve as a placement?
- B. How was the foster family identified? Was a matching process completed? What was the process? What factors were used to determine that the placement would be a good match for the youth?



- C. Has the Department shared appropriate, relevant background information about the youth with the foster family? Is the foster family willing and able to meet the youth's needs and foster their strengths?
- D. Did the Department ask the youth their opinions about placement with the foster family? Were those opinions factored into the placement decision?
- E. Did the youth have the opportunity to attend pre-placement visits with the family?
- F. Does the available foster family support the youth's culture and identity?
- G. Does the available foster family support and encourage the youth's connection to their biological family? Is the foster family willing to facilitate family time, phone calls, relationships, etc.?
- H. Where is the foster home in relation to the youth's community, school, family, activities, services, etc.? Are there any transportation barriers to be addressed?
- I. Are there supports that might allow the youth to live in a family setting?
- J. Does the youth need a therapeutic foster home which can address identified needs, and what efforts have been made to identify one?

**4. If the youth is not with a foster family, is the institutional care placement the least restrictive placement available to meet the youth's needs?<sup>7</sup>**

***\*Note: many of the questions in this section invoke the attorney's independent duty to investigate the proposed placements.***

**A. What is the basis of the determination?**

- i. Is the institutional care decision based on a qualified, independent assessor's recommendation?<sup>8</sup>
  - 1. Did the assessor use a functional, age-appropriate, evidence-based, and validated assessment tool?
  - 2. Were all parties provided with a copy of that assessment tool and the recommendations?
  - 3. Did the assessor consult with the youth, family, permanency team, and all relevant professionals?<sup>9</sup>
  - 4. What behaviors or needs did the assessor identify that cannot be met within a family setting?
  - 5. What short and long term mental and behavioral health goals did the assessor identify?

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<sup>7</sup> See Section II for more guiding questions tailored to institutional care facilities.

<sup>8</sup> The term "independent assessor" comes from the Family First Prevention Services Act (FFPSA). An attorney's state may not have opted into FFPSA provisions concerning institutional care. Although it is important to know whether FFPSA applies in your jurisdiction, the relevant language in this guide can still provide a useful framework to attorneys in institutional care advocacy.

<sup>9</sup> FFPSA defines this to include "all appropriate family, relatives, and fictive kin of the child, as well as relevant professionals (ex. teachers, medical or mental health providers, clergy)" and requires that the input is solicited "at a time and place convenient for family." Pub. L. 115-123.



6. Was there an opportunity to cross-examine the professional who conducted the evaluation on the record?
- ii. What is the youth's opinion on being placed in an institutional care placement? Was the opinion considered in the determination? Why/why not?<sup>10</sup>
- iii. Have all community-based services been utilized before considering an institutional care setting? If not, why not? What services will the youth receive in an institutional care setting that they cannot receive in the community?
- iv. What is driving the decision to place the youth in an institutional placement – safety concerns? Lack of available/willing foster homes? Mental health needs? Educational needs?

**B. What type of institutional placement is proposed and what does it provide?<sup>11</sup>**

- i. How does this placement meet the federal standard for the least-restrictive, most family-like setting, and how is it appropriate to meet the youth's needs?
- ii. Is there a child-specific, best interest reason to support this placement?
- iii. Is the placement able to offer the type and frequency of treatment recommended by the independent assessor?
- iv. Does the placement utilize a trauma-informed model?
- v. What treatment modalities does the placement offer? How do they choose what modality to use with each youth? Are decisions regarding treatment modalities individualized based on the youth's needs?
- vi. What assessments or evaluations are conducted during the placement?
- vii. What tools is used to determine the youth's baseline functioning at admission, during treatment, and at discharge?
- viii. How is a youth's progress gauged during the placement? Is it a level system (based on behavioral modification) or are there other assessments or tools that are used?
- ix. What is the average length of stay in the placement?
- x. How far away from the youth's home, family, and school is the placement being considered? How will the youth's family be able to visit and/or be meaningfully involved in the treatment team?

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<sup>10</sup> Under FFPSA, if a Qualified Residential Treatment Program (Q RTP) is recommended over the objection of the child or parent, the reasons why must be documented in the case plan. Pub. L. 115-123.

<sup>11</sup> Some of the language in this section comes from FFPSA and its requirements for qualified residential treatment programs (Q RTPs). An attorney's state may not have opted into FFPSA provisions concerning institutional care. Although it is important to know whether FFPSA applies in your jurisdiction, the relevant language in this guide can still provide a useful framework to attorneys in institutional care advocacy.



- xi. What is the peer group like? What are the ages and needs of the other youth at the placement? How many youth are placed at the facility?
- xii. What is the ratio of staff to youth?
- xiii. What staff members will be working with the youth and what are their qualifications? Who is responsible for ensuring that the youth's treatment objectives are being met?
- xiv. Does the placement provide regular and consistent training and supervision to staff?
- xv. What are the placement's disciplinary policies and procedures?
- xvi. Does the placement implement standards and procedures to hold itself accountable? Does the placement have operating principles that are publicly available?
- xvii. Is the placement licensed by the state? Is it accredited by an approved organization, per FFPSA? How does the state or other licensing body monitor the facility?
- xviii. Have there been any complaints lodged concerning the placement? Is there any disciplinary history regarding the placement? What concerns have been cited? How have they been resolved?

## **II. GUIDING QUESTIONS FOR ATTORNEYS REGARDING INSTITUTIONAL CARE PLACEMENTS**

Suppose that after the attorney's thorough and independent investigation, they determine that institutional care is necessary, or despite arguments to the contrary, the youth is placed in institutional care. What now? It is crucial to determine and advocate for the best possible placement, given the youth's needs, for the shortest period of time to meet those needs. Below are questions the attorney can ask to ensure the institutional care placement is safe, effective, and appropriate to meet the youth's needs, as well as compliant with federal law, and if not, argue for a different placement.

### **1) Does the program provide high-quality treatment?**

- a. Has the program drafted a treatment plan for the youth? Does the attorney have a copy of it? How often it is updated/by whom?
- b. Has the program set long- and short-term goals for the youth's treatment? What are those goals? How does the treatment plan promote those goals? What is the expected timeline for achieving them?
- c. How often are treatment team meetings held? Who participates?
- d. What services is the youth receiving? Are they evidence-based? Trauma-informed? Are expressive therapies (art, music, dance, etc.) provided? How often are services provided? What are the qualifications of the service/treatment providers?
- e. Where will the youth receive medical care? Does the program have medical staff onsite? How often are medical staff available?



- f. Are trauma assessments completed for the youth? Are trauma assessments completed by the parents and other family members involved in the youth's transition home?
- g. Does the staff receive regular training on trauma and evidence-based strategies?
- h. Is there a protocol for using evidence-based strategies related to trauma?

**2) Does the program authentically engage/involve youth?**

- a. How does the program engage/involve youth in their treatment plan and goals?
- b. Does the program provide youth with the opportunity to connect with peers? What activities, sports, and/or recreational opportunities are provided? Are youth taken into the community? How often?
- c. Does the program ensure the youth can attend their court hearings?
- d. Has the youth's attorney been provided with a way to contact the youth?
- e. Does the program facilitate communication with the youth's attorney and other members of the youth's professional team? How and how often?
- f. If the program is far from the youth's home, is the youth provided with meaningful opportunities to engage with family and others in their support network? How often?

**3) Does the program authentically engage parents and families?**

- a. Does the program involve/engage family and parents in treatment team meetings, treatment planning, and treatment? What efforts does the Department make to engage the family in treatment at the program?
- b. Is family therapy offered? Who is included in family therapy?
- c. Are all important people in the youth's life allowed contact with the youth at the program? Has the family been provided all contact information for the program and key staff? How often are phone calls? How often are visits?
- d. How does the program engage/involve parents in all key decisions at the program?
- e. Does the program communicate with the youth's family and family members? How and how often?
- f. Does the Department provide financial support for families to travel to the program? How often?

**4) Does the program focus on permanency?**

- a. Does the program have a commitment to every youth having a permanent family?
- b. What efforts will the program make to identify and engage a family placement if the youth does not already have one identified?
- c. Does the program/Department have a plan for pre-discharge visits to the identified family placement/permanency option?

**5) Does the program provide the youth with a quality education?**

- a. Where will the youth attend school? Their home school? Another public school? At the program?
- b. Is the school accredited/approved/recognized/certified by the state?



- c. What is their academic curriculum?
- d. What is their student-to-teacher ratio?
- e. Does the school have the youth's transcript, credits, IEP, 504 plan, etc.?
- f. If the youth has an IEP, is the school implementing it?
- g. Is the youth earning credits towards high school graduation? If the youth is in an out-of-state placement, will those credits transfer?
- h. Does the program provide access to and support with SAT preparation and test-taking, college applications, financial aid, college preparation, etc.?

**6) Does the program provide culturally humble and linguistically appropriate services?**

- a. Does the youth have an opportunity to engage in religious and/or cultural traditions?
- b. Is the program able to meet the cultural and linguistic needs of the youth?
- c. What are the demographics of the staff? Does the staff reflect the racial, cultural, and linguistic identity of the youth?
- d. What are the demographics of the other youth at the program? Do the residents reflect the racial, cultural, and linguistic identity of the youth?
- e. Are all programs and services provided in the youth's preferred language?
- f. Does the staff engage in cultural humility, implicit bias, and racial equity trainings? How often?

**7) Does the program ban seclusion and restraint?**

- a. Does the program have a policy regarding the use of seclusion and restraints? Have all parties and relevant family members been given a copy?
- b. What restraints are used? Under what conditions? Who performs them? What is their training?
- c. Is physical restraint banned? If it is used, under what circumstances? What types?
- d. Is chemical restraint banned? If it is used, under what circumstances? What types?
- e. Is seclusion banned? If it is used, under what circumstances? Under what conditions? For how long?
- f. Does the program use debriefing techniques after seclusion and restraint?
- g. What documentation is required after the use of seclusion or restraint? Is there a policy requiring the youth's team/family to be notified?
- h. Is the staff required to undergo regular training on seclusion and restraint? How often?
- i. Does the program collect, monitor, and track data on seclusion and restraint usage?
- j. Does the program create an environment grounded in knowledge of trauma and apply it to policies concerning seclusion and restraint?
- k. Has the youth been subjected to seclusion or restraint and if so, why? What was tried to de-escalate the situation prior to the use of seclusion or restraint? How long did the seclusion or restraint last and was that the least amount of time necessary to safely reduce the threat? Was a de-briefing conducted with the youth (and staff) after the seclusion or restraint? Was the youth's team/family notified? Provided documentation?





**8) Does the program have an informed practice on the use of psychotropic medication?**

- a. Is the youth currently on any psychotropic medication? What kind? What dosage? What is the medication prescribed for? Is that consistent with the youth's diagnoses? How many medications is the youth prescribed?
- b. Does the program have a psychiatrist on staff or as a regular part of the treatment team? How often does the youth meet with the psychiatrist for a medication assessment?
- c. Does the prescribing psychiatrist weigh the risks and benefits of medications and explain those to the youth and parents/medical decision maker?
- d. Does the psychiatrist conduct on-going reassessments of medication? How often?
- e. Does the program engage the parent in all medication decisions? Does the program ensure the parent consents to medication (unless the parent is no longer the medical decision maker)?
- f. Does the program know who the medical decision maker is? Does the program have a process for obtaining informed consent for medication? Does the program have copies of any relevant court orders regarding the administration of psychotropic medication to the youth?
- g. Is the youth informed about the medication/engaged in decisions about what medications are prescribed?
- h. What amount of medication does the program provide upon discharge? Does the program help ensure a smooth transition to ensure the prescriptions are maintained appropriately?

**9) Does the program support youth in transition to adulthood?**

- a. Does the youth have a transition plan?
- b. Does the program teach youth the skills needed to be successful in adulthood?
- c. Has an adult connection or connection to a support network been established for the youth?
- d. Is there a mechanism at the program for the youth to learn budgeting, open a bank account, save money, etc.?
- e. Does the program utilize peer mentors to teach and model skills?
- f. Does the program connect youth to post-transition resources?
- g. Does the program facilitate job-training, resume writing, interviewing skills training, etc.?
- h. Does the youth have a place to live and a means of financial support in place upon discharge?

**10) Does the program focus on outcomes?**

- a. Does the program have a process by which it tracks data to measure and improve outcomes?
- b. In addition to tracking systemic outcomes, how does the program measure and ensure outcomes for the individual youth?
- c. Has the program determined what outcome data is critical to collect and implemented a method for data collection and benchmarking its performance?



- d. Does the program ensure that practice and process indicators are measured?
- e. Does the program collect functional outcome data and uses it to inform on-going performance?
- f. Does the program share its data with external constituents?

**11) Does the program engage in robust discharge planning?**

- a. Does discharge planning begin as soon as the youth enters the program?
- b. Is there a discharge plan that identifies anticipated duration of intervention and the treatment targets?
- c. Is there a plan to transition the youth from institutional care to their home or to another family setting?
- d. What are the steps to transition the youth from institutional care to a permanent living arrangement? Is that Department's work sufficient to meet the reasonable efforts requirement?
- e. How are the youth and parents involved in the transition plan?
- f. Is there an aftercare or step-down program associated with the program? Does the program provide discharge services?<sup>12</sup>
- g. Does the Department and/or program ensure the youth has what they need once discharged (medication, therapeutic services, school placement, in-home supports, etc.)?

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<sup>12</sup> Under FFPSA, Q RTPs are required to provide six months of post-discharge services. Pub. L. 115-123.

# Belonging Matters—Helping Youth Explore Permanency

If you are a child welfare or adoption professional working with youth in foster care, you have an important role in ensuring that young people explore adoption or other permanency options and understand the necessity of developing permanent connections for support and resilience as they near adulthood. Professionals need to help young people in transition fully explore and process what the different options may mean for them so they can make an informed decision—one that represents their best interests and sets them up for success.

Discussions with youth about permanency should take place over time, with close youth engagement and input. Child Welfare Information Gateway conducted a series of interviews with young people—those adopted from foster care and those who aged out of the system—to help illuminate the beliefs and concerns that motivate a desire for either achieving legal permanency or emancipating without it and the emotions behind them.

The following are tips based on the shared experiences of youth formerly in foster care, along with links to resources that may help you in your work. Names have been changed to protect identities.

## WHAT'S INSIDE

Help youth understand what family, belonging, and permanency mean.

Help youth explore their permanency options—what they want and why.

Don't allow independent living to be glamorized.

Recognize that family loyalties may affect youths' desire to pursue permanency.

Encourage birth family connections.

Everyone's story is unique. Know the youth you work with. Listen. Advocate.

Be honest and direct with the youth you serve.

References

## HELP YOUTH UNDERSTAND WHAT FAMILY, BELONGING, AND PERMANENCY MEAN.

Young people who have grown up without the security of consistent family connections and positive peer supports may not fully recognize the necessity of such relationships. You can help ensure they are aware of the benefits and opportunities that come from connectedness and help them recognize and tap into their existing supports—relatives, a former neighbor or foster parent, a coach, a friend from their faith community—to build the family-like network essential for success.

A sense of belonging provides the security and self-assuredness needed to achieve potential in life. Help the youth you work with understand the basic need to belong and the importance of having a support system to share life's inevitable ups and downs. The videos “Young Adult, Formerly in Foster Care: This Is My Family, Where I Call Home” (<https://youtu.be/jAVIBd1PK7I>) and “The Human Need for Belonging,” a video more suitable for the professional or parent audience (<https://www.youtube.com/watch?v=-r-ci4iybt8>), may help both young people and those who work with them appreciate the innate need to experience belonging, connection, and permanency.

For more information about helping youth encourage connectedness with supportive adults, see Child Welfare Information Gateway's webpage, *Creating and Maintaining Meaningful Connections* (<https://www.childwelfare.gov/topics/permanency/planning/connections/>).

For more information about preparing youth for permanency, see the North American Council on Adoptable Children's *Youth Are Never Too Old to Be Adopted* (<https://www.nacac.org/resource/adoption-teen-permanency/>).

“[Understand that] you cannot grow up in this world alone. That you actually do better with people around you, supporting you...people in your life that are going to help you get there, achieve your goals...Try to get youth to really think long-term and help them understand the importance of securing permanent figures in their life who can support them wherever they are. When my social worker explained what adoption was, I was like, ‘Oh my gosh. I want that!’ As much as I loved my birth mom, I knew I needed to be looked after. I knew I needed a better chance at life.”—Jo, adopted at age 11

“I am so happy now. I feel like I got what I never knew I always wanted! Every day I wake up feeling grateful that I have a wonderful and loving [adoptive] family and I know in my heart that no matter what I'm struggling with, they're all there to help me through it.”—Molly, adopted at age 17

“Permanency was never discussed with me. I didn't know what the word was. Going through the system with no family, that's almost more traumatic than being abused...The only permanent thing in my life was yearly court and my social worker.”—Sam, aged out

The young people we interviewed commented on the sense of hope that accompanies permanency and the despair that can come from a lack of connection.

## **HELP YOUTH EXPLORE THEIR PERMANENCY OPTIONS—WHAT THEY WANT AND WHY.**

Child welfare professionals and other adults working with young people in foster care need to help them explore the many options for legal and emotional/relational permanency, as well as the feelings of fear, rejection, grief, loss, or abandonment that can create a reluctance to pursue permanency. Professionals working with young people should have ongoing conversations about adoption and other permanency plans. In fact, professionals are required by law to begin working with youth on their transition plans by the time youth are 14 years old, although requirements vary by State. Engage with local youth boards to provide young people with opportunities to discuss permanency options with peers and identify the associated benefits (see Information Gateway’s webpage, State Youth Advocacy/Advisory Boards & Foster Care Alumni Associations, at [https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dsplList&rolType=Custom&RS\\_ID=160](https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dsplList&rolType=Custom&RS_ID=160)).

Support youth as they investigate their options and ensure they establish connections with adults in their lives who can help them. While you may be motivated to pursue legal permanency, remember that relational permanency is just as important for the young people you work with. What’s important is that youth develop and secure strong bonds with supportive adults that will last a lifetime.

Conversely, professionals need to facilitate conversations with the adults who are considering making a permanency commitment to youth. As a child welfare or adoption professional, it is your job to help them clarify and confirm their commitment, make sure it is unconditional, and ensure they understand—where appropriate—the importance of maintaining a young person’s birth family connections to parents, siblings, and extended kin. Keep in mind that the youth you serve and the adults supporting them need to have a mutual understanding of the expectations going forward.

For more information, see *Promoting Permanency for Older Youth in Out-of-Home Care* (<https://www.childwelfare.gov/pubs/focus/bulletins-permanency/>), *Working With Youth to Develop a Transition Plan* (<https://www.childwelfare.gov/pubs/transitional-plan/>), and the North American Council on Adoptable Children’s *Adoptalk* article, “Unpacking the No: Helping Young People Explore the Idea of Adoption” (<https://www.nacac.org/resource/unpacking-the-no-helping-young-people-explore-the-idea-of-adoption/>).

Some of the young people we interviewed noted that they were unaware of their permanency options or desires. Some expressed a fear of commitment or the belief that their age and/or situation made them “unadoptable.” These fears and beliefs were not addressed.

"I was never given the option of adoption. It was just never a conversation that was brought up, other than with my [foster care] respite family. I wanted some form of permanency, but my behaviors caused me to move all the time."—Sam, aged out

"I didn't know that I wished to be adopted. I knew I wanted to be loved and I wanted a place to live, but I was too scared to open my heart one more time. That's why I changed my permanency plan from adoption to extended foster care. Adoption seemed unreal to me. I was too old and too unlovable."—Molly, adopted at age 17

"Because my grandmother got me back at 17, my foster care agency no longer followed up with me to inform me about next steps pertaining to permanency. I knew nothing about housing, educational grants, or any benefits that I received because I was in the foster care system. I didn't even know that I could age out of the foster care system...I wasn't looking for a family or someone to adopt me. I just wanted to go home. Nevertheless, I craved to belong somewhere because I didn't belong at home either...I noticed people who weren't blood [relatives] cared about me more than my own, so that is what changed my idea of family."—Elena, aged out

## **DON'T ALLOW INDEPENDENT LIVING TO BE GLAMORIZED.**

Independent living may seem like an attractive alternative to adoption or other permanency after years in the system. Youth may imagine a life where they are in control and don't have to answer to others. While you can respect the desire to age out of foster care independently, make sure youth understand the realities and challenges of independent living. Make sure they are aware that young people who emancipate without legal or relational permanency are at greater risk for homelessness (Bender, Yang, Ferguson, & Thompson, 2015), low educational attainment (Braciszewski & Stout, 2012), early parenthood, and high rates of unemployment (Courtney, Dworsky, Lee, & Rapp, 2010). While it is normal for teens to want to assume greater control over their day-to-day living, that doesn't mean they don't need supports and strong connections in the process. Otherwise, what may initially seem like freedom from foster care can suddenly become devastatingly lonely and overwhelming.

Some of the young people we interviewed shared their feelings about aging out of foster care and the realities of independent living.

For additional resources to help young people prepare for adulthood, see Information Gateway's *Working With Youth to Develop a Transition Plan* (<https://www.childwelfare.gov/pubs/transitional-plan/>) and The Annie E. Casey Foundation's *The Road to Adulthood* (<http://www.aecf.org/m/resourcedoc/aecf-theroadtoadulthood-2017.pdf>).

"Now that I'm 21 and I've aged out, I know that aging out is probably the hardest [part of foster care] because you are truly alone with no help from anybody. No one checks up on you...and everybody expects you to do the right thing and be a productive member in society despite not having the right tools to do so....When I was younger I was excited about getting my own apartment [and exiting foster care]. However, now that I am older, I know that I am not well-equipped to have my own place just yet."—Elena, aged out

"My main goal was to get out on my own. I wanted to be alone. I was already mentally independent."—Patrice, aged out

"Aging out of the system meant that I had to learn how to grow up...It meant that I had to stop relying on others. I would love to say that that has changed—but, honestly, it hasn't. I still rely on others while trying desperately to pick myself back up."—Sam, aged out

## **RECOGNIZE THAT FAMILY LOYALTIES MAY AFFECT YOUTHS' DESIRE TO PURSUE PERMANENCY.**

In many cases, a reluctance to explore permanency options has to do with a youth's fear of betraying family members. It's important to help young people understand that legal or emotional permanency doesn't mean replacing family members or cutting ties. Rather, permanency is adding to the "family" of caring individuals who will support them throughout life and help them achieve their goals.

You can support youth in navigating their questions, feelings, and conversations surrounding permanency and family loyalties. Convening family group decision meetings and family team meetings may help families work through difficult issues. More information is available on Information Gateway's webpage on Family Group Decision-Making (<https://www.childwelfare.gov/topics/famcentered/decisions/>).

Additional resources include the National Center for Child Welfare Excellence's *Core Components of Youth Permanency: Facilitation of Youth-Driven, Family-Centered Team Decision-Making* (<http://www.nccwe.org/toolkits/youth-permanency/component-3.html>) and *Winnebago Family Group Decision-Making: Intervention Implemented by the Winnebago Tribe of Nebraska for the QIC-AG Project* (<https://qic-ag.org/wp-content/uploads/2017/11/QICAG-P02-Winnebago-v05-Final.pdf>).

For helping families who have adopted youth from foster care, see Information Gateway's *Helping Your Child Transition From Foster Care to Adoption* (<https://www.childwelfare.gov/pubs/f-transition/>).



"For me to be adopted would have been weird. I still had an outside relationship with my [birth] mother. It's funny, because when I went to the North American Council on Adoptable Children I had met this older lady and I thought, 'Oh yeah, I would have loved to be adopted by you,' because she was just so sweet. And if this lady had said 'I want to take you and keep you forever,' I probably would have! But there's a mix of things you have to prepare for and want to talk to your family about. I didn't know whether my mother would feel betrayed."—Patrice, aged out

"Knowing what I know now, I would have let my grandmother adopt me, because that's what I wanted. However, I didn't want to create a riff in our family."—Elena, aged out

"My greatest concern with being adopted was the feeling of betrayal to myself and to my family. I refused to change my last name. I did not want my biological mama to know that I was adopted. I felt shame because of it."—Teresa, adopted at age 17

"I asked [the family providing weekend respite care] one day if they would adopt me. They really thought about it and had a talk with me about what that meant. See, they only did closed adoptions. Meaning I wouldn't be able to talk to my mom anymore, or at least until I was 18...I wasn't okay with that."—Sam, aged out

## ENCOURAGE BIRTH FAMILY CONNECTIONS.

Maintaining connections with birth family members is important for many young people seeking permanency and can help ensure the success of permanency efforts. This may help minimize feelings of grief and loss, the trauma associated with separation, and help young people develop a stronger sense of identity. You can help adoptive families understand the importance of these relationships and help them explore any resistance or fears they may have in helping youth maintain such connections. When needed, help youth seek counseling from qualified therapists to help process what has happened to them and learn how to improve their relationships, if desired.

Because sibling relationships are critical to well-being, it can be traumatic when out-of-home care results in sibling separation. A young person's fear of a broken relationship with siblings may influence their feelings about permanency. Helping youth explore their questions and thoughts about what adoption and permanency may mean for their sibling connections can help them be more open to pursuing permanency.

For more information on encouraging birth family connections, see the following Information Gateway resources:

- Maintaining Connections With Birth Families in Adoption (web section)  
(<https://www.childwelfare.gov/topics/adoption/preplacement/adoption-openness/>)

- Considering Siblings in Permanency Planning (web section)  
(<https://www.childwelfare.gov/topics/permanency/planning/siblings/>)
- Sibling Issues in Foster Care and Adoption (publication)  
(<https://www.childwelfare.gov/pubs/siblingissues/>)

## **EVERYONE'S STORY IS UNIQUE. KNOW THE YOUTH YOU WORK WITH. LISTEN. ADVOCATE.**

One of the most consistent messages from young people who emerge from the system is the importance of being heard and advocated for by adults in their lives. This includes helping youth identify what family means to them and considering permanency options that are in a young person's best interests.

"[Most of] the adults in my life were all pretty much insistent that adoption would be the best thing for me. My biological mother did not want me to be adopted. [Because of loyalty to my mother] I did not want to be adopted. I was very adamant about that fact. [But] I was concerned that if I did not get adopted, that I would lose contact with my sister and be left alone. My relationship with my sister was the only 'positive' aspect I saw to being adopted, but it was also used against me...My wishes regarding my permanency were not honored. I was faced with coercion and manipulation from my parent, sibling, therapist, and caseworker. At one point, my adoptive (foster at the time) mother told me, 'You make me feel like I am not good enough to be your mother. Either you get adopted or you get out of my house....'

At this point in time, I am neutral about my adoption. I love both of my families, but I am alone and between my families.

Respect for the youth is the most important thing—realizing that these choices being made affect lives. It is important to look at the benefits from either side of adoption/permanency before making a decision...Be aware of the different parts and people at play, and pay attention to the changes that may come when dealing with permanency options. Often, things that should be seen as a red flag may be overlooked to close the case.

Someone actually listening to me and taking my feelings into account would have made a huge difference."—Teresa, adopted

We talked with two young adults whose case outcomes didn't reflect their personal goals. Teresa was adopted from foster care despite her wishes otherwise. She wanted to avoid adoption because of her loyalty to her biological mother but believes she was pressured into adoption for fear she would lose contact with her biological sister.

"[The agency] wanted me to go back to my mother, because she wanted me. Reunification was the [agency's] goal. That's not what I wanted...My grandmother always made me feel safe despite everything that was going on around us. Knowing what I know now, I would have allowed my grandmother to adopt me instead of be my legal guardian.

Know your youth enough to know what they need. I wish I had had someone advocate for me so that I could take advantage of the benefits that could help me sustain life. I only found out about them 3 months before my 21st birthday, and because of that I missed out on great opportunities."—Elena, aged out

Elena experienced years in foster care—and ultimately aged out—because of repeated efforts to reunify her with her biological mother. She now wishes she had been adopted by her maternal grandmother early on and spared the years of trauma she endured as her mother struggled with substance use. She believes that if her case managers had included her mother, her grandmother, and herself in the decision-making process, the outcome could have been very different. Both young people believe that their respective cases could have addressed permanency in a way that aligned more closely with their personal needs and goals while encouraging long-term connections with supportive adults.

## **BE HONEST AND DIRECT WITH THE YOUTH YOU SERVE.**

Don't underestimate the importance of direct and authentic communication to build trust with youth and help them understand the reasons behind various permanency recommendations.

"Adults should not sugar-coat things for kids in care. We need to know the truth."—Molly, adopted at age 17

"Be as transparent and authentic with your youth as the job allows. This way a connection can be built."—Elena, aged out

"Everything should happen at the youth's pace. Never rush, never assume, never force."—Sam, aged out

For more ideas, see Child Welfare Information Gateway and AdoptUSKids' tip sheet, *Talking With Older Youth About Adoption* (<https://www.childwelfare.gov/pubPDFs/talking.pdf>).

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# Judges' Roles in Promoting Youth-Centered Legal Permanency

ABA Center on Children and the Law

National Council of Juvenile and Family Court Judges

## Quick Overview

This judge's action alert:

- ✓ defines youth-centered legal permanency,
- ✓ highlights how legal permanency options for youth are changing to be more youth-centered,
- ✓ explains how judges can support youth-centered legal permanency,
- ✓ highlights brain science research as it relates to permanency for youth, and
- ✓ shares additional resources on youth-centered legal permanency.

*"How can we justify making decisions about children that substantially impact their future without hearing from them? ... We owe these young people the chance to weigh in on what should happen to them."*

—Madelin F. Einbinder, Presiding Judge,  
Family Division, Ocean Village, NJ<sup>1</sup>

A growing movement to study and hear from youth who have experienced the child welfare system is reshaping what legal permanency should look like for adolescents. Youth-led groups and organizations<sup>2</sup> are ensuring the child welfare system is viewed through the lens of youth who have been there. An undercurrent is a need for youth-centered legal permanency options that integrate youths' individual and collective voices, current knowledge and research, and developmental science as it relates to permanency for youth.

## What is youth-centered legal permanency?

### Developed with youth's involvement

The importance of engaging youth in their case planning and court hearings to review their permanency plans is essential to give them a sense of agency and a voice in the process. Federal law requires that youth be involved in their case planning and that protections exist for transition-age youth to ensure they are consulted about their transition in an age-appropriate manner.<sup>3</sup> State statutes, policies, and court rules and protocols also increasingly require youth participation in their child welfare court hearings.<sup>4</sup> Many resources have emerged over the last decade that provide guidance on meaningfully engaging youth in court and involving them in placement decisions.<sup>5</sup> Current practice supports treating youth as experts in their cases and giving them opportunities to express their views and wishes and valuing them as partners in their permanency planning.<sup>6</sup>

Youth who are treated like partners often feel empowered to speak up for themselves. A youth who feels comfortable talking one-on-one with the judge may also feel at ease talking to their teacher, resource caregiver, attorney, social worker, and others who are part of their child welfare journey. For many youth, these individuals become part of their team and set the tone for how they participate by informing them of their rights, encouraging them, and supporting their involvement.<sup>7</sup>

### **Involves peer mentors/advocates**

Peer mentors/advocates are youth who have experienced the child welfare system who help youth currently involved to navigate the system and meet their case plan goals. Involving peer mentors/advocates is a best practice in child welfare to provide system-involved youth with someone who can relate to and empathize with their situations, provide guidance and advocacy, and serve as a mentor.<sup>8</sup> Peer mentors play a valuable role advising youth about the court process and key decisions, helping them understand the permanency options available to them, and ensuring their concerns and input are considered and addressed in decisions.<sup>9</sup>

The Children's Law Center in Los Angeles, CA, hires peer advocates through its [Peer Advocate Program](#) to be part of their legal team to mentor youth and help advocate for them in court. In Allegheny County, PA, the [Youth Support Partners](#) program hires young adults who have experienced the child welfare system to educate and empower youth about their role in planning for their futures and help them understand legal mandates, court hearings, and legal documents.

### **Informed by youth who have experienced the child welfare system**

In a 2019 Information Memorandum, the U.S. Children's Bureau asked child welfare agencies, dependency courts, and court improvement programs to "listen to families and youth served by the child welfare system and integrate their voices into all aspects of child welfare planning and improvement."<sup>10</sup> It further called on all child welfare professionals, including judges and attorneys, to "strengthen the role of family and youth voice."<sup>11</sup> In 2020, the American Bar Association adopted Policy Resolution 115,<sup>12</sup> which calls for the active participation of children and youth who have experienced child-serving legal systems, including the child welfare system, in reform efforts of those systems.

Listening to families and youth builds trusting relationships, strengthens their capacity to recognize and express their needs, and entrusts them to make decisions about their lives and where they will live. Tapping into the individual and collective experiences of youth and families who have navigated the child welfare system uncovers firsthand insights about areas for reform and possible solutions. As youth voices are elevated in these arenas, they are influencing what permanency looks like for current and future system-involved youth. National and local youth

advocacy programs<sup>13</sup> and state youth advisory boards<sup>14</sup> can be helpful resources to identify former foster youth who can share insights and recommendations about permanency for youth in the child welfare system in your community.

A core need of all youth in the child welfare system is for positive relationships and connections to caring adults that continue for the long term.

### **Emphasizes maintaining positive relationships and connections pre and post child welfare system involvement**

A core need of all youth in the child welfare system is for positive relationships and connections to caring adults that continue for the long term. Permanency options are shifting to focus on a greater emphasis on kin-based placements and supportive connections with siblings and relatives. Further, there is a growing recognition of the need to support youth to maintain ties to their parents, even if they cannot return home. Explaining to children and youth that parents need help and support is not shaming the parents but supporting them.<sup>15</sup>

Establishing supportive relationships with caring adults that continue once the child leaves the child welfare system is also a critical aspect of permanency for many youth. These relationships must not only be viewed as potential placement resources but as ones that can support the youth's success (e.g., helping the youth mitigate the emotional and physical effects of out-of-home care, encouraging a sense of cultural identity and community, helping the youth prepare for adulthood) and offer support in times of need.<sup>16</sup>

### **Promotes healthy development**

Youth are more likely to thrive in placement settings that promote normal, healthy adolescent development. Engaging youth in their case planning and key decisions and hearing their voices supports their brain development and promotes positive youth development.<sup>17</sup> Youth are able to practice critical developmental tasks by envisioning, creating, planning, and leading the steps needed to achieve permanency.<sup>18</sup> When youth are supported and protected in their placements, they experience opportunities for positive growth and maturation, develop a sense of identity and self, form healthy relationships with peers and adults, and have enriching engagements with the world.<sup>19</sup>



## Helps youth heal and build resilience

In a study<sup>20</sup> of transition-age youth in foster care, youth were asked to identify features that would help them manage their transitions. Top features the youth identified related to their physical, emotional, and mental health. Many youth wanted more resources, support, and strategies to address the trauma they experienced and to heal relationships. Placement options that support youth who have experienced trauma help build their resilience through healing relationships and experiences.<sup>21</sup> Factors that support healing and resilience include: supportive relationships, family relationships, support from at least one caring adult, feeling connected to a positive role model/mentor, peer support, competence, having talents/abilities nurtured and appreciated, self-efficacy, self-esteem, school and community connectedness, and spiritual belief.<sup>22</sup> In addition to these factors, empowering youth to take control of and make choices about their healing on their own terms and at their own pace is key.<sup>23</sup>

## How are legal permanency options changing to support youth-centered legal permanency?

### Expanding and strengthening relative and kinship care

Youth generally do best when placed with family members or close family friends, when they cannot return home. The Family First Prevention Services Act of 2018 (FFPSA) emphasizes that children who cannot safely live with their parents should be placed in the most family-like, least-restrictive setting possible to meet their needs.<sup>24</sup> The FFPSA prioritizes maintaining the child's connections to relatives and kin as established in the Fostering Connections to Success and Increasing Adoptions Act of 2008. While relative/kin placement has long been prioritized as a placement option for children and youth who cannot reunify with parents, lack of financial support and services through the child welfare system challenged relatives' and kin's efforts to serve in this role.

Recent federal and state reforms, including updating state licensing requirements for relative/kin caregivers and increasing access to state kinship navigator program funds and supports, are strengthening the ability of relatives and kin to serve as permanency resources for youth.<sup>25</sup> In Allegheny County, Pennsylvania, for example, kin caregivers are licensed and paid in line with foster caregivers, receive training, and are provided respite care and counseling and emotional support. The investment attracts and retains kin caregivers and benefits children and youth in their care.<sup>26</sup>

## Expanding traditional legal permanency options—SOUL Family Permanency Option

The SOUL Family Permanency Option (SOUL Family), currently being piloted in Kansas, is a permanency option developed by youth who have experienced the child welfare system with support from the Annie E. Casey Foundation. SOUL Family establishes a legal connection between a youth and at least one caring adult who provides support during and after

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SOUL Family establishes a legal connection between a youth and at least one caring adult who provides support during and after the youth's transition from the child welfare system.

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the youth's transition from the child welfare system. SOUL Family differs from adoption or guardianship by allowing the youth to maintain legal ties with his or her birth parents and siblings while establishing a new legal connection to a caring adult that carries the legal status of a familial relationship and continues throughout the young person's lifetime. SOUL Family offers choices when maintaining connections with a youth's family and community is healthy and desirable for the youth.<sup>27</sup>

### Reforming/ending group institutional placements

Research shows that older youth age 16 and up are more likely than younger children to experience group or congregate care as their first placement in the child welfare system.<sup>28</sup> A 2020 study of the experiences of youth placed in institutions concluded that such placements: "failed to meet the mandate of child welfare, were carceral, were punitive, were traumatic and unfit for healthy adolescent development, shielded youth from building relationships, and made youth feel like they didn't have a way out."<sup>29</sup> Recent federal law and policy calls for reduced reliance on group care placements by states for children in foster care by narrowing eligibility criteria and limiting states' ability to use federal Title IV-E funds for such placements.<sup>30</sup> As states shift away from reliance on group or congregate placements, it is increasingly clear that most youth do better in family-based placements with appropriate supports.<sup>31</sup>

### Reducing use of Another Planned Permanent Living Arrangement (APPLA)

APPLA emerged as a permanent placement for older youth for whom reunification, adoption, or



What does the brain have to do with permanency? Because brain development is rapidly changing during adolescence, a youth's environment, relationships, and experiences can profoundly affect the developing brain. A youth's identity, sense of security, view of self and others, and ability to regulate emotions and process thoughts are influenced by brain development. Healthy brain development takes place in the context of positive, nurturing relationships and connections with others.

### Key Highlights

- Adolescence is a critical period of brain development, a window of opportunity.
- The adolescent brain is extremely malleable and is heavily influenced by the youth's environment and experiences.
- During adolescence, a youth shifts from relying on the emotional center of the brain to making decisions using the prefrontal cortex.
- Neural integration occurs as different regions of the brain connect and communicate with one another.
- Strong brain connections lead to healthy habits and positive relationships, which promotes optimal brain development. Chronic stress, trauma, experiences of institutional/racial inferiority, and unhealthy habits interfere with healthy brain development

### 3 R's—Relationships, Rewards, Regulation

Three aspects of the adolescent brain undergo rapid change and should be considered when engaging and empowering youth in court. Consider how youth:

- Regulate emotions and impulses—Take time to prepare youth and give them time to

consult others about decisions to foster positive experiences and avoid becoming emotionally aroused.

- **Develop and maintain healthy, supportive relationships**—Provide a support person or mentor and ensure relationships with you, attorneys, caseworkers, and other court professionals are positive to help them feel supported, not judged.
- **Respond to rewards**—Allow youth to make mistakes without being punished or being treated differently than their non-foster peers.

### Permanency Considerations

- Reduce childhood trauma, loss, grief.
- Promote safe environment for healing.
- Avoid/address systemic trauma—separation from family, loss of stability, fears about future.
- Provide nurturing, loving relationships and positive connections.
- Ensure consistent caregiving.
- Engage/empower youth in permanency decisions.

\*Source: ABA Center on Children and the Law, Youth Engagement Project. [Adolescent Brain Science Toolkit](#), 2019.

guardianship could not be achieved. It was designed to allow a youth to live independently in a stable, secure living arrangement with connections to significant adults while still under child welfare agency supervision. While this placement option ensures youth have the support of at least one caring adult, it does not provide a legal, permanent relationship for youth. Reducing use of APPLA in favor of permanency options that offer legal permanency, such as the SOUL Family permanency option discussed above, is an improvement.

### Reinstating parental rights

Reinstating parental rights can be a viable legal permanency option for youth who have left or aged out of the child welfare system without achieving legal permanence. According to the National Conference of State Legislatures, 22 states permit reinstatement of parental rights through legislation.<sup>32</sup> Thirteen of these states allow a petition to be filed requesting reinstatement of parental rights if a child has not achieved a permanent placement in a set time period. The statutes permit courts to consider reinstating parental rights if the parent has made substantial progress toward addressing the conditions that led to termination of

## Laws & Policies

### Federal laws

- [Family First Prevention Services Act](#)  
Prioritizes family-like, least-restrictive placement settings for children, particularly kinship care, and discourages group placements.
- [Preventing Sex Trafficking and Strengthening Families Act of 2014](#)  
Requires consulting children aged 14 and older in the development and revision of their child welfare case plans.
- [Fostering Connections to Success and Increasing Adoptions Act of 2008](#)  
Prioritizes maintaining a child's connections to relatives and close friends.

### National policies

- Children's Bureau. [IM-19-03: Engaging, empowering, and utilizing family and youth voice in all aspects of child welfare to drive case planning and system improvement](#), August 1, 2019.  
Emphasizes the role of family and youth voice in a well-functioning child welfare system and encourages child welfare agencies, courts, and court improvement programs to work together to ensure family and youth voice are critical in child welfare program improvement efforts.
- [NCJFCJ Enhanced Resource Guidelines](#)  
Requires courts to meaningfully engage youth in court proceedings and stresses the role of the judge in reassuring the child that the process will be fair and the child's voice will be heard.
- [ABA Policy Resolution 115](#)  
Encourages judges to engage youth who have experienced the child welfare system in legal system reform, authentically engage youth in their legal proceedings, and remove barriers to youth engagement in court.
- [ABA Policy Resolution 613](#)  
Establishes a presumption of child presence in all child dependency proceedings.

parental rights; the parent can provide the child with a safe home; reinstatement is in the child's best interests; and the parent and child agree to reinstatement.<sup>33</sup> Permitting parents whose rights have been terminated to file to re-adopt their children is a suggested alternative if a state's reinstatement statute does not give the parent standing as a party to petition for reinstatement or allow the parent to have legal representation during the reinstatement proceeding.<sup>34</sup>

Many youth want to maintain relationships with their parents, siblings, and extended families even if they cannot live together.

### What is my role as a judge?

#### ✓ Engage and involve youth in permanency planning

Federal law requires courts to meaningfully engage with youth about proposed permanency and transition plans.<sup>35</sup> The [NCJFCJ Enhanced Resource Guidelines](#) emphasize ensuring the voices of the people the court serves are heard in the court process. Strategies<sup>36</sup> to engage and empower youth include:

- Creating a presumption of presence<sup>37</sup> at child welfare court hearings and ensuring youth attend and participate (unless exceptions exist). Consider developing a child-in-court protocol<sup>38</sup> policy,<sup>39</sup> or court order.<sup>40</sup> Consider providing an incentive for children's attendance, such as a toy or gift card.<sup>41</sup>
- Ensuring the youth receives age-appropriate notice of the hearing.
- Ensuring the youth has been prepared for court, understands the purpose of the hearing, knows who will attend and their roles, and understands his or her rights.
- Welcoming the youth and addressing the youth by name.
- Encouraging the youth to have a peer mentor or advocate who can provide support and advice about permanency planning.
- Building rapport with the youth and asking if the youth has questions throughout the hearing.
- Engaging with the youth about the permanency plan, preferences, status, changes, etc. Always ask what the youth wants to see in a permanent placement. Focus on other issues important to the youth,

including where they are living, school, and with whom they want to be connected.

- Allowing the youth to meet with you in chambers, or privately with their attorney or advocate, to discuss any sensitive issues or questions.
- Providing regular breaks and check-ins with the youth.
- Ensuring the youth understands the court's decisions, next steps, and can ask any follow-up questions.
- Giving the youth opportunities to share feedback on their experience in the child welfare system and placements, and their experiences in court.
- Maintain contact with the child after the hearing. In Hawaii, family court judges in O'ahu mail handwritten birthday cards to all children in their cases with McDonald's gift certificates. This extra outreach helps youth feel valued by the judge beyond their court appearance.<sup>42</sup>

✓ **Prioritize family relationships and connections in all placements for youth**

Many youth want to maintain relationships with their parents, siblings, and extended families even if they cannot live together. Regular family time should be arranged for youth who desire it with their parents and siblings and other important connections. If the youth cannot return home and another permanency plan is pursued, maintaining family relationships should be prioritized when safe and appropriate. Ensuring youth have adult connections who will serve as sources of support during and after child welfare system involvement is also key.

✓ **Prioritize least-restrictive, family-like settings over group/institutional placements for youth**

Unless a youth meets specific criteria for long-term placements in group/institutional placements under the FFPSA, the youth must be placed in the least-restrictive, family like setting.<sup>43</sup> Prioritize kin and foster family home settings. Ask youth where they want to live and explore what needs to happen to make that placement a reality. Be mindful of the transition youth who have been in group/institutional care placements for some time may be experiencing as the system shifts from these care settings to more family-like placements. Recognize the impact that all transitions—removal from home, living placement changes—have a traumatic effect and understand that behavior changes are a natural result of those transitions.

## Resources

### Adolescent brain science

- [The Road to Adulthood: Aligning Child Welfare Practice with Adolescent Brain Development](#)
- [The Promise of Adolescence: Realizing Opportunity for All Youth](#)
- [Promoting Brain Gains for Youth Emerging from Foster Care \(Video\)](#)
- [The Adolescent Brain Toolkit](#)

### Federal guidance

- [Family First Prevention Services Act of 2018: A Guide for the Legal Community](#)
- [Implementing the Older Youth Permanency Provisions of the Strengthening Families Act: The Court's Role](#)

### Permanency planning

- [SOUL Family Permanency Option for Older Youth in Foster Care](#)
- [Away From Home: An in-depth report on the experiences and perspectives of young people who have recently lived in institutional placements in foster care](#)
- [New Opportunities for Kinship Families: Action Steps to Implement the Family First Prevention Services Act in Your Community](#)
- [Reducing Congregate Care Placements: Strategies for Judges and Attorneys](#)

### Youth engagement/empowerment

- [ABA Youth Engagement Project Resources](#)
- [Strategies for Engaging Youth and Families with Lived Experiences](#)
- [Strategies for Authentic Integration of Family and Youth Voice in Child Welfare](#)

✓ **Involve families in residential group placements for youth**

For youth who qualify for residential group placements, ensure parents and family connections understand the need for the placement and have input and receive updates about the youth's care and specialized treatment regimens. Maintaining family connections in these placements is just as important as other placements and regular family time should be arranged.

## ✓ Support youth who transition from foster care

Youth who will age out of the foster care system, or choose to live independently, are entitled to supports to make the transition. Federal law includes protections and supports for these youth, typically starting at age 14, to assist with their successful transitions to adulthood.<sup>44</sup> Transition supports can include financial, housing, education, employment counseling, independent living skills, and other services and programs aimed at helping youth become independent. Ensure these youth are informed of the benefits and resources that are available to support them. They should be involved in designing their transition plans and have opportunities to give feedback.

Consider holding an event to inform and support these youth. For example, a Hawaii family court holds a biannual event for youth aged 14-18 who are likely to age out of foster care. At this event—“Teen Day”—youth are informed of available resources, watch a mock court hearing, hear a presentation, talk with former foster youth who have aged out, have lunch, and engage with judges.<sup>45</sup>

## ✓ Engage in permanency planning reforms in your community

Steps to take:

- Include youth who have experienced the child welfare system in discussions with the child welfare community about permanency planning reforms. Determine what youth-centered legal permanency looks like in your child welfare community. What’s missing? What needs to change? Ensure youth are partners in identifying needs, implementing changes, and evaluating the effectiveness or ongoing need for change.
- Support implementation of the FFPSA’s provisions in your community, particularly relating to ensuring family relationships and connections are prioritized in placements for youth, expanding support for relative/kinship placements, and reducing congregate care.
- Ensure youth have input about their permanency plans and decisions are being made with them not for them.
- Explore alternative permanency options for youth like the SOUL Family Permanency Option and reinstatement of parental rights.

Youth-centered legal permanency includes youth in the conversation about permanency from the day they enter the child welfare system. They are not just present in court but meaningfully engaged in permanency planning. As the judge overseeing permanency for youth, supporting a youth-centered framework for achieving legal permanency takes keeping youth in the forefront of decision making. Hear their voices, seek their input, prioritize their relationships and connections, surround them with supportive people and resources, and be open to creative solutions rather than only relying on the typical permanency options and underlying assumptions used in the past.

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## Endnotes

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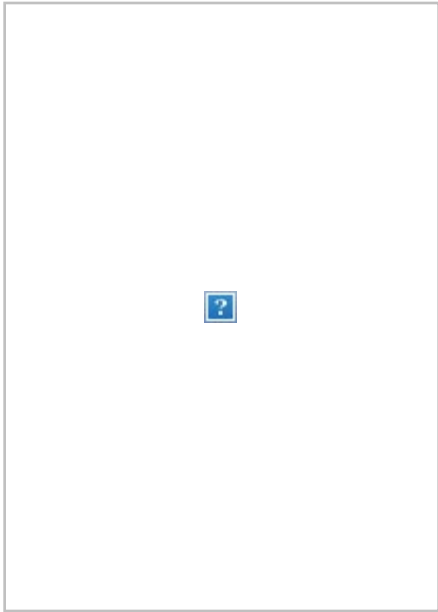


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# *Families For Teens*

## ASKING KEY QUESTIONS



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## THE PROMISE

To every child who comes into care, society makes a promise to restore him/her to a stronger, healthier, more stable family than the one from which he/she is removed, either by returning the child to his or her family of origin strengthened by the intervention of child welfare, or by helping the child bond to a new family. Children and youth experience this as an urgent need.

When this promise is not fulfilled over time, young people sometimes despair of ever realizing this promise. Their disappointment and anger never exempts the professionals who work with them from fulfilling the promise, no matter how difficult that may seem.

The suggested list of casework practices aimed a securing family connections for young people is not exhaustive, and should be considered as a point of departure in working with young persons who need our assistance in



finding a permanent connection to a nurturing, committed adult.

## Self Test <sup>[1]</sup>

1. Do I like adolescents/teens?
2. Do I believe in their ability to (re)connect with a family?
3. Do I believe that they need to be in a family?
4. Do I feel safe, emotionally and physically, around teens?
5. Can I form a caring yet professional relationship with this young person?
6. Can I speak honestly, directly and clearly with teens and involve them in all the decisions I need to make on their behalf?
7. Can I make a mutual agreement with this young person?
8. Can I have a relationship characterized by honesty, dependability, predictability, consistency and follow through?
9. Can I work through/with a 3<sup>rd</sup> party with whom the young person already has such a relationship?

Reflect on your answers and how they might affect your ability to work with young people. If the answer to any of these questions is an unequivocal “No”, work closely with your supervisor on any case involving a teen, or ask to be reassigned.

## FINDING CONNECTIONS

1. Have you identified all the resources in the case record? Have you identified anyone who has done anything that could be construed as a parenting act, such as
  - shown up at a meeting
  - called about the youth
  - visited the youth
  - inquired about the youth in any way at any time even once.
2. Have you looked at the case record from beginning to end, including the piece that does not belong at your agency (the Field Office piece, other foster care agencies where the child was previously placed)?
3. Potential permanency resources should not be arbitrarily ruled out at this stage, regardless of whether they have been previously deemed “inappropriate”. The search process should be inclusive and exhaustive. Don’t stop with the first resource or two.
4. Have you asked the caretakers (foster parents, group home staff, child care staff) around this youth, “Who does the youth have connections to?”
  - who does the young person get calls from?
  - who does the young person ask to call?
  - who visits the youth?
  - who does the youth go to?
  - where does the young person go AWOL?
  - If the answer is “friends”, are they interested in having friends’ parents involved? Have they been involved?
5. Have you talked to the youth about the people in their past whom they remember and with whom they want to be in touch? Have you asked the young person about the people presently in their lives with whom they have connections? Who do they want in their lives when they are adults?

6. Sometimes youth rule out people they want to be with for fear of the circumstances under which they were removed from the home (particularly if they were “thrown out of” a prior foster home). If truth were told, they would like to go back there, but are afraid to identify that home. Ask:

- “Where did/do you feel most comfortable?”
- “With whom did/do you feel most comfortable?”
- “Can you tell me about a time when you felt most comfortable?”
- “Can you tell me about the places you were where you felt most at home?”
- “Can you tell me about the people with whom you feel most comfortable?”
- “Can you tell me whom you trust?”
- If they say, “No one”, ask: “Can you tell me with whom you would like to build a trusting relationship?”
- “Who do you want to be connected to in the future, next year, in 5 years or more?”
- “When something great happens to you, who do you feel like calling?”
- When something bad happens, is there an adult that seems to understand you better than other people do?”
- “What it would be like to try to build a family for yourself from your network of caring adults?”
- “Is there anyone who makes you feel useful?”
- “Can you think of someone who knows you’re not stupid?”
- “Who really listens to you and follows through for you?”
- “Who cared for you when your parents couldn’t?”
- “What adult do you know whose advice you respect (even if you don’t feel you can take it right now)?”
- “Who do you want to help you plan for your future?”
- Ask questions about connections in the future and look for hints of hopefulness despite the risks.

## CONTACT

1. How have you contacted these people (those identified by the youth and by your review of the case record) to see if they are willing to help plan for the child’s future? Have you asked these people if they know anyone who had a special relationship with the child in their experience? Ask questions such as:
  - “Can you see yourselves as part of this youth’s life?”
  - “What part are you willing to play in this young person’s future?”
  - “What are you/others willing or able to do to support a primary relationship with the young person?”
2. Have you encouraged everyone to identify what strong bonds they have with the young person?

## PREPARING THE YOUTH TO CONSIDER ADOPTION

1. What have you done to prepare a youth to consider adoption?
  - Has the youth met with other youths who have been successfully adopted and are still in touch with members of their birth family?
  - Have you asked the youth, “Where do you want to belong?” as opposed to “Do you want to be adopted?”
  - Does the youth understand that s/he can be adopted and still be loyal to their birth family?
  - Does the youth understand open adoption and how it would apply in his/her case?
  - Has the youth met (young) adults who were adopted as adolescents?
  - Has the youth had an opportunity to meet prospective adoptive parents who are interesting in adopting an adolescent?

## PREPARING THE BIRTH PARENTS TO CONSIDER ADOPTION (DISARMING

## THE WORD ITSELF)

Although permanency work with birth parents begins before a child comes into care, before adolescence and before the 11<sup>th</sup> hour of care, blaming the past doesn't get the job done. Permanence is an ongoing part of a child's developmental needs.

Our job is to convey that urgent need for safety and stability to parents and to help them understand that (1) holding children in unstable circumstances such as foster care is harmful to children's healthy emotional development and (2) adoption no longer means that children (especially adolescents) must be cut off from all contact with members of their birth family.

Here are some issues you might raise with a teen's parent where reunification is not a viable option:

- Talk with the birth parent(s) about how important safe stability is for the healthy emotional development children of all ages, including teens.
  - Use the universal experience of the terrible events of September 11, 2001 to illustrate how difficult it is for all us, and particularly youth in foster care, not to know what the next day will bring or what is going to happen to them next. Help parents to understand that many youth in foster care experience on a daily basis the kind of fear and uncertainty about the future that the rest of us experienced on and after September 11.
  - Tell parents that some people think that children's fears about their future are even more overwhelming because of how little they know about alternatives.
  - Ask them to help you work on this.
- Ask the parent(s) if you can work with them to provide the optimum emotional support, safety and legal security for their children.
  - Ask parents if they know what has happened to other children who have come into care. Acknowledge that with their help in identifying and working with a safe and secure family setting, their child will be much better taken care of than children who have no one permanently able to nurture their future and their potential.
  - Ask parents, "If something should happen to you, who would you hope could care for your children?"
  - If a parent is unable to care for a teen because of mental illness or disability, ask, "Who, beside you, do you want to plan for your child's future in order to give your child what he/she needs to develop into a healthy adult?"
- Talk about shared parenting as a general concept. Acknowledge the fact that adoption does not necessarily change their emotional relationship with their children.
  - Remember that this will mostly likely take more than one conversation.
  - Ask parents to identify how families have shared the responsibility of child-rearing in the past.
  - Ask them if they can think of how they did this successfully in the past with their own brothers, sisters, friend.
  - Ask them if they remember adults (other than their parents) who cared for them when they were children. If their parents chose those "helpers", how did that feel?
- Use and demystify the word "adoption". Are you still inadvertently conveying to parents that adoption is a dirty word?
  - Let them know that adoption has changed – especially for teens, adoption is no longer the "replacement model" that it was 40 years ago for infants. Continuing some form of contact with the birth family is often the norm now in many adoptions, including private infant adoptions.
  - We've learned just how important maintaining family ties can be.
  - We also know just how important it is for a child to feel claimed.
- Talk about openness in adoption so that it doesn't sound like a plea bargain.
  - Explain that we now have ways to reflect that openness in an adoption agreement.

- We know that secrets whether in a family or across families have negative effects on children and so we want to build openness into families.
- Offer to introduce them to adoptive parents and birth parents who have facilitated post-adoption contacts between birth parents and their children.
  - Give parents a chance to talk with adoptive and other birth parents privately.
- Take the discussion out of the realm of “good parent/bad parent” that is driven by legal necessities, and talk instead about gifts and strengths.
  - Involve parents in a discussion about extending their parenting, not ending it.

## **PLANNING FOR PERMANENT FUTURE FAMILY CONNECTIONS**

### **1. Is the planning youth-driven?**

- Has the youth identified the people and topics for the planning meeting in advance?
- Has the youth identified their goals for the future? What do they want to achieve? Where do they want to be in 5 years? Don’t rush to discourage their vision.
- Does the young person understand the critical importance of education, and its connection to permanency?

### **2. Have you held a series of planning meetings with those whom the youth identified (i.e., all the resources with whom they want to have a personal connection into the future)?**

- What have you done to help the teen to prepare for these meetings?
- What came out of these meetings? Was a primary relationship identified?
- Have you talked to the contacts about the importance of a permanent family connection, explaining that everyone needs to have someone in their life as family?

## **BUILDING AND MENDING RELATIONSHIPS**

### **1. Have you prepared the permanency resource(s) for the consequences of getting involved in the youth’s life?**

- Have you helped them understand what issues there may be?
- Have you helped them understand the youth’s issues about belonging?
- Have you facilitated visits with the child?
- Have you provided the kinds of supports (through counseling and peer support groups) that will be there for this relationship afterwards?
- Did you phase it all in?

### **2. Did you help the permanency resource to identify a network of support?**

### **3. Have you connected them with other primary caretakers?**

## **AND KEEP IN MIND . . . . .**

In all meetings and contact, maintain a level of genuine respect for the youth and his/her choices regardless of disagreement (disagree without being disagreeable).

Third party reviewers, supervisors and case managers should consistently ask about what kind of permanency casework practice has occurred for the young person.

Remember the 4 domains of success:

Third party reviewer or a supervisor or a case manager can ask about what kind of casework practice has occurred

- competence (work on deciding to whom one belongs for oneself and finding permanent family connections)
- usefulness (belonging implies reciprocal responsibilities)
- belonging (most securely, legally and socially)
- power (finding, identifying, deciding and acting on belonging to a family)



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<sup>[1]</sup> Adapted from “Adoption and Adolescents: A Handbook for Preparing Adolescents for Adoption” by Virginia Sturgeon