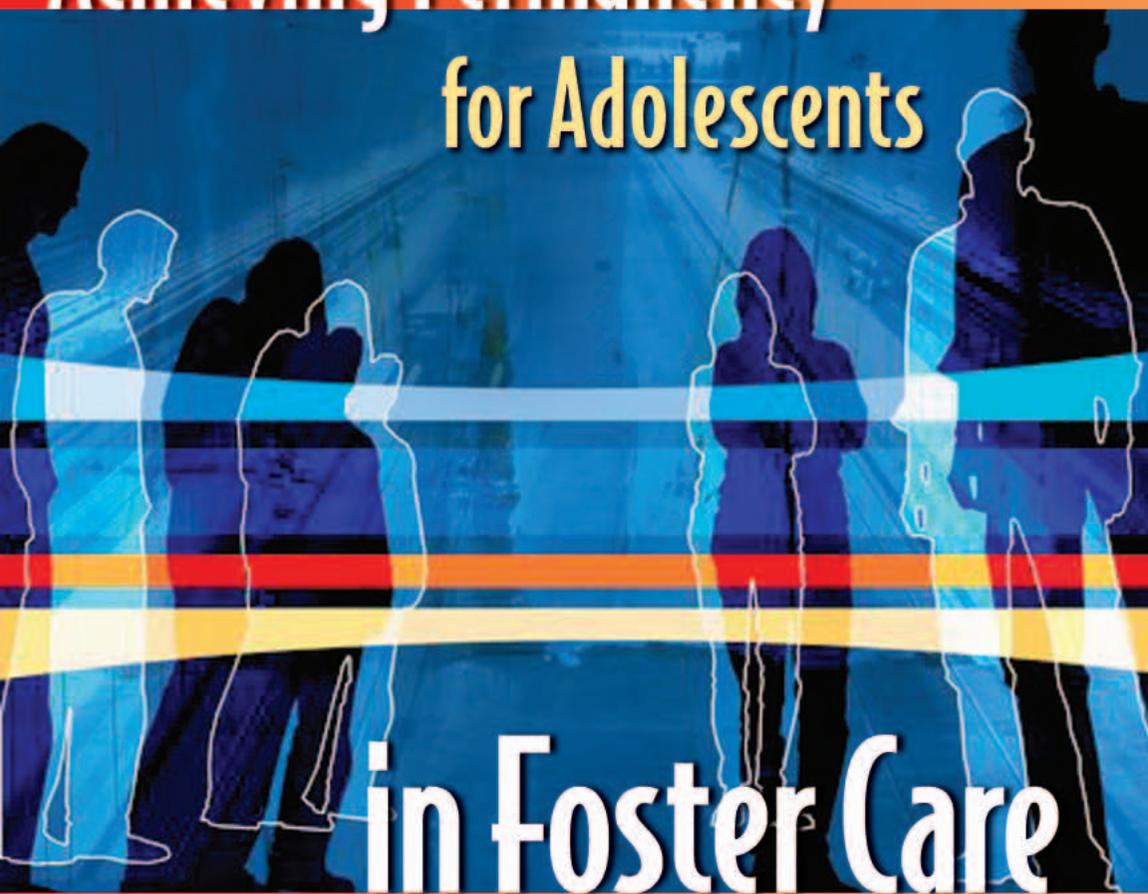


# Achieving Permanency for Adolescents

The background of the cover features a blue-tinted photograph of a hallway with people walking. Overlaid on this are several horizontal bands of color: a wide light blue band, a thinner white band, a yellow band, and a red band. The silhouettes of people are rendered in white and light blue outlines.

## in Foster Care

*A Guide for Legal Professionals*

American Bar Association





# Achieving Permanency for Adolescents in Foster Care

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*A Guide for Legal Professionals*



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American Bar Association



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## PREFACE

Some of our most challenging and rewarding clients to represent are adolescents. Not only are they survivors of abuse and/or neglect, but they often bring a multitude of other issues ranging from delinquency to substance abuse to disabilities. In most cases, they are just being maintained in foster care until they can age out at 18 with little preparation or thought for permanency.

The population of adolescents in the child welfare system is steadily growing. As advocates for these young adults, it is our responsibility to educate ourselves not just on abuse and neglect law and policy but also on the ancillary issues that impact permanency. We must use our knowledge to change how adolescents are treated in the child welfare system. The quality of their lives depends on us. They will not hold us responsible so the burden is even higher on us.

Our hope is that this book serves as a guide to attorneys and judges whenever they have the privilege of serving this population of youth.

ANDREA KHOURY



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## INTRODUCTION

Advocates working on behalf of adolescents in foster care face a range of complex legal and social issues as they seek to secure permanent homes for adolescents in the child welfare system. This book is designed to provide guidelines to judges and practitioners on how to handle dependent adolescents. The guidelines will be practical strategies that apply to agency attorneys, children's representatives, parents' attorneys, and judges as they help adolescent make the transition from foster care into situations that give the child the best opportunity for a safe and stable future. While many publications deal with permanency planning for children in foster care, this book will focus on the unique issues and problems of adolescents affecting permanency.

Because we understand that easing the transition from foster care requires professionals and the adolescents they serve to think about legal, medical, psychological, economic, and social issues, we convened an interdisciplinary team to develop our guidelines. We collaborated with youth services providers and mental health experts. Chapters were also developed with the help of an advisory board comprised of legal, child welfare, social science, and adolescent health experts. The Dave Thomas Foundation, The Freddie Mac Foundation, the National Child Welfare Resource Center on Legal and Judicial Issues, and the Partnership in Program Planning in Adolescent Health provided funding for this book.

The guidelines will:

- Provide answers and make suggestions concerning about issues adolescents face while seeking permanence.
- Describe different case types and propose specific solutions and approaches, including step-by-step legal and casework strategies for different case types
- Contribute to the body of knowledge and experience about what is necessary to create and sustain successful transitions from foster care for adolescents

- Help child welfare professionals think more carefully and more clearly about the best options for the adolescents they serve
- Lessen the obstacles confronting adolescents transitioning out of foster care

Here's a closer look at the chapters ahead:

### **Chapter 1: Legal Permanency Planning Options**

This chapter reviews the permanency plans approved by ASFA and provides general guidelines on how to handle adolescents depending on which permanency plan is chosen.

### **Chapter 2: Recruitment of Adoptive Homes for Teens and Preventing Adoption Disruption**

This chapter will discuss some unique features of recruiting and maintaining adoptive homes for adolescents. It will provide guidelines on advocating for adoptive homes for adolescents and for more appropriate adoptive homes.

### **Chapter 3: Adolescents' Conflicting Feelings about Permanency**

Adolescence is a tumultuous time in any child's life. Abused and neglected adolescents have to deal with complex feelings about their lives and futures. This chapter will discuss those feelings and provide guidelines on addressing them while working with the adolescent to achieve permanency.

### **Chapter 4: Delinquency**

This chapter will discuss how involvement with the juvenile justice system can affect an adolescent's achievement of permanency. It will outline special strategies for dealing with youth involved in the juvenile justice system.

### **Chapter 5: Teen Pregnancy and Teen Parenting**

When an adolescent comes into the foster care system and is pregnant or becomes pregnant while in care, special issues must be addressed. This chapter will provide guidelines on advocating for health-related services, appropriate placements, and educational services. Recruiting adoptive homes for pregnant and teen parents will also be explored.

**Chapter 6: Substance Abuse**

When an adolescent becomes involved with illegal substances, her chance at permanency can be threatened. Substance abuse can place strain on a potential adoptive resource, interfere with education and employment, and can involve the juvenile justice system. This chapter will provide guidelines on how to spot a substance abuse problem and provide strategies for handling it while pursuing permanency.

**Chapter 7: Teen Relationships**

An adolescent's interpersonal relationships form the basis for permanency. Sometimes a youth's relationships with peers can negatively affect permanency. This chapter will provide strategies for identifying and handling harmful relationships. This chapter will also discuss heterosexual teens who are sexually active, homosexual teens, and adolescents involved in domestic violence situations.

**Chapter 8: Education**

This chapter will discuss how a number of education-related factors can affect an adolescent's achievement of permanency. Guidelines for dealing with special education, discipline issues, and adolescents that drop out of school will be provided.

**Chapter 9: Financial Concerns**

Financial issues can play a role in determining what type of long-term goal an adolescent will have. This chapter will discuss some of those issues, including adoption and guardianship subsidies, public benefits, social security, Medicaid, housing benefits, Chafee Act benefits, and inheritance rights. Guidelines for dealing with these issues so they do not hinder permanency will be provided.

**Chapter 10: Disabilities**

Mental, physical, and emotional disabilities can impact an adolescent's pursuit of permanence. This chapter will discuss group care, transition services, and appropriate evaluations. It will also provide strategies for advocating for adolescents with disabilities.

## ADOLESCENCE DEFINED

The term adolescence in this book refers to young people ages 12 through 21.

We recognize definitions of adolescence vary between disciplines. The perspectives range from legal to social science to medical. For example:

**Legal** – That age which follows puberty and precedes the age of majority. *Black's Law Dictionary*, 6th Ed., 1990.

**Medical** – The period of life beginning with puberty and ending with completed growth and physical maturity. *Stedman's Medical Dictionary*, 27th Ed., 2000.

Each definition is adjusted to suit a particular goal. The goal of this book is to provide guidelines to practitioners interested in advocating permanency for children in the child welfare system. Topics include foster care, adoption, and achieving independence. While we understand and appreciate the different definitions of adolescence based on the field of study, for the purposes of this book, we have chosen the ages 12 through 21 to guide us.

As you read this book you will see the terms “teen,” “youth,” and “adolescent” used interchangeably. All refer to the above definition.

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## CHAPTER 1

# Permanency Planning Options for Adolescents

BY ANDREA KHOURY

## GUIDELINES

### Reunification

- ▶ Identify the issues that brought the adolescent into care.
- ▶ Ensure that court-ordered treatment for parents relates specifically to the issues that brought the adolescent into care.
- ▶ Court orders must detail what is expected of the agency, the adolescent, and the parents in order for a successful reunification to take place.
- ▶ Visits between parent and adolescent should be consistent and frequent, even if the visitation is supervised.
- ▶ Order a trial extended home visit between parent and adolescent to determine whether reunification is feasible.

### Adoption

- ▶ Determine whether the adolescent wants to be adopted and whether her consent is required.
- ▶ Contact relatives, family friends, teachers, coaches, mentors and other adults who have been important in the adolescent's life to find potential adoptive resources.

- ▶ Ensure that adoptive resources are aware of any potential subsidies that they might be entitled to due to the age of the adolescent.
- ▶ If the adolescent wants to maintain a relationship with her birth relatives and it is in her best interests to do so, negotiate a postadoption contact agreement.
- ▶ Consider concurrent planning when it is not clear if the birth parents will be able to successfully reunify with their adolescent.

### **Legal Guardianship**

- ▶ Consider legal guardianship when termination of parental rights is inconsistent with a caregiver's cultural or family traditions.
- ▶ If the adolescent does not want her parents' right to be terminated, legal guardianship can provide stability while allowing her to maintain a relationship with her birth family.
- ▶ Assess whether the guardian will be able to objectively determine whether contact between the adolescent and birth relatives is in the child's best interests.
- ▶ As with all permanency plans, ensure that the guardian understands her rights and responsibilities to the adolescent.

### **Placement With a Fit and Willing Relative**

- ▶ Do not use relative placement simply because of the adolescent's age and the relative's willingness to be a temporary caretaker.
- ▶ Before placing a child with a relative who is not willing to adopt or take guardianship, search for a nonrelative willing to be a more permanent placement option, if that is in the best interest of the child.

### **Another Planned Permanent Living Arrangement**

- ▶ Do not use APPLA as the permanency plan simply because of the adolescent's age.
- ▶ Another Planned Permanent Living Arrangement in an identified permanent home is the best type of APPLA.
- ▶ Discuss long-term care intentions with a foster family before placing an adolescent in their home.
- ▶ Another Planned Permanent Living Arrangement should not be used simply because the adolescent requires group/residential care.
- ▶ Do not use "long-term foster care" or "emancipation" as permanency plans.

The Adoption and Safe Families Act (ASFA) lays out five acceptable permanency plans for children in the child welfare system: reunification, adoption, legal guardianship, placement with a fit and willing relative, and another planned permanent living arrangement (APPLA). Each option should be considered when choosing an appropriate permanency plan for an adolescent. This chapter explains the permanency plans and provides guidelines on efforts practitioners and judges should be making when one of these permanency plans is chosen for an adolescent. In addition to the efforts described here, any number of special issues and barriers facing adolescents in the child welfare system may exist in the case. Remaining chapters address these issues and offer specific guidance to ensure they do not interfere with permanence for adolescents.

#### ONE MORE TAKE:

*I conduct “benchmark hearings” where I sit down on an informal basis and find out the child’s goals. For example, what do they envision their life as being once they exit the system? Who is the adult with whom they will maintain a permanent relationship after they exit care and what do they expect from that relationship? I use that information to get the social worker to provide a more detailed plan.*

—JUDGE JULIET MCKENNA.

## REUNIFICATION

Reunification is the most preferred permanency option under ASFA. A successful reunification provides the greatest level of permanency to an adolescent. It involves maintaining blood (or adoptive) relations with the entire family. Generally adolescents have spent most of their lives with their birth family and a successful reunification allows that history to continue to develop.

Reunification is generally the permanency plan for at least the first six months in an abuse and neglect case. For a successful reunification to occur, several guidelines should be followed.

**Guideline: Identify the issues that brought the adolescent into care.**

These issues are often not easy to identify. A family assessment should be ordered to determine what factors would lead to harm for children living in the home and what should be done to address those factors. For example, if an adolescent was removed from the home because her mother was abusing drugs and unable to care for her, a substance abuse assessment should be ordered to determine the level of treatment necessary. Often drug use is a symptom of a deeper problem. A qualified expert would be able to determine whether additional support services should be accessed before a child is returned. Permanency is not simply placing the child in the home but insuring that the child will be safe and appropriately cared for long-term and not return to foster care.

**Ensure that court-ordered treatment for parents relates specifically to the issues that brought the adolescent into care.**

Often cases have similar orders for parenting classes, drug/alcohol treatment, or psychological testing, regardless of the facts of the case. While these services may be appropriate, reunification will be achieved quicker and most successfully if the court orders are related to the family's specific needs. Safety and risk assessments, reports from experts, and other individual/family evaluations should guide court orders for family services. These evaluations and assessments should occur as soon as the child enters care so family-specific services can be timely ordered.

**Court orders must detail what is expected of the agency, the adolescent, and the parents for a successful reunification to take place.**

The court is provided with reports from the agency, the service providers, the guardian ad litem (GAL), and sometimes the court appointed special advocate (CASA). These reports have recommendations for services, placement, and long-term plans. The court's job is to sort through the reports and opinions and make a decision regarding reunification based on what will provide the greatest chance of stability and permanency for this child.

**ONE MORE TAKE:**

*The GAL should be filing reports that address key issues such as education, housing, and the teen's ability to make good decisions. If this report does not provide enough information, judges need to require the GAL to provide more.*

— JUDGE JULIET MCKENNA.

*Our job as judges is to ask the questions that nobody is prepared to ask. Once the child is in foster care, I need to know the case thoroughly and what resources are available in the community.*

— JUDGE STEPHEN RIDEOUT.

The court order should completely detail what the judge wants each of the parties to accomplish before the adolescent is returned home. The reports should supplement the court order. The parent, agency, and adolescent should be able to refer to the court order and discover what they have to do to finalize the permanency plan. Otherwise, parties may return to court and argue that the required services were not clear and therefore permanency was delayed.

If orders are clear and thorough, the agency could also request the court to find a noncompliant parent in contempt. Parents may be more motivated to act quickly to achieve reunification and take advantage of needed services if the alternative is to be held in contempt and not get their children returned.



**Visits between the parent and adolescent should be consistent and frequent, even if the visitation is supervised.**

Parents who consistently visit their children have a greater likelihood of successful reunification than those who have limited visits. The frequency of visits can vary depending on the circumstances of the case, but if the permanency plan is reunification, parents and adolescents should be seeing each other more frequently than the average one hour per week. Foster parents should be involved in facilitating visitation as well as the agency. The agency should instruct the foster parents that especially in cases where reunification is the plan, assistance with visitation is expected.

In between visits, phone calls, and other communication (letters, e-mail, etc.) should be encouraged. Any way that the connection between parent and adolescent can be maintained should be ordered. A parent's noncompliance with these orders should be used as evidence if the decision is made to change the plan from reunification to another plan.



**Order a trial extended-home visit between the parent and adolescent to determine whether reunification is feasible.**

In the same way that frequent visitation can facilitate a successful reunification, a trial extended-home visit can provide a vital stepping stone to a permanent placement at home. At best it can expedite reunification. At worst it can show that returning home is not a viable option at this time and the agency can consider changing the permanency plan.

## ADOPTION

Next to reunification, adoption is the preferred permanency plan because it offers more legal security than the alternatives. Unfortunately, adoption is often dismissed as a viable option due to an adolescent's age or circumstances. Some professionals working with dependent children believe adoption efforts should focus on younger children and adolescents should concentrate on obtaining independent living skills.

Although adoption is not the best permanency plan for all adolescents, to dismiss it without thorough investigation may deprive the adolescent of a permanent family. Adoption's benefits are:

- a permanent family that provides the adolescent stability;
- a secure sense of future because a family has made a permanent commitment to care for the adolescent forever;
- a placement that is less susceptible to legal challenge or disruption than other legal options. In most states, the standard to undo an adoption is much higher than guardianship, permanent custody, or foster care placement;
- a mutual lifelong commitment between the adolescent and adoptive parents;
- a psychological sense of belonging for the child and an official (and symbolic) association in other people's minds, which affects how they treat and respond to the adolescent; and
- a sense of continuity and consistency in how the adolescent is raised.



**Determine whether the adolescent wants to be adopted and whether her consent is required.**

A young person's wishes play an extremely important role in whether the adoption succeeds. Treat each adolescent as an individual. Although adolescents' ability to express their opinions may vary, advocates and judges must be skilled in eliciting their feelings. This may include talking to the child's therapist, who often has more contact and a deeper relationship with the child. In some jurisdictions, a child's consent is required for an adoption to take place. Regardless of whether it is required, it is good practice to consider the child's position.

If the adolescent rejects adoption as the plan, figure out the reasons. Provide counseling or more time for the adolescent to develop a relationship with the prospective adoptive parents before ruling out adoption as the plan. The adolescent may have concerns about siblings or extended family. The adolescent may be confused about adoption. It is part of the job of the advocate and judge to inform the adolescent and provide

guidance while the adolescent is considering adoption. There are counseling agencies that work with children of all ages on the issues surrounding adoption such as grief, loss, and compatibility.<sup>1</sup> Do not just ask an adolescent once if they wish to be adopted. It should be an ongoing discussion where the adolescent feels free to express her wishes, concerns, and questions.



**Contact relatives, family friends, teachers, coaches, mentors and other adults who have been important in the adolescent's life to find potential adoptive resources.**

It may be hard to find adoptive homes for adolescents. Creative recruiting efforts can help identify people who are interested in providing the adolescent a permanent home. These include adoption lists, television/internet advertisements and adoption days. *See Recruitment chapter for additional information.*

The adolescent may be able to provide insight into potential permanent placements. There may be someone with whom the adolescent shares a particularly strong connection or a unique bond such as a coach, uncle, or mentor. Ask the adolescent if she wants to be adopted and who she thinks might provide a permanent home. Then make the contacts necessary to find out if the placement is suitable. *See Recruitment chapter for additional information.*



**Ensure that adoptive resources are aware of any potential subsidies that they might be entitled to due to the age of the adolescent.**

The financial responsibilities of raising an adolescent may deter some people from exploring adoption as an option for the adolescent. Adoption subsidies may be available to alleviate some of that burden. Subsidies are monthly or one-time payments to an adoptive home when a child has "special needs." A child is considered "special needs" if the child is "hard to place" without a subsidy, whether by virtue of age, membership in a sibling group, or race/ethnicity. *See chapter on Financial Issues for more details.*



**If the adolescent wants to maintain a relationship with her birth relatives and it is in her best interests to do so, negotiate a postadoption contact agreement.**

If a child is in her teenage years when she becomes available for adoption, chances are she has maintained some contact with her birth relatives. Sometimes the adolescent will even have had limited visitation while her case has been in the system. If maintaining contact with birth relatives is in the adolescent's best interest and she wants to do so, many states have laws allowing postadoption contact. Some jurisdictions allow it to be written into the adoption court order. Others allow separate agreements between the adoptive parents and the birth parents. The concept of "open adoption" where the birth parents and the adoptive parents know each other and have contact is becoming more common. Even an informal agreement, although not legally binding, between the birth family and the adoptive family, can be successful.

**ONE MORE TAKE:**

*Judges should think about "open adoptions" where possible. Children often want to maintain contact with biological relatives and experience shows that teens often return to birth families once they leave the system.*

— TRACY SCATTERDAY.

Advocates should discuss what options are available and whether it is in the best interests of the child to have ongoing contact with birth relatives. The first priority is permanency for the adolescent. If contact with birth relatives would disrupt that permanency, advocates should consider the consequences and decide accordingly. Advocates should consult professionals who have worked with the adolescent to understand her history.

Adoptive parents must also be considered. Some adoptive parents want no ties to the child's birth family. These issues should be discussed with potential adoptive parents before the adolescent is placed in their home and a relationship develops.

Sometimes parents will be more likely to agree to sever the parent-child relationship if they know that they will maintain some level of contact with their child. The adolescent will be able to achieve a permanent home through adoption without going through a trial and having the court involuntarily sever her parents' rights.



**Consider concurrent planning when it is not clear if the birth parents will be able to successfully reunify with their adolescent.**

Adopting a primary plan of reunification and a secondary plan of adoption (or another permanency plan) is called concurrent planning. It can be successful with adolescents who have significant ties to their birth family because the adolescent is placed in a home that has committed to working with the birth family for a set period, and has also committed to becoming the permanent caretaker should the birth family not be capable of caring for the adolescent. Generally, the resource family has established a relationship with the birth family; even if it becomes necessary to change the plan from reunification, the adoptive family is sensitive to the adolescent's relationship with the birth family. The adoptive family may be more willing to maintain ties with the birth family.

Concurrent planning requires finding a family willing to make this type of a commitment to an adolescent. The family must work consistently and intensively with the birth family and honestly attempt to reunify the adolescent with them. Visitation should occur regularly. If the reunification process does not work, the family must be willing to make the adolescent a permanent member through adoption. The agency, parent, and child (if appropriate) must develop a family-centered, detailed case plan with measurable tasks for each party, goals, and timeframes. The birth family is aware of the concurrent plan and the potential consequences of failing to follow through on the reunification case plan.

## LEGAL GUARDIANSHIP

Legal guardianship, although defined differently in many states, is defined in ASFA as “a judicially-created relationship between child and guardian which is intended to be permanent and self-sustaining as evidenced by the transfer to the guardian of certain parental rights with respect to the child.”<sup>2</sup> The rights are protection, education, care, control, custody, and decision making. The guardian stands in the place of the parent and has full control over the care of the child without government oversight.<sup>3</sup>

Legal guardianship gives the child greater consistency and continuity in life than foster care. However, the guardian is not the child’s legal parent and the guardian’s ability to make permanent, binding decisions on behalf of the child is limited. Guardianships are inherently less stable and less permanent than adoption, and this lack of permanency may concern the child.



### **Consider legal guardianship when termination of parental rights is inconsistent with a caregiver’s cultural or family traditions.**

If a relative takes responsibility for caring for an adolescent, sometimes the relative does not want to adopt the child because he does not believe in terminating a parent’s rights. If the child is in a permanent, stable home and remaining there would be in the child’s best interests, legal guardianship is a good option. Although easier to disrupt than adoption, legal guardianship provides permanency to an adolescent that foster care cannot.

#### **ONE MORE TAKE:**

*Maybe we shouldn’t say that guardianship isn’t permanent. Guardianship needs to be respected more and we need to give more support and services to it so it doesn’t disrupt down the road. In most instances in which guardianship is picked over adoption, the child has an existing relationship with one or both birth parents. Parents are involved in a positive way, but just not able to serve as a permanent placement, maybe because of mental health issues or housing issues.*

*In some jurisdictions, open adoption is not recognized. So, it can be a moral agreement with the adoptive parents and birth parents but not a legal one. But in a guardianship, they can incorporate that. This may be important to the caretaker or the parent or the child. The child may want to know that they will have a supervised and safe contact with their parent.*

—JUDGE JULIET MCKENNA.



**If the adolescent does not want her parents' right to be terminated, legal guardianship can provide stability while allowing her to maintain a relationship with her birth family.**

As in an adoption, if a child is an adolescent when she is looking for a permanent home she has likely maintained some contact with birth relatives. If that contact has been substantial, the adolescent may oppose termination of her parents' rights. Although the child's best interest should guide the decision to terminate the parents' rights, an adolescent's wishes should also be given weight. If legal guardianship presents a secure and permanent alternative, that plan should be considered.



**Assess whether the guardian will be able to objectively determine whether contact between the adolescent and birth relatives is in the child's best interests.**

The guardian is the responsible adult who will ultimately control whether the adolescent has contact with the birth family. Before giving that responsibility to the guardian, make sure he understands and is willing to put the child's best interest before the birth parents' wants. The guardian should not only use his best judgment but also consider the judgment of any child welfare professional involved in the adolescent's case about whether having contact with the birth family is in the child's best interests. No one can legally take the child without the guardian's permission.<sup>4</sup>



**As with all permanency plans, ensure that the guardian understands her rights and responsibilities to the adolescent.**

The guardian is responsible for making medical and educational decisions on behalf of the child. The guardian takes financial care of the adolescent at least until the adolescent is 18. Under some circumstances, the guardian may receive public benefits on behalf of the adolescent. See *chapter on financial issues*. In most states, there is less financial assistance available for guardianship than for adoption or foster care.

## PLACEMENT WITH A FIT AND WILLING RELATIVE

Placement with a fit and willing relative is the fourth acceptable permanency option under ASFA. Placing a child in the home of a relative has many advantages including maintaining birth family bonds, maintaining culture and heritage, and minimizing harm due to removal. It also has some drawbacks, including potential disruption when the relative cannot care for the adolescent any longer or when the parent re-enters the adolescent's life; more likely contact with birth parents without considering whether it is in the adolescent's best interests; and the family remaining under state supervision.

There are several ways in which an adolescent can be placed with a relative:

1. the relative may have permanent custody with protective supervision by the child welfare agency;
2. the relative may have temporary custody; or
3. the agency may have custody and the adolescent is placed with a relative through foster care.

States vary on how they design the relative placement permanency plan. The level of permanency and state supervision may vary as well depending on which arrangement applies.

## Legal Status of Relative Placements (Excludes Adoption/Guardianship)

### Custody

	Custody to the relative with protective supervision	Temporary custody to the relative	Foster care
Agency has supervisory role	Yes	Maybe	Yes
Relative has decisionmaking authority	Yes, limited	Yes	No
Court conducts ongoing review hearings	Maybe	Yes	Yes
Financial Assistance	Child-only TANF grant	Child-only TANF grant	Monthly foster care payment
Services provided by agency	Varies widely	Agency likely to provide services	Agency required to provide services

These are common ways states structure relative placements. Of course states statutes vary and these arrangements may not apply in each jurisdiction.



**Do not use relative placement simply because of the adolescent's age and the relative's willingness to be a temporary caretaker.**

Adolescents need a permanent place to live and call home. Sometimes it can be easier to find a relative willing to provide temporary care until the adolescent is 18 than to search for a more permanent home that will provide permanency beyond the adolescent's maturity. Some relatives offer to be the temporary home just to get the adolescent out of the foster care system but have not thought about the long-term consequences of caring for an adolescent.

Examine the bond between the relative and the adolescent. Ensure that the relative understands that she is committing to providing a home, love, support, and guidance to this adolescent on a permanent basis.



**Before placing a child with a relative who is not willing to adopt or take guardianship, search for a nonrelative willing to be a more permanent placement option, if that is in the best interest of the child.**

ASFA favors placing children with relatives. In fact, relative placement is a legitimate exception to the requirement to file a termination of parental rights case when a child has been in care for 15 of the last 22 months. However, permanency for the adolescent is paramount and the agency should be making reasonable efforts to locate a family willing to provide the permanent, stable home that has the least chance of disrupting. If placement with a nonrelative is in the child's best interests, then the agency should consider placing the adolescent with the nonrelative over the relative who is not willing to make the same commitment.

## ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

ASFA created “another planned permanent living arrangement” (APPLA) as the final permanency plan. APPLA is the least preferred permanency plan because it is the least stable and permanent. ASFA defines APPLA as “any permanent living arrangement not enumerated in the statute.”<sup>5</sup> In other words, it includes long-term foster care, independent living, residential treatment, emancipation, etc. APPLA should be a planned and permanent goal. “Living arrangement” includes not only physical placement, but quality of care, supervision, and nurture the child will receive.<sup>6</sup>

APPLA should not be used as a fallback when no other permanency plan is appropriate. Reasonable efforts must be made to “finalize permanency.” Such reasonable efforts include identifying stable adults in the young person's life who will form a network of support for the adolescent. Cultivating these relationship is critical because they will endure beyond the dependency case.



**Do not use APPLA as the permanency plan simply because of the adolescent's age.**

The ASFA regulations state that no permanency option should be ruled out for an entire group of the foster care population.<sup>7</sup> The permanency plan should be chosen based on the unique circumstances of the adolescent. For one adolescent, APPLA may be appropriate; for another, adoption may be the most suitable. ASFA requires that the agency document compelling reasons for choosing any permanency plan other than the four preferred options. The compelling reasons must be case and child specific, documented in the case file, and available for court review.



**Another Planned Permanent Living Arrangement in an identified permanent home is the best type of APPLA.**

While APPLA provides less security and permanent ties than adoption or legal guardianship, it is better than unplanned foster care. This is because an identified foster family or placement commits to a child's care for the duration of the adolescent's minority. Through this type of APPLA, bonds with stable adults form that last beyond the end of the case.

However, the adolescent is still in foster care, and may experience inconsistent or otherwise disruptive caretaking from multiple sources. Also, the adolescent's sense of stability and emotional connectedness is limited since the legal obligation only lasts through the adolescent's minority.



**Discuss long-term care intentions with a foster family before placing an adolescent in their home.**

Often an adolescent will be placed in a home on an emergency basis and the agency has never discussed the foster family's long-term commitment. The adolescent develops a bond with the family and wants to remain there. The foster family does not want to adopt or take guardianship but is willing to be the caretaker until the adolescent reaches majority. The agency is backed into a plan of APPLA because the appropriate questions were not asked at the beginning. The adolescent could have been placed in a home that was open to adoption and the less permanent plan of APPLA could have been avoided.



**Another Planned Permanent Living Arrangement should not be used simply because the adolescent requires group/residential care.**

Rarely is group care a living arrangement that is planned and permanent. Consider group care a step towards achieving permanency, not a goal, especially when the youth's discharge is contemplated before the case ends. Group care should not be considered an APPLA if the adolescent's release from the residential facility is likely during the adolescent's minority. An adolescent can be temporarily placed in a residential facility without changing the permanency plan to APPLA. Group care as an APPLA should require clear evidence that the young person will not be able to function in a family setting before reaching adulthood.

While the adolescent is in group care, efforts must be made to create long-term stable ties with adult figures that are not necessarily residential staff. Relatives can often play this role. The idea is to plan for what happens after the adolescent leaves the residential setting and ensure she has connections to the community.



**Do not use “long-term foster care” or “emancipation” as permanency plans.**

Congress removed long-term foster care as a permanency option. In the preamble to the ASFA regulations, Congress explained that long-term foster care was stated too often as the plan and it was not a permanent option for a child.<sup>8</sup> Permanency and foster care are contradictory. The permanency plan must reflect the goal of getting an adolescent out of foster care and into a permanent placement as soon as possible. Foster care is inherently unstable and an adolescent has a high likelihood of multiple placements when the goal is merely foster care.

**ONE MORE TAKE:**

*I am against “Independent Living” as a child welfare permanency planning goal. I don’t agree with the idea of “independence” for these children when they age out of the system. “You can’t discharge kids to NOBODY.” We need to change minds and stop aiding and abetting kids with the idea of independence. Every goal must be a discharge to*

*some sort of parent (adoptive, birth, guardian, relative, etc). I believe it is essential to teach youth independent living skills. I just believe having the skills is completely useless without a family and a parent who will be there for the teen beyond the teen's 18th birthday and foster care.*

— PAT O'BRIEN.

Emancipation is not an appropriate permanency plan. Emancipation is when the adolescent is discharged from foster care because of age. That is going to happen whether any further services are put into place. The goal is permanency and not just discharge from care. ASFA requires more than simply maintaining the adolescent at a minimum level of care until discharge. Independent living services, mentoring, counseling, and other services that promote ties to stable adults should always be provided.

## CONCLUSION

Permanency planning is important for all children but especially for adolescents who are left behind because they are “hard to place.” Advocates and judges must ensure appropriate permanency planning and reasonable efforts to finalize permanency plans are in place. The following chapters discuss specific issues that impact adolescents in foster care while pursuing permanent homes. Guidelines are provided to help advocates and judges handle these types of cases.

## Endnotes

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1 The Center for Adoption and Support Education, Inc. (CASE) was created to provide pre and post-adoption counseling and education services to families in Maryland, Northern Virginia, and Washington, DC. Its programs focus on helping children, adults and teens from a wide variety of foster care and adoptive backgrounds, and their families receive understanding and support. CASE is located at 11120 New Hampshire Avenue, Silver Spring, MD 20904. [www.adoptionsupport.org](http://www.adoptionsupport.org)

2 42 U.S.C. § 675(7).

3 Fiermonte, Cecilia & Jennifer Renne. *Making It Permanent: Reasonable Efforts to Finalize Permanency Plans for Foster Children*. Washington, DC: ABA Center on Children and the Law, 2002, 51.

4 *Ibid.*, 55.

5 65 Fed. Reg. 4036 (Jan. 25, 2000).

6 Fiermonte & Renne, 2002, 79.

7 *Ibid.*, 81.

8 65 Fed. Reg. 4036 (Jan. 25, 2000).



## CHAPTER 2

# Recruiting and Sustaining Adoptive Families for Teens

BY GERALD P. MALLON, DRENDA LAKIN,  
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## GUIDELINES

### Attitudes about Adoption for Teens

- ▶ Believe the adolescent can be adopted.

### Adoption Assessment

- ▶ As soon as possible after adoption is identified as either the primary or concurrent plan, get a comprehensive adolescent assessment and preparation plan for adoption completed and submitted to all parties and the court for review.
- ▶ Ensure that the assessment addresses grief and loss the youth feels with respect to prior relationships.

### Adoption Preparation

- ▶ Require adoption counseling for teens to prepare them for adoptive placements.

### Adolescent Specific Recruitment

- ▶ Ask teens to identify possible adoptive resources.
- ▶ Ensure that adolescents have identified important people in their lives and find out what is important to that teen for long-term relationships.

- ▶ In most cases, encourage and help adolescents attend hearings and meetings where decisions about their permanency planning take place.
- ▶ Ensure that responsible agency workers make thorough effort to find an adoptive home.
- ▶ Locate adoption agencies in your jurisdiction that specialize in adolescents.

### Approaching prospective adoptive parents

- ▶ Invite preadoptive parents to hearings, team meetings, school meetings, and other places where critical decisions are made on behalf of the child.

### The Adoption Process

- ▶ Know the steps for the adoption process and make sure it's moving along at the appropriate pace.
- ▶ Provide instruction and materials to the prospective adoptive family to make the process smoother.
- ▶ Hold frequent review hearings when the adoption process is not moving quickly.
- ▶ Ensure that there is a postadoption service plan to address the issues that may occur after adoption has been completed. Review the plan to make sure it is comprehensive and contains all necessary information.

*When a social worker first asked me whether or not I wanted to be adopted, my first response was heck no, I can take care of myself! Taking care of myself of course meant that at age 13 going on 14, I was hanging out at a crack house with my other high friends. My best friend at the time, whose birthday was only a week earlier than mine, was already pregnant. There is no doubt in my head that if it weren't for my adoption a year later, my life would have been very different from what it is now.*

—FORMER FOSTER YOUTH

Each year about 20,000 18 year olds leave the foster care system and have no place to call home.<sup>1</sup> This highlights the urgent need for adoptive families for adolescents. If child welfare professionals believe that with extra effort, adoption is possible for our waiting youth, this need will largely be addressed.

Recruiting and sustaining adoptive homes for teens provide agency staff, lawyers, and judges a unique opportunity to be creative in their efforts. This chapter highlights the role of attorneys and judges in various efforts to recruit and sustain adoptive placements. It includes a review of adoption assessments, techniques for preparing teens for adoption, adolescent-specific recruitment, ways to address child welfare professional attitudes about adoption for adolescents, and general and targeted recruitment efforts.

*I always thought that I was adoptable even though I was 16 years old, but my social worker kept saying I was too old every time I asked him about it. I worked hard after school at this hardware store and the guy who owned it was so kind to me. He was such a good guy. I always talked to him. I never really told him I was in foster care, but one day when we got to talking, he started to ask me a lot of questions about my family and then about life in foster care. I invited him to my case conference because my social worker said I could invite anyone who I wanted to, and at that point he asked about adoption. I was shocked at first, but it made sense. We finalized my adoption three months ago. That day was the happiest day of my life.*

—FORMER FOSTER YOUTH

## ATTITUDES ABOUT ADOPTION FOR TEENS



### **Believe the adolescent can be adopted.**

One of the most critical factors that determine whether a child/teen gets adopted is whether child welfare professionals handling the case believe the adolescent can be adopted. Caseworkers, attorneys, and judges who don't believe that the adolescents on their caseload are adoptable can hinder the success of finding a permanent adoptive placement for those youth.

Avery (1999) in her study of *New York State's Longest Waiting Children* 1998 found that 41% of the caseworkers in the study who had children awaiting adoption believed that the children on their caseloads were not adoptable and that another 26% felt that the children were “maybe” adoptable. Changing worker values and beliefs regarding the *adoptability* of the children on their caseloads can go a long way in securing lasting adoptive placements. Let caseworkers know that you will help in recruiting and securing an adoptive home for your client. Show them that you believe your client can be adopted. Let them know that you won't allow them to give up.

#### ONE MORE TAKE:

*We worry about square peg teens in round hole foster homes. Teens need permanent families and foster homes are temporary. Teens need permanent parents before they are discharged from foster care. This is the only thing that prevents them from becoming homeless. There is no economy that supports an 18-to-21 year old. They need a lifetime commitment from those parents. “You Gotta Believe” prepares families to make a permanent, not temporary, commitment. The people are recruited as permanent, adoptive families. There seldom comes along a kid that can't be placed. Because there aren't enough agencies willing to do the work, few are placed. There would be far more success in placing teens if they have a contract specifically to permanently place teens. Many professionals think that it's OK to just prepare the youth for discharge. We don't teach that. Unlike foster care, adults aren't allowed to send kids back into care. They do post-placement services to work with families to keep the child.*

– PAT O'BRIEN.



## ADOPTION ASSESSMENT



**As soon as possible after adoption is identified as either the primary or concurrent plan, get a comprehensive adolescent assessment and preparation plan for adoption completed and submitted to all parties and the court for review.<sup>2</sup>**

A comprehensive adolescent assessment and preparation plan for adoption is critical to the long-term success of any adoptive placement and helps minimize the likelihood of disruption. While various assessments and reports need to be done when the child enters care and at regular periods throughout the case, this written adoption assessment, completed when it is likely that adoption will be the plan, is a process by which information is gathered that identifies and evaluates the youth's history and experiences, and how they relate to current behavior, development, and functioning as well as the youth's medical and genetic history.

The assessment should be completed by the caseworker and include the adolescent, birth family, caregivers, and anyone else that has information about the adolescent's past and relationships. This assessment can also be used to facilitate timely decision making and planning for an adoptive placement, and should be conducted while preparing teens for permanency.

Various tools may help child welfare staff and the teen get a clearer picture of what the information means. Life Books and Video Life Books are among these tools.<sup>3</sup> A Life Book describes the adolescent's life from birth until present and details important people, places, and events that helped shape the teen's life. Helping the teen assemble his or her Life Book can help connect the teen with his past, clarify gaps in information, identify the teen's perception of events and people who have been a part of her life, help the teen resolve separation issues, and understand himself better. These books may help the adolescent understand what has happened to them and give them insight into why. The Life Book can also enhance the relationship between adolescent and caseworker as they work on the book together. Video Life Books help teens tell their stories and feelings in their own words.



## **Ensure that the assessment addresses grief and loss the youth feels with respect to prior relationships.**

Youth who are available for adoption must deal with separation, grief, loss, and other issues resulting from the circumstances that brought them to the attention of the child welfare agency and their placement away from important people, places, and things in their lives. Multiple moves through various foster home placements, and possible separation from siblings and other kin can affect a child's sense of well-being, relationships with others, school performance, and mental health.

These issues can greatly influence the adolescents' readiness for and sustainability of any adoptive placement. A thorough understanding of stages of grief and loss as well as the effects of negative attachment issues and their manifestation are essential to helping each adolescent navigate through this difficult emotional journey.

Adoption assessments for adolescents in foster care require an understanding of the impact of abuse and neglect. The termination of their birth parents' rights is difficult for many teens, since it highlights the fact that the relationship with birth parents will never be the same, even if the teen can maintain contact with the birth family after adoption.

The assessment and preparation process needs to focus on:

- the quality of relationships between the youth and those who have previously provided care;
- the importance of maintaining ties with the birth family, kin, foster family (families), and residential care staff;
- the teen's behavior in foster homes, including what caregivers have depicted as most rewarding as well as what has been annoying or challenging;
- the frequency of the behavior needs;
- whether the behavior has persisted over time, increased or decreased;

- techniques that have been used when the teen has been most upset and how they respond to those techniques; and
- individuals the youth seeks for support, assurance, and security.

The assessment and preparation process is also a time to clarify what the teen knows about his past and the reasons that an adoption is being planned. It also should include other information that the prospective adoptive family will need to consider to determine the possibility of this youth joining their family including what ongoing service needs the adolescent will have and the potential resources for meeting those needs. *See Adoption Preparation for more information.* Sources of information for the adoption assessment process include:

- the teen
- birth parents or other birth relatives
- agency files
- prior assessments of the teen and family
- current and former foster parents or other youth care staff
- former child welfare workers for the teen/birth family
- teachers
- therapists—mental health, physical or occupational, developmental
- health care providers
- clergy or members of the child's faith community
- others who know and care about the child

Find out if the list of people the worker is talking to is current and ensure that it is complete.

## ADOPTION PREPARATION



### **Require adoption counseling for teens to prepare them for adoptive placements.**

Sometimes the assessment will point to the need for further counseling on permanency options. It is important for professionals to explore with teens their understanding and opinions about adoptive placement. It is

critical that teens not only be involved in the assessment process, but also be engaged in discussing their perceptions of adoption and be appropriately prepared for placement. There are adoption counselors within child welfare agencies as well as independent agencies that specialize in adoption counseling for adolescents.<sup>4</sup> Before agreeing to adoption as the plan, make sure the adolescent explores their feelings about adoption with a professional.

#### ONE MORE TAKE:

*We really need to have more intensive counseling and intervention to help the child see the advantages of adoption.*

— JUDGE JULIET MCKENNA.

## ADOLESCENT-SPECIFIC RECRUITMENT

### GUIDE LINE

#### Ask teens to identify possible adoptive resources.

Adolescent-specific recruitment efforts—including asking teens to identify possible resources—are some of the best ways to identify potential adoptive parents. Involving adolescents in adoption planning can be successful when the planning empowers the youth in the recruitment process. This can be challenging, as many youth may immediately state that they do not wish to be adopted. Many child welfare professionals take these statements at face value, never exploring with the teen exactly what adoption means, and their concerns.

Adoption can be frightening and full of misconceptions for young people. Exploring adoption is a process, including challenging youth's attitudes regarding adoption. See *Conflicting Attitudes about Permanency* chapter for more information. Adults who have a relationship with the young person must help them consider adoption.



**Ensure that adolescents have identified important people in their lives. Find out what is important to each teen in their long-term relationships.**

Exploring adolescents' connections with others helps identify potential recruitment strategies. Talk to adolescents about people who:

- care for them when their parents can not
- pay attention to them
- look out for them
- share holidays and special occasions
- believe in them
- stand by them
- compliment, praise, and appreciate them
- can be counted on
- can be called with good/bad news to share
- listen and give advice

**ONE MORE TAKE:**

*We try to recruit relatives and other adults who already have an established relationship with the child. We try to find out if teens in foster care have an adult in their lives, a grown-up who really cares about them. To accomplish this we hold workshops and ask kids to invite their relatives, friends, people who know them from the residential treatment facility, people from the school system, etc. who are involved in their lives. Even though the kids are being trained for “independent living” – we can bring in the people who know the kids and see if someone will have that “aha!” moment in which they might be able to commit to the kid as a parent.*

— PAT O'BRIEN.

This helps the teen identify who is important in their lives, their perceptions of what is important in relationships, and their needs and wants in a family.

## General Recruitment for Adolescents

Though broad in its outreach, when done effectively and consistently and in conjunction with targeted and child-specific recruitment, general recruitment efforts help enhance agencies' pool of adoption resources for adolescents.

Marketing strategies such as public service announcements, yellow page ads, billboard displays, and brochures are common in general recruitment, and usually reach a large audience. General recruitment can encompass a message regarding the need for adoptive families for older youth, along with the agencies' other age groups. This can be done through marketing that depicts the need for resource families for adolescents and highlights the types of successful families who have provided resources for adolescents.

General recruitment serves as an important public information/educational function. Its marketing techniques can be used to overcome the general public's perception that adoption is only for infants or two-parent households. Some families may consider adopting toddlers and children in grade school, but have never considered caring for teens. General recruitment provides an opportunity to "plant the seed" that older youth are adoptable and that different types of families are acceptable to adopt. It also explains the postpermanency services available to support the adoptive placement.

### ONE MORE TAKE:

*The youth will lead us to people in their lives – teachers, people in the community, people who work for institutions where they met the youth, coaches, aunts, etc.*

— PAT O'BRIEN.

Knowing where the youth has lived in the past, what they consider to be the best living situation they ever had can provide insight into where the teen would succeed. Knowing who the teen felt connected to in the past, and who they want to stay connected to may suggest other potential resource families, or the types of families with whom they would be comfortable.



**In most cases, encourage and help adolescents attend hearings and meetings where decisions about their permanency planning take place.<sup>5</sup>**

It is essential to find out how teens feel about the permanency planning process and the memories, fears, and anxieties it stirs up. To this end, include them in the decision-making process. Inform adolescents of actions that need to be taken, and decisions that need to be made on their behalf. Involve them every step of the way.

During case planning meetings, permanency planning hearings, school decision-making meetings, and other decisions about their future, adolescents can provide insights into what they want and need. Adolescent adoptions are often more successful when they have been actively involved in planning for their futures. Adolescents' attitudes about the permanency plan can make or break its success. They are more likely to feel invested and put more into the plan if they have had a part in developing it.

Helping teens look to their future includes looking at what they want to accomplish in the next year, the next five years and even what they think their life will look like 10 years from now. Such issues as to whom they will be connected over time, what "family" looks like, who will help them achieve their goals, and how families support or hinder them are important factors for teens to consider.

Other factors for adolescents to consider are what role the people around them play in helping them accomplish their goals. Questions such as "what they do or do not need or want from prospective parents," as well as their expectations of the professionals working with them, should be explored.



## Ensure that responsible agency workers make thorough efforts to find an adoptive home.

Ensure that the youth's entire case record is reviewed by the caseworker in search of anyone who has done something that could be construed as an expression of concern for the youth, including:

- former foster parents
- former caseworkers
- former neighbors, parents, or friends
- members of their extended families (aunts, uncles, cousins, older siblings)
- teachers
- coaches
- guidance counselors
- group home staff
- independent living staff

### ONE MORE TAKE:

*One group that is proving to be a particularly good resource as adoptive parents for adolescents is empty nesters that have raised kids and have good experience and don't really want to start all over with babies.*

— PAT O'BRIEN.

Given that some youth have been in care for prolonged periods, case records can have many volumes that should be explored to uncover clues about possible past and present connections. Staff also need to discuss the information in the record with the teen to see if it matches the teen's recollection and perceptions about their life history.

Looking at the youth's placement history can help child welfare professionals and the youth look at what happened in the youth's life. It can also provide an opportunity to correct misperceptions about events in the

youth's life and correct mistaken ideas such as being at fault for being placed in foster care.

#### ONE MORE TAKE:

*Traditionally prepared foster families say their child can stay “forever,” but it is well understood by the professionals involved in the case that “forever” often means one of two things: 1) until the youth’s next unacceptable behavior; or 2) until the birthday when the youth ages out of care.*

*We give families the “commitment test.” We use a two question test: First, what behavior would lead you to kick the child out. If there is an answer other than nothing, there isn’t commitment. Second, where will the kid live after she ages out of foster care. If they look puzzled, there is not commitment. They are supposed to say “with me.” Unconditional commitment is simply that there is nothing a teenager can do to stop being someone’s child. Unconditional commitment means that we treat any child’s behavior with the exact same commitment that we would treat a biological child’s behavior.*

— PAT O’BRIEN.

Attorneys and judges should request to see the results of the search and why people were ruled out as potential adoptive resources. They should consult with their clients about any mistakes that should be corrected in the file.



#### **Locate adoption agencies in your jurisdiction that specialize in adolescents.**

There are some adoption agencies that specialize in certain types of children (children with disabilities, young children, etc.). Find one in your area that focuses its efforts on finding homes for adolescents.<sup>6</sup> Contact them and find out what strategies they use to place adolescents with adoptive families. If your agency is not successful at locating an adoptive resource for your adolescent, refer them to the adoption agency.

**ONE MORE TAKE:**

*Private agencies/contractors typically have more time and energy to put into recruitment for teens and the harder-to-place kids.*

— TRACY SCATTERDAY.

## APPROACHING PROSPECTIVE ADOPTIVE PARENTS

Once the child or the agency has selected a preadoptive parent, it's important to involve them as soon as possible in all aspects of their case.



**Invite preadoptive parents to hearings, team meetings, school meetings, and other places where critical decisions are made on behalf of the child.**

The prospective adoptive parent may already be deeply involved in the child's life. In this case, it's important to continue encouraging them to participate. Invite them to all meetings, and ask them to speak in court about how they are doing. Make them feel involved and invested in the teen and the process. Create an atmosphere where they will feel comfortable asking questions about the process and not simply give up when problems arise.

## THE ADOPTION PROCESS



**Know the steps for the adoption process and make sure it's moving along at the appropriate pace.**



**Provide instruction and materials to the prospective adoptive family to make the process smoother.**

After a family commits to become an adoptive resource, there are many procedural steps they have to take before they can adopt. They may need to participate in foster care training, complete a home study, fill out paperwork (including birth certificates, marriage licenses, criminal background check, income verification, statement of health, references),

provide fingerprints, participate in an in-depth interview, retain a lawyer, go to court, apply for adoption financial assistance, and so forth. Many adoptive parents see these obstacles and decide that it's not worth the effort. Advocates must be available to answer questions or refer adoptive parents to people who can assist them in this process.

Most child welfare agencies have adoption units that can help. However, additional resources can be accessed to simplify the process. The North American Council on Adoptable Children ([www.nacac.org](http://www.nacac.org)) provides a wealth of information on the steps for adoption and resources that an adoptive parent can contact for assistance. The Adoption Exchange ([www.adoptex.org](http://www.adoptex.org)) provides information on steps for adoption, assessments, home studies, and financial incentives. Attorneys should be able to give prospective parents an adoption information file or an adoption process checklist to make the steps easier to understand and more likely to be completed.

#### ONE MORE TAKE:

*It isn't enough to just have hearings every six months. Schedule them every 30 or 60 days and require the adoption recruiter to appear and say what steps have been and are being taken.*

— JUDGE JULIET MCKENNA.



### **Hold frequent review hearings when the adoption process is not moving quickly.**

When a home study is not completed, or a piece of documentation is not filed properly, the adoption can be delayed. An adolescent is waiting in limbo for the adoption to be finalized. Regularly scheduled hearings (every six months) are not frequent enough to move the case along. Hold additional review hearings and require the adoption worker to explain why a particular stage of the adoption is stalled and how they are going to quickly remedy the situation. Do not accept vague answers. Ask what

## Targeted Recruitment for Adolescents

This type of recruitment targets specific populations to adopt youth in the child welfare system. Many target groups who have successfully adopted teens in the past. There are people who love working with and parenting adolescents—group homes, community centers, and schools are examples. Former teachers, social workers, or child care workers have dedicated their lives to adolescents and may be interested in providing a permanent connection to a waiting adolescent.

Ohio and New York City are seeing an increase in foster/adoptive parents by marketing to specific communities in need of foster parents. Based on research, they discovered which geographic areas contained people who were more likely to become adoptive parents and they targeted those areas for marketing. New York also has support groups for foster parents to increase the likelihood that foster/adoptive parents will continue in the program. One cause of the shortage of foster homes is not lack of recruiting efforts but inability to retain current foster parents. More detail about these programs and a review can be found at “Connect for Kids” web site.<sup>1</sup>

Casey Family Programs also discovered some successful foster family recruiting/retention tools, including using experienced foster families as mentors to prospective families, setting up an e-mail distribution list for foster families, and holding team meetings that include birth and foster families.<sup>2</sup>

Overall, single females, relatives, foster parents and persons over 45 years old are more likely to be adoptive resources for waiting older children than waiting younger children.<sup>3</sup> Further, single females are more than three times as likely to serve as adoptive resources for older African-American children as for older white children. This information can help us target populations that have a history of adopting older children, but it also suggests those populations to which agencies may need to increase their outreach.

When the agency claims there are no adoptive resources for a particular adolescent, advocates should insist that broader searches be completed. Targeted recruitment efforts, specifically geared for youth in need of permanent families, may reach out to other counties and states to broaden the pool of potential resource families. These may be “stranger placements,” placement with relatives or kin across state lines, or placements with prior foster parents who have moved away.

Although interjurisdictional adoptions can take longer and are in some cases more complex than adoptions within the same child welfare jurisdiction, child welfare agencies should be prepared to implement a range of practices to facilitate youth adoptions across state lines.<sup>4</sup>

Other targeted recruitment efforts geared for youth in need of permanent families include youth features in state photo listing books, and on internet adoption exchanges (e.g., [www.adoptionexchanges.com](http://www.adoptionexchanges.com) provides a list of adoption exchanges that can be accessed and [www.usadoptkids.org](http://www.usadoptkids.org) provides the opportunity for families to look for available children). State-sponsored adoption parties<sup>5</sup>, television spots<sup>6</sup>, and adoption fairs also are opportunities for featuring specific youth waiting to be adopted. These efforts should be coordinated with the youth in mind, and be age appropriate.

#### Sources

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- 2 [www.casey.org](http://www.casey.org). “Recruiting and Retaining Resource Families: A breakthrough series collaborative”
- 3 Maza, Penelope L. “Who Adopts Older Children?” *The Roundtable* 16(2), 2002, 1,6.
- 4 Government Accountability Office. Foster Care: *HHS Could Better Facilitate the Interjurisdictional Process* (GAO-HEHS-00-12). Washington, DC: United States Congress, November 1999; Maza, Penelope L. “The Challenge of Interstate Placement for Adoption.” *The Roundtable* 17(2), 2003, 1,2,9.
- 5 Adoption parties are gatherings including prospective adoptive parents, children awaiting adoption and their caseworkers, and families who have had successful adoptions. This provides a safe and fun environment for families and children to connect. [www.adoptex.org](http://www.adoptex.org).
- 6 “Wednesday’s Child” is a nationally known television segment that features children awaiting adoption. [www.freddiemacfoundation.org/core/ourwork/html/founwedn.htm](http://www.freddiemacfoundation.org/core/ourwork/html/founwedn.htm).

the court or other players can do to expedite the adoption. Court orders should specify next steps, set time limits on those steps, and require reports confirming their timely completion. When necessary the court should schedule further early reviews.

### ONE MORE TAKE:

*We conduct an ongoing review of all of our foster care cases every six months, are sure to carefully read the reports a day or so before the court hearing, identify the issues that may or may not be resolved, and prepare a list of questions in advance. Judges should be proactive in these cases once we have decided that the child is abused or neglected and we must begin providing oversight of the efforts of the social services agency to achieve permanency for the child.*

— JUDGE STEPHEN RIDEOUT.

### GUIDE LINE

**Ensure that there is a postadoption service plan to address the issues that may occur after adoption has been completed. Review the plan to make sure it is comprehensive and contains all necessary information.**

After an adoption is finalized it is common for the family to experience trouble with the teen's behavior. Families are often at a loss as traditional parenting skills fail on their adopted child. To minimize the chance for adoption disruption, adoptive parents must have the tools and resources to handle these special children. The assessment and postadoption plan should highlight services and supports the youth will need once placed for adoption and the people or resources that can help the family provide those things. Ensure that the plan provides specific information covering the following areas:

**Information and referrals** – When issues arise that parents are unequipped to handle, they should be able to look to the agency to provide information and specific contact information for places that can help them.

**Counseling** – Depending on how the adolescent adjusts to the adoption, individual and family counseling should be offered to smooth the transition and be available when issues arise.

**Support Groups** – Regularly scheduled groups for adoptive families to turn to for support during initial stages of adjustment and beyond. The groups can be topic specific (how to deal with child with attachment disorder) or provide a general supportive atmosphere to discuss anything.

**Education and Training** – Education on school issues, immigration questions, mental health resources, and other substantive topics that may develop when adopting an adolescent should be available to adoptive parents.

**Advocacy** – Beyond education, agency advocacy should be available to adoptive parents for things like school enrollment, special education services, getting Medicaid services, and other services that the parents may need.<sup>7</sup>

The plan should provide specific contact information for those services and supports. The plan should also inform the parents if there is an opportunity for respite care when the family and the teen need a break.

Many agencies offer postadoption services. Advocates should ensure that adoptive families know how to access them.<sup>8</sup>

## CONCLUSION

There is a critical need for adoptive homes for teens. According to AFCARS data, over 126,000 children are waiting for adoption, nearly half are over 11. Even with this critical need, teens and professionals are often ambivalent about adoption and a teen’s “adoptability.”

Teens should be actively involved and have input in their recruitment, including identifying persons with whom they feel a connection; placement planning; and postadoption support.

Child welfare practitioners must believe older youth are adoptable for recruitment efforts to succeed. They should assess and prepare teens for adoptive placement involving a plan for preplacement and postadoption services. Finally, they must commit to finding a lifelong connection for all adolescents on their caseloads.

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## Endnotes

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- 1 Nearly half of the children in public agency care are between the ages of 11 and 19.

The Children's Bureau's *Adoption and Foster Care Analysis and Reporting System* (AFCARS) provides national data on the children served by the states in their public child welfare system. The AFCARS report as of March 2004 based on fiscal year 2002 data reveals that 532,000 children were in foster care on September 30, 2002. The category with the largest number and largest percentage of children in care was youth between 11 and 15 years. A total of 158,290 children or 30% of all children reported to be in care were in that category and 49% of all children in care were 11 years or older. O'Brien, Pat. You Gotta Believe! 1728 Mermaid Avenue Brooklyn, N.Y. 11224 1-800-601-1779 (24 hr). 718-372-3003. [www.yougottabelieve.com](http://www.yougottabelieve.com). One important result of adoption of adolescents is to prevent homelessness.

- 2 An adoption assessment is usually completed once the plan has been changed to adoption and the parents' rights have been terminated. However, it can be completed earlier in the case when it becomes likely that adoption will be the plan.
- 3 Samples of these books can be found at American Foster Care Resources [www.afcr.com](http://www.afcr.com). A description of how to use the Life Books can be found at [www.arvinpublications.com/lifebookhelp.html](http://www.arvinpublications.com/lifebookhelp.html) and [www.adoptionlifebooks.com](http://www.adoptionlifebooks.com).
- 4 Center for Adoption Support and Education (CASE) provides adoption counseling for adolescents and their families. [www.adoptionsupport.org](http://www.adoptionsupport.org). The Adoption Counseling Center [www.giftoflifeinc.org](http://www.giftoflifeinc.org).
- 5 Deciding whether an adolescent should attend hearings and meetings should be done on a case-by-case basis and with the input of a mental health professional if necessary. Some reasons for not bringing them would be if traumatic events are being discussed and the adolescent would be emotionally harmed if asked to remember these events, if an offending parent (or guardian) would be present and seeing that parent would harm the adolescent, or if other commitments (school, counseling, sports) conflict with the hearings and skipping the other commitment would harm the adolescent. Involving an adolescent in the decision-making process can significantly empower the adolescent and make her feel more invested in the plan for her future. However, other considerations should be taken into account based on the circumstances of the case and the adolescent.
- 6 Some examples are:

**Harlem Dowling West Side Center for Children and Family Services**—Based in Harlem, NY, Harlem Dowling is contracted by New York City's Administration for Children's Services to provide foster care, adoption, and independent living services. Adoption Option for Teens is a program focusing on adolescent permanence. Under this program, Harlem Dowling youth attend presentations by young people who have been adopted and parents who have adopted or are considering adopting teens. Youth interact directly with panel members and can see and hear for themselves what other teens think about permanence—input that may pique their interest in having a permanent family. The presentations have resulted in many successful matches between youth in foster care and adoptive parents.

**Children's Services of Roxbury/Massachusetts Families for Kids (FFK)**—A statewide program, the Lifelong Family Connections (LFC) project strives to establish enduring family ties for Massachusetts youth ages 14 to 18 who are in foster or residential care. The goal is to ensure certain teens do not age out of care without

the ongoing support of a family. Teens play a pivotal role in directing their futures. Staff work with teens to help them understand the importance of permanency, and encourage them to explore their network of adult connections, past and present, relative and nonrelative. Based on identified connections, teens choose people for their Family Consultation Team—a group that works with the teen to investigate placement options and write a Youth-Specific Permanency Plan. The team then monitors progress and offers support as the teen moves ahead with the plan. For teens who are not going to be adopted, workers help youth identify potential connections based on their strengths, interests, talents, and career goals.

**Adopt Cuyahoga's Kids**—A collaboration of the Cuyahoga County, OH Department of Children and Family Services and 13 area agencies, Adopt Cuyahoga's Kids began in January 2004 to find permanent placements for 656 county youth ages 10 to 17. Workers approach adolescents not about adoption but about what family means to them and whether they see a family structure in their future. Workers frontload services by visiting adolescents at least four times in the first two months gathering important information about the birth family, history, and adult connections in the adolescent's life. The worker then creates a permanency planning team, including the youth, foster and birth families, and whoever else the adolescent identifies. Regular meetings are held to find permanent connections for the adolescent. Even if the teen is going home or aging out, the team finds stable adult role models to help with the transition and become permanent figures in the adolescent's life. The meetings are also a place where the adolescent can discuss feelings concerning the process.

**Three Rivers Adoption Council**—In Pittsburgh, PA, Three Rivers Adoption Council (TRAC) is recruiting families for older children and teens with modern technology. Taking advantage of teenagers' interest in computers, Three Rivers staff work with teens to develop their own Power Point slide shows. The finished presentations are posted as individual web pages on TRAC's web site ([www.3riversadopt.org](http://www.3riversadopt.org)). The power point can contain photos of the adolescent as well. The Power Points also work as a valuable preparation tool for adoption. Riggs, Diane. *Teens Can Help Find Families*. St. Paul, MN: North American Council on Adoptable Children, 2004. [www.nacac.org](http://www.nacac.org)

7 [www.caseyfamilyservices.org](http://www.caseyfamilyservices.org).

8 Barry Chafkin. "Post Adoption Services Work in Many Ways." St. Paul, MN: North American Council on Adoptable Children. [www.nacac.org](http://www.nacac.org).

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Adoptive Families Together [www.adoptivefamilies.org/resources/postadopt.html](http://www.adoptivefamilies.org/resources/postadopt.html)

After Adoption: The Need for Services. [www.adoptions.com/aecafteradopt.html](http://www.adoptions.com/aecafteradopt.html)

## CHAPTER 3

# Adolescents' Conflicting Feelings About Permanency

BY GERALD P. MALLON, DRENDA LAKIN,  
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## GUIDELINES

- ▶ Engage the adolescent, the young person's social worker, and those important in the adolescent's life to explore their attitudes and feelings about forming permanent, lifelong connections.

### **Mastery and Control**

- ▶ Ensure adolescents are involved in developing their permanency plan.
- ▶ If discussing adoption, do not simply accept no as an answer. Explore further and consider the use of counseling strategies in planning for the future.
- ▶ Involve the adolescent in court hearings and ensure that he or she is fully heard.

### **Separation, Loss, and Grief**

- ▶ When adolescents are reluctant to discuss permanency questions, request or order grief and loss counseling or a support group where they can explore their feelings about past losses and understand what is happening in their lives.

## Unmatched Expectations

- ▶ To prepare an adolescent for a permanency plan, consider phasing in the relationship by having the adolescent spend overnights and weekends with the family or guardian. Once these are successful, the adolescent can spend more significant time with the family and can move towards a permanent situation that includes adoption or a permanent lifelong connection.

## Bonding and Attachment

- ▶ Advocates working with adolescents must model trustworthy behavior by following through on promises they have made.

## Entitlement

- ▶ Make sure the adolescent understands the reasons behind their separation from their family, the termination of parental rights, or placement.
- ▶ Ensure that permanency plans will help adolescents to maintain ongoing relationships with other stable, permanent people in their lives (e.g., siblings, birth relatives, foster families, fictive kin, guardians, and mentors).

## Identity Formation

- ▶ When developing the permanency plan recognize the unique needs of each adolescent client. Do not expect to be able to apply a single formula and be able to understand each adolescent.
- ▶ Take into account the adolescent's challenging and difficult behaviors when developing the permanent plan and identifying necessary services.

*They're always talking about this permanency stuff. You know social workers . . . always using these big social-work terms to talk about simple things. One day one of them finally described what she meant by permanency. After I listened to her description, which was the first time anyone ever told me what the term meant, I said, "Oh, that's what you mean. Yeah, I want permanency in my life. I don't think I ever had that! When can I get it?"*

— FOSTER CARE YOUTH

The concept of permanence is often not clear for adolescents in foster care. Adolescence is a time of transformation and growth. Developmentally, adolescents struggle to identify who they are and to develop their unique worldviews. Adolescents will express ambivalence, reservations, uncertainty, and even defiance when confronted with decisions about their future.

Some sources of conflict that an adolescent has are a:

- desire to be independent versus the need to be dependent.
- need for closeness versus mistrust based on past bad experiences.
- need to take on adult behaviors versus the need to be a child.

This chapter directs attorneys and judges to the conflicting feelings and challenges adolescents face in securing permanent homes and in creating lifelong connections with a caring adult. It also provides guidelines and strategies to guide adolescents through difficult decisions dealing with permanency. This chapter helps the court and attorneys proceed towards permanence and to make good, timely decisions for adolescents while still involving them in the process.



**Engage the adolescent, the social worker, and those important in the adolescent's life to explore their attitudes and feelings about forming permanent, lifelong connections.**

The idea of all children and adolescents deserving and needing a legal, permanent family to call their own seems right and makes sense. Yet, attempting to find permanence for an adolescent often directly conflicts with normal adolescent development. Permanence signifies stability, security, and finding a permanent home for adolescents. But, adolescents' lives are often filled with chaos, turmoil, and change.

Developmentally, adolescents are separating from adults and trying to determine their *own* identities and values; make their *own* decisions; and ultimately separate from their families. As adolescents struggle through this separation, they are scared. The fear is masked by rebelliousness

often viewed negatively by adults. The rebellion may be a rejection of *anything* adults view as valuable. This is part of the challenge in working with adolescents.

Professionals and volunteers working with adolescents understand that permanent families can offer these youngsters stability and security. However, the value of permanence may be threatening or difficult for many foster adolescents to grasp. Even when they really do understand their need for permanence, they may have conflicting feelings about moving toward permanency, particularly in a family.

#### ONE MORE TAKE:

*Social workers must be trained to be able to talk to children about loss and the feeling of rejection and keep the possibility of adoption or permanent placement alive for children and teens. Judges and lawyers need to be aware that this may be the reason the adolescent says they don't want to be adopted; they are afraid of another loss (loss of their last name, loss of the ability to see their biological family, etc.).*

— TRACY SCATTERDAY.

There are issues common to the foster care/adoption experience that can affect all adolescents living with a foster family, a guardian, a relative, or adoptive family. First, adolescents are often placed in out-of-home care because of abuse or neglect. Furthermore, birth parents, kin, foster parents, adoptive parents, and guardians, in some cases disagree or have conflicting feelings about what permanency looks like for the adolescent. These feelings need to be addressed to resolve the adolescent's conflicting feelings about permanency. It is important that judges, attorneys, and child welfare professionals working with adolescents understand conflicting feelings that adolescents may have and some of the underlying issues contributing to this conflict, including:

- **The need for a sense of mastery and control** – Having a role in making decisions for oneself.

- **Separation, loss, and grief** – Feelings based on the past experience of being removed from birth families.
- **Unmatched expectations** – That the adolescent's view of their place in a new family doesn't match the family's view.
- **Bonding and attachment** with the biological parents and the very gradual development of deep relationships between the adolescent and a new family.
- **Entitlement, claiming, and family integration** – That there is a process of being accepted legally and socially into a new family.
- **Identity formation** – The adolescent's process of becoming an independent person with identifiable roots and an optimistic future.

Adolescents may want the sense of belonging and stability that should result from permanency planning, but all of these issues often bring mixed feelings that make it difficult for them to commit to a permanent plan. Everyone involved in the adolescent's case must engage in real conversations with the adolescent about their future.

Judges, guardians ad litem, and lawyers, should get to know the adolescent based on the personal observations and interactions and not only by what they read in the case file. The young person's social worker most likely has an existing relationship with the young person and may be called upon to facilitate this process with legal colleagues. Professionals may ask the adolescent questions ranging from "How was your day?" to "What do you think you would like to do in the future?" All professionals engaged with the young person must show active, genuine, and authentic interest in their lives.

## MASTERY AND CONTROL



**Ensure adolescents are involved in developing their permanency plan.**

Most adolescents, as they approach adulthood, seek a sense of control over their lives. Adolescents in foster care often acutely feel this particularly because of their experiences growing up. They have been separated

from their families, often against their wishes, whether or not their health and safety were in jeopardy. Many adolescents in foster care have experienced a number of involuntary moves after entering the child welfare system. The lack of control over their lives and their lack of permanency makes many reluctant to believe that much will be different just because someone is promising a permanent situation. Negative prior experiences may lead them to believe that adults are seeking to impose another unpleasant change in their lives.

Engaging young people in developing their permanency plan is, therefore, critical to their accepting and believing in the plan. Not involving them gives them proof that they are not in control of what happens in their lives. Involving adolescents as central figures in creating their permanency plan not only helps them achieve permanency, but also helps them gain a sense of control over their lives. The theme of “nothing happens to us, without us” – is a good practice principle to strive for when engaging youth in planning. Listening to them and carefully discussing their hopes and fears and addressing understandable worries and concerns regarding family life can also provide them a sense of control. Young people need to be aware of all the permanency options available to them – including reunification with family or kin, legal guardianship, adoption, and the appropriate use of another planned permanent living arrangement (APPLA). Each of these options must be explained to young people in language they understand.



**If discussing adoption, do not simply accept “no” as an answer. Explore further and consider the use of counseling strategies in planning for the future.**

All involved with the adolescent must understand that a preliminary “no” to adoption is a typical beginning of the conversation and should not be immediately accepted without exploration. Work with the adolescent to explore potential underlying issues surrounding the “no.”

**ONE MORE TAKE:**

*It is also important for the judge to talk with the child in a nonthreatening, noncoercive way about the benefits of adoption. Independent living sounds very glamorous – to finally be on your own – but these teens often do not understand how difficult it will be on their own.*

— JUDGE JULIET MCKENNA.

A relationship with a caring, competent mental health professional can also help adolescents achieve control over their futures. Therapy ensures the adolescent has the opportunity to explore his or her feelings about adoption or permanent placements in a supportive atmosphere with someone who understands the conflicting feelings an adolescent may have regarding adoption.

**Involve the adolescent in court hearings and ensure that he or she is fully heard.**

The potential for power struggles can be present, especially when working with an adolescent who appears ambivalent, or is totally against a permanency plan. Involving the adolescent in hearings where permanency decisions are being made can help reduce such power struggles. Consistently notify adolescents of substantive court hearings and make a point to have them available at court. Involving adolescents in court also helps them sense that others are not seeking to impose a permanent placement against their will. Have multiple hearings when adolescents are highly ambivalent about the plan to allow them to discuss those feelings.

Advocates and social workers should prepare opening statements outlining the adolescent's perspective. All parties should encourage the adolescent to speak. Have questions that you have discussed in advance with the adolescent that you will ask to help the judge understand the adolescent's perspective. Have questions ready for other people (caseworkers, mental health providers, caretakers) dealing with the adolescent that will uncover the adolescent's attitudes, behaviors, and opinions.

Some jurisdictions require consent of a youth over a set age for termination of parental rights or adoption.<sup>1</sup> Ensure that the adolescent is aware of this.

## SEPARATION, LOSS, AND GRIEF

GUIDE  
LINE

**When adolescents are reluctant to discuss permanency questions, request or order grief and loss counseling or a support group where they can explore their feelings about past losses and understand what is happening in their lives.**

Adolescents may hide their sense of separation, loss, and grief over not being able to live with their birth families, but it is there. Adolescents in foster care often have endured numerous separations and losses to the significant people in their lives, their community, their culture, and everything that is familiar to them. Simply suggesting that another move will result in a permanent family may leave them skeptical at best.

Separation, loss, and grief do not get easier through repetition. Actually, each new loss can bring about unresolved feelings from previous losses. Involving adolescents in a support group with similarly situated people provides an outlet to explore feelings.

## UNMATCHED EXPECTATIONS

GUIDE  
LINE

**To prepare an adolescent for a permanency plan, consider phasing in the relationship by having the adolescent spend overnights and weekends with the family or guardian. Once these are successful, the adolescent can spend more significant time with the family and can move towards a permanent situation that includes adoption or a permanent lifelong connection.**

Unmatched expectations are often inevitable. What the adolescent may expect from a permanent placement and what each person in the potential new family or connection brings to the relationship may be quite different. This can lead to placement disruption.

Adolescents' expectations may have gone unfulfilled in prior situations. When their dreams/expectations are not fulfilled as anticipated, it can represent another loss. Even when the adolescent states a desire for a permanent family, it may be difficult to believe that desire will be met. Providing an adjustment period for the adolescent and the family may help the adolescent realize that while not all of her expectations will be met, the new family will be worthwhile.

Once the adolescent is placed, both the adolescent and the family should work through those expectations which cannot be met, and strive together to create expectations that can be realized by all. Open communication is vital to addressing unmatched expectations. Formal counseling or mediation can assist in this transition.

## BONDING AND ATTACHMENT

Bonding and attachment relate to the unique bond that children have to their biological parents, as well as the trust developed through early childhood experiences. Trust is the foundation of attachment. It is directly related to the type of parenting received in early stages of development, the type of relationships that have formed throughout the years, and subsequent trauma, separation, and loss sustained.

An adolescent may not see the advantages of a permanent family when those whom they trusted in the past were unable to continue caring for them. It is important that the adolescent be able to experience situations and relationships where trust is mutual. Involving the adolescent and potential family in activities that foster trust and bonding can be beneficial in creating such trusting relationships.



**Advocates working with adolescents must model trustworthy behavior by following through on promises they have made.**

Even before a permanent placement is secured, those working with the adolescent must model trustworthy behavior and consistently “keep their

word,” with the youth. Attorneys should keep all appointments with adolescents and visit them regularly. Judges should make clear to the adolescent what is expected and then follow through to require the adults working with the adolescent to do the same. Judges should enforce court orders for the agency, the parents, and the child.

## ENTITLEMENT

Entitlement is the sense that parents and youth have a right to one another. The legal right is granted by birth or a court of law, but the emotional right occurs through experience. When pursuing permanency for adolescents, this is sometimes easier when the plan is reunification with the birth family. However, when adoption or another permanent living arrangement is pursued, achieving that emotional internal sense that the adolescent and a new parent really belong to one another may be difficult, but not impossible, to accomplish over time.

Society recognizes birth parents’ rights to their children and the children’s rights to their parents. However, society does not always recognize the relationship between youth and guardians, kin, or foster and adoptive parents in the same way it does the relationship between youth and their birth families. Adolescents who have been in foster care are affected by these societal expectations.



**Make sure the adolescent understands the reasons behind their separation from their family, the termination of parental rights, or placement.**

Adolescents may feel conflicted because of loyalty to a birth parent whose rights have been terminated. They may have feelings of resentment against the child welfare system and have unrealistic ideas about what their parents have or haven’t done. Be honest with the adolescent and explain the reasons for the termination in a way the adolescent can understand.

Adolescents may question whether they are entitled to a family. Often they feel it is their fault that they were abused, neglected, and removed from their families. Feeling that it was their fault that their birth families' parental rights were terminated, they may also feel that they have no right to another family.

Others may feel that accepting placement into a new family will sever all emotional ties to the birth family. Professionals can work with adolescents to explore their feelings on the reasons why they are in the child welfare system and reasons behind the termination of their parents' rights. Everyone should understand that terminating parental rights does not terminate feelings toward parents.



**Ensure that permanency plans will help adolescents to maintain an ongoing relationship with other stable, permanent people in their lives (e.g., siblings, birth relatives, foster families, fictive kin, guardians, and mentors).**

For adolescents, maintaining strong connections with family members and adults in their lives are important. For this reason, permanent plans need to simultaneously provide stability for adolescents, and support ongoing relationships between them and important people in their lives.

Identify and help the adolescent maintain important existing relationships that are consistent with the adolescent's best interests. These connections will help lay a foundation for future positive attachments, and usually will increase the likelihood of success of the permanent placement.

Every adolescent in foster care should be able to identify, at a minimum, one current relationship worthy of being maintained for the foreseeable future. In some situations, openness in the adoption or permanent family connection should be explored. For some adolescents, the ability to stay in contact with a parent, sibling, or other family member after the adoption may be key to overcoming conflicting feelings that are blocking adoption as a permanency option.

## CLAIMING AND FAMILY INTEGRATION



**When considering permanent plans, consider the concepts of claiming and family integration and the unique issues they present for each youth.**

*Claiming* is the process by which an adolescent accepts the permanent parents and other family members as their own, and the family accepts the adolescent as a member of their family. Often, identifying similarities between the adolescent and other family members does this. This can be a challenge to all involved, but particularly for the adolescent because of the differences in history, perhaps in appearance, values, interests, and behavior.

*Family integration* means bringing two different family systems together, the adolescents' and the permanent family's, to form a new family system. Even when the placement is with relatives or return to birth parents, there is a shift in the family system to accommodate the adolescent joining the household.

Formal and informal rules of family living that have developed over time may need to change. New patterns of family interaction and new family roles may have to be developed so that equilibrium can be established.

Adolescents' experiences in foster care may have taught them that achieving a sense of being part of the family, and actually feeling they are a part of the family, can take a long time. They also may feel that it may never happen.

Adolescents who have been in multiple placements know that they will have to figure out what the unspoken rules of the home may be. Parents will need to think about the fact that what was expected of the adolescent in one placement may be different from what they consider common practice in their household.

## IDENTITY FORMATION

**GUIDE  
LINE**

**When developing the permanency plan recognize the unique needs of each adolescent client. Do not expect to be able to apply a single formula to understand each adolescent.**

Adolescents who have experienced abuse or neglect and foster care may have difficulty defining themselves. Because of past experiences, they may be concerned that they will be abusive and/or neglectful, or be worried about being disloyal to their parents. Due to their background, negative experiences, critical comments, or past rejections, adolescents can develop a negative self-image and low self-esteem.

Moving toward permanency also affects identity formation. Identity relates to the sense of self that includes identifiable boundaries and values. It is rooted in family history. When the history of the adolescent and other family members is different, this presents another challenge for the adolescent.

### ONE MORE TAKE:

*Teens should get opportunities to meet with teens who have been adopted and teens who “age out” and don’t get adopted.*

— TRACY SCATTERDAY.

For adolescents who have been in many different families, identity formation may be more difficult. With each move, they struggle to form their identities in the midst of new families, new schools, and new acquaintances. This can be daunting for an adult facing moves, but is extremely difficult for adolescents who are still seeking to define who they are and what they will be. New families can help the adolescent develop a positive self-image by helping the youth redefine herself as a member of a happy family and helping her believe she is capable of being successful.



## **Consider the adolescent's challenging and difficult behaviors when developing the permanent plan and identifying services.**

The internal struggles experienced by adolescents, particularly those who have been in multiple placements, may be expressed through aggression, testing and power/control battles, anger and depression, overcompetency, separation anxiety, inappropriate sexual behavior, and substance abuse. In fact, these behaviors may have become labels for some youth. Some youth may begin to identify with these labels and feel helpless about addressing them.

## **CONCLUSION**

All of these elements need to be addressed when discussing permanency with adolescents. This discussion will help them understand their circumstances, identify their concerns, help them sort out their feelings and behaviors, and focus on services that may be available to them and their permanent family or other permanent living arrangement to help them address these behaviors and the internal conflicts that underlie them.

Besides knowing about age-appropriate behaviors for adolescents, child welfare professionals should also be able to communicate with and assess the unique needs of each adolescent with whom they work. The goal of permanence was created so foster youth would not be “forgotten” in the child welfare system.

Unfortunately many adolescents have grown up in the system and immediate, legal permanence is not always a realistic alternative because adolescents are not prepared to function in a stable family environment or a permanent family. However, for many the answer can be adoption. For others, the answer is caring adults (both kin and nonkin) who can provide the stability to help them transition to adulthood. The key is not to give up easily and to secure the most permanent arrangement that makes sense for the adolescent.

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**Endnotes**

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1 The following states require consent of a child 14 and older: Alabama, Delaware, Washington DC, Georgia, Illinois, Indiana, Kansas, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, Rhode Island, South Carolina, Tennessee, Vermont, Wyoming, Virginia, Washington.

The following states require consent of a child 12 and older: Arizona, California, Colorado, Connecticut, Florida, Idaho, Kentucky, Massachusetts, Montana, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, West Virginia.

The following states require consent of a child 10 and older: Alaska, Arkansas, Hawaii, Maryland, North Dakota.

*State research conducted by Althea Izawa-Hayden, staff attorney, ABA Center on Children and the Law, October 5, 2005.*

## CHAPTER 4

# The Delinquency Factor in Permanency Planning for Adolescents

BY ANDREA KHOURY

## GUIDELINES

### **Dependent adolescent at risk of delinquency**

- Intervene in the dependency case if there are signs of delinquent behavior.

### **Dependent adolescent is arrested for delinquent behavior**

- Apply ASFA when a delinquent adolescent is placed in a placement for which the state claims IV-E dollars.
- Encourage the adolescent to voluntarily participate in services through delinquency diversion programs.
- Avoid a ruling from the judge to detain the adolescent.
- Ensure the court notifies parties to both cases about the delinquency hearing and they appear at all hearings to provide additional information to the factfinder.
- Agencies, courts, and attorneys should work together to design a service plan to address the issues that caused delinquency, impose punishment, and provide permanency.

### **Delinquency case with dependency issues**

- ▶ Look for underlying dependency issues even when they are not readily apparent.
- ▶ Apply ASFA to delinquency cases even if there are not any known dependency issues.
- ▶ Insist on contrary to the welfare and reasonable efforts findings in all delinquency court orders in which the child is removed from home.
- ▶ Insist that case plans focus on long-term goals.
- ▶ Explore alternatives to preadjudication detention and to commitment in a locked facility.

### **Permanency Planning**

- ▶ Incorporate delinquency and dependency considerations into the permanency plan and support that plan with reasonable efforts findings.
- ▶ In delinquency cases involving adolescents in non-detention placements, advocates should request six-month and permanency planning hearings.
- ▶ Explore reasonable efforts to achieve the permanency plan.

## THE LINK BETWEEN CHILD WELFARE AND DELINQUENCY

Delinquent behavior can present special challenges in achieving permanency for youth in foster care. Such challenges come up often in dependency cases because delinquency is common among abused and neglected children. Children who have been abused and neglected have a 59% greater likelihood of arrest as juveniles than nonabused children.<sup>1</sup> This research shows a strong link between adolescents who commit delinquent acts and those who have abuse and/or neglect in their backgrounds.<sup>2</sup> How does this link impact a dependent adolescent's pursuit of permanency?

The article provides guidelines for practitioners and judges to improve adolescents' chances for long-term permanency when delinquency is a factor. Some tips may not be appropriate for the short-term goals of obtaining the outcome the adolescent desires. The guidelines are not geared toward specific strategies for agency, child, or parent attorneys. They are guidelines for maximizing permanency for a youth involved in the delinquency and dependency systems.

## DEPENDENT ADOLESCENTS AT RISK OF DELINQUENCY

*Marcus is 15. He has been in foster care for two years. He's getting in trouble at school, skipping classes, talking back to teachers, and hanging out with classmates who are in a gang. The police were called to the foster home where he stays after school one day because of complaints of loud music. Marcus was there alone.*

A dependent adolescent without a delinquency record is more likely to achieve permanency than a dependent adolescent with one. Adolescents rarely commit delinquent acts without some signs of trouble.<sup>3</sup> Therefore, advocates in dependency cases ideally will be involved before delinquency arises.



## **Intervene in the dependency case if there are signs of delinquent behavior.**

Early, front-end services to prevent predelinquent behavior from escalating can keep an adolescent out of the delinquency system and on the road to a productive adulthood. Signs that intervention is needed are excessive noncompliant behavior, such as violating curfew regularly, getting suspended or expelled from school, bullying other children, or abusing alcohol or drugs. Practitioners may learn of these behaviors from caseworkers, school personnel, or foster parents. Advocates should discuss these behaviors with caseworkers before court hearings so services can be offered. Advocates should also notify the judge of “red flag” behaviors if court reports from service providers, guardians, or other interested parties do not include them.

Court orders should reflect the issues the adolescent is having. If there is bullying, for example, the advocate might ask the judge to require the adolescent to participate in an anger management program. If the adolescent is beginning to use drugs, the advocate may request mandatory drug or alcohol education. If the adolescent is getting suspended or expelled from school, an education assessment (looking into special education and special needs) should be ordered and followed. Most adolescents benefit from having a stable, adult role model.<sup>4</sup> If the adolescent does not have one, the advocate might request that the agency arrange for a mentoring program or identify a relative or other individual to play that role. The goal is to address the reasons for the adolescent’s behaviors before they lead to delinquent acts.

Case plans should have up-to-date services addressing noncompliant behavior. Attorneys should ask the social worker to notify and include the attorneys in case plan discussions. Attorneys should research services in the area that address the adolescent’s behaviors and be prepared to recommend them for their client. Attorneys should refer to case plans (and the services outlined in them) in dependency hearings and ask the judge to enforce them.

## DEPENDENT ADOLESCENT IS ARRESTED FOR DELINQUENT BEHAVIOR

*Bernie is 17. He's been in the dependency system for four years and has been moved to five foster homes and one group home. He has been suspended from school three times for fighting with his peers. He was recently arrested for assault and battery.*

A delinquent act by a dependent adolescent often reflects the instability in the adolescent's life caused by the abuse and neglect and frequent moves between foster homes.<sup>5</sup> Dependent adolescents often end up with the view that rules/laws do not have to be followed.<sup>6</sup> Without intervention, dependent adolescents may not attach to stable adults and may not obtain the skills to become productive adults.



**Apply the Adoption and Safe Families Act (ASFA)<sup>7</sup> when a delinquent adolescent is placed in a placement for which the state claims IV-E dollars.<sup>8</sup>**

ASFA requires specific findings, hearings, notices, and documents in every case for which the state claims IV-E dollars. These requirements ensure steps are being taken to provide permanency to children in foster care.



**Encourage the adolescent to voluntarily participate in services through delinquency diversion programs.**

If available, advocates should investigate diversion programs. Like a plea agreement in an adult criminal case, an adolescent charged with a minor infraction could agree to participate in a structured program that provides counseling, community activities, life skills training, or other crime prevention services.<sup>9</sup> The adolescent would benefit from the services and avoid a damaging delinquency charge. Involvement in the program can be incorporated into the dependency case plan and all participants in the dependency case, including the judge, can reinforce the youth's involvement.



### **Avoid a ruling from the judge to detain the adolescent.**

After an adolescent's arrest, the adolescent will appear before a factfinder who will inform the adolescent of the charges and the right to counsel. At this initial appearance, the factfinder will decide if the juvenile will be detained pending adjudication for delinquency. This decision can significantly influence whether the adolescent is later committed to a juvenile justice agency on a long-term basis. It is generally based on the seriousness of the offense, the likelihood of flight, and the adolescent's history.<sup>10</sup> Detention's main goal is to ensure the adolescent appears in court and does not reoffend. The goal is not treatment. At this hearing, advocates should:

- If appropriate, argue to release the adolescent to the parent/guardian without restriction.
- Provide relevant information about the adolescent's history in the dependency system, her current living situation, and her need to achieve permanency.
- Find out if alternatives to detention are available, if the delinquent act is serious and the factfinder will not release the adolescent. Alternatives include:

- return home with frequent, random, unannounced visits and calls by a supervisor (home detention);<sup>11</sup>
- day or evening reporting centers that provide intensive monitoring and structured activities;
- shelters providing 24-hour supervision;
- foster care; and
- electronic home monitoring in a foster home or upon return home.



### **Ensure the court notifies parties to both cases about the delinquency hearing and they appear at all hearings to provide additional information to the factfinder.**

The dependency system (and the participants) has the most information about the adolescent because it has been providing services to the family since the dependency action started. The dependency system has already

developed a plan for the adolescent, much of which probably will remain appropriate following the delinquent behavior. The dependency system is in the best position to choose the best plan for the adolescent. The adolescent's advocates should ensure that the delinquency factfinder receives the relevant dependency information before making any decisions by talking to the delinquency worker (probation officer), appearing at all delinquency court hearings, and providing relevant assessments and reports to delinquency advocates.

A judge, who only has the facts of the delinquency case, may make dispositional decisions based only on those facts and the nature of the act with only limited information about the adolescent's background. A judge with all relevant information, makes her decision based on the delinquency and the adolescent's history of maltreatment and involvement in the dependency system. Jointly addressing delinquency issues (community safety, preventing maladaptive behavior, alcohol/drug abuse) and dependency issues (lack of parental involvement, grief, and loss) results in the best decisions.<sup>12</sup>

At the delinquency disposition (sentencing), advocates should:

- When available, request that the disposition be transferred to the dependency judge. If the judges are willing, consider requesting that the dependency judge sit in on the adjudication of the merits so that she may make comprehensive findings at disposition.
- Argue that parties to the dependency case should be permitted to provide information to the delinquency judge.
- Submit written assessments from experts aware of the adolescent's involvement in both systems (can be gained from the dependency case).
- Insist that when assessments (psychological, sociological, educational, etc.) have not been completed, they are ordered to give the factfinder a complete view of the adolescent before sentencing.
- Argue that if the child is going to be committed to the juvenile justice agency and placed out of the child welfare placement, the delinquency placement and services meet the abuse and neglect needs of the adolescent.

- Ensure that information about the delinquency case goes to the dependency judge and advocates.
- Request that the delinquency judge review the dependency court file.

Providing dependency information to the delinquency judge helps achieve permanency in other ways. The adolescent develops relationships with counselors, mentors, foster parents, and others while in the dependency system. A delinquency disposition would impact these relationships.<sup>13</sup> The advocate should make the delinquency judge aware of those relationships and attempt to maintain and foster them. Additionally, long-term placement opportunities increase when dependency and delinquency agencies participate. An adolescent has a greater chance of obtaining a stable placement that can address delinquency and dependency issues if both agencies provide services.



**Agencies, courts, and attorneys should work together to design a service plan to address the issues that caused delinquency, impose punishment, and provide permanency.**

Dependency and delinquency advocates should ask these questions:<sup>14</sup>

- Are there interagency meetings that bring together advocates and professionals from both systems to discuss the best plan for the child?<sup>15</sup> If so, attend the meetings prepared to discuss potential programs and services that address the adolescent's needs. If not, contact your client's caseworkers to discuss services in each system that will address causes for the delinquent act.
- What services can the delinquency system provide?
- What services can the dependency system provide?
- Would it be in the adolescent's best interest to have the delinquency agency involved or can services from the child welfare agency be provided to address problems? Ask the child welfare agency to adjust its case plan to address delinquency issues.
- How would a delinquency record affect the adolescent's pursuit of permanency?
- Are there ways to achieve the goals of punishment and treatment?

Depending on the delinquent act, the punishment could be part of the dependency case plan. For example, if punishment for stealing a foster parent's car and going joyriding is community service hours, the delinquency order and the dependency case plan could require that community service hours be performed where there may be job opportunities or at a mentoring agency where the child can meet stable, trusting adults. If the delinquent act involved drugs/alcohol, the adolescent could volunteer at a drug rehab center. The adolescent would be punished for the illegal act while learning the long-term consequences of substance abuse.

## DELINQUENCY CASE WITH DEPENDENCY ISSUES

*Brooklyn is 14 and was arrested for stealing a car and joyriding with her friends at 11 p.m. on a Tuesday. She was held overnight at the county juvenile facility because her parents could not be reached.*

Many delinquency cases have dependency overtones due to problems in the adolescent's home life. The adolescent may have few adult role models and poor supervision. If the adolescent's dependency issues are not addressed then he will likely continue to commit delinquent acts and never get the services and guidance to achieve permanency.



### **Look for underlying dependency issues even when they are not readily apparent.**

Often the delinquent act will provide insight into what is going on in the home.

- If the child is caught stealing cars at 1:00 p.m., why is she not in school? The delinquency advocate should request school attendance records to see if there is a history of absences and the reasons.
- If an adolescent is caught smoking marijuana at 2:00 a.m., where are the parents? The delinquency advocate should find out if the adolescent has a history of staying out late. Are the parents enforcing a curfew? Are the parents working late and there is no one to supervise? Are the parents abusing drugs/alcohol?

- If an adolescent is arrested for assaulting his girlfriend, what is occurring in the home? Is there a domestic violence criminal record for either parent? Is the adolescent witnessing this behavior?

Ask these questions early to avoid having an adolescent involved in the delinquency system without knowing the causes. If the delinquency advocate discovers an abusive or neglectful home, the advocate should inform the local department of social services and insist on an investigation. The advocate should also consider initiating dependency proceedings. The delinquency advocate should also request that special needs assessments be provided to get further insight into what actions to take.



**Apply ASFA to delinquency cases even if there are not any known dependency issues. (See ASFA requirements).**

ASFA applies in delinquency cases for several reasons:

- ASFA's goals of safety, permanence, and well-being for youth are similar to the rehabilitation goals in the delinquency arena.
- Dependency issues often arise later, such as when parents refuse to support their adolescent as a result of the delinquency.
- Even when an adolescent is placed in a placement for which the state cannot claim IV-E dollars, the child may later become eligible. (See ASFA requirements.)



**Insist on contrary to the welfare and reasonable efforts findings in all delinquency court orders in which the child is removed from home.**

If a delinquency petition is filed, the adolescent is going to be removed from home, and there is some evidence of dependency issues, contrary to the welfare and reasonable efforts findings should be made. (See ASFA for descriptions of these findings). For a state to claim IV-E dollars for a child in care, ASFA requires the first court order sanctioning a removal to be supported by contrary to the welfare findings and subsequent reasonable efforts findings. These findings:

- alert the factfinder to a dependency issue that may result in a filing of an abuse and neglect case;

- ensure the agency is ASFA compliant;
- document reasonable efforts and emphasize the need for the agency to make the efforts;
- make sure the agency has investigated additional placement resources; and
- secure IV-E funding in case the dependency issues are so bad that the adolescent cannot return home.

The following are examples of contrary to the welfare findings that are delinquency oriented:

- Child is a threat to herself and the community.
- Child's behavior is beyond the parent's control and as a result he is a threat to himself and the community.
- Child is receiving insufficient supervision at home.
- Child is engaging in a life of crime that is likely to escalate and continue unless the child is removed from home and the behavior is stopped. Without intervention, such crime, unless stopped, is likely to lead to long-term incarceration and greater harm to the child.

Some examples of reasonable efforts to prevent removal that are delinquency oriented are:

- Juvenile justice agency provided services to the youth to help with problems contributing to the criminal behavior.
- Juvenile justice agency worked with family to help them supervise the youth and prevent the crime.<sup>16</sup>
- Family or community alternatives to detention such as placement with relatives or friends were explored.<sup>17</sup>
- Agency explored substance abuse day treatment or other treatment programs that may only be found through IV-E placements.<sup>18</sup>



### **Insist that case plans focus on long-term goals.**

Delinquency case plans should involve services that address the delinquent act and promote long-term stability. Services include assessments of the adolescent's therapy needs, substance abuse, and educational issues,

among others. Advocates should inform parents of case plan discussions and encourage them to attend and be involved. Other issues to address are job skills, access to housing and medical services, and services to address disabilities.



### **Explore alternatives to preadjudication detention and to commitment in a locked facility.**

Placements should reflect the adolescent's needs as described in the assessments. As stated earlier, detention is not designed for treatment but to house an adolescent pending an adjudication. Delinquency and dependency advocates must find community placements and other alternatives to detention if a judge is unwilling to return the adolescent home. (See previous section for examples).

After adjudication, delinquency advocates should argue for a placement that addresses dependency and delinquency issues. Often an adolescent qualifies for a therapeutic placement but instead is incarcerated because the proper assessments were not conducted or followed.<sup>19</sup> Studies show that successful intervention (when success is defined as not reoffending and attaining permanency) is not an institutional treatment facility but a placement that resembles a normal environment.<sup>20</sup> The most successful placements are community based and family centered. It is important for the families (foster, adoptive, or biological) to play roles in treatment. The program should strengthen the family's ability to solve problems and deal with the adolescent's issues together. The least successful placements punish rather than treat the adolescent.<sup>21</sup>

The delinquency system may have different access to placements than the dependency system. The delinquency advocate should appear at the disposition hearing with a list of potential placements and how each placement both sanctions the youth for his behavior and seeks to rehabilitate him. Advocates should call the programs and see if they offer treatment, counseling, education, anger management, interpersonal skills, substance abuse, and independent living services. Will the placement further permanency for the adolescent? Does the program encourage adolescents to bond with responsible adults? How far is the placement

from the adolescent's home? Is the placement the least restrictive setting? How long will the adolescent be with professionals?<sup>22</sup>

## PERMANENCY PLANNING

For all three types of adolescents discussed above, permanency planning is essential, whether the adolescent is already placed outside the home or at-risk of such a placement. If the adolescent is or may be placed in a IV-E eligible setting, ASFA requires that a permanency plan be established and reasonable efforts to achieve permanency be documented.



### **Incorporate delinquency and dependency considerations into the permanency plan and support that plan with reasonable efforts findings.**

The permanency plan should be based on delinquency and dependency considerations. For **reunification**, advocates should present what the parent has done to rectify the abuse and delinquency issues. The court can order the parents, as parties, to participate in services through its dependency jurisdiction. In a delinquency case, lack of supervision or other parent-related issues should be addressed before returning the adolescent home. The advocate should argue for services that address the issues in the home dealing with delinquency (e.g., anger management, substance abuse, truancy) and dependency (e.g., mentoring, counseling, lack of supervision). Advocates can also argue for community-based programs to provide structure for adolescents who are not getting enough at home.

For **adoption**, the court would include the adoptive parents in services to address the delinquency issue while proceeding with termination of parental rights. As explored more fully in the section on adoptive parents, the court should ensure adoptive parents receive services to handle delinquency. The adoptive resource must be prepared to handle delinquency treatment. ASFA requires the agency to look for an adoptive resource as soon as the plan changes to adoption. The agency may only choose not to file a petition to terminate parental rights if they have documented compelling reasons.

If these more permanent plans are unavailable, **guardianship** or **relative placement** are potential plans. Has a relative shown interest in the adolescent? Is there some adult the adolescent trusts and has established a relationship with who may want to assume guardianship responsibilities? Are they aware of the delinquency issues? Are they equipped to deal with them? If so, advocates should begin the process in their jurisdiction to establish guardianship by contacting the custodial agency and insisting that the factfinder involve them in treatment plans.

If none of the above plans are suitable, **another planned permanent living arrangement** (APPLA) is an alternative. ASFA requires that the agency establish compelling reasons why another, more permanent plan has not been chosen.<sup>23</sup> APPLA is often incorrectly chosen as the “catch-all” for adolescents. This is especially true for delinquent adolescents. It may be challenging to find a suitable home, but adolescents deserve the most permanent environment the agency can provide. A number of adoptive agencies work with adoptive parents of delinquent adolescents.<sup>24</sup> If APPLA is chosen, ASFA requires reasonable efforts to finalize an arrangement that is planned and permanent. This should include finding stable adults who will connect with the adolescent. A stable, long-term adult connection is vital to an APPLA’s success.



**In delinquency cases involving adolescents in nondetention placements, advocates should request six-month and permanency planning hearings.**

When an adolescent is placed in a IV-E funded placement, federal law requires review and permanency hearings. Yet, some jurisdictions hold no additional hearings following the delinquency disposition/sentencing unless requested. Many delinquency statutes do not require courts or juvenile justice agencies to focus on or work towards permanency. Adolescents are left in their placement without further court review. By requiring the responsible agency to provide assessments, evaluations, and updates about the adolescent’s progress at review hearings, the advocate or judge promotes permanency and increases the chances of the adolescent successfully transitioning into adulthood. Periodic hearings also may

address community protection issues. If the adolescent is placed in a IV-E funded placement, these hearings are mandatory under ASFA.

Traditionally, only the state, the adolescent, and maybe the custodial agency are parties in a permanency planning hearing in a delinquency case. Some jurisdictions make parents parties or allow the court to include parents in their delinquency orders.<sup>25</sup> Parents can be ordered to participate in services to help the adolescent achieve permanency. The supervising agency reports to the court on the adolescent's status. Advocates should insist that the placement meet the adolescent's needs and ask what steps are being taken to ensure permanency. Advocates should ensure programs promote responsible adult interaction with the adolescent.



### **Explore reasonable efforts to achieve the permanency plan.**

Advocates and judges should ask the following questions to discover whether the permanency plan is being implemented and whether permanency is likely to be achieved. These questions should be used to assess whether reasonable efforts have been made to achieve the permanency plan:

- What is being done to create a permanent environment for this adolescent?
- Are the parents being incorporated into treatment, if appropriate? Are they receiving help to address dependency and delinquency prevention issues?
- Has a termination of parental rights petition been filed? Has the agency explored abandonment as a ground for termination in cases where parents have disengaged from the adolescent's life?
- Have adoptive resources been explored? Has the agency contacted private providers who place delinquent adolescents for adoption?
- Has a home study been completed if permanent placements have been identified?
- Have relatives been contacted?

- If the adolescent was ever in detention or other confined facility, what treatment and counseling is being provided to address delinquency issues?
- Has special education been explored?
- Has drug/alcohol education been instituted?
- Has the adolescent established bonds with a stable adult that will survive the termination of the case?
- Have independent living skills been taught throughout the adolescent's stay in the out-of-home placement, regardless of whether it was in a locked facility or a foster home?
- Have long-term relationships with responsible peers been fostered and encouraged.<sup>26</sup>

## CONCLUSION

A half million children are in foster care every year. A large percentage are also involved in the delinquency system. They are struggling to find permanency. Advocates who accept the responsibility of advocating for children must take steps to ensure that delinquency and dependency issues do not become barriers to their clients' permanency.

## Promoting Successful Adoptions

When a dependent adolescent is adopted, she has formed stable ties that will help her successfully transition into adulthood and permanency. Delinquency may threaten this permanency. Advocates can help prevent delinquency from interfering with a successful adoption. Here are some steps to take:

### **Prepare adoptive parents to adopt a dependent adolescent with delinquency issues.**

- Adolescence is a tumultuous time. When an adolescent is adopted the adolescent and the adoptive parent must address many issues.<sup>1</sup> Dependent adolescents who enter the delinquency system require more support and understanding from their adoptive parents. This may place added strain on the adoptive parents. Adoptive parents, in turn, need additional support and understanding from their support system.
- Adoptive parents must have made a conscious, informed decision that they are going to become involved in a dependent child's life long term and be ready to accept that responsibility.<sup>2</sup> If the adolescent has a disability, the adoptive parent must seek training to address it.

### **When a delinquency case arises, try to get the delinquency petition dismissed because the child is being adopted out of an abuse/neglect situation and into a permanent home.<sup>3</sup>**

- If adolescents have stable ties to adults and the prospect of a secure future, they are less likely to commit delinquent acts. Delinquency generally stems from an abusive background; that the adolescent will become part of a new, stable home should alleviate

the court's concern about recidivism. Involvement in the delinquency process may deter some adoptive parents from completing the adoption, removing another element of stability and hope for the dependent adolescent.<sup>4</sup> Although dismissal is unlikely in some circumstances (violent crimes, chronic offender), informing the factfinder of the adolescent's past and potential future may increase the chances that she will allow the dependency system to handle the adolescent.

**If the delinquency system can provide better services for the adolescent, try to keep the delinquency and dependency system involved.**

- Some delinquency systems have specific programs aimed at addressing delinquent issues. For example, sexual offender treatment, drug/alcohol treatment, services to address anger management. Professionals working in the delinquency environment may be better equipped to deal with delinquents than those in the dependency system.
- However, these considerations should be carefully weighed against the impact of a delinquency finding on the adolescent's ability to achieve permanency.

**Involve adoptive parents in all stages of the delinquency case.**

- Adoptive parents who are involved and provide support can impact the outcome of the delinquency case. In a detention hearing, a judge is more likely to detain an adolescent in a facility if there are not parents wanting to provide the adolescent a home.<sup>5</sup>
- At disposition, adoptive parents need to be a part of any successful treatment. They will have to enforce behaviors at home that are taught and encouraged in the treatment program. The adoptive parents should establish stability in the home so the adolescent

understands that there are consistent consequences for negative behavior and rewards for positive behavior.<sup>6</sup>

**Inform adoptive parents about coping mechanisms adolescents develop in institutions that may affect permanency.**

- When an adolescent is released from an institution, adoptive parents may face struggles they had not anticipated. To adapt to institutional life, adolescents often develop habits and behaviors needed to survive. These behaviors are counterproductive to achieving permanency and stability in the home. Some of these habits are self-destructive behavior, sexual promiscuity, suicide attempts and self-mutilation.<sup>7</sup> This behavior is often due to the identity the adolescent develops in an institution. Institutional identity is constant structure, external discipline, inmate-on-inmate violence to solve daily problems, and immediate survival.<sup>8</sup> Conversely, the outside world expects adolescents to have internal discipline, internal motivation, and realistic expectations.<sup>9</sup> Adoptive parents must be aware of these traits and learn ways to deal with them.

**Sources**

- 1 Adolescents coming from the dependency system will have a higher likelihood of acting-out behavior. These adolescents face an internal conflict. In their developmental stages (ages one to four), their environment was unstable. They developed poor self esteem due to the way they were treated. The coupling of unstable environment and poor self esteem often leads to delinquent behavior. The adolescent feels that the adults are not worthy of the adolescent's compliance so they do not follow rules. Telephone interview with Fleishman, Louise, Director of the Center for Adopted Families, November 13, 2003.
- 2 Dependent adolescents have lost trust in adults, particularly, parents. To be a successful adoptive parent, the parent must convince the adolescent to trust them. Adoptive parents must take control and provide the stability that the adolescent requires. Fleishman, November 13, 2003.
- 3 "The attorney may argue that the prior abuse and not an inherently malicious nature caused the delinquent behavior and a stable and loving family will help 'undo' the effects of an abusive history." Scrivener, Katherine W. "The Dilemma of the Abused Delinquent." *Family Court Review* 40, January 2002, 139.

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- 5 Although there are many causes for juvenile delinquency (including poverty and peer pressure), dependent youth who commit delinquent acts are often acting out due to the abuse/neglect and instability in their lives.
- 6 Telephone interview with Fleishman, Louise, LCSW, Director of Center for Adopted Families, November 13, 2003. <[www.adoptiontogether.org](http://www.adoptiontogether.org).>
- 7 42 U.S.C. §§ 620-679; 45 C.F.R. §§ 1355, 1356, 1357; 65 C.F.R. §§ 4020-4075. ASFA is a 1997 federal law that attempts to remedy the issues of children remaining in foster care for extended periods. ASFA stresses permanency, safety, and well-being of children.
- 8 For a state to receive federal reimbursement for foster care under Title IV-E of the Social Security Act, certain requirements of ASFA must be followed.
- 9 *The Juvenile Curfew Diversion Program* in Phoenix, AZ provides classes for juveniles and parents on decision-making skills, consequences of negative behavior, parenting skills, conflict resolution and communication skills. *The First Offender Program* offered by the Maricopa County Juvenile Court Center offers juveniles and parents a three-hour workshop and eight hours of community service hours.
- 10 For example, the Florida state legislature adopted the following standard for detaining a youth: Detention is only permitted "if there are findings that a child presents a danger to himself or community, presents a risk of failing to appear or is likely to commit a subsequent law violation." FL ST § 985.213.
- 11 Rust, Bill. "Juvenile Jailhouse Rocked." *Advocasey: Documenting Programs that Work for Kids and Families*, 1999.
- 12 Joint dependency and delinquency hearings can be beneficial in some cases. Some jurisdictions have one judge hearing both cases. For example, if there is a child in both systems, the District of Columbia holds the hearings together with one judge. All issues and potential services are discussed for both cases with all parties and counsel present. Similarly, in one Colorado jurisdiction, one judge or magistrate holds all hearings dealing with a particular child. Some jurisdictions have the case files linked in an automated system and the factfinder has access to both case files.  
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- 14 "The role of the child's attorney at this juncture is pivotal...once a child becomes a serious offender, the attorney has few opportunities to advocate for permanence or therapeutic placement." Scrivener, 2002, 145.
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## CHAPTER 5

# Teen Pregnancy and Parenting

BY EVA J. KLAIN

## GUIDELINES

### **When Pregnancy and Parenting Issues Affect Permanency Planning**

- ▶ Determine whether health care services are being provided and how the teen's ability to obtain services might affect permanency.
- ▶ Help coordinate service efforts to ensure proper health care while in placement and to ensure that needed pregnancy or health-related services will continue in the identified permanent placement.
- ▶ Focus on the placement of the teen and her child once it is born. Will the child be able to live with her and will she retain custody of the child?
- ▶ Explore potential educational disenfranchisement of pregnant or parenting teens and ensure they are not treated unequally or punitively.
- ▶ Advocate for educational services that help achieve the adolescent's permanency plan.

### **When a Teen Becomes Pregnant While in Care**

- ▶ Make sure the placement is appropriate and safe.

### **Determining the Permanency Plan**

- ▶ Address pregnancy or parenting issues in arguments on reasonable efforts to finalize a permanency plan.
- ▶ Ensure all information from pregnancy and health-related providers and parenting services providers is presented to the court.
- ▶ Address what independent living services the child is receiving to cope with parenting issues within the placement and what long-term relationships with responsible adults and peers are being fostered.

Achieving permanency is especially challenging for pregnant teens and teen parents in foster care. Many adolescents engage in risk-taking behaviors, many of which place them at high risk for pregnancy. The heightened health risks and complex health care needs<sup>1</sup> that these teens present affect placements and other decisions attorneys and judges must make. The resulting complexities may significantly impact permanency planning.

This article addresses the issues and circumstances attorneys and judges should consider in making permanency planning decisions for pregnant and parenting teens. The guidelines generally address attorneys representing the teen mother; guidelines for other advocates are identified accordingly.

## WHEN PREGNANCY AND PARENTING ISSUES AFFECT PERMANENCY PLANNING

A pregnancy or a child born to a teen in foster care raises several issues when pursuing permanency. How does the pregnancy affect placement decisions at entry into care? Is the current permanency plan still appropriate if the pregnancy occurs after entry? Can the preadoptive parents or other permanent placement adequately meet the teen's new health care and parenting needs? Consider the following cases:

*Molly, a pregnant 15 year old, moved out of the home she shared with her mother because of growing tension over her 19-year-old boyfriend Tom. At first she moved in with her cousin, but when the cousin lost her job and had to relocate, Molly found herself on the street. Soon thereafter, Tom broke off their relationship. Molly came to the attention of child protective services when a teacher noticed her attendance and grades slipping and could not get straight answers from Molly about her living situation.*

*When Shauna was removed from her abusive parents at age 12, she was placed with preadoptive foster parents, the Walters, who also had a 14-year-old daughter. The girls liked to hang out after school at a friend's home where the parents worked long hours and the teens were unsupervised. The home provid-*

*ed Shauna and her boyfriend considerable privacy and as a result, she became pregnant at age 13. Her pregnancy occurred just weeks after the court determined that Shauna's permanency plan was adoption by the Walters.*

*When his mother was sentenced to prison for five years, Roman was placed in a group home for adolescent boys at age 16. His father had never been around much – his location was currently unknown – and Roman had always sworn he would be an involved father. He was therefore elated when his 17-year-old girlfriend told him she was pregnant. The group home, however, had strict visitation and curfew rules that kept Roman from actively parenting his baby boy, Samuel.*

## PRELIMINARY INQUIRIES



### **Determine whether health care services are being provided and how the teen's ability to obtain services might affect permanency.**

When a pregnant teen enters foster care, her attorney should elicit vital health information, including whether appropriate health care services are being provided. For instance:

- Is the teen IV-E eligible and receiving Medicaid?
- Are services being provided under the State Child Health Insurance Program (SCHIP)?
- Has the teen availed herself of all screening opportunities under Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services?
- Is the teen receiving prenatal care? Where and how frequently?
- Are there any health care service gaps? If yes, what are they?

These questions would be important to ask when Molly entered care and would also be relevant when a teen becomes pregnant while in care, as happened with Shauna. For example, there is growing evidence that oral health (including healthy teeth, gums and other craniofacial tissues) interventions may partially prevent unfavorable birth outcomes associated with pre-term, low birth weight. Since a reduction in poor birth outcomes is possible through improved oral health during pregnancy, a teen's stay in care should include oral health access as well as dental care for her child.<sup>2</sup>



**Help coordinate service efforts to ensure proper health care while in placement and to ensure that needed pregnancy or health-related services will continue in the identified permanent placement.**

If health and health care services are not being adequately addressed, the teen's attorney should help coordinate service efforts. All teens in care who are or may become sexually active should receive confidential counseling and education about sexual and reproductive health. Teens who enter care while pregnant or become pregnant while in care should also receive counseling on prevention of subsequent pregnancies.<sup>3</sup> See *Pregnancy Prevention sidebar*. Counsel the adolescent client to participate voluntarily in pregnancy or parenting classes. Explore specific services in which the teen can participate with her parents to promote reunification when appropriate. For instance, Molly might benefit from family counseling with her mother to smooth tensions between them and facilitate reunification as the permanency plan.

**ONE MORE TAKE:**

*Attorneys for children should ensure that teen parents receive appropriate services from outside as well as from within the child welfare agency.*

*Some common examples of such services for teen parents and pregnant adolescents are: nurse-family partnerships, Head Start, Early Head Start, maternal child health programs, early education programs. Such programs may be run out of the health department, mental health department, education department, or school districts. Consider contacting these agencies to find out about such services.*

*And sometimes there are unique local programs. For example, in Minnesota, the same pediatrician provides health care for the baby and the mom. Advocates need to find out about these programs and make sure their clients are linked up to them.*

— LESLIE STARR HEIMOV.

The attorney should obtain appropriate mental health and medical assessments. A pregnant teen may be having trouble adjusting to an impending birth or may have little knowledge of proper prenatal care. Assessments should identify these issues and guide what additional services may be necessary. Psychological assessments in particular can enlighten the court about issues that may affect the teen's ability to adjust to a placement or pursue a permanency goal.

Attorneys should work with the social worker to explore placements that meet clients' needs as identified by the assessments. These may include placements where the teen mom and child can remain together and where appropriate visitation by a teen father is possible. In Roman's case, for instance, his current placement does not encourage a strong bond with his infant son. A placement that permitted more frequent visitation might allow him to remain active in Samuel's life.



**Focus on the placement of the teen and her child once it is born.**  
**Will the child be able to live with the teen mother and will she retain custody of the child?**

The status of the teen mom's child can complicate permanency, especially if the baby is also deemed a dependent child. If the mother continues in care but the child is not dependent, then mother and baby placements may be available as long as the mother continues to properly care for her child. Foster care maintenance payments can be increased to allow the baby to be placed with the mother without the need to find the baby dependent.<sup>4</sup> However, if the baby is found dependent, then appropriate placements for mother and child must be found. Permanent placements that work for both the mother and child are harder to identify.

In addition, the court and child welfare systems often lose focus on the teen's permanency when a child is born.<sup>5</sup> They shift their focus to the welfare of the infant. For instance, if the teen is living in a licensed group home, she is living under a microscope – everything she does is scrutinized because the home is afraid of losing its license. Attorneys in such a situation should help judges and social workers focus on the teen's need to complete normal development to adulthood without penalizing her for

## Health Issues for Teens

Health issues that may arise during a teen's stay in care, include:

- The right to confidential services. *See Confidentiality and Adolescent Access to Health Services sidebar.*
- Health insurance coverage
  - including screening opportunities under **Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services**;
  - **Postnatal care** for adolescent mothers;
  - **Medicaid**;
  - **Child Health Services block grants (Healthy Start) or Women Infants Children (WIC)** benefits under the Child Nutrition Act. Lack of health insurance coverage affects the adolescent's access to health care services. Adolescents lack health insurance coverage more frequently than most other age groups in the United States.
- Assistance through **Temporary Aid to Needy Families (TANF)**. To receive TANF, the adolescent must live at home, with a legal guardian or other adult relative who is at least 18 years old, or in an adult-supervised supportive living arrangement. However, there are certain exceptions:
  - the physical or emotional health or safety of the minor or her child would be jeopardized as documented by social services or court records;
  - physical or sexual abuse of the minor, her child, or any other child in the household or threat of such abuse; or
  - the minor parent's child was conceived as a result of rape or incest by someone in the household.

normal adolescent behavior. The appropriate focus should be “How can we best support this mom?” not “Is this teen a danger to her child?”<sup>6</sup>



### **Explore potential educational disenfranchisement of pregnant or parenting teens and ensure they are not treated unequally or punitively.**

Another key issue attorneys must explore is the potential educational disenfranchisement of pregnant or parenting teens. In Molly’s case, for instance, her attorney should explore whether her problems with school attendance and slipping grades are related to a lack of stable housing or to difficulties with teachers or classmates related to her pregnancy.

In a study of pregnant and parenting teens in the New York City foster care system, 40% dropped out of school while pregnant and 22% were forced to change schools due to their pregnancies.<sup>7</sup> If a pregnant teen is forced to change schools, additional stresses may disrupt a placement. For example, a change of school location may call for removal from a placement that was to be permanent. Attorneys for pregnant teens should ensure that permanency is not compromised for this reason.

While educational attainment has a clear link to positive outcomes for teenage mothers and their children, teen childbearing reduces the chance that a girl will graduate from high school by 8-15%.<sup>8</sup> In addition, teen mothers are less likely to attend college,<sup>9</sup> which in turn affects the mother’s future earning potential and her ability to care and provide for her child. This is especially important for those teens whose permanency goal is another planned permanent living arrangement (APPLA) and who participate in independent living programs. Related services that should be explored include job preparation and access to housing.



### **Advocate for educational services that help achieve the adolescent’s permanency plan.**

Pregnant students have rights to equal educational opportunities under Title IX, which guarantees access to public schools for pregnant students.<sup>10</sup> These rights, however, can be complicated if the teen’s foster care placement relocates her to a different school district. Attorneys should not only make sure their clients are fully aware of their right to remain in

their own school if consistent with their placement but also advocate for keeping the teen in her current school when appropriate and desired. All options should be presented to the teen and a decision made that falls within the teen's comfort level. Some teens would prefer to stay in their schools while others might want to study away from judgmental teachers or peers.

## WHEN A TEEN BECOMES PREGNANT WHILE IN CARE



### Make sure the placement is appropriate and safe.

In addition to the guidelines above, an attorney for a teen who becomes pregnant while in care should assess the placement and ensure it is safe. The Adoption and Safe Families Act (ASFA) makes safety paramount, including safety in placement. Is the pregnancy the result of sexual abuse within the placement setting? If so, a criminal investigation should be launched. Is the father a caregiver of another teen within the home? If this is a foster or preadoptive placement, are sufficient parental controls in place and should this home remain the placement? A behavioral assessment may help make these determinations. In Shauna's case, for instance, her lawyer should examine whether her preadoptive placement has sufficient parental supervision on her afterschool behavior.

### ONE MORE TAKE:

*When you train foster parents of teens, you have to prepare them as if they are going to get the kids with challenges and issues. And assure them that whatever issues the kids have – this family didn't cause them. When you place girls, you have to prepare the family that they might end up with two. When a young lady gives birth while in foster care, it is seldom possible for her to return to her own parents. This is a time when the young mom needs a home most. We want people to understand that a young lady getting pregnant is never a reason for a parent to abandon a child. We want families to understand that before they accept a placement.*

— PAT O'BRIEN.

## DETERMINING THE PERMANENCY PLAN

Pregnancy and parenting issues can raise complex questions when determining the best permanency plan for a teen in foster care. For instance, there may be competing permanency considerations involving teen parents and their children when the teen's child is also adjudicated dependent. The best plan for the baby may be return to the teen mom, but the teen's best permanency option may be adoption with a family that may not be able or willing to also care for the baby. The teen mom's desire to reunite with and keep her baby with her could cause a previously identified permanency plan to fail. In Shauna's case, if all questions regarding adequate parental controls are resolved but the Walters are hesitant to also care for her child, her permanency plan of adoption may be jeopardized.

### ONE MORE TAKE:

*A judge will often evaluate a teen mother on the same basis as adult parents, which may not be fair. Teens (especially teens in care) are unfairly judged based on the fact that in court there are a high number of petitions filed against teen parents and their babies and that these are based on factual scenarios that would never apply to adult parents.*

*For example, sometimes teens have conflicts not bearing on the quality of their care of their child. Sometimes teens living in residential facilities get into a fracas with other teens at a time when their children are being cared for by others. In our jurisdiction, this can result in a petition alleging that a teen "lacks the maturity" to independently care for the child. That wouldn't happen to an adult parent who gets into a similar conflict outside the presence of their child.*

*Here is another example: A teen mom left her baby in a dirty diaper and went out when it was raining. The baby got wet. There was no indication that the baby was specifically harmed, yet the agency filed a petition against the teen mother. It is sometimes easier for the agency to do this, because it gives them greater control over decision making for the baby and eliminates the need to consult with the mother. Our view is that things happen with many parents of infants and*

*the agency only knows about the teen situation because the mom is living in a group home.*

*Another example is that a teen's style of parenting may be different from a typical adult's, but not necessarily wrong. For example, studies have shown that teen moms play rougher with their children, not because they are mean or mad, but because they have more energy than an older parent and are more active. We need to recognize this difference in interaction styles.*

*We should encourage judges to accept some differences between teen moms and adult parents. Judges and lawyers need to learn about adolescent development. Everyone needs to be educated regarding these issues, including caseworkers. All these folks need to better grasp adolescent development; they need to view the adolescent's progress in becoming a better parent more realistically and in a more positive way.*

— LESLIE STARR HEIMOV.



### **Address pregnancy or parenting issues in arguments on reasonable efforts to finalize a permanency plan.**

The permanency plan decision should be based on all the issues – not just the relationship between the parent and the adolescent but also the relationship between the parent, the teen mom, and the teen's child. Any pregnancy or parenting issues should be addressed in arguments on reasonable efforts to finalize a permanency plan. Because pregnancy and parenting can have such dramatic effects on placement stability, any case plan that does not document what efforts were made to explore their impact on adoptive, guardian, or relative placements would be inadequate. The case plan should also address the noncustodial father to provide support for the mom and shared custody.<sup>11</sup> Other planned permanent living arrangements also need to adequately provide for health care, housing, education and parenting support services for teen parents.

## Confidentiality and Adolescent Access to Health Services

Many adolescents will seek health care services including pregnancy testing, prenatal care, or treatment for sexually transmitted diseases only if they can receive confidential services. One study found that 17% of surveyed adolescents had forgone health care in the past at least in part because of privacy concerns. Assurances of physician confidentiality increased adolescents' willingness to disclose information, report truthfully, and consider a return visit to the health care provider.<sup>1</sup>

Numerous federal and state laws affect the confidentiality of adolescents' health care, including when adolescents may give their own consent for care and when information is shared with parents or other authorized caregivers:

- **The Federal Privacy Rule**, issued under the Health Insurance Portability and Accountability Act of 1996,<sup>2</sup> went into effect in 2001 and was modified in 2002. The rules state that when minors can receive health care based on their own consent (i.e., without parent consent), they can exercise most of the privacy rights provided under the federal privacy regulations. However, states have greater latitude to determine the privacy rights of adolescents than they have for adults, and the rules defer to state or other law on the question of when otherwise protected information may or must be disclosed to parents.
- The federal **Title X Family Planning Program**<sup>3</sup> includes strong confidentiality protections for adolescents who seek treatment on their own.
- Both **Medicaid**<sup>4</sup> and the **State Children's Health Insurance Program (SCHIP)**<sup>5</sup> include some confidentiality protections that should extend to adolescents' ability to access services.

- State laws in every state control the confidentiality of medical information and allow minors to consent to health care in specific circumstances, including pregnant minors or minor parents. Depending on the state, they may be able to consent to certain services such as pregnancy-related care or contraceptive services.<sup>6</sup> Every state provides some confidentiality protections to adolescents who are minors under 18, while adolescents 18 and older generally receive the same confidentiality protections as adults.

It is essential to understand these rules and provisions when counseling a pregnant teen in care about accessing confidential reproductive health care.

#### Sources

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- 3 Public Health Services Act, Title X: Population Research and Voluntary Family Planning Programs, Public Law 91-572 (1970).
- 4 Medicaid Act (August 14, 1935) Chapter 531, Title XIX, as added July 30, 1965, Pub. L. No. 89-97.
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GUIDE  
LINE**Ensure all information from pregnancy and health-related providers and parenting services providers is presented to the court.**

Failure to provide documentation of the health care needs of and services provided to an adolescent may provide a basis for a court finding that the agency did not make reasonable efforts to finalize the permanency plan. Information about the teen's need for health care and services is vital to the court's determination of an appropriate permanency plan.

**ONE MORE TAKE:**

*Ideally, an agency should have a social worker who is experienced working specifically with minor parents. A judge could request to hear from this worker when making decisions about minor parents and their children.*

— LESLIE STARR HEIMOV.

GUIDE  
LINE**Address what independent living services the child is receiving to cope with parenting issues within the placement and what long-term relationships with responsible adults and peers are being fostered.**

Some experts believe that permanency should never consider separating a teen mom from a child she decides to keep. All efforts should be made to keep them together with another adult to provide good role modeling.<sup>12</sup> “Whole family” placements with specialized foster or pre-adoptive parents who are focused on pregnant or parenting teens are ideal.<sup>13</sup> This perspective should be reflected in the permanency planning decision. For instance, group homes that serve pregnant and parenting teens as a permanent placement need to provide a “professional house mother” that serves as a role model. They should have social services available onsite, including child care; have common areas but provide private rooms; and encourage clients to go to school and work.<sup>14</sup>

**ONE MORE TAKE:**

*We should be doing everything we can to provide support to the youth's existing placement to try to make it work, like providing child care, arranging for visiting nurses, finding support groups for foster parents, or getting the teen into a parenting class. We need to try everything possible to make the youth and foster parents work through their difficulties and keep the placement intact instead of just moving the child.*

— LESLIE STARR HEIMOV.

The case plan should also include time to continue healthy adolescent development without penalty, such as involvement in extracurricular activities apart from her child and time to complete homework. Child care, and when possible “crisis nurseries” similar to respite care, should be made available to the teen.<sup>15</sup>

## PERMANENCY OPTIONS: RETURN TO PARENT

In examining whether returning a pregnant or parenting teen to her parent, the court should first examine whether the pregnancy is related to the underlying petition. If the pregnancy is a result of sexual abuse or assault by the parent or caregiver, no reasonable efforts may be required and return home would not be an appropriate permanent placement.

However, if the pregnancy relates to the underlying petition because it exacerbated the teen's home life and created a source of tension, the court should ask whether all services that would help the teen to return home have been explored and offered. In Molly's case, her problems with her mother appear to stem more from her relationship with her boyfriend Tom than her pregnancy. Molly's attorney should therefore advocate for services that would help Molly and her mother resolve those issues and plan for the possibility that Tom may resurface in Molly's life.

The attorney should continue to coordinate and advocate for appropriate services that address specific client needs, wishes, and circumstances. The court should determine that the teen is receiving prenatal and other health care and ask about Medicaid and/or State Children's Health Insurance Program (SCHIP) eligibility. Nonsafety issues should also be explored:

- Is there appropriate housing for the parent, teen mom, and the baby if all three are to be reunited?
- Is the family eligible for Temporary Aid to Needy Families (TANF) or other financial support?
- Is the teen attending school?

## TERMINATION OF PARENTAL RIGHTS/ADOPTION

Pregnancy or the presence of a child may complicate the adoption of an adolescent. An essential inquiry is whether the adoption is suitable. The court should examine the extent of bonding with the biological parent and whether that bond would affect the teen's ability to bond with another family, especially if the teen now has a child of her own.

The court should also explore the teen's desire to be adopted. If the pregnancy or parenting status makes the teen unwilling to be adopted, the possibility of disruption increases. Conflicts between teen parents and their adoptive parents concerning the care of their infants may also threaten to disrupt the placement.

However, all adoption possibilities should be explored, including a combination of adoption of the teen and guardianship of the baby when the baby is adjudicated dependent with a permanency plan of reunification. Clearly delineating roles and responsibilities between the adoptive parent or guardian and the teen mother is needed to prevent potential conflicts that could affect the placement.

## RECRUITING ADOPTIVE HOMES FOR TEEN PARENTS

The presence of a child or pregnancy may pose special challenges in recruiting adoptive homes for a teen. Adoptive parents may not want to take on a mom and her child, or they may not be willing to oversee visitation should the baby not be placed with the teen mother. Certainly there are financial considerations if the adoptive family cannot afford to support both mom and baby, in which case adoption subsidies may alleviate some of the burden.

Nonetheless, recruiting homes that will take the teen and her child should be a priority, because separating the teen from her child could be viewed as another form of abuse.<sup>16</sup> Another consideration is avoiding the appearance of a “baby factory” because the teen’s infant could be more easily adopted.<sup>17</sup>

One way to address and diminish potential problems is to contact local adoption agencies and counseling services to examine their techniques for identifying adoptive parents who may be willing to adopt teen moms and take some form of custody of their children. It is also a good idea to explore the training they provide those parents.

Some experts advise that honesty is the best policy in recruiting adoptive parents for teen moms.<sup>18</sup> Be candid with the adoptive family and explain that this is a family of its own. Prospective adoptive parents may respond to the argument that the best way to help this teen is to help her child, and that they would be investing in both their futures.<sup>19</sup> Attorneys for teen dads should also make sure the agency explores the adoptive family’s interest and commitment to supporting the father-child relationship.

### ONE MORE TAKE:

*To identify missing fathers, develop a form to give the teen moms at the first hearing she attends. Have her fill in any information about the father or father’s family/relatives and provide that to the court and agency.*

— JUDGE STEPHEN RIDEOUT.

Encourage preadoptive families to play a larger role in the teen's pregnancy or parenting and explain that just because she is about to be, or already is, a mom, she won't stop being an adolescent. Based on mental and physical health assessments, preadoptive parents and teen moms can work together through services that increase the possibility of long-term permanency in the home.

### ONE MORE TAKE:

*Many placements fail because the adolescent and the caregiver have conflicts about how to care for the baby. They need to develop ways to deal with these issues. California is trying to pass legislation that would require the agency and the teen mom to develop a "shared responsibility plan" that would cover areas such as: feeding, clothing, child care, and transportation. The plan would outline who was responsible and how each task would be completed. This plan would be completed when the teen came into care with her baby.*

— LESLIE STARR HEIMOV.

It may be advantageous to encourage preadoptive parents to adopt both the teen and the baby only if the teen will never grow up to be a fit parent.<sup>20</sup> Guardianship or some other legal relationship to the infant may be more palatable to the adoptive parents because it would provide them with some control without taking all control and responsibility away from the teen.

## GUARDIANSHIP

Guardianship of the teen mom may be appropriate when adoption is not feasible. Some useful questions when determining appropriateness include the potential guardian's relation to the biological parent and whether maintaining that connection is beneficial. Also, a guardianship decision in a case involving a pregnant or parenting teen would need to focus on

whether financial means exist to care for the teen mom and her child. Advocates should explore subsidized guardianship and any possible effect on the infant.

## RELATIVE PLACEMENT

Relative placement in cases involving pregnant or parenting teens requires careful scrutiny of the relative's commitment to the teen mom and child and the effect on the teen mother's ability to access continued services to help her adapt to parenting. Placement with a relative should depend on the quality and nature of the relative's relationship with the teen mom and child. The relative must commit to providing a permanent, stable placement for both the teen and the baby. A close look at the home itself can help determine whether the pair can successfully be integrated into family life. A relative placement that welcomes a teen father's child may also work well when family bonds are strong. Roman, for instance, may have extended family that would provide a more welcoming atmosphere for Samuel than his current group home placement.

Remember that when a child is placed with a relative, she may receive fewer services just when she needs them most to help her cope with her new parenting responsibilities. Therefore, advocates should always consider whether the relative placement could support and nurture the teen mom's parenting role.

## ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

Another planned permanent living arrangement, or APPLA, is only appropriate when the other permanency options are not. APPLAs require a compelling reason why they are in the child's best interest. In the case of pregnant or parenting teens, the compelling reason may relate to the teen's child.

For instance, the teen may not wish to be adopted because she is now a mother herself with her own family, and adoption disruption may be

## Pregnancy Prevention

Much more needs to be done to prevent pregnancy among teens in the foster care system. The National Campaign to Prevent Teen Pregnancy recently issued a report with important findings and recommendations. It was based on research and focus group conversations with teens, foster parents and social services providers.

Seven themes emerged from the conversations with the teens:

1. Youth in foster care are not always able to develop the critical relationships with parents, other adults and teens that are an important influence on whether teens become pregnant or cause a pregnancy.
2. Despite hardships, youth in care see many benefits to having a baby – they see it as a way to create a family and provide a sense of stability.
3. Youth in care face a lot of pressure to have sex.
4. While youth in care generally have access to information about sex and pregnancy, many feel it is too little, too late.
5. Access to contraception does not always mean teens will use it.
6. While youth in care may be working toward future goals, many are acting on present impulses.
7. There is a lack of trust between the sexes regarding pregnancy prevention, including distrust over who has responsibility for contraceptive use and whether girls get pregnant to keep a boyfriend or boys “trap” their girlfriends with pregnancies.

The report's recommendations include:

- Those who design intervention programs for young people in foster care should tap the experiences and perspectives of these same teens.
- Programs and interventions for teens in foster care must address both primary and secondary prevention of teen pregnancy.
- Programs that stress pregnancy prevention should be evaluated specifically for their effectiveness with youth in foster care.
- Peers are powerful and should be engaged.
- Programs should address what motivates teens to become pregnant and what it will take to motivate them to avoid pregnancy.
- Don't forget boys and young men to counteract the view that pregnancy, contraception and parenting are "girls' problems" and to reach them with messages about double standards, respect for women and violence prevention.
- Help youth in foster care create alternatives to being a young parent through youth development activities and connections to community organizations and education.
- Foster parents need more training and support. Service providers also need support and training to address teen sexual behavior.
- Health services for teens in care, including mental health services, need to improve coordination.

**Source:** Love, L. T., J. McIntosh, M. Rosst & K. Tertzakian. "Fostering Hope: Preventing Teen Pregnancy Among Youth in Foster Care." National Campaign to Prevent Teen Pregnancy, 2005, [www.teenpregnancy.org](http://www.teenpregnancy.org).

highly likely. In such cases, an APPLA such as a group home for pregnant teens may be best.

In assessing any APPLA, the court should determine whether adequate parenting supports are in place to assure the safety, quality, and stability of the placement. Pregnant and parenting teens need services beyond job skills and independent living. Their APPLA plan should include parenting classes with participants of similar age and other services to ensure the health and safety of the teen and her baby.

The placement should include a medical component whenever possible. Not only do programs with a team that includes a nurse or other medical professional support the teen and help her become a better parent, but teens also are more likely to respond to medical personnel.<sup>21</sup>

Teen fathers should also receive parenting and other services to help them become responsible parents. Other services may include helping the teen prepare for a job, which depends on good education and/or vocational training such as a work-study program. As Patricia Dempsey of the Hunter College School of Social Work put it – “the same kind of real effort you or I would make for our own child to give her a real shot at taking care of herself and her child.”

## CONCLUSION

By carefully considering the issues pregnant and parenting teens raise, the teen’s legal representatives and the courts can ensure they receive the necessary services. Carefully examining their permanency status ensures the best possible outcomes for both teen parents and their children.

## Endnotes

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## CHAPTER 6

# Addressing Adolescent Substance Use Disorders in Permanency Planning

BY SHARON G. ELSTEIN

## GUIDELINES

### Substance Abuse

- ▶ Intervene early with children of substance abusers.
- ▶ Ensure appropriate identification, screening, and assessment.
- ▶ Do not put off permanency planning when an adolescent has substance abuse issues.
- ▶ Advocate for a coordinated and specialized response.
- ▶ Ensure that proper education and support is available to parents (biological and adoptive) and foster caregivers on addiction, recovery, and treatment. (Request court orders requiring this, if necessary.)
- ▶ Require temporary and permanent caregivers to actively participate in the adolescent's treatment.
- ▶ Longer and more consistent treatment services should be provided to adolescents.
- ▶ Identify appropriate treatment resources.
- ▶ Ensure appropriate services are made available for the child.

As a lawyer, judge, or child protection worker, you may be working with adolescents who are struggling with a substance use disorder. A teen's substance use, abuse, or dependence may impede a secure placement, whether with the family of origin, in foster care, or in an adoptive home. Depending on its severity and chronicity, teen substance use can: interfere with recruiting foster or adoptive parents; result in involvement with the juvenile justice system; aggravate existing mental, emotional, or behavioral problems; limit the teen's ability to function in a family; deter educational progress; and result in placement disruption. You need to know about adolescent substance use disorders and use the best strategies to provide teens with a safe and permanent home.

Permanency planning for teens with substance use disorders is an evolving area of inquiry with few studies directly on point. This chapter's recommendations for teens seeking permanence are drawn from research on adults and existing model approaches. Emphasis is placed on proper assessment and treatment of the adolescent's substance abuse. Thoroughly identifying and treating the substance abuse increases the chances that permanency planning efforts will succeed and not be undermined.

## WHAT ARE KNOWN RISK FACTORS/PROTECTIVE FACTORS FOR ADOLESCENT SUBSTANCE USE?

Several risk factors increase the likelihood of teenage substance abuse, while several protective factors are known to increase resiliency. Factors can be categorized as familial, social, and individual.

### FAMILIAL RISK AND PROTECTIVE FACTORS

A combination of familial problems puts children at risk of developing a substance use disorder, including parent and sibling alcohol and other drug use, poor socialization, ineffective supervision and discipline, negative parent/child relationships, family conflict, family stress, poor parental

mental health, and poverty.<sup>1</sup> All of these problems are often disproportionately present in abuse and neglect cases. This fact places adolescents involved in the child welfare system at more risk of drug and alcohol dependency.

A parental substance use disorder is the most important indicator that a child is at risk for abusing alcohol or drugs.<sup>2</sup> One study found that parental addiction predicted substance-use disorders in their children, with three times the risk during adolescence.<sup>3</sup> This influence is genetic (a tendency towards addiction may be inherited) and a result of modeling (children tend to repeat what they have learned in their families).

A number of positive familial factors can help protect a teen from becoming substance dependent. These include:

- a strong bond with the family,
- involvement with a caring parent or other adult,
- emotional support,
- appropriate developmental expectations,
- opportunities for meaningful family involvement,
- support for dreams and goals,
- setting rules and norms, and
- maintaining strong family support networks.<sup>4</sup>

Again, parents have the most profound impact on teens' abuse of drugs and alcohol. Both disapproval by parents of alcohol use and parental support of children are associated with abstinence and reduced use.<sup>5</sup>

## SOCIAL RISK AND PROTECTIVE FACTORS

Substance use and abuse among peers is considered the “final pathway” to drug use (following consequences of familial risk factors).<sup>6</sup> A teen's social group may encourage drug experimentation, offer a way to purchase drugs, and provide a subculture of acceptance. In dependency cases

when children are removed from home, they often lack the consistent parental support and will be more susceptible to peer influence. Teens may be increasingly influenced by their peer group, and become further alienated from their parents; some may go on to substance dependence and deviant behaviors.<sup>7</sup> Interestingly, a teenager's perception of his friends' drug use (whether accurate or not) "appears to be more critical than [their] actual drug use."<sup>8</sup>

It also appears that progressing from marijuana to other drugs is in part a result of increasing dependence, and partly a factor of associations. "Youngsters who smoke dope learn how to buy and use an illegal drug. They enter a criminal world and become comfortable negotiating their way there....[T]hey smoke with friends who have tried other drugs and offer to share. They can end up taking drugs they once feared."<sup>9</sup>

Further, major transitions in a child's life may leave them at increased risk for drug use. Such risk periods may include entering puberty, being removed from home and placed in foster care, progressing from elementary to middle school, and from middle school to high school. Vulnerability is a product both of the change itself and of exposure to new peers and new pressures.<sup>10</sup>

Protective social factors include:

- involvement with and attachment to school,
- academic effort and expectations, and
- positive peer associations.<sup>11</sup>

The more connected a teenager is to positive relationships with authorities (school teachers, counselors) and to friends who abstain from substance use, the likelier he/she is to resist using drugs and alcohol. Having friends who don't use drugs reduces the availability, and provides a positive lifestyle to model.<sup>12</sup> Whatever the teen's permanency plan, the teen's caregiver should be aware of the teen's peer group. Caregivers should help connect the teen to positive relationships and activities.

## INDIVIDUAL RISK AND PROTECTIVE FACTORS

Why do some children from challenged homes devolve into substance use and others manage to withstand the pressure? Researchers suggest that individual temperament (innate personality) may result in more or fewer risk-taking behaviors. Two “dimensions” of temperament related to substance use include impulsivity/restraint and negative/positive mood.<sup>13</sup> Thus, a teen with an impulsive personality is less able to resist temptation and less inclined to worry over long-term effects of drug use. Inversely, teens who can delay gratification and those who naturally see life as pleasant may be less inclined to engage in risky behavior.

Other risk factors include age and mental health status. Research shows that the younger a child is when he starts using substances, the likelier he will become dependent. One reason is the association theory: younger drug-using children have decreased chances to develop an “anti-drug” social group to counteract their deviant behaviors.<sup>14</sup> Teens with undiagnosed mental illnesses may use drugs to “self-medicate,” or to feel they fit in. An anxious, fearful, and/or angry teen may use drugs to help reduce feelings of unhappiness or depression.<sup>15</sup>

## HOW CAN ADOLESCENTS AWAITING PERMANENCY BE HELPED WHEN SUBSTANCE ABUSE IS A RISK FACTOR?



### **Intervene early with children of substance abusers.**

The best way to help adolescents at risk for substance dependence is to keep them from drinking and doing drugs in the first place. Prevention activities directed at the parent, family, young child, and teen are the first line of defense. Such activities include treating the parent for substance use disorders, and providing parenting skills classes, anger management courses, and parent-child support interventions.<sup>16</sup> This is especially important when reunification is the permanency goal and parental substance abuse is an issue. In cases where parental substance use is suspected, advocates should request court-ordered assessments and treatment for parents.

Prevention programs for children (preschool, school-aged, teens) need to be developmentally appropriate, and reflect the issues the child is facing. For example, children in early grades may “feel responsible” for the parents’ behaviors, and will respond to different interventions than young teens who have already begun drinking.<sup>17</sup> And prevention programs are more effective with younger children who haven’t yet fully adopted a “deviant, antisocial” attitude towards authority.<sup>18</sup>

Promising programs include:

- *Preparing for the Drug Free Years and the Iowa Strengthening Families Program*, both funded by NIDA (National Institute on Drug Abuse). These programs work with the parents through five- or seven-session trainings. Positive outcomes include better child-management skills, improved parent-child relationships, fewer problem behaviors, and reduced substance use.<sup>19</sup>
- CASASTART (*Center on Addiction and Substance Abuse—Striving Together to Achieve Rewarding Tomorrows*). This comprehensive program focuses on at-risk 8 to 13 year olds by providing a full range of individualized services (social and family services, mentoring, advocacy, transportation) and after-school recreation programs. Local law enforcement agencies work together with schools and health and social services agencies delivering services to at-risk children in 10 cities.<sup>20</sup>

**GUIDE  
LINE****Ensure appropriate identification, screening, and assessment.**

It is important to have every child entering foster care screened and assessed for any effects of parental substance use and, if appropriate, their own substance use, abuse, and dependence. There is a “dearth of rigorously designed research studies on screening and early intervention for children and youth from families affected by substance abuse.”<sup>21</sup> Teenagers of drug-using parents should be evaluated for alcohol- and drug-dependence, using developmentally appropriate instruments.

Physicians generally don’t ask about substance-related problems during routine office visits,<sup>22</sup> so advocates should be sure to ask that specific issues be explored during the exam, including:<sup>23</sup>

- Paternal or twin alcoholism
- Parental alcohol, tobacco, or other drug use
- Family history of alcoholism
- Family history of antisocial behavior
- Parental mental health issues
- Child abuse and neglect
- Parents with poor parenting skills
- Poor relationships with parents
- Drug use by sibling
- Drug use by best friend
- Perceived peer drug use
- Failure in school
- Low interest in school and achievement
- Rebelliousness and alienation
- Low self-esteem
- Early antisocial behavior
- Psychopathology, particularly depression
- Negative character traits (frequent lying, lack of empathy, immediate gratification, sensation-seeking, insensitivity to punishment)
- Previous dependence on drugs/alcohol
- Delinquent behavior
- Little involvement in religious activities
- Early experimentation with tobacco/alcohol
- Early sexual activity

## Stages of Adolescent Substance Abuse

### Stage 1: Potential for abuse

- Decreased impulse control
- Need for immediate gratification
- Availability of tobacco, drugs, alcohol, inhalants
- Need for peer acceptance

### Stage 2: Experimentation: learning the euphoria

- Use of inhalants, tobacco, marijuana, and alcohol with friends
- Few, if any, consequences
- May increase to regular weekend use
- Little change in behavior

### Stage 3: Regular use: seeking the euphoria

- Use of other drugs (stimulants, LSD, sedatives)
- Behavioral changes and some consequences
- Increased frequency of use; use alone
- Buying or stealing drugs

### Stage 4: Regular use: preoccupation with the “high”

- Daily use of drugs
- Loss of control
- Multiple consequences and risk-taking
- Estrangement from family and “straight” friends

### Stage 5: Burnout: use of drugs to feel normal

- Use of multiple substances; cross-addiction
- Guilt, withdrawal, shame, remorse, depression
- Physical and mental deterioration
- Increased risk-taking, self-destructive behavior, or suicidal behavior

**Source:** American Academy of Pediatrics, Committee on Substance Abuse. “Policy Statement: Indications for Management and Referral of Patients Involved in Substance Abuse (RE9947).” *Pediatrics* 106(1), July 2000, pp. 143-148. <http://www.aap.org/policy/re9947.html>, 6/18/02.

Several instruments help evaluate the existence and extent of substance abuse problems in adolescents. Screening tools, such as the Family CAGE, expand on the CAGE for adults and ask about family members' substance use. The Children of Alcoholics Screening Test (CAST) and the Family Drinking Survey also address the impact of parental alcoholism on teens.<sup>24</sup> Another tool is the Problem-Oriented Screening Instrument for Teenagers (POSIT) that is followed by the Adolescent Assessment and Referral System (AARS) (available from the National Institute on Drug Abuse.) The Practical Adolescent Dual Diagnostic Interview (PADDI) is designed to assess mental health problems and substance use disorders.<sup>25</sup> The CRAFFT test is a screening tool for use by doctors working with 14-18 year olds to predict substance use disorders.<sup>26</sup>

Advocates should be aware of these tools and ensure that appropriate assessments are provided. Advocates can request that specific assessments are court ordered. Advocates should consult with the screener to determine whether these (or other reliable assessments) are being used. Inform the court if there are questions about the reliability and validity of the assessment.

A thorough assessment should be conducted following a positive screen for alcohol or drug use in the family or the teen. Comprehensive assessments should include information from the parent(s) when possible, the teen (oral, written, and urine tests), school(s), and the juvenile justice authority, if appropriate.<sup>27</sup>



**Guideline: Do not put off permanency planning when an adolescent has substance abuse issues.**

Advocates may be inclined to delay permanency planning until the adolescent substance abuse issues are addressed. However, this is a time when the adolescent needs stability and support from a permanent family. Success in treatment is related to the adolescent's support system. The case plan should include what efforts have been made to achieve permanency and what substance abuse treatment is appropriate.

Treatment and permanency should be co-occurring goals. If reunification is the goal, the adolescent does not necessarily have to be fully recovered from substance abuse to go home. The birth family must be involved with the treatment and be willing to support treatment when the adolescent is home. The same is true for an adoptive or relative placement. The agency should be recruiting adoptive placements while the adolescent is in treatment. Advocates can argue to have the adolescent permanently placed while still active in recovery.

Professionals, however, must also be aware that substance abuse is a factor in the adolescent's ability to achieve permanency and may make finding an adoptive home or finding stable adults to provide support more challenging but should not stop advocates from pushing for permanency. Professionals must also be aware of the type of family or stable adult that they find for the adolescent. The family must be willing to get involved with the treatment and ongoing potential relapses and be committed to the adolescent through these difficult times and into adulthood. They cannot have unreasonable expectations (such as complete abstinence once formal treatment is concluded) for the adolescent with respect to recovery. Consistent involvement with treatment will prevent these expectations that the adolescent will be unable to fulfill.

Sometimes adolescents use substances to cope with the instability in their lives. For these adolescents, when they are able to feel secure with their future or with the support in their lives, substance use is less prevalent.

**GUIDE  
LINE****Guideline: Advocate for a coordinated and specialized response**

Don't expect treatment programs designed for adults necessarily to be appropriate for adolescents. Professionals working with adolescent substance abusers need to be specialists in the "particulars, complexities, and multiple systems"<sup>28</sup> that comprise teenagers' lives. Identifying, screening, evaluating, and treating teens for substance use disorders requires an understanding of adolescent development, and their need for permanency. It calls for a multidisciplinary approach to prevention and intervention.

Just as services must be specialized for them, planning a treatment program for adolescents should be particular to the individual. Advocates should be aware of the following when a treatment plan is proposed.

- **Do not limit assessment to substance use alone.** Do not exclude the diagnosis of contributing disorders (e.g., mental health issues such as depression and anxiety) that may complicate or interfere with treatment.
- **Adapt treatment.** Consider adolescent developmental stages or the specific needs created by the age, gender, ethnicity, and other disorders of the adolescent substance user.
- **Do not use adult criteria** for treatment services that do not consider the psychological and clinical needs created by the developmental stages of adolescents.
- **Take into account the family's contribution** to the adolescent's addictive disorder or mental health problem and possible solutions that could strengthen the family unit. Family-focused services for adolescents have more successful outcomes than those that focus only on individual youth.<sup>29</sup>
- **Take into account permanency.** Treatment must look forward to permanency and how it will be achieved given the complexities of the recovery process.

Along with judges, lawyers, and social workers, professionals who should be involved with teen users include school teachers, counselors, medical and mental health professionals (doctors, psychologists/psychiatrists), and family members.<sup>30</sup>

The juvenile justice system traditionally has intervened with delinquent youth who also have drug- or alcohol-problems. The newest trend is to handle such cases within a juvenile drug court, where court-supervised treatment and therapy provides a “coordinated...delivery of an array of support services to address the problems that contribute to juvenile involvement in the justice system.” This rehabilitative approach promotes permanency for teens in the child welfare system by helping them address their substance use/addiction through treatment and comprehensive services. Prospective caregivers are more likely to stay invested in offering permanency to a youth who is on a positive path to recovery.

About 140 juvenile drug courts exist nationwide, with more than 125 jurisdictions planning to implement one.

### ONE MORE TAKE:

*At the point the adolescent accepts treatment, we have opened the door to a host of people who might help these kids and be a placement option. For example, a sponsor or individual comes along who makes a connection with a kid and is willing to get involved.*

— CATHY CONNELLY.

Key elements of the family drug court mirror those in adult drug courts. Dependency courts (for families with abused and neglected or delinquent children) handling youth with substance use problems may want to adopt some of these elements:<sup>31</sup>

- **Team** made up of the judge, prosecutor, defense counsel, treatment provider, evaluator, family, and school representative.
- **Frequent and continuous supervision**, through weekly hearings, of progress, including drug-testing.
- **Court-supervised substance abuse treatment** for youth and parents, coordinated with other family support services.
- **Judicial leadership** and a close working and caring relationship with the juvenile, the family, and the team.
- **Use of positive incentives** to encourage clients to comply with drug court requirements, such as progress through the phases, less-frequent drug tests, etc.
- **Quick response to noncompliance** with treatment and program, with increase in intensive service delivery.

When a child is involved in the dependency and delinquency court systems, both systems should coordinate to ensure appropriate treatment is provided to the child. This should include regular communication

between professionals in both systems, sharing of information relevant to treatment, and updates on the child's progress. See *Delinquency chapter* for further information.



**Ensure that proper education and support is available to parents (biological and adoptive) and foster caregivers on addiction, recovery, and treatment. Request court orders requiring this, if necessary.**

Permanency planning needs to incorporate education and training of anyone who will have responsibility for a child with substance use issues. Whether the permanency plan is return home, adoption, or another plan, the biological, foster, or adoptive parent as well as group home providers need to be educated on substance use disorders, recovery and relapse, treatment modalities, and co-occurring mental health issues. The parent also has to be willing to provide a safe, stable, drug-free environment in which the adolescent can find permanency. Parenting classes should focus on modeling healthy attitudes/behaviors and discouraging parental drug and alcohol use.

#### ONE MORE TAKE:

*Success hinges on the quality of family preparation. You need to “train the heck” out of adoptive parents. Post-adoption services are important and you must convey to families that there is post-adoption help for them.*

— BARB HOLTAN.

If the reason for the removal was parental substance use and the permanency plan is return home, the parents must be actively participating in their own recovery before being able to provide the appropriate environment for an adolescent with substance use issues. Parental substance abuse treatment should prepare parents to work with their children and send appropriate messages about drug use. Foster parents need to be trained on the association between parental and adolescent substance

abuse. Guardians should model responsible attitudes to prevent these children from repeating their birth parents' substance use.



### **Require temporary and permanent caregivers to actively participate in the adolescent's treatment.**

Temporary and permanent guardians need a solid grounding in the cyclical nature of recovery, lapse (a short-term return to substance use), and relapse (a longer-term return associated with detrimental consequences). They must be willing to continue to provide a safe, permanent home for the adolescent, even when lapse and relapse occur. If they are involved in the adolescent's treatment, they are more likely to become vested not only in the success of the treatment but also in the long-term effect on the adolescent. Advocates can request court orders requiring caretakers to participate in treatment and request treatment providers to include the level of caretaker's involvement in their reports to the court. Advocates should also involve the caretaker in discussions about treatment during case planning and court hearings to further their feelings of being invested.

Relapse prevention plans should be incorporated into treatment planning. Most treatment providers expect clients to slip in and out of treatment and abstinence; in fact, treatment program dropout rates are routinely 50%.<sup>32</sup> Most treatment programs accept that one to two years of active participation in recovery may be needed.<sup>33</sup> Even then, re-abuse of drugs or alcohol may occur. Thus, treatment and relapse should be considered from a disease management approach, which recognizes that there may be an episodic need for more intensive services but that long-term management of a chronic disease is a central tenet. If caregivers are aware of this cycle, they will be less likely to abandon the adolescent when reoccurrence happens.

In a study of adolescent treatment centers, in four cities researchers noted a 50% drop in weekly marijuana use during the year after treatment, and use of other illicit drugs dropped by 6%.<sup>34</sup> Length of time in treatment was associated with less drug use and lower arrest rates post-treatment.<sup>35</sup>

Is there a foolproof way to decide who will eventually be “successful” in drug treatment and thereafter and who won’t? In a word, no. Treatment success depends on many factors, including the type and amount of substances used, whether multiple drugs were used, the length of substance use, the treatment program(s’) type and quality, personal motivation for recovery, and the like.<sup>36</sup> Thus, it makes sense to work with the teen, and provide appropriate treatment and intensive services, as they may be successful. Services should promote permanency, such as linking the adolescent with a clean and sober adult to provide a stable relationship that will last into adulthood.

Progress in substance abuse treatment and through recovery is accomplished in stages, each with its own successes and risks. The goal of treatment is to completely end substance use (abstinence), but the likelihood of reabuse (relapse) is a lifelong risk,<sup>37</sup> which may diminish over time. Recovery requires users to stop substance use and change their behaviors and thinking.<sup>38</sup>

Movement through the stages and phases is rarely smooth. At the same time they are working through their motivation to change, substance abusers are moving through four phases of recovery (denial, transition, early recovery, ongoing recovery). Each phase is defined by certain activities and each phase carries risks for relapse. Movement through recovery depends on motivation and the strength of the support system, including “family and social support to change behavior, employability, and not having a major mental illness in addition to the substance use disorder.”<sup>39</sup> Advocates should look for permanent families and adult role models that recognize the nature of recovery and will be supportive throughout treatment.



### **Longer and more consistent treatment services should be provided to adolescents.**

Advocates should be asking for longer, more consistent treatment services. Research reveals two factors that increase treatment success and reduce relapse: longer time in treatment (several months or more), and consistent, “intensive” service delivery.<sup>40</sup> The most effective services are

## DSM-IV Criteria for Substance Abuse, Substance Dependence

### Criteria for Substance Abuse

1. A maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by 1 (or more) of the following, occurring within a 12-month period:
  - recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household)
  - recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use)
  - recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct)
  - continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights)
2. The symptoms have never met the criteria for substance dependence for this class of substance.

### Criteria for Substance Dependence

A maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by 3 (or more) of the following, occurring at any time in the same 12-month period:

1. Tolerance, as defined by either of the following:
  - a need for markedly increased amounts of the substance to achieve intoxication or desired effect

- markedly diminished effect with continued use of the same amount of the substance
2. Withdrawal, as manifested by either of the following:
    - the characteristic withdrawal syndrome for the substance
    - the same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms
  3. The substance is often taken in larger amounts or over a longer period than was intended.
  4. There is a persistent desire or unsuccessful efforts to cut down or control substance use.
  5. A great deal of time is spent in activities necessary to obtain the substance (e.g., visiting multiple doctors or driving long distances), use the substance (e.g., chain-smoking), or recover from its effects.
  6. Important social, occupational, or recreational activities are given up or reduced because of substance use.
  7. The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance (e.g., current cocaine use despite recognition of cocaine-induced depression or continued drinking despite recognition that an ulcer was made worse by alcohol consumption).

**Source:** American Academy of Pediatrics, Committee on Substance Abuse. "Policy Statement: Indications for Management and Referral of Patients Involved in Substance Abuse (RE9947). *Pediatrics* 106(01), July 2000, pp. 143-148. <http://www.aap.org/policy/re9947.html>, 6/18/02.

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. (DSM-IV) American Psychiatric Association. Washington, DC: American Psychiatric Association; 1994.

associated with better recruitment into treatment, better treatment completion rates, and reduced relapse.<sup>41</sup> If recommendations call for inpatient long-term treatment, the permanency planning should focus on supporting treatment and establishing a stable, long-term environment for postrelease. Permanency planning should focus not only on the treatment but also on what will happen after the adolescent is in recovery.



### **Identify appropriate treatment resources.**

Obtaining treatment for teens is challenging due to: a lack of treatment programs designed specifically for teens; programs that fail to address teens with “mild, moderate, or early stage” use of drugs;<sup>42</sup> and lack of insurance coverage for substance abuse treatment.

One source of medical insurance for low-income children and adolescents is the State Children’s Health Insurance Program (SCHIP or CHIP) ([www.cms.hhs.gov/schip](http://www.cms.hhs.gov/schip)), part of the Balanced Budget Act of 1997.<sup>43</sup> SCHIP allows states to “expand Medicaid, create or expand a state program, or use a combination of both,” and covers “uninsured children who are not eligible for Medicaid, under age 19, and at or below 200% of the federal poverty level.”<sup>44</sup>

Advocates can also seek Early and Periodic Screening, Diagnosis, and Treatment (EDSDT) services for Medicaid-eligible children. These services include an array of medical screenings and treatments. The federal program provides assessments and services to children under age 21, in foster care, and enrolled in Medicaid, in most states. Services include “periodic comprehensive health assessments, screens, and follow-up diagnosis and treatment...”<sup>45</sup> You can look at the Centers for Medicare and Medicaid Services website for further details on Medicaid eligibility and additional services ([www.cms.hhs.gov/medicaid/eligibility/criteria](http://www.cms.hhs.gov/medicaid/eligibility/criteria)). See *Disabilities* chapter for more information.

Several adolescent drug treatment programs report encouraging results.

- **DATOS-A** (*Drug Abuse Treatment Outcome Studies for Adolescents*) found that drug-treatment programs designed specifically for teens (23 residential treatment programs, outpatient drug-free programs, and

short-term inpatient programs in four U.S. cities) were effective in: reducing substance abuse; reducing arrest rates; enhancing psychological adjustment; and improving school performance a full year after treatment.<sup>46</sup> The study reports that longer time in treatment (longer than three months) was positively associated with reduced substance use and recidivism.<sup>47</sup>

- *Multisystemic therapy (MST)*<sup>48</sup> views adolescent substance abuse as requiring intervention with all systems in which the teen has a relationship: “home, school, neighborhood, and the larger community....Intervention requires engagement with family members, teachers, social service agencies, and others having contact with the adolescent.”<sup>49</sup> MST provides intensive services to families in their own homes, over three-to-five months, 24 hours per day.<sup>50</sup>
- *Adolescent Treatment Models (ATM)* funded by the Center for Substance Abuse Treatment (CSAT), a three-year effort based in 11 communities to evaluate model treatment programs for adolescent heroin addicts. The ATM projects include therapeutic communities, outpatient programs, and residential programs, ranging from short-term to long-term.<sup>51</sup>



### **Ensure appropriate services are made available for the child.**

Permanency planning begins when the child enters care. From the time the case enters the child welfare system, the agency can arrange for services to help address the risk factors for children of substance abusers. Caseworkers can prepare and educate the child’s caregivers by informing them about the needs and risks faced by children of substance abusers. Advocates can ensure that adolescents have drug-free, stable, adult role models in the community and in their homes. Caseworkers and lawyers can present the court with a list of community services available to help preteens and adolescents. Refer to the United States Department of Health and Human Services and SAMSHA’s National Clearinghouse ([www.ncadi.samhsa.gov/RADAR](http://www.ncadi.samhsa.gov/RADAR)) for alcohol and drug information to locate centers in a specific area.) An enhancement of that approach is to co-locate caseworkers and treatment providers in the courtroom to work as a team, and to provide immediate screening and assessment of teens on site. Permanency hearings in child welfare cases provide an opportunity for courts to intervene, as part of the “reasonable efforts” to move

foster children to permanency. Judges should press agencies for information about their efforts to provide prevention, identification, screening, assessment, and treatment services.

## CONCLUSION

Adolescent substance abuse creates additional challenges to permanency planning. Children of substance abusers are statistically more likely to engage in substance use as they approach their teen years. Lawyers, judges, and caseworkers have an opportunity and a responsibility to intervene by advocating for early screening and assessment by pediatricians specializing in adolescent substance abuse, by mandating reports on the child's treatment, and by monitoring the child's progress. Once adolescent substance abuse is identified, advocates should ensure the adolescent is referred to developmentally appropriate interventions (prevention, treatment, and community services). The actions taken today may disrupt the cycle, and help protect these teens and their future from a lifetime of substance dependence.

This chapter was adapted from Elstein, Sharon G., "Understanding Adolescent Substance Abuse," *ABA Child Law Practice*, Vol. 21, No. 12, February 2003, ABA, Washington, DC.

## Prevention Resources: Guidebooks

*Preventing Drug Use Among Children and Adolescents  
A Research-Based Guide for Parents, Educators and Community Leaders,  
Second Edition*

**<http://www.drugabuse.gov/pdf/prevention/RedBook.pdf>**

U.S. Department of Health and Human Services  
National Institutes of Health  
6001 Executive Blvd.  
Bethesda, MD 20892  
301/530-0567

*Early Intervention: A Strategy for Prevention Practitioners*

**[http://www.northeastcapt.org/services/products/strategysites/  
earlyintervention/default.asp](http://www.northeastcapt.org/services/products/strategysites/earlyintervention/default.asp)**

Northeast CAPT  
Education Development Center, Inc.  
55 Chapel St.  
Newton, MA 02458  
888/EDC-CAPT  
Fax: 617/244-3436

*SourceBook of Drug and Violence Prevention Programs for Children  
and Adolescents*

**[http://www.umdny.edu/vinjweb/resources/sourcebook/  
about\\_sourcebook.html](http://www.umdny.edu/vinjweb/resources/sourcebook/about_sourcebook.html)**

The Violence Institute of New Jersey at UMDNJ  
30 Bergen St., Room 208  
Newark, NJ 07107  
973/972-1700  
Fax: 973/972-1128

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## CHAPTER 7

# Teen Sexuality and Relationships

BY RACHEL FELDHEIM

## GUIDELINES

### Reasonable Efforts to Finalize Permanency Plan

- ▶ The attorney should determine if the teen is involved in a dating relationship, and the nature of the relationship.
- ▶ The attorney should determine and coordinate service needs.
- ▶ Address dating and sexuality issues in arguments on reasonable efforts to finalize a permanency plan.

### Reunification

- ▶ In examining whether or not to return a sexually active or dating teen to her parent, the attorney should first examine whether the relationship is tied to the underlying petition.

### Termination of Parental Rights/Adoption

- ▶ Attorneys should explore potential conflicts related to the youth's sexual identity and relationships in placements.

**Guardianship/Relative Placement**

- ▶ Attorneys should examine a guardian or relative's relationship with the youth's biological family to determine the safety of the connection.

**Another Planned Permanent Living Arrangement**

- ▶ Attorneys should make sure that whatever APPLA is put into place does not facilitate unsafe relationships. Alternatively, the placement should not impede healthy relationships.

### TEEN IN AN ABUSIVE RELATIONSHIP:

*Francie, 16, has been living with her older sister, Sydney, since she left her parents' home a few months ago because she was not allowed to see her boyfriend. Her parents do not approve of her boyfriend because he is 22, has hit her on occasion, and has often stalked her during their numerous breakups. Sydney was often busy at work and did not have the time or energy to monitor her sister's activities so Francie was able to spend time with her boyfriend. One evening, Sydney walked in on a fight between Francie and her boyfriend where Francie was beaten up and Sydney was threatened. Unless Francie agrees to stay away from her boyfriend, Sydney wants her out of her apartment. Francie has already told Sydney that she is not interested in counseling, nor does she want to separate from her boyfriend.*

Like Francie, a teenager may be in a physically, emotionally, or sexually abusive relationship and that may have caused friction with her biological family. This relationship might also jeopardize future placements with a family unwilling or unable to take on the risks associated with a dangerous partner. A teen involved in a relationship with someone older may have trouble returning home or to a placement if the relationship originated there. A placement away from this partner may be difficult to find.

### TEEN IN A LESBIAN RELATIONSHIP:

*Willow is a 15-year-old girl who recently "came out" to her family and friends. Her parents could not deal with her sexual identity and abused her physically and emotionally. After entering care, she was placed with a religious foster family who had narrow views on sexual identity. The family's 17-year-old son made advances towards her as he was intrigued by her sexual identity. Willow did not get along with the family and rebelled against them and their religious beliefs. She also displayed signs of depression and began "self-medicating" with alcohol and drugs. Eventually, she was placed in a locked residential treatment center for girls because she was not able to get along with the foster family. She is having trouble because she is experimenting with other girls in the foster home. Her counselor is concerned that the home is not the right place to explore her sexuality; and she should be focusing on other issues at this time.*

A teen who has identified herself as gay, lesbian, bisexual, or transgender such as *Willow*, may not be able to safely return home to her family due to abuse based on sexual identity. The same teen may have trouble being placed outside of the home because of prejudices or stereotypes.

### TEEN WITH HIV/AIDS

*Ben, 14, has been living with the same foster family for over a year. His family threw him out of his home because of his drug use and promiscuous behavior. He has recently tested positive for HIV infection. His foster family had been considering adopting Ben, but upon learning the test results, developed serious reservations. While the family members, especially the couple's two young boys, had grown attached to Ben, they were concerned about his medical needs as well as the possible social and psychological effect his disease would have on their family.*

As in *Ben's* case, an HIV/AIDS teenager may experience trouble achieving permanency because of health and safety concerns along with the financial responsibilities. Additionally, permanent placements may be difficult to secure because families are concerned about the emotional implications of adopting someone with HIV/AIDS.

## SPECIAL ISSUES FOR PERMANENCY PLANNING

Teenagers in the child welfare system who are involved in dating relationships and are sexually active<sup>1</sup> experience a range of special issues as they achieve permanency. The prospect of permanency is especially challenging for these sexually active and dating teenagers because they face a variety of social, emotional, and health issues that attorneys and courts must consider.

Adolescence is a time when teenagers are forming new attachments with people. Additionally, puberty and sexual awakening often take precedence during this time of human development.<sup>2</sup> This combination of forming new attachments and the onset of puberty leads to adolescents

forming relationships with peer groups that change throughout adolescence. They range from same-sex peer groups, to mixed gender peer groups, to more intimate one-on-one friendships and romances.<sup>3</sup> These relationships can take the form of heterosexual, gay, lesbian, bisexual, or transgendered relationships (“GLBT”). Relationships may also form between a teenager and an individual who is older. They can be positive, healthy, and safe, or can be dangerous, abusive, and unhealthy.

These relationships, as well as sexual experimentation, can impact the adolescent’s permanency options and placements. This article highlights some of the issues and circumstances affecting teenagers who are dating and sexually active. Additionally, it addresses what attorneys and judges should consider when making permanency planning decisions for dating and sexually active teenagers.

## REASONABLE EFFORTS TO FINALIZE PERMANENCY

The attorney should ask the youth questions to determine the youth’s dating and relationship status. This information will facilitate reasonable efforts to finalize permanency. As illustrated by the scenarios, a youth’s relationships, sexual experiences, and sexual identity can significantly impact the youth’s permanency options so these questions must be asked and the issues probed.



### **Determine if the teen is involved in a dating relationship, and the nature of the relationship.**

When a dating and sexually active teen enters care, the attorney should find out whether the teen is involved in a relationship, what the nature of the relationship is, and whether the teen is sexually active. This information should be requested to decide what the teen’s needs and concerns are and whether the relationship or sexual activity will impact permanency. Inquiries should be made to determine the nature and safety of the relationship as well as any sexual activity:

- Is the relationship physically, emotionally, or sexually abusive?
- Does the relationship involve an age or power differential?
- Is the teen sexually active?
- Does the teen have access to health care, birth control, sexually transmitted infection testing and/or treatment, and sexual education?

These issues can impact a teen's permanency plan, and potentially hinder possible placements. They should be addressed as early as possible.

**GUIDE  
LINE****Determine and coordinate service needs.**

The teen's attorney should work with his client to get him involved in counseling to address issues about healthy relationships, sexual identity, batterers intervention programs, living with HIV/AIDS, or any other issues that arise as a result of their dating experiences.<sup>4</sup> Counseling can help teens address these complex issues and help them make healthy connections that will aid them in their placements.

The attorney should also help coordinate counseling with parents, guardians, or adoptive placements so potential caregivers are receiving the services they need. Physical and sexual health care needs should also be addressed and resolved to ensure they are not a barrier to placement. The attorney should help teens make connections with legal counsel if they have pressing legal issues that occur as a result of their relationships (i.e., criminal charges if the youth is a perpetrator of dating violence or civil legal assistance if the youth is a victim of dating violence or statutory rape).<sup>5</sup> The attorney should connect teens to mentors, both within and outside placements. Mentors should understand and support the teen's unique relationships and sexuality issues.<sup>6</sup> Attorneys should also work to find an appropriate and safe placement that meets the teen's needs such as safety from a battering partner, health care for an HIV-positive youth, understanding for a GLBT youth, or positive modeling and boundaries for any dating or sexually active teenager. For example, this might include research about placements that have a history of meeting special needs of such teens, research about a specific placement to determine

whether or not it is appropriate, and making connections with agencies and organizations that have worked with teens with similar needs.



### **Address dating and sexuality issues in arguments on reasonable efforts to finalize a permanency plan.**

The permanency plan decision should be based on all the issues and complete information. The plan should consider the teen's attachments, health status, safety, mental health needs, and identity. The plan should also take into account which placement is going to best nurture and help a youth identify, establish, and maintain positive and healthy relationships. The attorney should have the judge consider the following questions:

- Has the teen been receiving the appropriate services that address needs relating to relationships, sexual orientation, or health status? For example, counseling, group therapy, peer mentoring, legal counsel, and medical services.
- Are the services coordinated with the proposed placement?
- Has the caregiver in the proposed placement been participating in services as well?
- Does the proposed placement have supports in place to handle the special needs of the youth that may arise as a result of his or her relationship, sexual orientation, or health status? For example, health care options, positive role models, housing far from an abusive boyfriend.

## PERMANENCY OPTIONS

### RETURN TO PARENT



**In examining whether or not to return a sexually active or dating teen to her parent, the attorney should first examine whether the relationship is tied to the underlying petition.**

If the relationship actually involves sexual abuse or assault by the parent or caregiver, a determination that no reasonable efforts are required may have previously been made and return home would not be a viable

## Adoption Concerns for Gay, Lesbian, Bisexual, and Transgendered Youth

What are the moral and ethical issues when seeking placements for GLBT youth? If the youth has been ostracized or abused by family or friends because of his or her sexual orientation, then a possible safe placement could be with a GLBT couple or individual. While heterosexual couples and individuals can create safe and loving homes for these youth and provide them with support and understanding as well as a connection to a community, it is also important to look towards alternative adoptive placements.

Traditionally, GLBT couples have not been considered for foster placements and adoptive homes due to legal constraints, myths, fears, or biases, and GLBT youth have historically had trouble finding permanent placements for the same reasons. This should no longer be the case either for the youth or for the potential adoptive homes. Placing GLBT youth into these homes may help teens find the understanding, positive role models, community support, and homes they need.

permanency option. This situation would also be cause for a criminal investigation.

However, if the relationship, status, or sexual identity is connected to the underlying petition because it exacerbated the teen's home life and created tension, the court should ask whether all services that would help the teen return home have been explored and offered. The attorney should continue to coordinate and advocate for appropriate services.

For example, if the family threw the child out of the house or began abusing the child because of his or her sexual identity and their own biases, certain services should be explored. One example is to locate the

local Parents, Families, and Friends of Lesbian and Gays (PFLAG) (See *Special Services sidebar*) chapter and help the family get connected to the GLBT community and to counseling services that address these needs and issues. The family could explore their feelings, concerns, myths, and issues surrounding the youth's sexual identity and the counselors could work with the parents and other family members to get past these issues to safely reunite with the youth.

Another family may have thrown a youth out of the home because of her involvement in a violent relationship. Like *Sydney*, in the second case scenario, the family might fear for its safety due to violent episodes occurring in the home. Or it may be afraid because the violent partner may be stalking the youth, putting everyone in the home at risk. If the youth wants to remain with the partner, like *Francie*, the attorney could help coordinate counseling services for the youth to help her break away from the abusive relationship and safely reunite with her family. Or, if the teenager is willing to separate from her abusive partner, the attorney could help connect the family with civil legal services to receive legal remedies to prevent the abusive partner from further abuse, stalking, or being near family members or their home.

## TERMINATION OF PARENTAL RIGHTS/ADOPTION

A dating and sexual relationship and its attendant circumstances may complicate the adoption of an adolescent. An essential inquiry is whether the adoption is suitable. The court should examine the extent of bonding with the biological parent and whether that bond would affect the teen's ability to bond with another family.

The court should also explore a teen's desire to be adopted. If the relationship, sexual identity, or health status makes the teen unwilling to be adopted, the possibility of disruption increases. For example, a teenager may not want to leave her home because of its proximity to her social contacts, especially her dating partner. An HIV/AIDS youth may not want to connect with new family members because of fears about dying.



### **Explore potential conflicts related to the youth's sexual identity and relationships in placements.**

Conflicts over identity issues, sexuality, health care needs, morality, biases, etc. can also cause problems with adoption. It is important to explore the potential conflicts that could affect the placement. For example, like *Willow*, placing a lesbian youth in an intolerant home may create friction and is not an ideal placement for permanency. Attorneys should therefore look for homes with a tolerant stance towards GLBT youth when placing such teens. Attorneys should also look to help families receive counseling and financial assistance, so families like *Ben's* may be more willing to adopt an HIV/AIDS youth.



### **Recruit adoptive homes for teens who are dating and are sexually active.**

The teen's relationship or sexual activity may pose special challenges in recruiting adoptive homes. Adoptive parents may not want to take on the financial burdens of a chronically ill youth. Certainly there are financial considerations if the adoptive family cannot afford to meet the health care needs for an HIV/AIDS youth. In such cases, adoption subsidies may alleviate some of the burden. Preadoptive parents may be concerned about potential problems involved in adopting a teen in a violent relationship such as the danger to themselves and to other family members. Or they could be worried about the emotional difficulties associated with a teen currently in a violent relationship or experiencing the aftermath of leaving such a relationship. Additionally, they may be worried about medical concerns if the teen has been violently beaten or assaulted and there is a potential for this to occur again.

One way to address and diminish potential problems is to contact adoption agencies and counseling services to examine their techniques for identifying adoptive parents willing to adopt teens who are dating, teens who have been victims/perpetrators of dating violence, HIV/AIDS teens, and GLBT teens. Also ask about the training they provide those parents. Another approach is to encourage preadoptive families to play a role in

## Health-Confidentiality Concerns for HIV/AIDS Youth

Attorneys working with HIV/AIDS-infected youth should consider the unique confidentiality issues related to the disease when working towards permanency. Disclosure of HIV-related information in the child welfare system may be controlled by legal provisions governing the confidentiality of medical information, provisions governing the confidentiality of child welfare information, or both. The standards for disclosure of HIV-related information vary significantly among the states. Many state child welfare agencies allow disclosure to those with a “need to know.” However, that standard is often ill defined. States that do define the phrase define it in terms of people who provide direct care for the infected child, those who have direct responsibility for the child, or those to whom disclosure is appropriate in light of the need to secure the best care for the child.

**Source:** English, Abigail. “The HIV-AIDS Epidemic and the Child Welfare System: Protecting the Rights of Infants, Children, and Adolescents.” *Iowa Law Review* 77, 1992, 1509, 1538.

counseling and therapy with the teen. Based on mental and physical health assessments, preadoptive parents and teenagers can work together through services that increase the possibility of long-term permanency.

## GUARDIANSHIP/RELATIVE PLACEMENT



**Examine a guardian or relative’s relationship with the youth’s biological family to determine the safety of the connection.**

Guardianship or relative placement for the teen may be appropriate when adoption is not feasible. Some useful questions when determining appropriateness include the potential guardian’s relation to the biological

## Assess Your Biases and Prejudices

As much as everyone would like to think they are open-minded and culturally aware, every professional comes to their work with their own biases and prejudices. It is important to recognize that and to assess your own when handling these cases. When working with these youth, it is critical that an attorney's own issues with certain populations, sexuality, or diseases do not come into play or affect a youth's experience in the dependency system. For example, attorneys may have to wrestle with what pronouns to use to refer to a client who is transgendered. Attorneys may have to address their beliefs about dating violence when working with a teen in a violent relationship. Or attorneys might have to work through their own fears and misconceptions about health and safety when working with an HIV/AIDS client.

parent and whether maintaining that connection is beneficial. If a youth comes from a violent home and is involved in a violent relationship as a result of this exposure, maintaining ties with the biological family may not be safe. Also, a careful look into the relative's history should determine whether there is violence in that home as well, because this could impact the youth's placement. Additionally, if the youth entered care because of their GLBT or HIV/AIDS status and their biological family's views on their status, a continuing connection with the biological family may put the youth at risk. The teen may benefit most from separating from the biological family members and learning healthy relationships. The guardian or relative, if not close to the family members, may be able to provide that needed support and distance.

Also, a guardianship or relative placement decision involving a dating or sexually active teen would focus on whether the financial means exist to care for the teen's health care needs. Check out the possibility of a subsidized placement. It may be important to find someone who can be a

positive role model for the youth in all areas especially involving issues of dating, sexuality, and sexual identity. This placement should include people who can connect the youth with the community and resources. Additionally, placement in these cases also requires scrutiny of the person's commitment to the teen and their willingness to help the teen access continued services.

## ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)



**Ensure that whatever APPLA is put into place does not facilitate unsafe relationships. Alternatively, the placement should not impede healthy relationships.**

An APPLA is only appropriate when the other permanency options are not. APPLAs require a compelling reason why they are in the child's best interest. In the case of dating and sexually active teens, the compelling reason may relate to the youth's relationship with a partner. For example, if the partner is abusive, the abuse may be a compelling reason to support the youth's need to enter a shelter as the only safe place for her to go. The teen may be in a group home that addresses the health and medical needs of an HIV/AIDS youth. The teen who is in a healthy relationship may wish to live with his or her partner as the safest alternative to any other placement. It is important to find a living arrangement that will encourage and foster positive relationships but not offer teens with tendencies toward unhealthy relationships too much freedom to engage in new unhealthy attachments.

In assessing any APPLA, the court should determine whether adequate supports are in place to assure the safety, quality, and stability of the placement. Dating and sexually active teens need services beyond job skills and independent living. Their APPLA should include counseling, health care, and other services to ensure their health and safety.

## CONCLUSION

A teenager's sexual activities and dating relationships can have a significant impact on their ability to secure and maintain a permanent placement. Recognizing the issues that dating and sexuality raise and determining the best ways to address them can make the difference between permanency and continued foster care.

## Special Services

**PFLAG:** Parents, Families & Friends of Lesbians & Gays (PFLAG) is a national nonprofit organization with over 200,000 members and supporters and almost 500 affiliates in the United States.

PFLAG promotes the health and well-being of gay, lesbian, bisexual, and transgendered persons, their families and friends. Issues addressed include coping with an adverse society; educating and enlightening the public; and advocating to end discrimination and to secure equal civil rights. PFLAG provides opportunity for dialogue about sexual orientation and gender identity, and acts to create a society that is healthy and respectful of human diversity.

PFLAG supports GLBT people, their families and friends through local PFLAG chapter helplines and support group meetings, and locally and nationally produced resources. PFLAG educates families and provides public education on sexual orientation, gender identity and GLBT issues. PFLAG chapters educate their communities through a variety of local projects. Nationally, PFLAG provides information about GLBT people and their loved ones and lobby for fairness and acceptance. PFLAG also advocates for equal rights for gay, lesbian, bisexual and transgendered people. Locally, PFLAG activists work for change in their communities. For more information, see [www.pflag.org](http://www.pflag.org)

**Women Empowered Against Violence:** Women Empowered Against Violence (WEAVE) is a local organization in Washington D.C., which represents clients for their full range of legal needs, including civil protection orders, divorce, custody, child support, immigration issues, dissolution of joint debt, and any other legal issues tied to the domestic violence. As part of its commitment to addressing the early roots of domestic violence, WEAVE's Teen Dating Violence Program educates teens and service providers. Additionally, WEAVE's holistic direct services are made available to teens currently in violent relationships. WEAVE hopes to stem future domestic violence by engaging teens in discussing healthy and unhealthy relationships, and where they can turn for help. For more information, see [www.weaveincorp.org](http://www.weaveincorp.org)

**Break the Cycle:** Break the Cycle is a national organization with local offices in Washington, D.C., San Francisco, and New York. Break the Cycle is the nation's first and only nonprofit organization working to end domestic violence by providing young people, ages 12 to 22, with preventive education, free legal services, advocacy, and support.

Through the Legal Services Program, Break the Cycle provides legal advice, counsel, and representation to young people trying to escape abuse. Break the Cycle also serves as a nationwide resource for information and referrals on dating and domestic violence. For more information, see [www.breakthecycle.org](http://www.breakthecycle.org)

**The Whitman Walker Clinic:** The Whitman Walker Clinic provides health care and social support services for thousands of people living with HIV/AIDS. It also provides sensitive health and wellness services to members of the gay, lesbian, bisexual, and transgender community. The HIV/AIDS service areas at Whitman-Walker Clinic include:

- On-site comprehensive outpatient medical services, including eye and dental care.
- At-cost HIV/AIDS-related medications provided through an on-site pharmacy.
- Permanent and transitional housing in the greater metropolitan area for people living with or affected by HIV/AIDS who would otherwise be homeless.
- Nutritional assistance provided through a food bank.
- Legal support, including entitlements assistance, estate planning, discrimination litigation and more.
- Case management services for clients.
- Behavioral Health Care Services providing mental health, addiction, and day treatment services.
- Anonymous and confidential HIV testing and counseling services.

For more information, see [www.wwc.org](http://www.wwc.org).

## Endnotes

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- 1 Teenagers in the dependency system are in various stages of development, and experience differing levels of dating and sexual activity. A wide range exists and many teenagers, depending on their age and opportunity, experience either none or very limited dating and sexual activity. Others have healthy positive relationships. However, for the purpose of this article, only teenagers whose dating and sexual relationships that cause permanency problems will be covered.
- 2 Lynch, Christina Olenik. "Risk and Protective Factors Associated with Adolescent Sexual Activity." *Adolescent and Family Health* 2(3), 2001, 99.
- 3 American Psychological Association. *Developing Adolescents: A Reference for Professionals*. 2003, 21.
- 4 For counseling ideas, look to the Whitman-Walker clinic for HIV/AIDS support groups, or to PFLAG for counseling for GLBT youth and their families (see sidebars).
- 5 For legal ideas, look to "Break the Cycle" or WEAVE (see sidebars).
- 6 When looking for mentors, attorneys should consider, but not be limited to, gay, lesbian, bisexual, or transgendered youth, adults or communities; and hospitals and other support groups for HIV/AIDS youth. For teen dating violence, consider former dating violence or perpetrators groups. While it may be helpful to try and find mentoring from people with common experiences and backgrounds, mentoring from sympathetic adults is the primary goal.



## CHAPTER 8

# How Education Issues Impact Permanency for Adolescents in Foster Care

BY KATHLEEN McNAUGHT

## GUIDELINES

### Education and Permanency Goals Conflict

- ▶ Help youth achieve the permanency goal by empowering permanent caretakers with tools to be effective education advocates for youth.

### Education Barriers to Permanency

- ▶ Ensure school placement is considered at each court hearing (including permanency hearings), particularly when the youth's living situation is changing and when permanency plan decisions are being made. School disruptions may impact the permanency plan.
- ▶ When making permanency decisions, consider permanent placements that allow youth to remain in their home school. Continuity in education increases the chances that permanency plans will succeed.
- ▶ Counsel youth considering dropping out of school (or considering pursuing a GED over a high school diploma), on that decision's impact on permanency options.

### Lack of Education Advocate

- ▶ Determine how a permanency plan decision will impact who (e.g., foster parent, caseworker, CASA, attorney, GAL, or other) is advocating for the child's education

needs. When the child's education advocate is clear, the child's education needs are met, thus increasing the odds that the child will find a permanent home.

- ▶ For all permanency plans, ensure education advocacy is happening in the courtroom and child welfare case, as well as at the school. In this way the court will be involved in school issues and needs, which will help promote permanency for the youth.

### **Lack of Understanding of Who is the Education Decision Maker**

- ▶ Help clarify how the permanency plan affects who can be the education decision maker for the child. Seek court assistance if required. The more permanent the plan, the clearer it is who is responsible for making education decisions.
- ▶ Ensure a permanent adult in the youth's life has access to complete and accurate education records. This helps to arm permanent caretakers with important information about the youth, which can help maintain a permanent placement.
- ▶ Help youth over age 18 identify permanent adult connections who can help them obtain their education records. These records can ensure completion of education goals and help guide youth to future education success, which can continue to promote their relationships with permanent adult connections.

### **Discipline**

- ▶ Help the school understand permanency issues for youth in care. Develop prevention strategies to avoid disciplinary actions that could affect permanency options for youth.
- ▶ Advocate for alternative discipline that would not interfere with permanency goals.
- ▶ When a youth's school misconduct results in juvenile delinquency charges, ensure the court system is not being used to handle issues that should be addressed and resolved by the school system. Delinquency court involvement may interfere with permanency goals for the youth.

### **Lack of Exposure to Career Options and Failure to Make Decisions About Education Future**

- ▶ When permanent adoption and guardianship caretakers, or other permanent adult connections for youth, are available, determine if these individuals will be able to expose youth to education and employment options and help with education decision making. This can help create an important bond between the adult and youth that may improve chances for permanency success.

### **Lack of Emotional Support During Education Pursuits**

- ▶ Ensure youth has permanent adult connections when aging out of care so that adult support remains while continuing education pursuits.

### **Lack of financial supports**

- ▶ Understand funding streams and mechanisms in your state and community that can support permanency and alleviate some of the financial burden of higher education.

## INTRODUCTION

Meeting the education needs of adolescents in foster care can help them achieve permanency. How an adolescent is doing educationally may be a factor in finalizing any of the permanency options: reunification, adoption, guardianship, placement with a relative, or another planned permanent living arrangement (APPLA). For example, when an adolescent is performing poorly in school:

- a birth parent may be unable to reunify with their child;
- an adoptive parent, legal guardian, or relative caretaker may not commit to the youth; and
- other adults may not be willing to play a lifetime connective role with youth who have a plan of another planned permanent living arrangement (APPLA).

Similarly, finalizing a permanency plan for an adolescent still struggling academically can improve the likelihood of meeting the education needs of that adolescent. Potential permanent adult connections for the youth are more likely to commit to a youth who is enrolled in, or performing well in school. Other permanency resources may commit to an older youth who dreams of higher education, and has a financial plan to make that dream happen.

This chapter reviews how permanency and education goals sometimes support and at other times conflict with each other. It discusses how the unique education needs of adolescents in foster care can create barriers to permanency, and provides guidelines to overcome these barriers so permanency can be achieved. For many issues, strategies for improving permanency for adolescents will also improve chances of education success and vice versa. When permanency goals and goals for education success conflict, the issues must be carefully analyzed to ensure good overall planning and decision making to meet the adolescent's needs for permanency and a solid education.

## PERMANENCY AND EDUCATION GOALS SUPPORT EACH OTHER

Until permanent placements can be finalized for adolescents, strong advocacy and planning can address education needs of youth in foster care and help overcome barriers to education success. This can ensure education acts as an incentive, not a hindrance, to permanency for adolescents. Examples are caseworkers, CASAs or guardians ad litem taking a leading role in education advocacy for youth in foster care. Judges and lawyers can support this advocacy by: helping to train and empower other child welfare professionals on education advocacy; requesting or issuing orders that support the adolescent's education needs; and raising education issues at all hearings and reviews.

Ideally, parents, foster parents, preadoptive parents, relative caretakers, or other potential permanent placement resources will take the lead in education advocacy. Meeting adolescent's education needs in this way contributes to a successful transition from the child welfare system to a permanent placement with the person(s) who is already acting as their education advocate.

Finding permanent placements also makes it easier to meet the youth's education needs. Achieving permanency should provide the youth with stability, a clear education advocate, support and guidance to pursue and complete education goals, and more direction and certainty about the future. All of this can lead to education success.

### ONE MORE TAKE:

*Usually the most important placement is the permanent one, not the one with the educationally best placement. With a permanent placement where the youth has stability and encouragement, the education piece can be brought around. For example, a foster parent can get a great educational placement for a child, but then a parent can get transferred and the child is reunified. Bottom line: if the placement is not permanent, nothing is permanent.*

— CATHY CONNELLY.

## EDUCATION AND PERMANENCY GOALS CONFLICT

While the barriers to permanency listed below can usually be resolved with strategies that can improve the likelihood of permanency and education attainment, occasionally these two goals conflict. Consider an adolescent who is currently placed in a foster home, but the foster parent is unwilling to adopt. The youth is doing very well in school and has built trust and strong bonds with teachers and staff at the school, contributing to his academic success. The caseworker has learned that the youth's aunt, who lives across the country, is willing to adopt. The aunt has come to the area to visit and the youth and the aunt have gotten along very well. The caseworker has completed a home study on the aunt and feels confident that she would be an appropriate placement for the child. In this situation, moving across country may be the right permanency decision, but may disrupt the child's education. It is often difficult to overcome these dilemmas, but solutions do exist.



### **Help youth achieve the permanency goal by empowering permanent caretakers with tools to be effective education advocates for youth.**

A factor in determining if a permanent caretaker will be able to meet all of the adolescent's needs is whether the caretaker will be an effective education advocate for the child. This means examining whether the adult has the tools, abilities, or support from others to steer the youth down a path for education success. In the example above, if there were information about the aunt's knowledge of education advocacy, such as familiarity and involvement with the school district she lives in, moving the youth to live with the aunt could still serve both permanency and education goals. If the aunt did not have any knowledge or background dealing with school issues, the placement can still be considered. It would mean that other interventions, services, and referrals should be pursued if a decision to move the child to the aunt is made. For example, courts could order the agency to locate advocacy training or a parent support group for the aunt. This would help her become familiar with education issues and the resources available in her community before the youth's placement.

## EDUCATION BARRIERS TO PERMANENCY

Professionals working with youth in foster care will have likely experienced the following barriers when trying to meet the youth's needs. This section reviews these education barriers and discusses strategies to address them and improve opportunities for permanency.

### SCHOOL MOBILITY AND ACADEMIC DISRUPTION

By adolescence, most foster youth have experienced many foster and school placements.<sup>1</sup> School disruptions can result in academic delays, loss of credits, or even school dropout. In addition to the academic effects, the social effects on youth in care who are forced to acclimate to new teachers and peers, can be difficult. The problem is twofold. School mobility and academic disruption can lead the youth to be dissatisfied with their situation, frustrated with the system, and less amenable to a permanent placement even when one is identified. The system's continued failure to find a permanent placement for the youth leads to continued school mobility and academic disruption. First efforts should identify a permanent placement that will allow for school and academic stability.



**Ensure school placement is considered at each court hearing (including permanency hearings), particularly when the youth's living situation is changing and when permanency plan decisions are being made. School disruptions may impact the permanency plan.**

All parties, including judges, should consider school placement at each stage of a child welfare case. When children are initially removed from home and placed in care, judges should ask all parties how a new living arrangement and potential school placement change will affect reunification efforts. Parties need to remember to include school stability arguments in their court advocacy, supporting or opposing a move to a new caretaker, keeping in mind the permanency goal for the youth.

For example, a child's attorney or GAL who knows a client wants to live with her aunt, and the aunt is willing to provide transportation to the

## Education Key to Future Success

All youth need a solid education to help ensure a successful future. This is particularly true of youth in foster care, regardless of their permanency plan. Youth in foster care may not have the benefits available to other youth, such as stable adult role models and living arrangements, and a strong sense of identity and self esteem. As a result, education becomes even more critical for youth in care to achieving key life goals, such as maintaining employment, affording adequate housing, and obtaining health care.

Despite their desire to do well, many youth in foster care are not succeeding educationally. A recent study of youth about to exit care revealed most had educational aspirations beyond high school, and hoped and expected to graduate from college.<sup>1</sup> However, too often youth in care do not complete high school, and few pursue postsecondary education. Studies show that youth in foster care are struggling educationally. For example:

- A 1991 national study reported only 48% of youth aging out of foster care graduated high school.<sup>2</sup>
- A 2003 study of youth in foster care referred to independent living classes from one midwestern county revealed: 73% had been suspended at least once since the seventh grade, 16% had been expelled; and 29% had physical fights with students. The study also revealed that 63% had experienced at least one midyear school change since seventh grade, and 58% had failed a class in the last year. However, this study also revealed that 70% wanted to attend college.<sup>3</sup>

- As a result of the high incidence of behavioral problems reported for youth in foster care, these youth are often siphoned out of the main-stream school environment and placed into alternative programs where the goal is obtaining a GED and not graduating from high school. Recent studies show that the life prospects of GED earners are similar to those of high school drop-outs.<sup>4</sup>
- A 2002 national study revealed that of children between age 6 and 17 involved in the child welfare system, 39% have low levels of school engagement and 28% are not involved in any extracurricular activities.<sup>5</sup>

#### Sources

- 1 Courtney, M.E., S. Terao, & N. Bost. *Midwest Evaluation of the Adult Functioning of Former Foster Youth; Conditions of Youth Preparing to Leave State Care*. Chicago, IL: Chapin Hall Center for Children, 2004.
- 2 See, Cook, R. *A National Evaluation of Title IV-E Foster Care Independent Living Programs for Youth: Phase 2 Final Report*, 1992.
- 3 McMillen, Curtis et al. "Educational Experiences and Aspirations of Older Youth in Foster Care." *Child Welfare* 82, July/August 2003, 475.
- 4 Graves, Bill. "One-third of Teens in State Don't Graduate." *The Oregonian*, November 13, 2001, 1.
- 5 Kortenkamp, Katherine & Jennifer Ehrle. *The Well-Being of Children Involved with The Child Welfare System: A National Overview, Assessing the New Federalism, Series B. No B-43*. Washington, DC: The Urban Institute, January 2002, 3.

child's school of origin, may use this to support a permanent placement with the aunt. Another example is a caseworker, faced with two equally appropriate placements for the youth but one placement is within the original school's jurisdiction. The caseworker may use this reason for choosing the placement within the school's jurisdiction, as it would enable school stability and also support an acceptable permanency plan.

The rationale for deciding placement should be detailed in a court report, so the judge can be aware of efforts to maintain school stability for the child and how this is reinforcing the permanency goal. Remember, even if the permanency goal is relative placement or APPLA, a youth who achieves school stability may be happier and more successful academically, which may lead these adults or caretakers to consider a more permanent option, such as adoption or guardianship, over time.



**When making permanency decisions, consider permanent placements that allow youth to remain in their home school. Continuity in education increases the chances that permanency plans will succeed.**

Studies show mobile students are more likely to fall behind grade level.<sup>2</sup> Therefore, creative advocacy is needed to ensure a youth can remain in their school of origin and have this reinforce their permanency goal. Focusing on solutions to school mobility issues may result in permanent placement options not otherwise considered. For example, a youth in their senior year of high school may have a close friend or neighbor whose parents are willing to be a placement resource, particularly if it means the youth can complete their final year in their home school. The youth may already have been spending large amounts of time with the parents of this friend or neighbor given the difficulties in their own home. This placement may also be very natural and comfortable for the youth.

Another advocacy strategy that could benefit an older youth is to find a personal contact from the school's transportation office, or obtain a copy of the school's transportation map and provide that information to the youth's caseworker. By arming the caseworker with information about

school transportation issues and bus routes, the caseworker may be better able to find a placement for the youth that will not disrupt school placement. This would benefit that client and lead to less school disruptions for other youth on that worker's caseload.

Don't forget that advocacy to identify adoption and guardianship resources for older youth, understandably a challenge, could be the best way to ensure school stability. The best situation would involve the youth remaining in their school of origin in a guardianship or adoption. Even if the adoption or guardianship placement required one school move, the permanency of the placement would prevent later moves. In contrast, when youth are placed in temporary placements (e.g., shelters or short-term facilities), maintaining school stability is still important and possible, but more challenging.<sup>3</sup>

There may be occasions when a school move may be warranted for a youth in care. In addition to an adoption or guardianship plan that requires a school move, other situations include when there is a need to separate the youth from negative peer influences, or when there is a right to transfer based on the school's designation as "in need of improvement" for two consecutive years and moving to a nonfailing school is in the youth's best interest.<sup>4</sup> In these rarer cases, a school move may ultimately support permanency since it would remove the youth from a school that is failing to meet his needs.



**Counsel youth considering dropping out of school (or considering pursuing a General Equivalency Degree (GED) over a high school diploma), on that decision's impact on permanency options.**

Youth in care drop out of school for many reasons. Many states give youth the legal right to leave school at age 16 or 17. A youth's home life difficulties and abuse and neglect history may result in the youth being too preoccupied with family matters to be interested in completing high school. Frequent placement moves that result in school changes can frustrate youth, and cause credit problems and graduation delays that may lead the youth to leave school. Many youth lack positive role models and have not been exposed to the benefits of completing high school, much

less pursuing additional education. Without understanding the benefits, youth are more likely to leave school before graduation.

Many youth in care are encouraged to pursue a GED instead of a high school diploma, under the guise that it will be “easier” and “faster” to obtain. While GEDs are appropriate for some youth, there are many issues to consider. The GED exam still requires a certain skill level, and may not be the easy road some youth expect. A GED may limit post-high school options, as some colleges and employment opportunities require a high school diploma.

Before an older youth has achieved permanency, child welfare professionals should counsel the youth on the importance of completing high school and obtaining a diploma whenever feasible. This kind of encouragement could lead the youth to more educational stability, which in turn could open up new possibilities for permanent adult resources in the youth’s life. For example, an adult may be more willing to adopt, act as a guardian, or be another kind of permanent adult connection for the youth, if the adult believes the youth is on the right track educationally. In contrast, a youth struggling to obtain a GED, with no additional plans for their future, may overwhelm a prospective adult connection, who is concerned the youth will need more support, financially and emotionally, than they are able to provide.

When adoptive parents and legal guardians can be found for older youth, the influence of these stable individuals cannot be underestimated. Parents and guardians, who have committed to be part of the youth’s life forever and who stress the importance of completing high school or obtaining a diploma over a GED, can have even more credibility with the youth than a caseworker, attorney or GAL, or judge, whose involvement with the youth will end sometime between the ages of 18 and 21.

### **LACK OF AN EDUCATION ADVOCATE**

Although many child welfare professionals can play a role advocating for a child’s education needs while they are in foster care, too often

education advocacy is not taking place. This lack of advocacy, or confusion over who is advocating, can mean the youth's rights are being violated and the youth is not accessing appropriate services and placements. Having a permanent adult in the youth's life, with knowledge about education advocacy, can eliminate this barrier to education success. Until such an adult can be identified, the child welfare system must ensure this advocacy is taking place, so the youth continues to stay on track educationally while awaiting permanency.

**ONE MORE TAKE:**

*Due to the complexity of the District of Columbia's special education system and the difficulty in successfully navigating that system, nearly all foster kids with special education needs in the District end up getting an educational advocate appointed.*

— JUDGE JULIET MCKENNA.

**GUIDE  
LINE**

**Determine how a permanency plan decision will impact who (e.g., foster parent, caseworker, CASA, attorney, GAL, or other) is advocating for the child's education needs. When the child's education advocate is clear, the child's education needs are met, thus increasing the odds that the child will find a permanent home.**

Many individuals are involved with youth in the foster care system: attorneys, GALs, CASAs, caseworkers, foster parents, and other professionals. While the roles these individuals play in a child welfare case may be clear, often their roles in education advocacy is not. The right person to take the lead in education advocacy may differ depending on the case, the permanency plan for the youth, or even the education issue.

For example, consider a child who is receiving special education services, and is placed with a foster mother who has raised several special needs children and has years of experience advocating for special services in the school system. The foster mother may be the likely individual to take the

lead in school advocacy. However, the youth's aunt has recently moved back to the area and would like to become a permanent guardian for the youth. The aunt does not have any experience with special education needs. When considering a change of placement to the aunt, certainly a more permanent placement, thought must be given to how to keep the strong special education advocacy the child is currently receiving from the foster mother. One solution is to have the foster mother and aunt attend school meetings together to teach the aunt how to advocate for the youth's education needs. If the education advocacy issue is left out of the permanency decision-making process, and the youth is placed with the aunt without any support for education advocacy, there is a risk that the permanent placement with the aunt may disrupt down the line because the education situation is not being adequately addressed. That permanency decision may also be setting the youth up for academic failure.

In other advocacy situations, a caseworker may take the lead on issues such as school enrollment. For a child at risk for suspension or expulsion, the right individual to take the lead may be the GAL or attorney, because of their experience handling disciplinary proceedings and the similarities of those proceedings to court hearings. It is critical that child welfare professionals playing an advocacy role consider the youth's permanency plan, and involve any adult, or potential adult, resources in the advocacy. This could mean having the permanent adult attending meetings or hearings with the advocate, writing support letters, or acting as a witness on behalf of the youth.

When adoption or guardianship are finalized for older youth, those permanency options can help alleviate the confusion over who is the youth's advocate as the permanent caretaker will take over that role. When finalizing adoptions and guardianships for older youth, it is important that professionals determine the adoptive parent's or guardian's ability to effectively serve as the youth's school advocate or their ability to access the needed resources to obtain an advocate for the child (e.g., hire an attorney, or access a group within the community that aids parents and guardians).



**For all permanency plans, ensure education advocacy is happening in the courtroom and child welfare case, as well as at the school. In this way the court will be involved in school issues and needs, which will help promote permanency for the youth.**

While the child welfare case is still open, waiting to finalize the youth's permanency plan, advocacy in the courtroom and the school system is key to ensuring education needs are met. As permanent resources are identified, it is critical to involve them in this advocacy as much as possible before finalizing the case. Child welfare professionals can model good education advocacy for the permanent adult resource and prepare the adult to pursue this advocacy on their own when the child welfare case is over.

Courtroom advocacy includes:

- Seeking court orders for evaluations, records, or the appointment of education advocates.
- Requiring updates from all parties on a youth's school progress at all court hearings.
- Using education checklists and other courtroom tools to ensure all relevant education issues are addressed.<sup>5</sup>

School advocacy includes:

- Attending school meetings.
- Communicating regularly with teachers and staff.
- Staying current with school programs being offered.

If adoption or guardianship is achieved for the youth, that permanent caretaker will take on the role of school advocate, and courtroom advocacy will not be necessary, as there will no longer be a court case. Before the case closing, equipping the potential permanent caretaker with the resources and skills to be an effective advocate for the youth after the case ends is an important role for child welfare professionals. Likewise, until a permanent caretaker is identified, the education advocate for the child (be it the child attorney, caseworker, CASA, or other) must also be equipped with these resources and skills.

## NOT UNDERSTANDING WHO IS THE EDUCATION DECISION MAKER

For youth under age 18, it is critical to resolve whether the parent, foster parent, child welfare agency, or other individual makes education decisions for the youth. While all of these individuals may be advocates for the youth, determine who is the ultimate decision-maker for the youth's education needs. The answer may differ from state to state, jurisdiction to jurisdiction, and case to case. The answer also may differ if you are dealing with regular education or special education decisions.

Obtaining permanency for older youth through adoption or guardianship eliminates the confusion and barriers involved with determining decision-making authority while the youth is in foster care. An adoptive parent or legal guardian would clearly become the education decision maker for the youth. Short of these permanency options, this decision-making authority can be challenging. Resolving this confusion is critical, since a clearly defined education decision maker is key to ensuring the youth receives the right education services and that the youth's education needs are being met. A knowledgeable education decision maker can have a tremendous impact on the youth's education success, which can help the youth achieve permanency.



**Help clarify how the permanency plan affects who can be the education decision maker for the child. Seek court assistance if required. The more permanent the plan, the clearer it is who is responsible for making education decisions.**

### When a student is in regular education:

Determining the education decision maker is an issue for students in regular education, as well as students with disabilities. When a child enters foster care, the child welfare agency typically enrolls the child in school. However, absent a specific state statute or court order authorizing the agency to make education decisions on the child's behalf, the parent(s) needs to be involved in every step of the process. This ensures a smooth transition back to the parent's care if family reunification is achieved.

If there is any question in the case about the parent's availability, willingness, or ability to make important education decisions, consult state law or policies for guidance on when and how courts may intervene. An agency or child's attorney may need to seek a court order clarifying who is authorized to make education decisions on behalf of the child. If law or policy restricts the adult, or potential adult resource for the youth from being the decision maker, the potential permanent caretaker must be informed of the decision being made on behalf of the youth. Otherwise, such barriers could disengage the permanent caretaker from the youth's education, or frustrate the caretaker to the point they are no longer willing to provide permanency for the youth.

**When a student is receiving special education:**

Decision-making authority for youth eligible for special education services is guided by the Individuals with Disabilities Education Act (IDEA). These rules can be complicated and vary from state to state. IDEA sets certain criterion that must be met, but states have some room for variations in their policies.

A determination must be made if someone in the child's life meets the definition of parent under IDEA. This can be the birth parent, even if the child is not currently in their custody. This can aid a smooth transition back to the parent's custody if reunification is the plan for the youth. The parent may also be a relative, foster parent, or other caretaker. If no one meets the definition of parent under IDEA then a surrogate parent will need to be appointed. Under the 2004 Reauthorization of IDEA, this appointment can be made by a child welfare judge in addition to the school system.<sup>6</sup> This new authority granted to child welfare judges can help ensure that permanent adults in the youth's life are appointed as the surrogate for the youth. Consult federal and state law and regulations (and possibly local policies and procedures) to determine other specifics about surrogate appointments in your jurisdiction.

## MISSING, INCOMPLETE AND INACCURATE RECORDS

Confidentiality and school mobility concerns (discussed above) can complicate accessing complete education records for a youth in foster care. The child welfare system, including judges and attorneys, may fail to overcome confidentiality restrictions to access this necessary information. Even when accessed, education records may be incomplete or inaccurate causing service, and even graduation delay. Youth in foster care can lose hard-earned credits if the school and child welfare systems fail to locate appropriate documentation. This lack of documentation and education history can interfere with finalizing permanency for youth. A permanent resource may hesitate to finalize an adoption or guardianship placement without having access to complete education information. Also, the disruption caused by the loss of records may frustrate the youth and can disrupt a potential permanent placement.

### GUIDE LINE

**Ensure a permanent adult in the youth's life has access to complete and accurate education records. This arms permanent caretakers with important information about the youth, which can help maintain a permanent placement.**

Access to education records is governed by the federal Family Education Rights Privacy Act (FERPA).<sup>7</sup> FERPA provides for a parent's right to access their child's education records, and to keep those records confidential unless the parent consents to the disclosure. FERPA outlines several exceptions to when parental consent for disclosure is necessary.

Generally, when anyone in the child welfare system wants to access a child's education records, a first step is to gain parental consent. A parent working diligently toward reunification, and even parents who disagree with their children being out of their care, may consent to release this education information, as the child welfare agency and the foster care placement will need to know how the child is functioning educationally. These parents will still retain the right to access the education records, which will help keep them informed and involved. This can assist with a smooth reunification if that is the permanency plan.

If you cannot gain parental consent, or if the parent refuses consent to have records released to child welfare system professionals, determine if another individual or agency is considered the parent under FERPA.<sup>8</sup> Many jurisdictions consider the child welfare agency to be the parent for FERPA purposes. Another strategy to gain access to records is to use the exception to FERPA's parental consent provision that requires schools to release records in compliance with a court order or subpoena.<sup>9</sup>

The child welfare system needs to obtain copies of education records to pursue all permanency options for the youth. With the high mobility rates for youth in foster care, making sure that documentation from each school and each course completed (or even partially completed) is critical to helping that youth successfully complete school. After obtaining a youth's academic records, advocates should review the documents with the youth and other professionals to ensure they are accurate and complete. Successful permanency for the youth will be enhanced if a potential permanent caretaker or support person fully understands the youth's education status and has access to the youth's complete education file. These individuals should know what courses have been completed, what subjects the youth has struggled with, what special services or classes the youth has been offered, and how the youth has progressed over time. Adults making permanent commitments to youth deserve to have as complete a picture as possible of the youth's education history as they will be taking over the education advocacy role.



**Help youth over age 18 identify permanent adult connections who can help them obtain their education records. These records can ensure completion of education goals and help guide youth to future education success, which can continue to promote their relationships with permanent adult connections.**

When youth turn 18, they have the legal right to obtain a copy of their education records, and to consent to the release of these records. Youth are often unaware of these rights.<sup>10</sup> Because of frequent turnover of child welfare professionals (i.e., attorneys, GALs, caseworkers) often no one in the system has helped the youth obtain a complete set of education records. If the youth has been adopted or has a legal guardian before

turning 18, those individuals could help the youth obtain this information. If the youth has a plan of APPLA and has a permanent adult connection, that individual could advise the youth of their right to obtain these records, and walk them through the process. Otherwise, child welfare professionals need to teach older youth to advocate for themselves and obtain these records on their own.

## DISCIPLINE

Youth in foster care who are suspended or expelled lose valuable education time that may delay completing high school. Sometimes youth use the disciplinary measure as a reason to quit school. This can affect the youth's permanent placement. For example, a working foster parent who committed to adopting the youth, may be unable to supervise the youth during the day. This may result in the foster parent having to request that the youth leave the home.



**Help the school understand permanency issues for youth in care. Develop prevention strategies to avoid disciplinary actions that could affect permanency options for youth.**

Youth with abuse and neglect histories, often exhibit negative behaviors in certain situations. For example, a youth who had been severely beaten, may have extreme reactions when touched. Rather than waiting for an incident to occur at school, it may be appropriate to meet with and inform school staff who interact with the youth of the need to avoid physical contact with the student. This may prevent a disciplinary action from occurring later that could disrupt permanency. Advocates may need to educate the school on the importance of finding permanency for youth in care and how critical it is that discipline not conflict with permanency options for youth.



**Advocate for alternative discipline that would not interfere with permanency goals.**

When youth in foster care are disciplined, advocates need to intervene to ensure appropriate disciplinary procedures are being followed, and that

permanency plans are not disrupted. Youth who are subject to long-term suspensions and expulsions will be afforded some form of due process protections, usually dictated by school district policy. If permanent caregivers or potential permanent caregivers have been identified, they should help advocate for the youth. Attorneys or guardians ad litem for youth in foster care can play an important role advocating for youth at disciplinary hearings, ensuring their rights are protected, and that the disciplinary officer has an opportunity to hear all the evidence about the incident and the youth. These advocates should involve any adults who are potentially permanent resources in the youth's life. It may be appropriate to inform the disciplinary officer that proceeding with this form of disciplinary action may ultimately disrupt a permanent placement for the youth. The advocate can instead encourage the disciplinary officer to pursue some alternative form of discipline that will not have such life-altering consequences (e.g., after school community service instead of long-term suspension that would leave the child unsupervised during the day and potentially disrupt the current placement).



**When a youth's school misconduct results in juvenile delinquency charges, ensure the court system is not being used to handle issues that the school system should address and resolve. Delinquency court involvement may interfere with permanency goals for the youth.**

Disciplinary incidents occurring in schools are frequently finding their way into the juvenile court system. While some incidents may be appropriate to deal with in court, others should be dealt with at the school level. Strong advocacy for the youth is needed to ensure only appropriate cases make their way to the juvenile delinquency system and that schools do not rely too heavily on courts.<sup>11</sup> Adding juvenile court involvement to a school disciplinary situation can have a negative impact on an older youth's opportunity for permanency. Potential permanent resources for youth may have second thoughts about committing to a youth who now is facing delinquency charges, concerned that the youth's needs are too much to handle. *See chapter 4 for more on how delinquency issues impact older youth and permanency options.*

## POSTSECONDARY EDUCATION

Completing high school is a tremendous accomplishment for older youth in care. While it should not be minimized, efforts should also focus on continuing educational pursuits after high school.<sup>12</sup> A recent study in Washington State reported youth in care are less likely to achieve postsecondary academic success. Thirty-seven percent of youth in care drop out of high school, whereas only 16% of nonfoster care youth drop out.<sup>13</sup> The study also found that in a sample of students with similar test scores and grades, about 15% of youth in care were enrolled in college preparatory classes compared to 32% of nonfoster care youth.<sup>14</sup> Additionally, youth in care are less likely to take advantage of programs to prepare for postsecondary education.<sup>15</sup> Many youth in care have not thought about their plans after high school or once foster care ends. A number of these youth do not think vocational training programs or college are possibilities for them because no one has explained how they could access them.

### LACK OF EXPOSURE TO CAREER OPTIONS AND FAILURE TO PLAN FOR FUTURE EDUCATION



**When adoption and guardianship caretakers, or other permanent adult connections for youth, are available, determine if these individuals will be able to expose youth to education and employment options and help with education decision making. This can help create an important bond between the adult and youth that may improve chances for permanency success.**

Postsecondary education plans should begin while youth are still in high school. Youth under age 18 who are able to achieve permanency through adoption or guardianship are more likely to have supports to help them overcome some of the barriers to striving for and engaging in postsecondary goals. Even if a youth's plan is APPLA, strong adult connections can help the youth overcome obstacles to continued education.

Many youth in care have not been exposed to an array of available career paths. Without knowing the options, many youth will make quick choices or be swayed by peers or other acquaintances to take a career path that may not be right for them. An adoptive parent or permanent guardian would be an ideal resource for a youth to expose them to different career paths and professions. These adults will know the youth's personality, interests and strengths, and be better able to guide the youth on an appropriate career path. If a youth does not have this kind of permanent adult in their lives, child welfare professionals can provide this support. This could involve, for example, court-ordered mentoring or vocational assessments. Youth with more defined career paths and goals may be more likely to find permanent adult connections in the future.

The Higher Education Act (HEA) provides for two types of programs that prepare disadvantaged youth for postsecondary education: TRIO and GEAR UP. While not specifically designed to aid youth in foster care, if these programs exist in your community, efforts should be made to access them for youth in care. Permanent and potentially permanent caretakers and supports need to know about these supportive programs and how to access their services. Child welfare professionals need to access these programs for youth still in care. *See TRIO and GEAR UP sidebar for details about these programs.*

Even when youth in foster care are exposed to various career and education options, making decisions about their futures can be challenging. While all youth experience this challenge, youth in care are more likely to lack adult supports that can help them consider their options and make education decisions. The lack of adult support continues to be problematic once youth in care make decisions about their future education. For example, a youth deciding to pursue college may need help preparing for standardized exams, arranging and going on school visits, completing applications, writing essays, preparing and attending interviews, and ultimately choosing among schools should they be accepted. If no permanent adult is available to assist with these needs, the court may need to appoint a mentor or role model to assist them. *Several programs outlined in TRIO and GEAR UP sidebar can also provide decision-making assistance for future education planning.*

## LACK OF EMOTIONAL SUPPORT DURING EDUCATION PURSUITS

Most youth are still completing their postsecondary educations beyond age 18, and many are still working on these pursuits beyond age 21. For youth over age 18, typically guardianship is no longer an option, but an adult adoption may still be a possible permanent outcome. For youth with a permanency plan of APPLA, the support for continuing in college or other vocational training programs may be coming from child welfare system professionals, such as caseworkers, attorneys or GALs, CASAs, or independent living program staff. In some states, these supports will end for youth upon reaching age 18. In almost all states they will end once the youth is over 21 years old. This means establishing permanent adult connections that will extend into adulthood is critical for youth to complete their education pursuits with much needed emotional and financial support.



**Ensure the youth has permanent adult connections when aging out of care so that adult support remains while continuing education pursuits.**

College can be an adjustment for youth in foster care. For many, it will be the first time living on their own and there will be many academic and social demands. For these reasons, youth will need emotional support from an adult in their lives. Unfortunately, youth still in foster care who go to college do so around the time they age out of care, and many of the supportive individuals in their lives (including lawyers and judges) are gone. If permanent adult connections have not been established before aging out of care, a youth's success at higher education could be at risk because of the lack of emotional support. *See sidebar for programs that help youth get support to complete higher education.*

## LACK OF FINANCIAL SUPPORTS



**Understand funding streams and mechanisms in your state and community that can support permanency and alleviate some of the financial burden of higher education.**

Many youth, especially those without a permanent adult caretaker, may not plan on higher education because of financial concern. Money concerns may start with basic precursors to higher education, such as standardized testing review classes or materials (i.e., PSAT or SAT). Child welfare professionals may mistakenly believe a youth is unmotivated or uninterested in pursuing further education, when the youth is actually interested, but believes the cost will be prohibitive.

Sometimes potential permanent caretakers may hesitate to finalize a permanency plan, because of concerns that this will make the older youth ineligible for financial supports for higher education. While it is true that the child welfare system may be able to financially assist youth still involved with the agency through their state Chafee programs as well as their Education and Training Voucher (ETV) allotments (see Chapter 9 more information), a youth can still be eligible for ETVs even if adopted after age 16. ETVs act as an incentive to adoption instead of a barrier. Advocates need to check their state laws and policies related to financial assistance to determine if finalizing permanency affects the support available.

## CONCLUSION

Educational success is one reason why finding permanent placements for older youth in foster care is critical. With so many barriers to receiving a quality education, a permanent placement can diminish many obstacles. Until such placements are found, the child welfare system, including the attorneys and judges involved in these cases, must persist in their advocacy efforts to ensure a stable and appropriate education for these youth. Such advocacy may uncover permanent placements or resources that will help keep the child on track for educational success.

## TRIO and GEAR UP: Outreach and Support Programs to Prepare Students for Postsecondary Education

The Higher Education Act (HEA) provides for several postsecondary education preparatory programs. **TRIO** and **GEAR UP programs** prepare disadvantaged youth for postsecondary education. While these programs do not specifically benefit youth in foster care or youth exiting care, there is no reason why they cannot be accessed by them. To determine if one of these programs exists in your area, consult the Department of Education website at <http://www.ed.gov>.

Six **TRIO programs** provide guidance and support for youth in care:

- **Upward Bound and Upward Bound Math/Science** provide extra instruction in a variety of academic subjects. The goal of these programs is to increase the rate at which program participants enroll in postsecondary educational institutions. To participate in Upward Bound programs, students must have completed the 8th grade, be between ages 13 and 19 (except veterans), and need academic support to pursue a postsecondary education program.

Upward Bound projects must provide instruction in math, laboratory science, composition, literature, and foreign language. Other services include:

- instruction in reading, writing, study skills, and other subjects necessary to succeed beyond high school
- academic, financial, or personal counseling
- exposure to academic programs and cultural events
- tutorial services
- mentoring programs
- information on postsecondary education opportunities
- assistance in completing college entrance and financial aid applications

- assistance in preparing for college entrance exams
- work-study positions to expose participants to careers requiring a postsecondary degree

Upward Bound Math/Science encourages students to pursue degrees in math or science. Services include:

- summer programs of intensive math and science training
  - year-round counseling
  - exposure to university faculty who do research in math and science
  - computer training
  - scientific research under the guidance of a faculty member or graduate student
- **Education Opportunity Centers (EOC)** provide services to adults to increase their participation in postsecondary education. To be eligible for EOC services, potential students must be at least 19 years old and live within the target area that the EOC serves. The major goals of the EOCs are to counsel program participants on financial aid opportunities and help them complete the financial aid application process. Other services include:
- academic advice
  - personal counseling
  - career workshops
  - information on postsecondary educational opportunities
  - information on student financial assistance
  - help completing applications for college admissions, testing, and financial aid
  - coordination with nearby postsecondary institutions
  - media activities designed to involve and acquaint the community with higher education opportunities
  - tutoring
  - mentoring

■ Disadvantaged individuals who demonstrate strong academic potential may qualify for services from the **Ronald E. McNair Post-baccalaureate Achievement Program**. The goal of the Ronald E. McNair program is to increase attainment of a Ph.D. by students from underrepresented segments of society. Services include:

- research opportunities for participants who have completed their sophomore year of college
- mentoring
- seminars and scholarly activities that prepare students for doctoral studies
- summer internships
- tutoring
- academic counseling
- financial aid assistance
- assistance in securing admission and financial aid for enrollment in graduate programs

■ **Talent Search Programs** are designed to identify and assist students from disadvantaged backgrounds with potential to successfully achieve a postsecondary education. High school dropouts may also benefit from this program. Talent Search helps youth complete high school and enroll in higher education institutions. To participate in Talent Search, students must be between age 11 and 27 and have completed the fifth grade. Services include:

- academic, financial, career, or personal counseling including advice on entry or re-entry to secondary or postsecondary programs
- career exploration and aptitude assessment
- tutorial services
- information on postsecondary education
- exposure to college campuses
- information on student financial assistance

- help in completing college admissions and financial aid applications
  - assistance in preparing for college entrance exams
  - mentoring programs
  - special activities for sixth, seventh, and eighth graders
  - workshops for the families of participants
- **Student Support Services (SSS)** increases college retention and graduation rates and helps students move from one level of higher education to the next. To receive SSS program assistance, students must be enrolled, or accepted for enrollment, in a postsecondary education program at a grantee institution. First-generation college students from low-income families and students with disabilities evidencing academic need are encouraged to participate in SSS programs. Services include:
- instruction in basic study skills
  - tutorial services
  - academic, financial, or personal counseling
  - help in securing admission and financial aid for enrollment in four-year institutions
  - assistance in securing admission and financial aid for enrollment in graduate and professional programs
  - information about career options
  - mentoring
  - special services for students with limited English proficiency
  - direct financial assistance (grant aid) to current SSS participants who are receiving federal Pell Grants
- **The Child Care Access Means Parents in School Program** provides federally funded campus-based child care services to encourage low-income parents to participate in a postsecondary education program. Schools may receive funds for eligible activities, including, but not limited to:

- supporting or establishing a campus-based child care program primarily serving the needs of low-income students enrolled at the institution;
- establishing or expanding child care programs for infants and toddlers and before and afterschool services for older children to enable low-income students enrolled at higher education institutions to pursue postsecondary education;
- subsidizing the costs of child care services for low-income students;
- providing programs for parents;
- developing curricula and programs for faculty and staff;
- reimbursing professionals for travel;
- purchasing supplies and equipment;
- covering personnel costs;
- making minor renovations and repairs.

### **Gaining Early Awareness and Readiness for Undergraduate Programs**

**(GEAR UP)** is a discretionary grant program to increase the number of low-income students who are prepared to enter and succeed in postsecondary education. The grants are given to states and partnerships to provide services at high-poverty middle and high schools. Students may begin to receive services no later than the seventh grade and may continue to receive services through high school. The program also provides college scholarships to low-income students. GEAR UP is unique because it supplements the activities of partnerships that are committed to serving and accelerating the academic achievement of students.

Information adapted from <http://www.ed.gov/about/offices//list/ope/programs.html>

## Endnotes

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- 1 A California study revealed that by age 18, youth in foster care had an average of nine school placements. See Kelly, K. "The Education Crisis for Children in the California Juvenile Court System." *Hastings Constitutional Law Quarterly* 27, 2000, 757-773.
- 2 See Jacobson, Linda. "Moving Targets." *Education Weekly*, April 4, 2001, 3.
- 3 Arguments for school stability can still be made for youth in foster care in transient situations; see the McKinney Vento Act at 42 U.S.C. §11434a(2); see McNaught, Kathleen M. *Learning Curves: Education Advocacy for Children in Foster Care*. Washington, DC: ABA Center on Children and the Law, 2004, at 28.
- 4 See No Child Left Behind Act of 2001, 20 U.S.C. § 6301.
- 5 Permanency Planning for Children Department, Casey Family Programs. "Questions to Ensure That The Educational Needs of Children and Youth in Foster Care are Being Addressed." *Asking the Right Questions: A Judicial Checklist to Ensure That the Educational Needs of Children and Youth in Foster Care are Being Addressed*, April 2005.
- 6 2004 IDEA Reauthorization, § 615(b)(2)(A)(i).
- 7 20 U.S.C. §1232g; 34 C.F.R. § 99.
- 8 FERPA regulations define parent as "a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian." 34 C.F.R. § 99.3.
- 9 20 U.S.C. § 1232g(b)(1)(J).
- 10 20 U.S.C. §1232g (d); 34 C.F.R. § 99.3 and 99.5.
- 11 For more discussion of this issue, see Ordover, Eileen L. *When Schools Criminalize Disability/Education Law Strategies for Legal Advocates*. Washington, DC: Center for Law and Education, 2002.  
<[http://cleweb.org/Downloads/when\\_schools\\_criminalize\\_disabil.htm](http://cleweb.org/Downloads/when_schools_criminalize_disabil.htm)>.
- 12 A 2001 study revealed that college graduates average about \$54,704 a year, high school graduates earn about \$30,056 a year, and high school dropouts make only \$22,100 a year on average. Federal Student Aid, Department of Education. *Why Go to College?* 2004, available at <http://studentaid.ed.gov/PORTALSwebApp/students/English/publications.jsp>
- 13 Casey Family Programs. *Higher Education Reform: Incorporating the Needs of Foster Youth* 5, November 2003, available at <http://www.casey.org/Resources/Publications/>.
- 14 *Ibid.*, 5.
- 15 *Ibid.*



## CHAPTER 9

# Addressing Financial Barriers in Permanency Planning for Adolescents

BY EDI WINKLE

## GUIDELINES

### General

- ▶ Learn intimately how your state administers and finances each benefit and service. Advocacy is more than processing paperwork and filing requests, it is weighing each option with the youth and family, after you've run the numbers on each benefit or service.

### Subsidies

- ▶ Know your state's policy on subsidies. Determine if the youth qualifies for state or federal subsidies and research any recent cutbacks the state has made to these benefits.
- ▶ Appeal any adoption subsidy decision that negatively impacts the client.
- ▶ Understand guardianship statutes in your state and work to offer this as an option for youth.

### Public Benefits

- ▶ Educate families about the different public benefits program and the unique needs of the youth. By identifying how the programs interact, professionals can help the family make educated decisions.

- ▶ Be aware that a youth can receive a disability payment only in a biological or adoptive relationship. Legal guardianship does not affect benefits received through the biological or adoptive relationship.
- ▶ When a youth is approaching her 18th birthday, she may need a legal guardian appointed to ensure her financial best interests.
- ▶ Custody must reside with the family and must be in place to apply for TANF. In some states, only certain types of custody are allowed, so research your state program.
- ▶ Find out when a youth will be converted to an HMO program and how that change will affect services for the youth. Contacting the state-run health care authority may be necessary as workers and other staff may be unaware of the change or of the differences in the systems.

### **Chafee Services**

- ▶ Understand state policies that affect financial subsidies for youth seeking permanency. Get involved in your state's planning process for child welfare services. Advocate for policies that strengthen financial incentives to families providing permanency for youth.

### **Education Services**

- ▶ Become aware of available education services and inquire about appropriate education referrals and available options.
- ▶ Know what scholarships, tuition waivers, and other programs are available for foster youth in your state.

Financial issues present many challenges for youth working to achieve permanency. The Adoption and Safe Families Act of 1997 (ASFA) pushes states to focus on permanency and to determine appropriate plans for children in a timely fashion. Pressing daily living issues may cause the family to focus on maintaining a youth in their home rather than on the big financial picture. Many financial disincentives in the system work against permanency plans of adoption and guardianship since youth are likely to lose services and financial support under those options.

Financial challenges can arise when there is a change in monetary payments or a change in services that affect quality of life for the youth and/or family. Some financial disincentives are a reality; however, some are myth. This article provides guidelines for practitioners to address financial barriers that affect permanency planning for youth. It explains adoption and guardianship subsidies, Social Security benefits, Temporary Assistance for Needy Families (TANF), Medicaid, other public benefits, Chafee services, and education services.



**Learn intimately how *your state* administers and finances each benefit and service mentioned above. Advocacy is more than processing paperwork and filing requests. It is weighing each option with the youth and family, after you've run the numbers on each benefit or service.**

Only mastering each benefit or service inside-and-out allows you to calculate the options for your client. Be aware that your calculations have to account for more than just the dollars and cents; money is not the only thing to consider in a youth's path to permanency. If a family makes financial decisions for the youth without her input, the youth may never achieve permanency due to resentment or misunderstanding. For example, if a family wants to adopt a youth close to college age, and the youth wants to attend college, but adoption means losing education benefits, the youth and family need to decide what is the immediate priority for the youth. One solution may be to continue guardianship so the youth can get education benefits, then plan to adopt once the youth has

graduated from college. Looking at financial benefits and services is a weighing process as much as it is a decision matrix.

## SUBSIDIES



**Know your state's policy on subsidies. Determine if the youth qualifies for state or federal subsidies and research any recent cutbacks the state has made to these benefits.**

Subsidies are available in either adoption or legal guardianship provided the youth and family meet the prescribed criteria. Subsidies act as an incentive for families to work towards permanency for youth. By providing families with financial assistance and medical coverage, states hope to move children who might otherwise stay in foster care to permanency.

### ADOPTION SUBSIDIES

Adoption is generally the choice for permanency when children cannot return to their biological parents. Adoption provides long-term financial assistance for youth. Adoption can also provide legal stability that is unmatched by other permanency options. Adoption, however, is not always the best fit for all families, even with its financial incentives. Other options should be considered when appropriate.

Adoption of youth from the child welfare system can be federally subsidized if the youth meet certain criteria. Many states have additional money and can provide a state-funded subsidy in areas where youth do not meet federal criteria but still qualify as a special needs child. *For more information on subsidies, see the adoption subsidy box.*

Most youth who have spent time in the child welfare system will qualify for a state or federal adoption subsidy. Families should know which program the youth qualifies for and be aware of any recent state cutbacks to these benefits. Once approved for a federal adoption subsidy, the child is eligible until age 18.

Recently, many states have cut costs by reducing the number of youth approved for subsidies. As a result, states are tightening qualifications and denying subsidies to youth more often. In addition, states have begun canceling payments to youth who have already been adopted on state subsidies. Families must understand that all states have an appeal process for denials or cancellations of adoption subsidies even if the adoption is already finalized. Families have the right to appeal any decision. A fair hearing is required and families must be notified of the process, even if the adoption has already been finalized.



### **Appeal any adoption subsidy decision that negatively impacts the client.**

While adoption subsidies can be a recruitment incentive, often families do not know they exist, either at the recruitment phase or beyond. States often do not advertise subsidies because of the belief that adoption should be about children, not money. This philosophy should be re-examined especially when working to find families for youth. Financial incentives can help families choose permanency for youth. States are experiencing an extreme shortage of placements for youth in care<sup>1</sup> and states should use all tools at their disposal to recruit permanent families for youth.

Financial incentives can help a family decide to provide a youth permanency and can make a tough situation workable. Raising children is a financial commitment. Families who adopt youth have less time to plan for expensive purchases, such as cars, proms, and college. Subsidies can help families offset such expenses.

Practitioners should become aware of their state's policy on subsidies and inform families about their options. *The web resources box lists reputable sites with information on federal and state subsidy programs.*

Military families should be aware that they may be eligible for a special military program to help with nonrecurring adoption expenses. The program will pay up to \$2,000 in expenses per child with a cap of \$5,000 in

any given year per family.<sup>2</sup> Additional information on this program is available through base family services.

## GUARDIANSHIP SUBSIDIES

### **Understand guardianship statutes in your state and work to offer guardianship as an option for youth.**

Legal guardianship is a form of permanency in which the state no longer has control or responsibility for the child. It is typically used when adoption is not the best option. Many states allow biological parents to consent to guardianship, which can shorten the time to achieve permanency. Youth in many states must consent to their own permanency after a certain age (12-14 years in most jurisdictions). For many youth, guardianship is less threatening than adoption. Youth often consent to guardianship over an adoption because they may be placed with relatives or because they do not want their biological parents' rights terminated.

Guardianship subsidies are relatively new in most states. Criteria for approval vary across states and 32 states currently offer this as an option.<sup>3</sup> Practitioners should explore the availability of guardianship in their area. A good resource is available at [www.nacac.org](http://www.nacac.org), which provides a table of adoption and guardianship subsidies by state and information on other services covered under permanency options.

Guardianship subsidy availability is still limited, and in states facing budget shortfalls, continued funding may be unclear. In states with this option, providers should be told of its availability at the outset of the placement process so the family can make an informed decision. Some relatives may consent to a guardianship over adoption if the financial circumstances are similar. Families who oppose adoption will often move forward on guardianship because it can prevent relatives from being “put in the middle.”

Practitioners need to understand their state's guardianship statutes and present this as an option for youth. Guardianship laws can be complicated and requirements for families can be time consuming and expensive.

In some instances, states allow for a one-time payment of nonrecurring expenses in subsidies such as legal fees. Practitioners can help families pursue this as an option. In states without subsidized guardianship, the TANF section below should be explored as an alternative for families with limited means.

## ADOPTION VS. GUARDIANSHIP

In states with guardianship subsidy programs, differences between adoption and guardianship could be subtle and minimal. For youth who resist adoption or struggle with termination proceedings, guardianship may be the better option. For states without subsidized guardianship programs the financial benefits of adoption may make adoption the better choice. A crucial step in the decision-making process is to include youth when discussing financial issues. Inviting youth into the decision-making process provides them with key information that may help them consent to adoption.

Many services and programs that could affect the decision between adoption and guardianship are discussed in the following sections. Once those issues are factored in, the final decision of which permanency option a family should choose may not be as clearcut as the funding that exists for the type of permanency chosen.

The issues discussed in the following sections play a strong role in family discussions and should be considered to determine the best options for families.

## PUBLIC BENEFITS

Many public benefits are available in varying degrees to youth and/or families participating in permanency planning. The following sections describe the most prevalent programs and highlight how they interact with permanency options. *For each benefit, check the reference chart “Determining the Best Financial Route Towards Permanency.”* Some programs in the chart are beyond the scope of this article – they are not

barriers to permanency – but are included since the basic information might aid a practitioner in calculating a youth’s financial options.

## SOCIAL SECURITY

Social Security benefits for youth in care can come in several forms: Social Security Disability, Supplemental Security Income (SSI), and Death Benefits. These payment types are more thoroughly defined in the box entitled Social Security.

### SOCIAL SECURITY DISABILITY



**Be aware that a youth can receive a disability payment based only in a biological or adoptive relationship. Legal guardianship does not affect benefits received through the biological or adoptive relationship.**

Social Security Disability is an adult payment that also provides benefits to dependent children who have a disabled parent. Disability payments are based on an ongoing disability that lasts at least six months. Once approved, payments will continue as long as the disability is present and parental income remains below a certain level.

Disability payments for youth can be based on a biological or adoptive relationship and provide financial support to families when a parent cannot work. Financial payments based on biological parents do not stop at termination of parental rights, or finalization of adoption or guardianship. This payment is based on blood paternity and not on a legal relationship. Therefore, adoption or guardianship does not stop the Social Security payment or affect federal adoption subsidy.

Note that youth cannot receive a payment based on both their biological family and their adoptive family. The Social Security Administration will award the child the payment that results in the highest monetary amount. Families should be informed of the relationship upon which the payment is based.

## SUPPLEMENTAL SECURITY INCOME (SSI)



**A youth who is approaching 18 years of age may need a legal guardian appointed to ensure the youth's financial best interests.**

SSI payments are based on a youth's disability and have no bearing on the parents' level of functioning. A youth in state foster care with no parental rights has no parental income to consider and as a result qualifies for a maximum award. A youth in a permanent placement is eligible for this payment; however, once the adoption or guardianship is finalized, the new parents' income must be reported to Social Security and the new income will be considered in determining the continuation of benefits. For example, the maximum allowable monthly income in 2003 for a family of three was \$2,887. This income cutoff is fairly low and would play a role in a decision for guardianship or adoption.

A real financial disincentive to permanency may exist if a youth has severe, long-term disability and their family's income hits above allowable levels for continued services. A youth could reapply for assistance once they turn 18, but the process is long and a disruption in services could occur. Another factor to consider is that depending on the youth's disability level and dependency on the family even after 18, family income levels can continue to affect eligibility. For a youth with severe needs, this lack of services and a lower financial assistance payment could be a major factor in decision making.

When a youth receives SSI and qualifies for a Title IV-E adoption subsidy, the subsidy amount will be decreased by the amount of the SSI payment. This could cancel out the subsidy payment entirely.<sup>4</sup> Many states apply this rule to guardianship subsidies as well, since they frequently include federal dollars in the payments.

Another financial issue in SSI payments is asset limits. A youth can only own assets up to \$2,000 before they face losing part of their benefit. This often comes into play when considering the purchase of a vehicle for a youth or building savings. Exclusions can apply, but the family needs to be clear on the rules so they can make appropriate decisions for the

future. Additional information can be found on this issue and all other Social Security issues at [www.ssa.gov](http://www.ssa.gov).

A youth should be told they are receiving these benefits so they understand what services they may be entitled to as they get older and possibly move out. Steps should be taken early to help youth serve as their own financial guardians to protect assets and benefits that follow them after leaving care. The court can help the youth appoint a legal guardian to operate in the best interests of the youth.

### **SURVIVOR'S BENEFITS**

A youth can qualify for a survivor's benefit for a biological parent and adoptive parent. Like disability payments based on a parent, a youth continues to qualify for a survivor's benefit even after an adoption or guardianship is finalized and income restrictions relevant to the legal parents do not apply. Practitioners should examine any benefits a child is receiving and inform youth of their rights to financial assistance.

Families and youth should be aware of their rights to these benefits after finalization as well. Once a guardianship or adoption is finalized, a youth still has the right to survivor's benefits based on their biological parents. Should a biological parent die, youth can apply and qualify for benefits based on that relationship. The youth's emotional state and circumstances should be considered before applying.

### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**



**Custody must reside with the family and must be in place to apply for TANF. In some states, only certain types of custody are allowed, so research your state program.**

TANF is another option for families considering permanency for youth. TANF funding can be put into place when adoption is not feasible and the family does not qualify for or live in a state that provides subsidized guardianships. TANF payments are determined by the state and based on cost-of-living calculations, which vary widely based on location. Maryland residents, for example, get \$333 for one child while Oklahoma residents get only \$92.

TANF payments are based on income requirements and stringent blood relationship guidelines. They can be a financial support to families and often provide needed medical assistance to families unable to access more comprehensive programs. Custody must reside with the family and must be in place before applying. In many states, only certain types of custody (i.e., kinship guardianship) are allowed, so practitioners should research their state's program.

Typically TANF payments can remain in effect until the youth turns 18, provided the family continues to meet income and other eligibility guidelines. This option can provide important support for families. *For additional information on TANF programs see the TANF box.*

## MEDICAID

All children in foster care are eligible for Medicaid until age 18. Medicaid is also a component of many federal and state-supported permanency options. There are different types of Medicaid programs and the type of custody can affect the youth's continuing eligibility.

Medicaid programs typically have two types of services, fee-for-service and HMO style programs. Most foster youth are enrolled in the fee-for-service program, which does not require a primary care physician or referrals for treatment. This program often has no copay for services and has few, if any, limits on services for youth as long as they remain wards of the state and there is a doctor willing to accept Medicaid payment.

All states convert youth who are no longer in the state's custody to the HMO program. Families are typically not informed of this change and are not told what additional costs they may accrue after that change is made. Often families are required to pay a copay under the HMO system, face limits on services, and must sign up for primary care physicians. If a youth has severe, ongoing health or mental health issues, this change can be dramatic for families. It can limit support the family receives after finalization.

This shift in Medicaid program should be disclosed before the permanency plan is finalized. The family should understand its impact on any

ongoing issues for the youth. By limiting the number of mental health visits, for example, a family could have difficulty addressing any serious mental health concerns the youth may face.



**Find out when a youth will be converted to an HMO program and how that change will affect services for the youth. Contacting the state-run health care authority may be necessary as workers and other staff may be unaware of the change or of the differences in the systems.**

The customer service number on the youth's Medicaid card should answer questions about differences in services. Families and practitioners may need to push to get the answers they need.

Families should understand the level of benefits they qualify for after the guardianship or adoption is final. They also need to understand the limits on individual and family mental health benefits, substance abuse services, and medical benefits and how they may interact with additional family coverage.



**Educate families about the different public benefits programs and the unique needs of the youth. By identifying how the programs interact, professionals can help the family make educated decisions.**

## CHAFEE SERVICES



**Understand state policies that affect financial subsidies for youth seeking permanency. Get involved in your state's planning process for child welfare services. Advocate for policies that strengthen financial incentives to families providing permanency for youth.**

The Chafee Foster Care Independence Program was created by the John H. Chafee Foster Care Independence Act of 1999. The legislation is the federal mandate that helps define the independent living and transitional living services to youth in state foster care and youth aging out of care.

The Chafee legislation provides that states are only required to serve youth under this program that are "likely to remain in foster care until 18." This definition has focused states on providing these needed services

only to youth they believe have no permanency options. This often limits families who provide permanency for these youth from accessing these services.

A majority of states require youth to leave care at 18 to get any aftercare services or to have ongoing Chafee services. A few states have policies designed to provide services to youth who achieve permanency as older adolescents. This current infrastructure in states can work as a real disincentive to families looking to provide permanency to youth in their homes.

When a youth achieves permanency, almost all support services to help the youth become a successful adult are removed. This can be a barrier for families looking to adopt or become legal guardians. Eliminating leadership opportunities, participation in life skills training and youth advisory boards, mentoring, tutoring, and other services can put a family at a disadvantage when trying to provide a permanent home to a youth who often has needs beyond “normal” developmental issues.

### **LONG-TERM SERVICE NEEDS**

The lack of Chafee services for youth who achieve permanency impacts recruiting permanency families for these youth. National statistics show the average youth is not self-sufficient until age 26,<sup>5</sup> so families are committing to an individual who likely will need additional supports. Removing independent living services for youth and specialized training for the families makes it difficult to achieve legal permanency.

Some states have a ceiling of benefits under the Chafee program that apply to every youth in any given year. Depending on the level, some families may decide the services they will lose if they pursue permanency do not equal an amount worth considering. Other families may feel strongly that these services are crucial for success and decide against permanency options to provide their youth with the full array of services.

Practitioners need to understand their state’s practices and how they can ensure families and youth are provided an optimum level of services. For example, youth in care in Oklahoma get the full benefit of services if

they are in foster care for nine months past their 16th birthday. Youth in Wisconsin must have been in out-of-home care at age 15 or older for at least six months. In these instances, by delaying permanency until the specified time periods are attained, youth may have the advantage of expanded services.

Practitioners can work with the supervising agencies to ensure the youth's strengths and needs are assessed. This will help families make educated decisions about what is in their best interests.

An additional factor to consider is housing for youth age 18 and older. A youth placed in a guardianship or who is adopted is not eligible for housing assistance under Chafee. This could be a huge financial cost to the youth and the family.

Many practitioners who work with these youth and families do not believe these costs should be factored into decision making for the youth's future. Families who are involved with these youth and are aware of the loss of possible benefits for their "child" are making informed decisions in their "child's" best interests. Unfortunately many families have to sacrifice access to helpful and needed services to achieve permanency.

## EDUCATION SERVICES

**Become aware of available education services and inquire about appropriate education referrals and available options.**

### Secondary Education Services

Many youth in care need additional education services such as tutoring and mentoring. These services are typically provided by the state while the youth is in care and end when the youth leaves care for a permanent placement. Families need to consider what the costs will be to replace these services once permanency is finalized.

Families and practitioners need to know what services are being offered to a youth in their educational setting. Distinctions should be made between which services are provided due to the youth's foster care status and which are provided for by the school district under the Individuals

with Disabilities Education Act (IDEA) or other educational entitlement. *For additional information on education needs, refer to chapter 8.*

Families must know they will need to take an active role in their youth's education; accessing additional services will be necessary. Families may be uncomfortable advocating for education services. Address this early to ensure successful permanency for the youth.

## Postsecondary Education

### *Federal and State Grant Programs*



#### **Know what scholarships, tuition waivers, and other programs are available for foster youth in your state.**

Funding postsecondary education is challenging for all families, especially with climbing tuitions and declining scholarship and grant programs. Many programs factor in the family income or preclude youth who achieve permanency. One discouraging factor is that often youth join their permanent families later in life; the family is at a real disadvantage to even begin saving for college given a limited number of years. With college costing an average of \$19,902 per year, this is a financial quandary for potential permanency families ([www.finaid.org](http://www.finaid.org)).

Federal Pell grant and state grant programs are based on financial need and a youth in care does not have to report any parental income when applying for aid. Youth who have been adopted do have to report their adoptive parents' income on their application. Grant programs, like many other funding streams, have rather low income cut-offs for eligibility; often adoption makes youth ineligible for grant funding. Youth in guardianships do not have to count their guardians' income. However, the Federal Financial Aid Form is tricky on this question and easy to misinterpret. For more information, see the State of Illinois Division of Children and Families website and a publication they distribute called *Crossroads*, available at [www.state.il.us/dcf/docs/crossroads.pdf](http://www.state.il.us/dcf/docs/crossroads.pdf).

A family must have a combined income of less than \$15,000 for a youth to be automatically eligible for Pell grants. The amount of assistance a

youth is eligible for goes down from there and any family that can contribute more than \$3,850 to the youth's education will not qualify for Pell grants in 2003-2004 at all.

### *Scholarships*

State and national scholarship programs are available for former foster youth. Many have restrictions that preclude youth from applying if they left care before age 18. For example, on the national level the Casey Family Scholars Program is open to youth who were in foster care for at least 12 months and were not subsequently adopted. The Hildegard Lash Merit Scholarship requires eligible applicants to complete high school or turn 18 while in foster care. For more information on either program, see [www.orphan.org](http://www.orphan.org).

On the state level, Washington state's Governor's Scholarship Program is geared for youth still in foster or kinship care only<sup>6</sup> and the Arizona Friends of Foster Children Foundation has a scholarship program for wards only.<sup>7</sup>

Many state-funded scholarship programs are funded through Chafee dollars and are for the same group of youth who are eligible for services for 18 – 21 year olds. Other scholarship programs are needs-based, so youth and families are penalized for having worked to achieve legal permanency.

On the other side, some states have been working to prevent this barrier to permanency. For example, an Illinois scholarship program awards a monthly stipend to youth who were in care, adopted from care, or in a guardianship from a foster care case.<sup>8</sup>

### *Tuition Waivers*

Several states have state tuition waivers for foster youth. These state waivers are geared towards youth aging out of the foster care system and often are unavailable to youth who have found permanency as adolescents.

Kansas and Minnesota have a tuition waiver program that requires youth to have aged out of care at age 18.<sup>9</sup> These programs are indicative of many state tuition waiver programs that provide disincentives for permanency for youth.

Some states are working to overcome this barrier. For example, Maryland's tuition waiver program allows youth adopted from state foster care after age 14 to continue to remain eligible for the foster care tuition waiver program.<sup>10</sup> In Virginia youth in foster care or a special needs adoption at the time of graduation qualify for their tuition waiver program.<sup>11</sup>

Many programs do not mention youth in guardianships at all. This may be because guardianship has only recently been used as a permanency option. Or it may be an oversight by state programs. Youth and families considering guardianship should ask about available education funding for youth postpermanency.

### *Education and Training Vouchers*

The Education and Training Voucher (ETV) program provides education opportunities to youth who spent time in foster care as adolescents. This program is groundbreaking in permanency efforts for youth because federal guidelines mandate that youth adopted from foster care after age 16 remain eligible for this service.

The program was funded for the first time in fiscal year 2003, however it is not a permanently funded item in the federal budget. Youth eligible for this program can receive up to \$5,000 dollars per year towards postsecondary education. Educational opportunities at colleges and universities and vocational and technical programs can be funded under this program.

States are required to notify youth who are eligible for ETV, including youth who have already been adopted. States should explain to youth how to apply and other pertinent details. Practitioners can help existing families and recruit additional families based on availability of this program. For more information, visit [www.nrcys.ou.edu/nrcyd/programs.htm](http://www.nrcys.ou.edu/nrcyd/programs.htm).

## CONCLUSION

Financial issues are complex and numerous for families and youth seeking permanency. The financial scenarios that can arise for a youth can be overwhelming and families are often unaware what services, both monetary and physical, youth are receiving or need. Professionals need to educate families they work with so that they can make sound decisions that set the family up for success.

This chapter has revealed several financial incentives and disincentives to permanency for youth. By becoming educated about available financial benefits, practitioners can help more youth leave care with a permanent family arrangement and not a trash bag full of their belongings on their 18th birthdays.

## Financial Issues in Foster Placements

The Evans' have two youth from state foster care living in their home in Texas. Sarah, 13, has been with the family for two years and is a niece of Mr. Evans. Her parents' rights were recently terminated. Bryan, 17, has been living in the home for five years. Bryan's mom is deceased and his father's rights were terminated some time ago. Both children's permanency plans are about to be reviewed in court. The family is weighing their options on the best permanency plan for each child. The financial issues that may affect their decision are numerous and are unique for each child.

### Sarah's Plan

The Evans, Sarah, and Bryan have considered all of their options and have made the following decisions for their family. Sarah would benefit most from adoption. She is a significant time away from qualifying for any Chafee services and the family has decided they have enough time to save for college, especially since Texas provides a tuition waiver to state-funded colleges and universities if Sarah is adopted after age 14. The family will wait to finalize the adoption until after Sarah's next birthday to ensure she receives this important benefit. The adoption subsidy will allow the family to save money for Sarah's future education and other expenses.

### Bryan's Plan

Bryan has decided to stay in care for his last year. He is receiving survivor's benefits from his mother's death and is very close to graduating. By staying in care, the Evans will continue to receive the foster care payment that helps provide him with an allowance and his daily needs. He will also receive counseling services after his 18th birthday through the

Medicaid program by staying in care and will be eligible to receive financial assistance for housing in college above the tuition waiver program and ETV funding in Texas.

If Bryan had chosen adoption, he would lose his unlimited mental health services under Medicaid after 18, would not qualify for extended Medicaid under Texas' current rules, and would lose eligibility for Pell grant funding in college since the Evans' income puts him out of the income guidelines. The loss in medical benefits, school grants, and housing help for Bryan while he is in school far outweighed the limited financial benefits offered by adoption.

As shown above, the financial nuances of permanency are complex and vary from family to family. Practitioners can best serve youth by understanding their individual circumstances and knowing what resources to contact to paint the complete financial picture.

## Financial Assistance for Children and Families in the Dependency System

### Adoption Subsidy Eligibility

Public Law 96-272: *The Adoption Assistance and Child Welfare Act of 1980* (the Act) required all states to establish an adoption subsidy program and remove the financial disincentives to states by providing federal dollars to be used as a portion of adoption subsidy payments for children previously eligible for the Title IV-E Foster Care Program. Since 1980, the program has grown dramatically – from no federal funding in 1980 to \$1.2 billion in 2000.

Public Law 96-272 has been modified in recent years. The Tax Reform Act of 1986 (P.L. 99-154) amended the Title IV-E Adoption Assistance Program by requiring states to reimburse adoptive parents for the non-recurring expenses incurred in the adoption of a child with special needs. And, the Adoption and Safe Families Act of 1997 amended the original law by allowing children who were previously eligible for Title IV-E adoption assistance to retain their eligibility for the program in a subsequent adoption in the event of the adoptive parent's death or dissolution of the adoption.

### Special Needs

Special needs is a complex determination and has both state and federal definitions. An important part of establishing adoption assistance eligibility requires the state to determine that the child is a child with special needs in accordance with all three criteria defined in section 473(c) of the Act:

- First, the state must determine that the child cannot or should not be returned to the home of his or her parents (section 473(c)(1) of the Act); and

- Second, the state must determine that there exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing Title IV-E adoption assistance or Title XIX medical assistance. Such a factor or condition may include (but is not limited to) ethnic background, age or membership in a minority or sibling group, the presence of a medical condition, or physical, mental or emotional disabilities. The determination must be made on a case by case basis and must conclude that based on the stated factor(s) the particular child cannot be placed with adoptive parents without providing assistance; and
- Third, the state must determine that in each case a reasonable, but unsuccessful, effort to place the child with appropriate parents without providing adoption assistance has been made. The only exception to this requirement is when it would not be in the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents.

### **Federal or State Eligibility**

Generally, if special needs children can meet certain eligibility requirements, they can receive either *federal* or *state* adoption assistance. The federal Title IV-E program is open to those adoptive children who can walk through one of four eligibility "doors":

1. Aid to Families of Dependent Children (AFDC)
2. Supplemental Security Income (SSI)
3. A baby born to a minor parent who is in foster care
4. A child who received Title IV-E Adoption Assistance in a previous adoption, but whose original adoption was dissolved or the adoptive parents died

*NOTE: Even though AFDC was eliminated (August 1996), eligibility for Title IV-E is determined based on the states' AFDC eligibility standards as of June 1, 1995.*

Children who do not gain eligibility through one of these four avenues may be non-IV-E-eligible and receive a state subsidy financed with state or local funds (i.e., without federal reimbursement). The benefits provided under state programs are often—but not always—similar to benefits provided using federal funds.

Adoption assistance programs vary significantly from state to state. A good resource on programs is [www.nacac.org/AAPchart.html](http://www.nacac.org/AAPchart.html) which provides a state-by-state listing of state subsidy programs.

## **Benefits**

Benefits available through adoption subsidy programs vary between states, but may include:

### **Monthly Maintenance Payments**

Monthly maintenance payments may be in any amount up to the foster care payment that the state would have made during the same period if the child remained in family foster care, including special costs. The amount of the payment "ceiling" may vary between children, and may change for an individual child over time.

### **Medical Assistance**

Children who are eligible for the federal and state adoption assistance programs are automatically eligible for Medicaid benefits (states may choose to provide another type of coverage for state-funded children as long as the coverage is identical to Medicaid). Medicaid benefits transfer across state lines if families move.

### **Social Services**

Under Title XX of the Social Security Act, special needs adopted children may be eligible for social services benefits if there is an adoption assistance agreement in effect with respect to the child. Title XX provides an opportunity for the worker and family to identify a set of post-adoption services that may be helpful in keeping the new family intact. Services vary between states, and are dependent upon the state's plan for Title XX services.

### **Nonrecurring Adoption Expenses**

Adoptive parents are eligible for a onetime, reimbursement (up to \$2,000) to help with the cost of adopting a special needs child.

Reimbursable costs may include: adoption fees, court costs, attorney fees, transportation expenses (including travel, food, and lodging), physical and psychological examinations, and other expenses directly related to the legal adoption of a special needs child.

Information excerpted from [www.nacac.org](http://www.nacac.org)

### **Web Resources**

#### **[www.nacac.org](http://www.nacac.org)**

Good clear information on adoptions subsidies, guardianship subsidies, and other services available to families involved in permanency.

#### **[www.grandsplace.com](http://www.grandsplace.com)**

Site includes information on guardianship availability and contact information for state programs.

#### **[www.aarp.org](http://www.aarp.org)**

Excellent information on services available to relatives providing care to grandchildren both in and out states' custody.

## Social Security

All Social Security Payments, regardless of program, adhere to certain rules. This universality to the programs helps to decipher some of the issues. All programs are income based, the income may just shift from parent to youth earners. All programs can be affected by marriage, death, or divorce. Changes in family circumstances should always be reported to avoid owing overpayments. Payments to children under these programs are based on the same criteria with a couple of notable exceptions.

- Payments will continue only until the youth turns 19 as long as they remain in secondary education and,
- Remain unmarried.

## Social Security Disability

Social Security Disability is an adult payment that also provides benefits to dependent children with a disabled parent. Disability payments are based on an ongoing disability that lasts at least six months. Once approved payments will continue as long as the disability continues and the parental income remains below a certain level.

Disability payments for youth are based on biological or adoptive relationships and provide a financial support in families where a parent can not work.

In some circumstances, a youth may qualify for a disability payment under a biological parent and/or may be considered for a permanency placement with a family that also has a parent(s) that qualifies for disability payments. In this circumstance it is important to know some facts. A youth can receive a disability payment only in a biological or adoptive relationship, not a legal guardianship relationship, so this may

play a factor in the type of permanency considered by a family. Second, a youth can not receive a payment on the biological family and on the adoptive family so, this issue may play a factor in which circumstance the benefit would best be applied for. The family would need to be informed in this instance that Social Security will award the child the payment that results in the highest monetary award.

### **Supplemental Security Income (SSI)**

SSI provides a financial payment and depending on the state, medical coverage for the youth that has been identified as disabled. SSI is based on a youth's disability and is not affected by a parent's functioning, however it is affected by the parents income.

A common myth in Social Security payments is that a youth can not receive both federal adoption subsidy and Social Security benefits. This is not true. The only program affected by subsidy is SSI. The child's SSI payment will be reduced dollar for dollar without application of any exclusion, thus decreasing the SSI benefit by the amount of the Title IV-E adoption subsidy payment. This does not preclude the child from the benefits, it simply refunnels the dollars as long as the youth qualifies for subsidy.

To qualify for SSI, a youth must become disabled prior to the age of 22 years and must have income levels below cut-offs. When residing with parents and while under the age of 18, the parental income will affect the level of benefits available to a youth.

### **Survivor's Benefits**

Social Security Survivor's Benefits are based on biological or adoptive parent relationships. Once a parent has worked the qualifying number of quarters, their family is eligible for benefits should the parent pass away. This payment is based on the same rules that apply under the other programs. This program is not income based but based on earnings over the parents' lifetime.

For additional information on Social Security Benefits go to:

<http://www.ssa.gov>.

### **Temporary Assistance to Needy Families (TANF)**

TANF has two programs that can assist families in permanency options. The program has very clear guidelines based on blood relationships and can only be applied for once permanency has been achieved. There are two programs that families are eligible for and they have different guidelines for qualification and time limits. To be eligible the family must be directly blood related and must be less than once removed. An example of qualifying ties is grandparent or aunt.

#### **Family Assistance**

A family providing permanency for a relative can apply for assistance on many levels should they qualify. This program is income based and requires family members to meet TANF guidelines on work and education programs and has a lifetime limit per family of five years. The income cut-off is low and the family must be working to improve the family situation. States have discretion on services offered but many times the program provides families with medical assistance, cash payments, and food stamps.

#### **Child Only Assistance**

A family providing permanency for a relative can apply for assistance for the child only to help provide for their needs under an unsubsidized guardianship. This program also varies from state to state but has some general guidelines. Typically the program can involve a cash payment and medical coverage for the child. This program is usually not subject to the work and education program rules or lifetime limitations. This program can vary greatly from state to state however, and practitioners should become versed on programs for their area.

## Medicaid

Title XIX of the Social Security Act is a federal/state entitlement program that pays for medical assistance for certain individuals and families. This program, known as Medicaid, became law in 1965 as a cooperative venture jointly funded by the federal and state governments (including the District of Columbia and the Territories) to assist states in furnishing medical assistance to eligible needy persons.

Within broad national guidelines established by federal statutes, regulations, and policies, each state (1) establishes its own eligibility standards; (2) determines the type, amount, duration, and scope of services; (3) sets the rate of payment for services; and (4) administers its own program. Medicaid policies for eligibility, services, and payment are complex and vary considerably, even among states of similar size or geographic proximity. Thus, a person who is eligible for Medicaid in one state may not be eligible in another state, and the services provided by one state may differ considerably in amount, duration, or scope from services provided in a similar or neighboring state. In addition, state legislatures may change Medicaid eligibility and/or services during the year.

States have discretion over who is eligible for services, however, the federal government has established a group that is considered “categorically needy” and therefore must be provided services by all states. The following enumerates a selection of the mandatory Medicaid “categorically needy” eligibility groups for which federal matching funds are provided:

- Children under age 6 whose family income is at or below 133 percent of the federal poverty level (FPL).
- Pregnant women whose family income is below 133 percent of the FPL (services to these women are limited to those related to pregnancy, complications of pregnancy, delivery, and postpartum care).

- Supplemental Security Income (SSI) recipients in most states (some states use more restrictive Medicaid eligibility requirements that pre-date SSI)-.
- Recipients of adoption or foster care assistance under Title IV of the Social Security Act.
- Special protected groups
- All children born after September 30, 1983 who are under age 19, in families with incomes at or below the FPL.

### Scope of Medicaid Services

Title XIX of the Social Security Act allows considerable flexibility within the states' Medicaid plans. However, some federal requirements are mandatory if federal matching funds are to be received. A state's Medicaid program *must* offer medical assistance for certain *basic* services to most categorically needy populations. These services generally include the following:

■ Inpatient hospital services	■ Outpatient hospital services
■ Prenatal care	■ Vaccines for children
■ Family planning services and supplies	■ Nursing facility services for persons aged 21 or older
■ Physician services	■ Rural health clinic services
■ Home health care for persons eligible for skilled-nursing services	■ Pediatric and family nurse practitioner services
■ Laboratory and x-ray services	■ Nurse-midwife services
■ Federally qualified health-center (FQHC) services, and ambulatory services of an FQHC that would be available in other settings	■ Early and periodic screening, diagnostic, and treatment (EPSDT) services for children under age 21

Information taken from [www.cms.hhs.gov](http://www.cms.hhs.gov).

### **John H. Chafee Foster Care Independence Program**

The John H. Chafee Foster Care Independence Program was created in 1999 with passage the Foster Care Independence Act. The Chafee Foster Care Independence Program replaced the Title IV-E Independent Living Initiative of 1986. Its purpose was spelled out in the legislation and had 6 initial points:

1. To identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);
2. To help children who are likely to remain in foster care until 18 years of age receive the education, training and services necessary to obtain employment;
3. To help children who are likely to remain in foster care until 18 years of age prepare for and enter post secondary training and education institutions;
4. To provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults;
5. To provide financial, housing, counseling, employment, education and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants

recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood; and

6. To make available vouchers for education and training, including post secondary learning and education, to youths who have aged out of foster care (this point was added in the Promoting Safe and Stable Families Amendments of 2001).

For more information on the Chafee Foster Care Independence program go to: [www.nrcys.ou.edu/nrcyd/programs.htm](http://www.nrcys.ou.edu/nrcyd/programs.htm).

## Determining the Best Financial Route towards Permanency

Available Subsidies	Reunification	Adoption	Guardianship	Relative Placement	APPLA
<b>Adoption Subsidies</b>		✓			
<i>Practice Tips</i>	States do not always inform families that adoption subsidies are available. Practitioners should be prepared to research state funding policy for adoptions.				
<b>Guardianship Subsidies</b>		✓			
<i>Practice Tips</i>	Criteria for approval vary from state to state, with 64% of states offering this option. Practitioners need to firmly understand their state's guardianship statutes.				
<b>Social Security Disability</b>	✓	✓	✓	✓	State keeps payment amount equal to state foster care rate.
<i>Practice Tips</i>	Based on the disability of the youth's adoptive or biological parent(s), the practitioner needs to inform the family which scenario would provide greater financial benefit to the child.				
<b>SSI (Supplemental Security Income)</b>	✓	✓	✓	✓	State keeps payment amount equal to state foster care rate, youth will receive payment after 18 with no break in services.
<i>Practice Tips</i>	Income of both guardians and adoptive parents must be reported to Social Security. Maximum allowable income for the family, a limited amount of assets belonging to the youth, and whether the youth has a history of long-term disability are all factors which practitioners must examine.				
<b>Survivor's Benefits</b>	✓	✓	✓	✓	State keeps payment amount equal to state foster care rate.
<i>Practice Tips</i>	Survivor's Benefits vary widely. Practitioners need to be aware of what benefits a child receives and inform youth of their rights to financial assistance.				
<b>TANF (Temporary Assistance Families)</b>			✓	✓	
<i>Practice Tips</i>	TANF benefits vary based on state, and are usually very small. Custody must be in place for families to apply, so it is necessary for practitioners to research the program in their state.				
<b>Medicaid</b>		✓	✓		✓
<i>Practice Tips</i>	Medicaid is supported by many permanency options, however many changes can occur once permanency for a youth has been achieved. Practitioners need to ask whether a change will be made and how it will affect a youth.				

Available Subsidies	Reunification	Adoption	Guardianship	Relative Placement	APPLA
<b>Chafee Independent Living Services</b> <i>Practice Tips</i>					✓
<p>Most states do not provide these services post permanency. States are only required to serve youth under this program if “they are likely to remain in foster care until 18.” Practitioners need to be educated in the practices for their state, understand how they can obtain the best spectrum of services for their families and youth, and become involved in their state’s planning process for child welfare services.</p>					
<b>Federal Pell Grant</b> <i>Practice Tips</i>	✓	✓	✓	✓	✓
<p>Grant programs often have rather low income limits for applicants. Adopted youth have to report their parents’ income, but are considered ineligible if the amount exceeds the cutoff amount. Youth in guardianship do not have to report the guardians’ income, but the Federal Financial Aid Form is easy to misinterpret regarding guardianship matters.</p>					
<b>Scholarships</b> <i>Practice Tips</i>	✓	✓	✓	✓	✓
<p>Many state and nationally funded programs are aimed at youth who have not yet achieved permanency.</p>					
<b>Tuition Waivers</b> <i>Practice Tips</i>	✓	✓		✓	✓
<p>Most states offer tuition waivers only to youth in care. Many programs do not even mention guardianship. Practitioners must educate themselves on education services and be certain to ask about appropriate referrals and available options.</p>					
<b>Education and Training Vouchers Program</b> <i>Practice Tips</i>		✓			✓
<p>Although this program was funded for the first time in 2003, it is not a permanently funded item in the federal budget. States are required to notify youth who are eligible for this program. Additional information on this program is available at <a href="http://www.nrcys.ou.edu/nrcyd/programs.htm">www.nrcys.ou.edu/nrcyd/programs.htm</a>.</p>					

## Endnotes

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- 2 National Military Family Association, "Fact Sheet." April 2002. <<http://www.nmfa.org/FactSheets/Adoption.pdf>>.
- 3 North American Council on Adoptable Children. "State Fact Sheets," February 2004. <[http://www.nacac.org/subsidy\\_stateprofiles.html](http://www.nacac.org/subsidy_stateprofiles.html)>. The states that currently provide subsidies are: Alaska, Arizona, California (varies by county), Connecticut (kinship only), Delaware, Hawaii, Idaho, Illinois, Indiana (kinship only), Kansas (limited availability), Kentucky (kinship only), Louisiana (kinship only), Maryland (kinship only), Massachusetts, Minnesota (kinship only), Missouri (kinship only), Montana, Nebraska, Nevada (kinship only), New Mexico, North Carolina, North Dakota, Oklahoma (kinship only), Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, Washington, DC, West Virginia, Wyoming. GrandsPlace. "Guardianship Subsidies." February 2004. <<http://www.grandsplace.com/gp1/guardsub2.html>>
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- 11 Virginia Community College System. "Tuition Grant," 2003. <[www.so.cc.va.us/vccsahr/Tuitiongrant/tuitiongrant.html](http://www.so.cc.va.us/vccsahr/Tuitiongrant/tuitiongrant.html)>.

## CHAPTER 10

# Permanency Planning for Adolescents with Disabilities

BY NANCY PINELES

## GUIDELINES

- ▶ Permanency planning for an adolescent with a disability must begin with understanding the adolescent's opinions and wishes.
- ▶ People with disabilities have substantial legal rights. Advocates can educate the court about the civil rights of people with disabilities and request orders for effective services for their clients.
- ▶ Advocates should learn about the adolescent's disability and service delivery systems.
- ▶ Advocates should seek to ensure that proper and ongoing evaluations form the basis of service planning.
- ▶ Advocates should obtain, enforce, and modify court orders.
- ▶ Early transition planning for independence is most successful. Transition planning should begin as soon as possible.

Approximately 30 to 40% of children in the child welfare system have physical health problems. As many as 20% of children in foster care have mental retardation or other developmental disabilities. The prevalence of serious psychiatric disorders among adolescents in foster homes and group homes may be four times the rate of those living with their own families.<sup>1</sup>

Adolescents in foster care are legally entitled to receive appropriate services to help them to live healthier and more stable lives. For significant disabilities, services should be part of a care or treatment plan based on a thorough needs assessment. Parents, potential adoptive parents, guardians, or permanent foster parents will be more amenable to providing a permanent placement for a youth with a disability when they can rely on service providers to assume much of the burden of special care. Thus, a functional care or treatment plan is the foundation for a permanency plan. This article will assist advocates with permanency planning for adolescents with disabilities.

*R, severely mentally retarded and physically disabled with cerebral palsy, lived in a hospital for his first six years. His mother maintained contact with her son but social workers believed she was unwilling to take him home. When a foster home was identified for R, his mother was finally able to see the comprehensive array of services that R would receive to help him live successfully outside the hospital setting. At that point she chose to take him herself, and the family was successfully reunified with support services.*



**Permanency planning for an adolescent with a disability must begin with understanding the adolescent's opinions and wishes.**

Permanency planning for youth with disabilities is essentially the same for any adolescent. All of the permanency options, from reunification to foster care, are available.

Adolescents with disabilities are often acutely aware of the obstacles to achieving permanency and may be anxious about imposing their needs on others. They are able to actively participate in or reject treatment and

placement options, so a successful treatment or care plan must consider the youth's opinions about both services and service providers.

Advocates should not assume that cognitive or emotional impairments render a youth incompetent to discuss permanency plans. Most people with disabilities are able to express opinions and observant, patient, and creative advocates will be more successful in discerning unique perspectives.

Most adolescents can express opinions about treatment plans. Some youth are surprisingly knowledgeable about their disabilities and treatment plans. In many cases, however, the youth may object to the treatment plan. Stability is at risk if an adolescent refuses medication or other treatment, avoids caregivers, or runs away. When an adolescent's rejection of the treatment or care plan poses a real danger of instability, an advocate should ask treating professionals to suggest alternatives that may be more amenable to the youth. Otherwise the permanency options may be severely limited.

Formulating a treatment or care plan that will provide a successful foundation for permanency planning requires that advocates understand the legal rights of people with disabilities to receive support services.

*J, 13 years old, was severely mentally retarded and almost entirely nonverbal. The principal at J's school, a facility for children with special needs, said that she could no longer accommodate J's violent and unpredictable outbursts and that J would have to transfer to another school, probably a residential setting. J's foster parents did not acknowledge any problems at home. Upon further questioning, teachers explained that J snatched food from other children and then ate with lightning speed. They suggested that the outbursts might occur most often at times when J could be hungry. Medical records indicated that J was underweight for his age and height. The foster parents, who believed that sugar caused behavioral problems, prohibited the school from feeding J any foods that contained sugar. J's attorney and social worker agreed that J should have a nutritional consultation.*



## People with disabilities have substantial legal rights.

When fragmented service delivery systems fail to meet a youth's needs, advocates can educate the court about the civil rights of people with disabilities and request orders for effective services for their clients. Judges who understand certain well-established principles of disability law may be more inclined to order government agencies to provide services.

Federal and state civil rights laws are helping to end the historic isolation and institutionalization of people with disabilities. For adolescents with challenging behaviors due to mental illness or mental retardation, the risk of institutional placement may be very real if a youth does not have access to appropriate services. Nearly one fourth of all mental health expenditures for children are spent on residential treatment. For adolescents in the foster care system, the most important federal protections stem from the Americans With Disabilities Act of 1990 (ADA), Medicaid<sup>2</sup>, the Individuals With Disabilities Education Act (IDEA), and the Adoption and Safe Families Act of 1997 (ASFA).

## AMERICANS WITH DISABILITIES ACT

Advocates who bundle these laws together with the Title IV-E directive to plan for the least restrictive placement<sup>3</sup> may assert that state agencies have a duty to provide services in the least restrictive environment appropriate to the needs of the youth. State laws may also provide additional authority for providing services in the least restrictive environment.

Title II of the ADA prohibits public entities from discriminating against people for reason of disability. So far, federal courts have upheld the right of individuals to sue states for injunctive relief for ADA violations. Prevailing plaintiffs may be awarded attorneys' fees.<sup>4</sup>

A landmark Supreme Court decision, *Olmstead v. L.C.*<sup>5</sup>, interpreting Title II of the ADA, held that "unjustified isolation" of people with disabilities in institutions "is properly regarded as discrimination based on

disability.” Because the *Olmstead* decision did not require states to provide immediate relief, many people who would be able to live successfully in the community are still being housed in institutions. However, in addition to ADA claims, youth in foster care can invoke Title IV-E of the Social Security Act.

Title IV-E requires states to develop a written case plan that provides for the “least restrictive (most family-like) and most appropriate setting available.”<sup>6</sup> Case plans for youth with disabilities should not contemplate placements in institutional or other restrictive settings when appropriate services could be provided to meet the needs of the adolescent in a less restrictive placement. On the other hand, a setting that is too unrestricted and deficient in needed therapeutic or other support services may create an unnecessary risk of failure.

Courts will probably be more amenable to *Olmstead* and Title IV-E arguments for a less restrictive setting when health care professionals recommend specific services that are available and accessible. Advocates should offer health care providers information about services available through Medicaid to get the most comprehensive service recommendations.

## MEDICAID

Medicaid may be the single most important program for people with disabilities. Although eligibility is otherwise restricted to people who meet poverty and disability criteria, all children in foster care should be eligible for Medicaid. Many young adults with disabilities will continue to be eligible upon termination of their dependency cases. Many states have relaxed Medicaid eligibility criteria for low-income families, children with disabilities, or children returning home from foster care.<sup>7</sup> Children with disabilities should in many cases be able to retain Medicaid eligibility through a subsidized adoption and in some cases through a subsidized guardianship, but other children will lose their eligibility upon reunification with families that do not meet income criteria for Medicaid.

Federal law outlines due process protections for Medicaid beneficiaries, including notice and an opportunity for a hearing before reducing, changing, or terminating services.<sup>8</sup> Since most Medicaid beneficiaries must meet poverty requirements to be eligible, they can rarely hire counsel to enforce their rights. In dependency cases, child advocates may raise Medicaid claims as part of the dependency hearings, explain the entitlement, and request court enforcement.

Two Medicaid provisions are particularly important to adolescents with disabilities: (1) the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program and (2) home and community-based services (HCBS) waivers.

## EPSDT

EPSDT goes far beyond conventional health coverage programs to require states to provide a broad range services to Medicaid recipients up to age 21 to “correct or ameliorate defects and physical and mental illness and conditions discovered by the screening process.”<sup>9</sup> If a child or youth has a medical need for care, EPSDT should pay the entire cost of services.

*M, a nonverbal 13-year-old girl with severe mental retardation weighed about 40 pounds when she was placed in foster care. Specialists at a reputable hospital alleged M’s mother’s medical neglect almost killed her. In foster care, M went into medical crisis and cycled in and out of the hospital until her foster parent, a nurse, finally refused to take her home again. Meanwhile, analysis of the medical evidence and family situation indicated that M survived to the unlikely age of 13 despite her cerebral palsy and sickle cell anemia because of her mother’s keen dedication. M’s mother had mild mental retardation and had made errors in judgment, but had demonstrated that she was willing to accept help. M was entitled to receive in-home nursing care as a Medicaid recipient even outside foster care, but no such care had been offered prior to the dependency proceedings. The court agreed to try sending M home with nursing services. At home, M immediately gained weight and her medical condition stabilized.*

## HCBS WAIVERS

HCBS waivers offer services to people whose needs are great enough that they could be admitted to institutions, but instead provides flexible services that will allow participants to live at home or in home-like settings.<sup>10</sup> Participants, who must meet the criteria for care in a hospital, nursing home, or Intermediate Care Facility for the Mentally Retarded (ICF-MR)<sup>11</sup>, receive services according to a care plan that meets their needs.

HCBS waiver programs “waive” Medicaid service and eligibility limitations and provide funding for noninstitutional services. Each state creates its own unique waiver programs including a defined set of services, eligibility criteria, and a limited number of beneficiaries.<sup>12</sup>

HCBS Medicaid waivers for people with mental retardation and related disorders typically provide such services as supported employment, behavioral support, residential and habilitative services that help a youth learn self-care, meal preparation, money management, shopping, housework, and telephone use. Adolescents can also receive habilitative services in school as special education services.

The federal government pays for at least half the cost of Medicaid services so some states have expanded Medicaid to certain at-risk populations. Because Medicaid can be such an important resource, advocates should attempt to preserve Medicaid eligibility for children with disabilities who transition out of foster care, whether through reunification with parents, adoption, or independence. Adopted children may be able to keep their Medicaid status if they receive federal adoption assistance.

Upon reunification with their parents, some children will be eligible for Medicaid through SSI or the State Children’s Health Insurance Program (SCHIP). Some states have adopted programs to assist children with continuity in coverage upon leaving foster care.<sup>13</sup> Advocates, alert to the possibility that loss of Medicaid benefits could spell disaster for a child with a disability, should follow up on a child’s Medicaid eligibility after a child returns home but before the court terminates its jurisdiction.



## **Advocates should learn about the adolescent's disability and service delivery systems.**

Many sources of information are available to assist advocates to learn about disabilities and state-of-the-art of treatments and service methodologies. Advocates who are just beginning their research are encouraged to look at the National Library of Medicine's Medline web site at <http://www.nlm.nih.gov/medlineplus/>. The Medline web site includes links to local and national advocacy organizations for virtually every disability. These organizations may have information on securing services to promote self-determination and independence for their constituents.

The Surgeon General's report on mental health provides a wealth of information about mental illness in children for lay people and is an excellent starting point for advocates.<sup>14</sup> New service models are gradually being implemented to serve adolescents with mental illness and co-occurring issues such as mental retardation, substance abuse, or juvenile delinquency. Some of these new care models, including family preservation programs, multisystemic therapy and wraparound services, have demonstrated reductions in hospitalization and juvenile crime recidivism by strengthening a child's community support base with intensive services.<sup>15</sup> These care models typically create individualized support services while keeping children in home environments rather than isolating them in institutions.

Service programs may include Medicaid, managed care, private health insurance, HCBS waivers, state and local programs for family preservation, special education, services for people with mental retardation, private charities, and many others. Because the programs often comprise a patchwork with gaping holes, strict eligibility requirements for services and uneven funding, child advocates and state agency personnel alike may be puzzled by eligibility requirements and service limitations. Advocates should cultivate contacts at their state Protection and Advocacy System (see [www.napas.org](http://www.napas.org)<sup>16</sup>), their state Medicaid program,<sup>17</sup> and other state and local child-serving entities.



### **Advocates should seek to ensure that proper and ongoing evaluations form the basis of service planning.**

The evaluation phase may be the most important opportunity for advocates to intervene. Service planning for youth with disabilities should be based on competent and well-considered diagnoses. Performing assessments is particularly challenging for adolescents with mental illness or complex co-occurring disorders because a young person is constantly developing and changing and the disability may not yet have come into focus. Experienced specialists can be particularly enlightening and helpful in diagnosing and recommending services for youth with challenging and disruptive behaviors. To locate well-respected specialists, advocates should seek advice from their local disability communities.

Health care providers are often very receptive to new information from advocates about securing services for their patients. Advocates can:

- explain the adolescent's stated preference for permanency and the need for support services;
- educate the health care provider about Medicaid entitlements to services, treatment, and if necessary, further evaluations; and
- if appropriate, give the health care provider a sample service request for intensive mental health services. *See sidebar.*



### **Advocates should obtain, enforce, and modify court orders.**

When necessary, advocates should request court orders for services in accordance with professional recommendations. Advocates should also monitor service plans by:

- consulting with the youth and caregivers about their satisfaction with services and caregivers;
- monitoring service delivery and progress;
- advocating with child welfare workers, and if necessary, the court to ensure services are provided with reasonable promptness;

- seeking alternative solutions such as different service providers or new evaluations if the youth does not progress while receiving the recommended services;; and
- advocating for alternative solutions that the adolescent prefers and experts recommend.

In addition, advocates should not readily accept that options are limited, especially when institutional care is recommended. Advocates may:

- seek additional options from advocacy organizations and care providers;
- try to enlist the alliance of the child welfare workers and foster parents;
- if necessary, request additional assessments and placement options;
- learn what services are available through the state's Medicaid program and subpoena or request witnesses to testify about why your client has not received needed services;
- explore whether local law and rules permit impleading other government agencies as parties to the court case so that the court may issue enforceable orders to the Medicaid agency or other relevant agencies;
- ask for hearings when agencies fail to provide needed court-ordered assessments or services in a timely manner and do not respond to requests to comply;
- in egregious cases, invoke the court's contempt authority when agencies fail to follow court orders.

A court may issue an order on its own motion for additional assessments and recommendations if the adolescent does not seem to be responding to services.

**GUIDE  
LINE****Early transition planning for independence is most successful.**

*In a jurisdiction that permitted adolescents to remain in foster care until age 21, a social worker recommended that the court terminate K's guardianship case shortly after K's 18th birthday. The social worker reported that K did not get along with foster families, often skipped school and did not meet her obligations under her service plan. While the social worker attributed K's non-compliance to a manipulative nature, K's therapist believed that K manifested*

*substantial cognitive disabilities that had not been identified or accommodated in K's school program. The therapist recommended that K receive a thorough psychological evaluation. However, by then, K and her social worker had such a poor relationship that the social worker was unable to persuade K to participate in the assessment or to attend therapy. Instead, K further frustrated the social worker by moving in with her boyfriend's grandmother and dropping out of school.*

Transition planning should begin as early as possible, especially for youth who will need scarce long-term support services throughout adulthood. IDEA requires transition planning to begin at age 14 or earlier. Because Medicaid is such an important resource for people with disabilities, adolescents with disabilities should apply for SSI as early as possible after the disability is well-documented so that any lengthy SSI appeals may be resolved so there are no gaps in service. All service providers and personnel from all service delivery systems, including special education if appropriate, should participate in creating a transition plan.

## CONCLUSION

A viable permanency plan for an adolescent with disabilities will require a stabilizing care and treatment plan that is endorsed by the youth. The care and treatment plan should reflect the adolescent's right to live integrated in the community, supported by the Medicaid entitlement to comprehensive EPSDT services. Advocates should learn about the youth's disabilities and seek the advice of local specialists about the law and service options. Advocates can then educate health care providers about legal entitlements to services and request care recommendations that will serve the youth in the least restrictive setting. The advocate should then promote the success of the permanency plan by monitoring service delivery and requesting modifications to the care or treatment plan as needed. To avoid last-minute anxiety, advocates should ensure that transition planning begins as early as possible.

## EPSDT Services

- Inpatient hospital services including inpatient psychiatric hospital services
- Outpatient hospital services
- Rural health clinic services
- Federally-qualified health center services
- Other laboratory and X-ray services (including lead blood level assessment appropriate for age and risk factors)
- Family planning services and supplies
- Physicians' services
- Medical and surgical services furnished by a dentist
- Medical care, or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law
- Home health care services
- Private duty nursing services
- Clinic services
- Physical therapy and related services
- Vision services including eyeglasses
- Dental services, including relief of pain and infections, restoration of teeth
- Prescribed drugs, dentures, and prosthetic devices
- Hearing services, including treatment for defects in hearing and hearing aids
- Other diagnostic, screening, preventive, and rehabilitative services, including any medical or remedial services (provided in a facility, a home, or other setting) for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level;
- Services in an intermediate care facility for the mentally retarded

- Services furnished by a nurse-midwife
- Hospice care
- Case management services (as defined in 42 U.S.C. § 1396n(g)(2))
- TB-related services
- Respiratory care services
- Services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner
- Personal care services
- Primary care case management services
- Appropriate immunizations
- Health education (including anticipatory guidance)
- Such other necessary health care, diagnostic services, treatment to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the state plan.

from 42 U.S.C. § 1396d(a) and (r)

## SAMPLE MEDICAID SERVICE REQUEST INTENSIVE MENTAL HEALTH SERVICES

This document may be used as a guide for attorneys when working with health care professionals to request services for adolescents. Please be sure to use details, behaviors and symptoms that are specific to each case. For each service, it is recommended that you use your state's Medicaid provider manual to help establish medical necessity for each specific service. To speed the referral process, make a telephone referral first for the services you are requesting.

Date \_\_\_\_\_

Mr./Ms. \_\_\_\_\_ . Case Manager

State Medicaid Program

Re: Name: \_\_\_\_\_

D.O.B. \_\_\_\_\_

Medicaid No: \_\_\_\_\_

Dear \_\_\_\_\_ :

I am writing to request preauthorization for services under Medicaid for \_\_\_\_\_ , a \_\_\_\_\_ year-old \_\_\_\_\_ with diagnoses of \_\_\_\_\_ , \_\_\_\_\_ , and \_\_\_\_\_ , who requires intensive supports and services designed to address (his/her) needs. \_\_\_\_\_ has been admitted for in-patient treatment at \_\_\_\_\_ hospital/facility \_\_\_\_\_ (#) \_\_\_\_\_ times within the past \_\_\_\_\_ days/months. **S/he** was hospitalized from \_\_\_\_\_ to \_\_\_\_\_ and was rehospitalized on \_\_\_\_\_. *(Provide a summary of recent treatment here including locations, dates, and duration).*

\_\_\_\_\_ 's most recent in-patient admission, on \_\_\_\_\_ , was precipitated by \_\_\_\_\_. **S/he** is said to have \_\_\_\_\_. \_\_\_\_\_ reports that **s/he** has been \_\_\_\_\_. **S/he** has a significant history of \_\_\_\_\_ behaviors.

Diagnosis:

Axis I: \_\_\_\_\_

Axis II: \_\_\_\_\_

Axis III: \_\_\_\_\_

Axis IV: \_\_\_\_\_

Axis V: Current GAF: \_\_\_\_\_

The treatment team requests that the following medically necessary services be put into place:

1. To address needed behavioral changes, we request that you approve services and identify a provider who is a behavioral specialist (Master's or Ph.D. Psychologist) to provide \_\_\_\_\_ with a behavioral assessment and develop a behavior modification plan that can be implemented by a one-on-one aide in the home as set forth in paragraph 2.

These services are medically necessary because \_\_\_\_\_ is exhibiting maladaptive behaviors which include \_\_\_\_\_. These behaviors interfere with **his/her** ability to interact effectively with peers and family and cause imminent risk of harm to self or others. An individualized behavior plan is necessary to reduce maladaptive behaviors and increase functional behaviors and skills.

The goals of the services are:

- To conduct a comprehensive behavioral assessment.
- To develop, implement and evaluate a behavior modification plan to increase the frequency of adaptive behaviors such as \_\_\_\_\_ and decrease maladaptive behaviors such as \_\_\_\_\_.
- To provide consultation and supervision to other mental health professionals including a one-on-one home behavioral aid whose primary function is to implement the plan.

2. Until target symptoms are ameliorated, we request that you approve services and identify a provider who is able to provide a one-to-one in-home behavioral aid to provide \_\_\_\_\_ with intensive in-home support services Monday through Friday for \_\_\_\_\_ hours per day and Saturday and Sundays for \_\_\_\_\_ hours per day. The behavioral aid must have expertise in working with children who are dually diagnosed with psychiatric and developmental disabilities. One of the purposes of this aid is to implement a behavior modification plan that has been developed through services from the behavioral specialist (Master's or Ph.D. Psychologist) indicated in paragraph 1.

These services are medically necessary because \_\_\_\_\_ demonstrates the following behaviors: \_\_\_\_\_.

**Examples of behaviors to include are: frequent suicidal and self-harming or aggressive behaviors, an inability to interact effectively with peers and family, difficulty managing activities of daily living, difficulty attending school, is at risk of further hospitalization or residential treatment center (RTC) placement, is at risk during the transition from an RTC or hospital setting to a home or community setting and needs support to maintain safely at home).**

Additionally, this service is medically necessary to ensure that the behavior plan developed through the service requested in paragraph 1 is implemented in a manner that is clinically beneficial to \_\_\_\_\_.

The goals of the services are:

**Examples of possible goals include**

- To provide intensive daily assessment and differential diagnosis of maladaptive behaviors and identification of effective supports and interventions to reduce them.
- To prevent suicidal behavior.
- To reduce self-harming or aggressive behaviors and teach \_\_\_\_\_ alternative skills such as the ability to express her emotional state, alternative stress reduction strategies and self-calming skills.
- To teach \_\_\_\_\_ communication and assertiveness skills.
- To provide support to assist \_\_\_\_\_ in creating behavior patterns and self-motivating skills to rise and prepare for her day each morning.
- To provide crisis prevention services as necessary.

3. We request that you approve services and identify a provider who is able to provide \_\_\_\_\_ with mobile treatment services.

*These services are medically necessary because \_\_\_\_\_ is at risk of needing a higher, more restrictive level of care; demonstrates frequent suicidal and self-harming behaviors and and needs support to maintain safely at home.*

The goals of these services are:

**Examples of goals include**

- To provide ongoing assessment of \_\_\_\_\_'s need for mental health treatment and the nature and intensity of the treatment that is needed.
- To provide mobile outpatient planning and services to ameliorate psychiatric symptoms.

4. We request you to approve services and identify a provider who is able to provide \_\_\_\_\_ with case management services [in some states, targeted case management may be available].

These services are medically necessary because **s/he** has demonstrated functional impairments that interfere with **his/her** functioning in family and community activities; **s/he** is at risk of needing a higher, more restrictive level of care and has had \_\_\_ hospitalizations within the past \_\_\_ days/months.

The goals of these services are:

- Ongoing assessment of \_\_\_\_\_'s need for mental health services.
- To assist \_\_\_\_\_ and **his/her foster** family with ongoing linkage to medically necessary mental health services and other support services necessary for treatment of symptoms and ongoing support.
- To provide \_\_\_\_\_ and **his/her foster** family with access to crisis intervention services as necessary.

\_\_\_\_\_ is scheduled for discharge (**OR was discharged**) to **his/her** home on \_\_\_\_\_. These services should be in place by \_\_\_\_\_ (**OR there is an urgent need for these services to be put in place immediately**).

We request written approval or denial of this request for the above services under Medicaid, and written notification if you are unable to secure a provider for any or all of these services. Also, please send a copy of any notice to \_\_\_\_\_'s parent, \_\_\_\_\_ parent's name and address \_\_\_\_\_; foster parent, \_\_\_\_\_ foster parent's name and address \_\_\_\_\_; attorney, \_\_\_\_\_ attorney's name and address \_\_\_\_\_; and \_\_\_\_\_. Please contact me if you need any further information. In the event you are unable to reach me, please contact the parent directly at \_\_\_\_\_ parent's phone number \_\_\_\_\_.

Sincerely,

\_\_\_\_\_, MD.

**OR**

\_\_\_\_\_, \_\_\_\_\_. (Specify license such as Ph.D., LCSW, R.N., Professional Counselor or any other license by a professional of the healing arts.)

*November 2003*

## Endnotes

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- 1 *Fact Sheet: Health Care: Facts and Figures, The Health of Children in Out-of-Home Care*, Child Welfare League of America. <<http://www.cwla.org/programs/health/healthcarewfact.htm>>
- 2 Social Security Act, Title XIX; 42 U.S. Code §§1396-1396v.
- 3 42 U.S.C. §675.
- 4 See, e.g., Smith, Gary A.. *Status Report: Litigation Concerning Home and Community Services for People With Disabilities*. Tulatin, OR: Human Services Research Institute, quarterly. <<http://www.hsri.org/docs/litigation122203.PDF>>
- 5 527 U.S. § 581 (1999).
- 6 42 U.S. Code § 675 5(A).
- 7 See your state Medicaid rules. See also, Redmond, Pat. *Children Discharged from Foster Care: Strategies to Prevent the Loss of Health Coverage at a Critical Transition*, Kaiser Commission on Medicaid and the Uninsured, January 2003. <<http://www.kff.org/content/2003/4085/4095.pdf>>
- 8 42 C.F.R. § 431.201. For a compilation of federal Medicaid due process laws, see *The Medicaid Act and Regulations, Fair Hearings and In-Plan Grievance*, National Health Law Project, <<http://www.healthlaw.org/pubs/FairHearings.PDF>>
- 9 42 U.S.C. §1396d(a). The Centers for Medicare and Medicaid Services (CMS) provide a brief but pithy overview of Medicaid, including a brief discussion of EPSDT at <http://cms.hhs.gov/medicaid/mbservice.asp>. Substantial information on EPSDT is available through publications from National Health Law Project, or NHelp. The documents are listed at <http://www.healthlaw.org/children.shtml#EPSDT>.
- 10 Social Security Act, § 1915(c); 42 U.S.C. § 1396n.
- 11 Child advocates support legislation to provide federal funding for community service alternatives for youth in residential treatment centers. Keeping Families Together Act, S. 1704 and H. 3243.
- 12 All state HCBS (1915(c)) waiver programs are listed on the web site for the Centers for Medicare and Medicaid Services: <<http://www.cms.gov/medicaid/statemap.asp>>.
- 13 Redmond, *id.*, at p. 11.
- 14 *Mental Health: A Report of the Surgeon General—Chapter Three, Children and Mental Health*, Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health, 1999. <<http://www.surgeongeneral.gov/library/mentalhealth/pdfs/C3.pdf>>
- 15 *Ibid.*, 172-77; National Mental Health Association. *Treatment Works For Youth In The Juvenile Justice System* (provides Internet links to additional information at <http://www.nmha.org/children/justjuv/treatment.cfm>).

- 16 The National Association of Protection and Advocacy Systems (P&As) provides information and links to state P&As. Your state P&A, a source of technical legal advice about the rights of children with disabilities, can be located at <[www.napas.org](http://www.napas.org)>.
- 17 Two web sites provide links to state Medicaid programs. Check both sources because the links are not identical:
  - The Kaiser Family Foundation web site is <<http://www.statehealthfacts.kff.org/cgi-bin/healthfacts.cgi?action=profile>>
  - The Centers for Medicare and Medicaid Services is <<http://cms.hhs.gov/medicaid/statemap.asp>>



# About the Authors

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**Gerald P. Mallon**, D.S.W. is a professor and the executive director of the National Resource Center for Family-Centered Practice and Permanency Planning Hunter College School of Social Work in New York City. Dr. Mallon has more than 30 years experience as a researcher, practitioner, and educator in child welfare. He is the author or editor of over 17 books, his most recent, *Facilitating Permanency for Youth*, was published by the Child Welfare League of America in 2005.

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**Andrea Khoury**, J.D. is an assistant director of child welfare for the National Child Welfare Resource Center on Legal and Judicial Issues. She provides technical assistance to states on the Adoption and Safe Families Act, Child and Family Service Reviews, and other child welfare legislation. Among other topics, she provides numerous trainings across the country on adolescent permanency and the role of the child's representative. She brings to the Center the child representation perspective from her five years experience with the Maryland Legal Aid Bureau's Child Advocacy Unit. She was a staff attorney for three years and a senior attorney for two years representing children in abuse and neglect proceedings.

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**Eva J. Klain**, J.D. serves as director of the ABA Center on Children and the Law's child and adolescent health project. She researches and analyzes health law policies addressing substance abuse, teen pregnancy, statutory rape and other issues, to promote positive youth development and interdisciplinary collaboration as part of HRSA's Partners in Program Planning for Adolescent Health project.

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**Drenda Lakin**, M.S.W., has been a national leader in special needs adoption for more than 30 years. She began her child welfare career as an intake worker with the Illinois Department of Public Aid. Her passion and innovative vision helped her quickly rise through the ranks of the Department to the Adoption and Foster Care Program Manager position for the state of Illinois. In 1987, Ms. Lakin became the Director of the National Resource Center for Special Needs Adoption. In 1997, she helped State Adoption Program Managers develop a professional network, which eventually became the National Association of State Adoption Program Managers (NASAP). Today, Ms. Lakin serves as the Vice President at Spaulding for Children, a special needs adoption agency in Southfield, Michigan.

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## RESOURCES

### Education

TRIO and GEAR UP: Outreach and Support Programs to Prepare Students for Postsecondary Education

<http://www.ed.gov/about/offices//list/ope/programs.html>

Upward Bound and Upward Bound Math/Science

<http://www.ed.gov/programs/trioupbound/index.html>

Education Opportunity Centers (EOC)

<http://www.ed.gov/programs/trioeoc/index.html>

Ronald E. McNair Post-baccalaureate Achievement Program

<http://www.ed.gov/programs/triomcnair/index.html>

Talent Search Programs

<http://www.ed.gov/programs/triotalent/index.html>

Student Support Services (SSS)

<http://www.ed.gov/programs/triostudsupp/index.html>

Child Care Access Means Parents in School Program

<http://www.ed.gov/programs/campisp/index.html>

### Substance Abuse

Preparing for the Drug Free Years

<http://www.tyc.state.tx.us/prevention/pdfy.html>

Iowa Strengthening Families Program

<http://www.extension.iastate.edu/sfp/>

CASASTART (Center on Addiction and Substance Abuse—Striving Together to Achieve Rewarding Tomorrows)

<http://www.samhsa.gov/centers/csap/modelprograms/>

The Children of Alcoholics Screening Test (CAST)

<http://www.pediatrics.org>

Family Drinking Survey

<http://www.pediatrics.org>

Problem-Oriented Screening Instrument for Teenagers (POSIT)

<http://eib.emcdda.eu.int/index.cfm?fuseaction=public.Content&nNodeID=4439&sLanguageISO=EN>

Adolescent Assessment and Referral System (AARS)

<http://www.projectfamily.isbr.iastate.edu>

Practical Adolescent Dual Diagnostic Interview (PADDI)

[evinceassessments@aol.com](mailto:evinceassessments@aol.com)

CRAFT test

[www.jointogether.org/sa/news/alerts](http://www.jointogether.org/sa/news/alerts)

State Children's Health Insurance Program (SCHIP or CHIP)

[www.cms.hhs.gov/schip](http://www.cms.hhs.gov/schip)

[www.cms.hhs.gov/medicaid/eligibility/criteria](http://www.cms.hhs.gov/medicaid/eligibility/criteria)

DATOS-A (Drug Abuse Treatment Outcome Studies for Adolescents)

Arch Gen Psychiatry, 58, July 2001, 693.

Multisystemic therapy (MST)

[http://www.findarticles.com/cf\\_dls/m0FCB./2\\_8/62804299/print.jhtml](http://www.findarticles.com/cf_dls/m0FCB./2_8/62804299/print.jhtml)

Adolescent Treatment Models (ATM)

[http://www.jointogether.org/sa/wire/features/reader.jhtml?Object\\_ID=267580](http://www.jointogether.org/sa/wire/features/reader.jhtml?Object_ID=267580)

[www.ncadi.samhsa.gov/RADAR](http://www.ncadi.samhsa.gov/RADAR)

## Financial Issues

[www.nacac.org](http://www.nacac.org) provides a table of adoption and guardianship subsidies by state.

Social Security issues

[www.ssa.gov](http://www.ssa.gov)

[www.finaid.org](http://www.finaid.org) provides assistance with financial aid.

For information on Federal Financial Aid Form see the State of Illinois Division of Children and Families website and a publication they distribute called Crossroads,

[www.state.il.us/dcf/docs/crossroads.pdf](http://www.state.il.us/dcf/docs/crossroads.pdf)

Casey Family Scholars Program and The Hildegard Lash Merit Scholarship

[www.orphan.org](http://www.orphan.org)

The Education and Training Voucher (ETV) program

[www.nrcys.ou.edu/nrcyd/programs.htm](http://www.nrcys.ou.edu/nrcyd/programs.htm).

## Recruitment and Retention

The Adoption Exchange ([www.adoptex.org](http://www.adoptex.org)) provides information on steps for adoption, assessments, home studies, and financial incentives.

[www.adoptionexchanges.com](http://www.adoptionexchanges.com) provides a list of adoption exchanges that can be accessed and

[www.usadoptkids.org](http://www.usadoptkids.org) provides the opportunity for families to look for available children.

Lifebooks can be found at American Foster Care Resources [www.afcr.com](http://www.afcr.com). A description of how to use the Life Books can be found at [www.adoptionlifebooks.com](http://www.adoptionlifebooks.com).

Center for Adoption Support and Education (CASE) provides adoption counseling for adolescents and their families. [www.adoptionssupport.org](http://www.adoptionssupport.org).

## Disabilities

Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT) 42. U.S.C. § 1396d(a) and (r)

<http://www.cms.hhs.gov/medicaid/epsdt/>

Home and community-based services waivers (HCBS)

<http://www.cms.hhs.gov/medicaid/statemap.asp>

State Medicaid programs

[www.statehelathfacts.kff.org/cgi-bin/healthfacts.cgi?action=profile](http://www.statehelathfacts.kff.org/cgi-bin/healthfacts.cgi?action=profile)

## Delinquency

Juvenile Curfew Diversion Program (Phoenix, AZ)

<http://www.ci.phoenix.az.us/PRL/arythjv.html>

First Offenders Program (Maricopa County)

[http://www.usmayors.org/USCM/best\\_practices/bp98/09\\_1998\\_Preventing\\_School\\_Violence\\_170.htm](http://www.usmayors.org/USCM/best_practices/bp98/09_1998_Preventing_School_Violence_170.htm)

Center for Adopted Families. Adoption Together

[www.adoptiontogether.org](http://www.adoptiontogether.org)

## Teen Sexuality and Relationships

Parents, Families and Friends of Lesbians and Gays (PFLAG)

[www.pflag.org](http://www.pflag.org)

Women Empowered Against Violence (WEAVE)

[www.weaveincorp.org](http://www.weaveincorp.org)

Break the Cycle

[www.breakthecycle.org](http://www.breakthecycle.org)

The Whitman Walker Clinic

[www.wwc.org](http://www.wwc.org)

## Teen Pregnancy and Parenting

Women Infants Children (WIC)

<http://www.fns.usda.gov/wic/>

Child Health Services block grants (Healthy Start)

<http://www.acf.dhhs.gov/programs/fysb/health-info.htm>

Temporary Aid to Needy Families (TANF)

<http://www.acf.hhs.gov/programs/ofa/>

The Federal Privacy Rule, issued under the Health Insurance Portability and Accountability Act of 1996 Pub. L. No. 104-192, §264, 42 U.S.C.A. § 1320d-2.