



Iowa Department of Human Services

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December 16, 2011

GENERAL LETTER NO. 13-J-45

ISSUED BY: Bureau of Child Welfare and Community Services
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title XIII, Chapter J, **FOSTER CARE SERVICES**,
Contents (pages 1 and 2), revised; pages 4, 5, 6a, 6b, 7 through 10,
27, 28, 76, and 80a through 80d, revised; and page 80e, new.

Summary

Chapter XIII-J is revised to:

- ◆ Clarify the conditions when the Department may decline to disclose the location of a foster child to the child's parents. This decision requires evidence of a direct or indirect threat to harm the foster child or the foster family or credible third-party information of a threat.
- ◆ Require the evidence and decision to decline to disclose the location of a foster child to be documented in the child's case permanency plan.
- ◆ Require a review of this determination at least every six months when the case permanency plan is revised or sooner if the threat to the child or caregivers appears to have changed.
- ◆ Require the results of this review to be documented in the case plan.
- ◆ Update the term "regional service administrator" to service area manager or designee.
- ◆ Update the terms "Mental Health Access Plan" and "MHAP" to "Iowa Plan for Behavioral Health" and "Iowa Plan."

Effective Date

Upon receipt.

Material Superseded

This material replaces the following pages from Employees' Manual, Title XIII, Chapter J:

<u>Page</u>	<u>Date</u>
Contents (pp. 1, 2)	July 24, 2009
4, 5	July 7, 1992
6a, 6b	September 20, 1994
7-9	July 1, 2003
10	December 3, 1996
27, 28	December 11, 2011
76	December 3, 1996
80a-80d	May 19, 1987

Additional Information

Refer questions about this general letter to your area social work administrator.

FOSTER CARE SERVICES

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FOSTER CARE SERVICES**DEFINITION OF TERMS** (Cont.)**Policy** (Cont.)

B. The violation of a federal law or law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

"Department" means the Iowa Department of Human Services and includes the local, area, and centralized offices of the Department.

"Eligible child" means a child for whom the court has given guardianship to the Department or has transferred legal custody to the Department, or for whom the Department has agreed to provide foster care services on the basis of a signed placement agreement, or who has been placed in emergency care for a period of not more than 30 days.

"Facility" means the personnel, program, plant, and equipment of a person or agency providing child foster care.

"Foster care" means substitute care furnished on a 24-hour-a-day basis to an eligible child in a licensed foster care facility or approved shelter care facility by a person or agency other than the child's parent or guardian. Foster care does not include care provided in a family home through an informal arrangement for a period of less than 30 days. Child foster care shall include, but is not limited to, the provision of food, lodging, training, education, supervision, and health care.

"Natural parent" means a parent by blood, marriage, or adoption.

"Person or agency" means individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of the Department, who are licensed by the Department as a foster family home, child-caring agency, or child-placing agency, or approved as a shelter care facility.

"Service area manager" means the Department employee responsible for managing Department offices and personnel within the service area and for implementing policies and procedures of the Department.

Comment

The "case permanency plan" referred to in Iowa Code Chapters 232 and 237 is the same as the "case plan" referred to in Public Law 96-242. It is not the same as the provider's service plan. For information on specific requirements, see [CASE PERMANENCY PLANS](#).

FOSTER CARE SERVICESDEFINITION OF TERMS (Cont.)**Comment** (Cont.)

Legal reference: 441 IAC 202.1(234); Iowa Code Sections 232.2(6), 232.2(12), and 232.8(1)

ELIGIBILITY FOR FOSTER CAREAge**Policy**

Foster care is provided by the Department only to persons meeting the definition of child.

Comment

Persons who are age 18 or over may continue in foster care only if they were in foster care or a state institution immediately before reaching age 18, have continued in foster care or a state institution since reaching 18, and are currently in school in one of the following programs:

1. High school
2. High school equivalency (GED)
3. Special education, as defined and provided by the Department of Education through the Area Education Agencies and the local public school districts.

Persons ages 18 or 19 are eligible for only certain levels of care. See XIII-J(1), [GENERAL FOSTER CARE PAYMENT: Youth Age 18 and Over](#), for specific information regarding eligible placements for persons age 18 and 19.

Legal reference: Iowa Code Sections 234.1 and 234.35; 441 IAC 202.3(3)

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)**Policy** (Cont.)

Legal Background (Cont.)

Since the Department's ability to act after the fact is limited by information flow outside of its control, when problems occur, service area staff should meet with the chief judge of the district court to apprise the court of the Department position on this issue in hopes of preventing future problems.

Dissolution Orders Within Statutory Authority

A dissolution court can require the Department to do home studies. Additionally, the dissolution court can use the services of the Department if the Department agrees to become involved. If the Department does not object to the order, consent is implied.

Legal Basis

The Iowa Supreme Court in *DSS vs. Blair*, 294 N.W. 2nd 567 (Iowa 1980) and *Iowa Department of Human Services vs. Iowa District Court for Cherokee County*, 446 N.W. 2nd 794 (Iowa 1989) states that the Department cannot be ordered to accept custody and supervision without giving consent.

Other cases related to this issue are *In Re Marriage of Snyder*, 276 N.W. 2nd 402 (Iowa 1979); *In Re Marriage of Corbin*, 320 N.W. 2nd 539 (Iowa 1982); and *In Re Marriage of Carrico*, 284 N.W. 2nd 251 (Iowa 1979).

Comment

Familiarize yourself with the provisions of Iowa Code Chapter 232. Refer any court orders which do not appear to comply with the provisions of this chapter to your supervisor and, if necessary, to your service area manager for review. The following sections give information on each category in more detail.

Legal reference: Iowa Code Section 234.35

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)**Procedure**

If you receive a dissolution order that orders the Department to become involved and is in variance with statutory authority, notify your service area manager or designee immediately. The service area manager or designee will contact the Bureau of Service Support and Training, which will notify the Attorney General's office and request direction.

NOTE:

- ◆ If we notify the Attorney General's office within **ten** days after the filing of the order, it is possible to request the judge who issued the order to rescind it.
- ◆ If we notify the Attorney General's office **within 30** days after the filing of the order, it is possible to challenge the order in the appellate courts.
- ◆ If we contact the Attorney General's office **more than 30** days after the filing, it is possible the matter can be informally resolved, but at this point the only legal options are to appear at a contempt hearing or to go ahead and perform the services required.

Transfer of Guardianship to Department**Policy**

The Department is responsible for services including foster care when the court has given the Department guardianship of the child.

Comment

Iowa Code Sections 232.117(3) and 600A.9 give the court the authority to appoint a guardian for a child when parental rights are terminated.

Iowa Code Section 232.102(2) gives the court the authority to transfer guardianship of unaccompanied refugee minors and children without parent or guardian to the Department, upon the Department's request after the child has been adjudicated as a child in need of assistance.

The duties and responsibilities of the guardian and the procedures required when a child is under guardianship are explained in more detail in 13-D, [GUARDIANSHIP](#). See that chapter for further instructions.

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)Transfer of Guardianship to Department (Cont.)**Comment** (Cont.)

Guardianship refers to authority over a person. It does not include authority over a person's property or estate. Unless parental rights are terminated, the natural parents maintain residual parental rights and need to be involved in some decisions affecting the child.

Legal reference: Iowa Code Section 234.35, Subsection 1(a)

Transfer of Legal Custody to Department**Policy**

The Department is responsible for foster care when a court has transferred legal custody to the Department.

Comment

Transfer of legal custody to the Department after disposition is authorized by:

- ◆ Iowa Code Section 232.52 for children adjudicated delinquent, and
- ◆ Iowa Code Section 232.102 for children adjudicated a child in need of assistance (CINA).

Transfer of legal custody to the Department may also take place through a temporary removal hearing in the CINA process (Iowa Code Section 232.95 or a shelter care hearing under the delinquency procedures (Iowa Code Sections 232.44(6) and 232.21(2)).

The Department's responsibilities as custodian are defined as follows:

- ◆ To maintain or transfer to another the physical possession of the child.
- ◆ To protect, train and discipline the child.
- ◆ To provide food, clothing, housing, and medical care.
- ◆ To consent to emergency medical care, including surgery.
- ◆ To sign a release of medical information to a health professional.

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)Transfer of Legal Custody to Department (Cont.)**Comment** (Cont.)

The residual parental rights retained by the child's parents make it imperative that they be involved in all major planning and medical decisions affecting the child. See [SERVICES TO CHILD'S PARENTS: Decision-Making Regarding the Child](#).

The caseworker normally exercises the rights and responsibilities of the custodian.

Reports to the court shall be submitted every six months, or more frequently if ordered by the court.

Legal reference: Iowa Code Section 234.35, Subsection 1(b)

Voluntary Placement for Children Under Age 18**Policy**

The Department is responsible for paying for foster care when it has agreed to provide foster care services for a child who is under age 18 on the basis of a signed agreement between the Department and the child's custodial parent or parents or guardian.

All voluntary placement agreements initiated after July 1, 2003, for children under age 18 shall terminate after 90 days.

Comment

Do not make a foster care placement until an assessment determines that reasonable efforts to prevent placement have been made and the custodial parent or parents have signed the voluntary placement agreement.

Voluntary placement may be appropriate when the need for placement is expected to be short-term, such as during the parent's illness or for crisis intervention. When a parent must be out of the home for a short time-limited period or for crisis intervention, make every effort to help the family find relatives or friends who can assume temporary responsibility for the child as an alternative to foster care placement.

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)Voluntary Placement for Children Under Age 18 (Cont.)**Comment** (Cont.)

Voluntary placement is also used when an unaccompanied refugee minor arrives to authorize foster care placement until guardianship can be established. (See 13-D, [GUARDIANSHIP](#).)

Legal reference: 441 IAC 202.3(1) and 202.3(2);
Iowa Code Section 234.35, Subsection 1(c)

Procedure

For all voluntary placements, complete form 470-0715, *Voluntary Foster Care Placement Agreement*, before the child's placement into family foster care or independent living, unless the situation is an emergency.

The service area manager or designee shall approve all voluntary placement agreements before the placement, unless the placement is being made for protective service reasons. If a protective service placement must be made before obtaining the approval of the service area manager or designee, obtain approval within one week after the placement is made.

The service area manager or designee shall approve a voluntary placement for a period of no more than 90 days.

After obtaining all required signatures and the approval of the service area manager or designee, file the original agreement in the child's record. Give one copy to the child, if applicable, and to the custodians who signed the agreement.

When a child enters a voluntary placement, refer the parents to the Foster Care Recovery Unit through the FACS system. When a voluntary placement agreement is terminated, send a copy of the parent's *Notice of Decision* to the foster care provider.

FOSTER CARE SERVICESELIGIBILITY FOR FOSTER CARE (Cont.)Legal Status (Cont.)Court-Ordered Placement of Children With Disabilities**Policy**

The Department is responsible for foster care when the court orders placement of a child with mental retardation or other developmental disability into foster care pursuant to Iowa Code section 232.182, subsection 5.

File a petition to the court when parents, guardians, or custodians of a child with mental retardation or other developmental disability requests foster care placement of the child for a period of more than 30 days. Use form 470-2634, *Voluntary Foster Care Petition*, unless the local court provides another format.

Comment

The law that provides for court oversight of voluntary placements requires a social history report. The report shall include:

- ◆ A description of the child's disability and resultant functional limitations.
- ◆ The case permanency plan.
- ◆ A description of the proposed foster care placement.
- ◆ A description of family participation in developing the child's case permanency plan, and the commitment of the parents, guardians, or custodians in fulfilling the responsibilities as defined in the case permanency plan.

A reasonable efforts ruling is required. To preserve the child's eligibility for federal Title IV-B and Title IV-E funds, the court must hold periodic dispositional hearings at least every 12 months after the initial placement.

Legal reference: Iowa Code Section 234.35, Subsection 1(i);
PL 103-432; 441 IAC 202.3(1)

FOSTER CARE SERVICESCASE REVIEW SYSTEM**Policy**

A review committee shall evaluate the need for foster care and the efforts to prevent placement before placement, or, for emergency placements only, within 30 days after the date of placement.

Foster care cases under the supervision of the Department shall be presented to a review committee every six months in conjunction with the case plan review. **EXCEPTIONS:** The Department review may be waived for cases being reviewed by a local foster care review board or the court within six months of the date of a child's removal.

Review committee recommendations are advisory to the service worker and supervisor, who are responsible for development of the Department case plan and for reports and recommendations to the court.

Comment

The aim of the review process is to foster a team approach to case planning. The ideal result is consensus among the participants. The review process also functions to hold all parties accountable for their actions in relation to the case plan, to assess compliance with agency policies and procedures, and to expose gaps and problems in policy.

For cases under court jurisdiction, the final decision as to what type of placement or services are ordered rests with the court. This does not prevent the family from seeking services on a voluntary basis.

Legal reference: 441 IAC 202.2(5) and 202.6(4); Iowa Code Section 237.19; Sections 471(a)(16), 427(a)(2)(A), and 475(5) and (6) of the Social Security Act

Procedure

Each service area has discretion on what point the case is presented to the review committee. One approach is to require review before the Department initiates a court petition. In general, the less clear the assessment information is about the danger to the child in remaining in the home, the greater the need for shared decision-making.

Because children can be removed from their homes without Department involvement, a prior review may sometimes be impossible unless local agreements are negotiated. Whenever case planning responsibility is delegated to the Department it is imperative that assessment and review are completed as soon as possible.

FOSTER CARE SERVICESCASE REVIEW SYSTEM (Cont.)Participation on the Review Committee**Policy**

Department staff on the review committee shall include:

- ◆ The child's worker,
- ◆ A supervisor knowledgeable in child welfare, and
- ◆ One or more additional people appointed by the service area manager.

The review shall be chaired by a staff member who is not responsible for the case management or delivery of services to either the child or the parents or guardian who are the subject of the review.

Invite both the custodial and noncustodial parents to the review. Give children over ten the opportunity to participate in the review if they wish. Also notify of the review and invite to participate:

- ◆ The child's guardian and guardian ad litem.
- ◆ The present foster care provider.
- ◆ Current service providers.
- ◆ Local and area education staff.
- ◆ Juvenile court staff.

The service area may request the participation of other professionals knowledgeable in child welfare.

Other people, such as previous services providers, may be invited to the review with the consent of each custodial parent or the guardian.

Comment

Local offices have discretion as to the number of review committees, assignment of staff to the review committees, and the protocol for case review, subject to the policies in this section.

Federal law requires a review "conducted by a panel of appropriate people, at least one of whom is not responsible for the case management of or the delivery of services to either the child or the parents". At least three people should take part in the review.

Each local office should have a written plan designating composition and procedures for foster care review committees. Make this information available to the child and the child's parents or counsel upon request.

FOSTER CARE SERVICESSERVICES TO THE CHILD IN FOSTER CARE (Cont.)Mental Health Services (Cont.)**Comment**

Where a child, a parent, or both have moderate or serious emotional disturbances, there should be provision for a mental health evaluation as a part of the intake study, so that the knowledge of a mental health professional can contribute to formulation of a sound placement plan for the child. When the mental health evaluation is not obtained as part of the intake assessment, obtain the written consent of the parents.

Make arrangements for outpatient treatment with community resources, such as community mental health centers or providers, hospital outpatient programs, or mental health professionals in private practice, where available.

Make arrangements for inpatient treatment with public or private mental health facilities, such as public or private hospitals, state mental health institutes, and psychiatric medical institutions for children (PMICs).

All children in foster care enrolled in the Iowa Plan for Behavioral Health (Iowa Plan). You may make arrangements for services for children and for parents who enrolled in the Iowa Plan either through the service provider or through the Iowa Plan contractor.

In these situations your responsibilities are to:

- ◆ Provide all pertinent information about the child requested by the mental health facility after you obtain a release of information from the natural parent or legal guardian.
- ◆ Maintain contact with the child during treatments to facilitate the child's transition when returning to the community. You should also maintain contact with the Iowa Plan care manager.
- ◆ Serve as a resource to the mental health facility in working with the child's family.

Legal reference: 441 IAC 202.11(234), 108.7(12), 113.17(237), 114.10(6), 105.8(6)

FOSTER CARE SERVICESSERVICES TO CHILD'S PARENTS**Policy**

Services shall be made available to the child's parents throughout the period of foster care placement, unless parental rights have been terminated by the court.

Comment

Legal reference: 441 IAC 202.12(1)

Role in Case Planning and Review**Policy**

Unless parental rights are terminated by the court, the child's parents shall have an opportunity to participate in the case planning for the child. This shall include the following:

1. The parents shall be asked to provide input into their child's initial case plan and all subsequent case plans.
2. The planned frequency of personal contact between the worker and the parents shall be specified in the child's case plan.
3. The planned frequency and duration of visits between the child and parents shall be specified in the child's case plan.
4. The parents shall be notified of the location and nature of the child's placement unless the Department declines to release that information as described under [Role in Placement Selection](#).
5. The parents shall be provided a copy of the initial and all subsequent case plans. If parents are dissatisfied with the case plan, the worker shall work with them to achieve a mutually agreed plan. If agreement is not possible, parents have the right to take the issue to the court through their attorney (if the case is court-ordered) or to terminate the voluntary placement agreement.
6. The parents shall have the right to apply for services and to appeal any denial of services.
7. The parents shall have the opportunity to participate in all administrative review committee meetings in accordance with policies and procedures described in [CASE REVIEW SYSTEM](#). Written notice of each review shall be sent to them at least five working days prior to the date of the review.

FOSTER CARE SERVICES

SERVICES TO CHILD'S PARENTS (Cont.)

Role in Case Planning and Review (Cont.)

Policy (Cont.)

8. The parents shall have an opportunity to invite their attorney to be present at all Department review committee meetings.
9. The parents shall be provided a written summary of all Department review committee recommendations.
10. The parents shall receive copies of all reports filed with the court.
11. The parents shall be provided with regular personal contact from the caseworker, at the frequency specified in the case plan. Such contact shall include a review of progress towards goal attainment.
12. The parents shall have an opportunity to communicate and visit with their child according to the guidelines outlined under [Visits and Communication](#) in this section.
13. The parents shall be informed of their rights.

Comment

Parents of children in foster care must be as involved as possible in planning for their children. Research has shown that successful permanency planning requires parent involvement. Parental involvement should reduce the risk that parents will disrupt the service process. Even if the child will not be returning home, the parents should be as involved as possible in planning for the alternative permanent placement.

If parents do not follow through with involvement as specified in the case plan, this could result in building a case for termination of parental rights.

Legal references: 441 IAC 130.7(234), 202.2(5), 202.6(5), 202.12(3)

Procedure

Parental involvement shall be documented in the case record.

FOSTER CARE SERVICESSERVICES TO CHILD'S PARENTS (Cont.)Role in Placement Selection**Policy**

Parents shall be:

- ◆ Involved in selecting the child's placement,
- ◆ Notified of the location and nature of the placement, and
- ◆ Involved in the preplacement visit.

EXCEPTION: The Department may decline to release the location of the placement when the Department evaluates the situation and determines that notifying the child's parents of the location of the placement would be detrimental to the child's safety or well-being or the stability of the child's placement due to:

- ◆ Evidence of a direct or indirect threat to harm the foster child or the foster family, or
- ◆ Credible third-party information of a threat of harm to the foster child or the foster family.

Comment

Involving the parents in placement selection should lessen the likelihood of their disrupting the placement. It should also help the child adjust to the placement. The type of parental involvement may vary depending on the individual circumstances of the child and family.

Examples of direct and indirect threats that could justify a decision to decline to release the location of the child include:

- ◆ A court has issued a no-contact order between the parent and the child or the child's caretakers.
- ◆ The parent has threatened to abduct the child from placement.
- ◆ The parent has made a threat to harm the child or the child's caretakers.
- ◆ The parent has a history of violent behavior and there is reason to believe the parent may harm the child or caretakers.

FOSTER CARE SERVICESSERVICES TO CHILD'S PARENTS (Cont.)Role in Placement Selection (Cont.)**Comment** (Cont.)

Examples of credible third-party information include:

- ◆ A licensed mental health professional who has treated the parent provides documentation that the parent poses a threat to the safety or well-being of the child or caretaker and has included evidence to support the claim.
- ◆ A licensed mental health professional who has treated the child provides documentation that the child is likely to suffer physical or emotional harm through contact with the parent and has included evidence to support the claim.
- ◆ A team member who is working with the family or case provides documentation that the parent poses a threat to the safety or well-being of the child or caretaker and has included evidence to support the claim.
- ◆ Others who know the parent provide information about directly observing the parent harm or threaten to harm the child or caretaker.

Legal reference: 441 IAC 202.5(234) and 202.12(2)

Procedure

Document a decision to not disclose the foster child's location to the parents in the child's case permanency plan. Include the rationale and the evidence used to support the decision. De-identify the care provider's name on copies of plans and reports given to the family.

Reevaluate the decision to decline to disclose the location of the child to the parents at least every six months when the child's case permanency plan is revised. Document the result of the reevaluation in the case permanency plan. A decision to continue to decline to disclose the location of the child to the parents must be supported by the same kinds of evidence as the original decision.

Decision-Making Regarding the Child**Policy**

Unless parental rights are terminated, parents should be consulted about all decisions regarding the child. See [Authorization From Parents or Guardian](#), for more specific information on the impact of the child's legal status on this issue.

FOSTER CARE SERVICES

SERVICES TO CHILD'S PARENTS (Cont.)

Decision-Making Regarding the Child (Cont.)

Comment

If parents are to learn to be more effective in their parenting role, they must have an ongoing opportunity to make decisions whenever possible. Examples of decision areas in the child's life in which they should be consulted include clothing selection, hairstyle, education, extracurricular activities, medical care and religious training.

Legal reference: Iowa Code, Section 232.2(19) and 232.2(11)

Visits and Communication

Frequency

Policy

The planned frequency of visits between parent and child shall be specified in the case plan.

Comment

Regular and frequent visits help maintain the parent-child relationship and help the child and family make the best use of foster care services. For children whose goal is return home, it increases the likelihood and timeliness of the return home, and helps prepare the family for reunification.

The schedule for visits shall be developed in consultation with the foster care provider. Unless parental rights are terminated or limited by court order, the following shall serve as guidelines:

- a. At least one visit between parents and child should occur within the first week of placement.
- b. Visits should occur at least every two weeks in cases in which the goal is to enhance the parent-child relationship.