



FOSTER CARE REVIEW OFFICE

LOCAL REVIEW BOARD MEMBER GUIDEBOOK

Reviewing Abuse/Neglect Cases

Foster Care Review Office
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CHAPTER 1

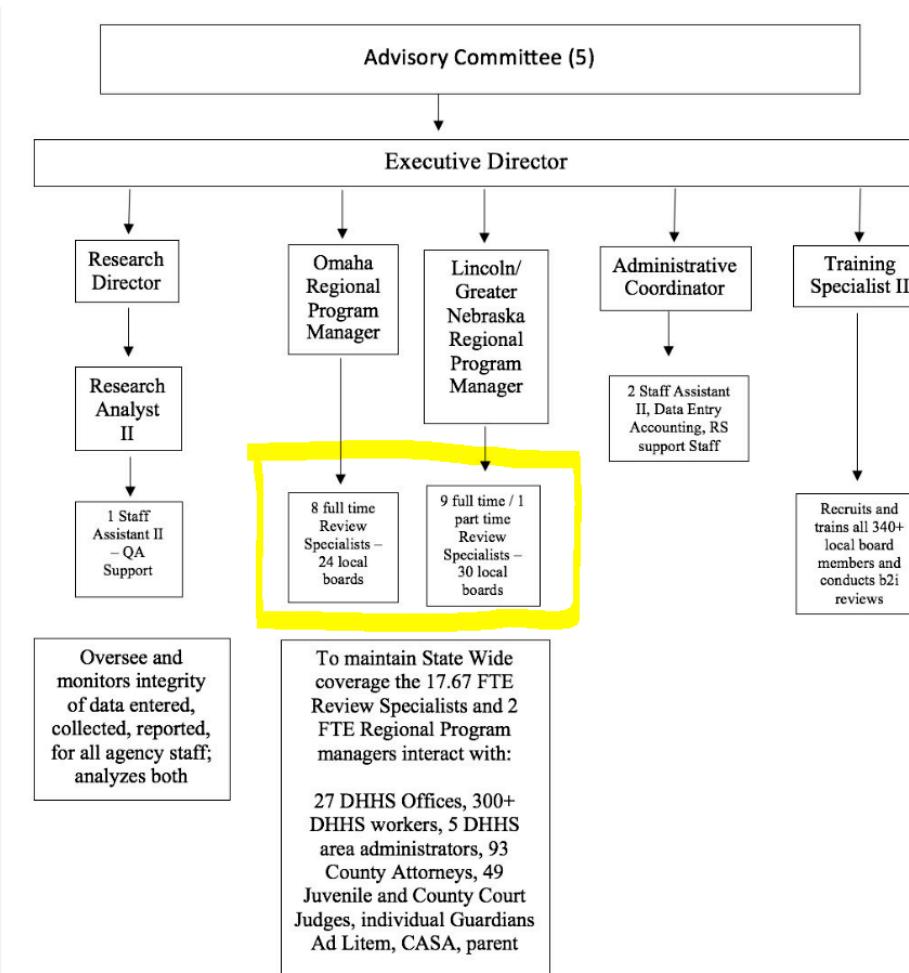
OVERVIEW OF THE FCRO REVIEW PROCESS

Introduction to the FCRO:

Please review the website at www.fcro.nebraska.gov for a complete overview of the FCRO. The website includes the history of the FCRO, the legislative mandate for our agency, organizational structure, the role of the local review boards, and the individual review board member's role and responsibilities. It is important to remember how the case review has a direct impact not only on the life of the individual child, but also systemically.

The website also includes a **Volunteer Review Board Member Handbook**. The handbook is a **must read** as it details practices and procedures that each board member must adhere to in order to maintain their board membership. The handbook covers board member responsibilities, terms of service, code of conduct, confidentiality, conflict of interest, and other important information.

The **Review Specialist** is the Review Board Members main point of contact once pre-training is completed.



How Abuse/Neglect (3a) Cases are Assigned for Review:

The FCRO reviews the cases of children and youth who are in one of the following three main categories, however this guidebook will focus only on the Abuse/Neglect cases that are either 1) out-of-home, or 2) placed home on a trial home visit.

1. Abuse / Neglect – Children/Youth who are State wards placed in out-of-home care. (3a Abuse Neglect)
2. Trial Home Visits – Children/Youth who are wards of the State and who have been in out-of-home care but have returned home on a trial basis.
3. Probation – Youth who are placed in out-of-home care through the Office of Probation.

Case Assignment is the monthly process of assigning cases in need of a review to the appropriate Review Specialist and their Local Review Board. Each Review Specialist has three (3) Local Review Boards they are preparing cases for each month. The Review Specialist is responsible for the review of each child and youth assigned to them. The Review Specialist Supervisors determine which cases should be reviewed by applying the FCRO's rigorous prioritization criteria. This selection process ensures that all children and youth receive a periodic review.

Notifications and Invitations to the Case Review are Sent

Approximately two weeks prior to the local review board meeting, a notice of the review taking place for the child/ren and the meeting information is sent by the FCRO to all "parties" to the case inviting them provide input and/or to attend the review. By statute, all parents whose parental rights remain intact must be invited to attend the FCRO's review of their child's case.

In addition, FCRO's policy states that all children's placements, Department of Health and Human Services Case Managers (CFSS) and the Family Permanency Specialists (FPS) in the Eastern Service Area must be invited to attend the board's review. Other parties, such as the child's guardian ad litem, CASA, parents' attorney, youth's attorney, school personnel, therapist, etc. may also be invited to attend. (*In Probation cases, the Probation Officer, Youth, and others as designated will be sent a notice and may complete a questionnaire*).

A questionnaire is also provided by mail or email to relevant parties to the case so that information can be collected to share with the board. These questionnaires may also be completed on our website at www.fcro.nebraska.gov. Some parties may choose to complete a questionnaire rather than to attend a local board meeting due to distance or time conflicts.

Case Information Reviewed and Data Collected Prior to Board Meeting

The **Review Specialist** has access to all case file information for abuse/neglect or trial home visit cases through an electronic case management system called N-FOCUS. They review a substantial amount of information in order to glean the most up to date case information possible. For probation cases, the **Review Specialist** reviews all case file information provided to them by Probation staff.

The **Review Specialist** contacts a number of people to get updates and to discuss the progress of each case with the appropriate parties to the case. This includes the case manager (or probation officer).

- For **Abuse/Neglect and Trial Home Visit cases**, case managers are called a **Child and Family Services Specialist (CFSS)**. In the Eastern Services Area (Douglas and Sarpy County) of the State, DHHS contracts out case management with the Nebraska Families Collaborative (NFC) so the case manager is called the **Family Permanency Specialist (FPS)**.
- For **Probation cases**, the person managing the case is called a **Probation Officer**.

The **Review Specialist** contacts the child's case worker, placement, parent/s, and other stakeholders including the Guardian ad litem, CASA, school personnel, therapist, etc. This allows the **Review Specialist** the opportunity to obtain information first hand and to clarify information found in the case file. **The case information is written up in the case summaries that are sent to the local review board member for review prior to the board meeting.**

In the process of the case file review, the **Review Specialist** also gathers an extensive amount of data for each child or youth being reviewed. The aggregated data collected is analysed, reported, and ultimately used to help drive needed changes to the system.

LOCAL BOARDS and BOARD MEMBER RESPONSIBILITIES

Local Review Boards / Roles and Responsibilities

The local review boards meet monthly. Prior to the board meeting the board members receive a **case summary** for each case to be reviewed and are responsible for reviewing the case summaries and preparing for the meeting ahead of time.

At the board meeting, the board members listen to participants who attend the meeting to provide additional information, and then in private discuss the case information concerning each child being reviewed. The board members then discuss and agree on the **recommendations and findings** that will be made in their report that will be sent to the legal parties prior to court.

Quorum:

A quorum at a board meeting must be met, and in order to meet the requirement for a quorum, a majority of **active board members** assigned to the board must be present at the start of the meeting and for the duration.

Local Board Member Participation in the Review Process:

Each local board member shall actively participate in the review process by reading all case summary information prior to the meeting; preparing and asking pertinent questions in accordance with the policies of the FCRO; developing their findings and recommendations; and sharing thoughts and opinions with fellow local board members. Board members may also be the lead on a case and should prepare accordingly.

Confidentiality:

Local board members are required to read the **FCRO Volunteer Review Board Member Handbook** and sign an Acknowledgement Form stating that they have read and agree to abide by the confidentiality and conflict of interest policies of the FCRO. *As a reminder*, any breach of confidentiality by a local review board member can subject them to being criminally charged. The contents of the case information reviewed and the conversations held concerning children reviewed, are to be kept in the strictest of confidence. Case information *in any form* may **not** be retained on paper, computer or any other means by the board member after the review has concluded.

A reminder regarding this legal responsibility and potential liability is also given at each and every board meeting. If there is any violation of this legal responsibility, the FCRO Executive Director will be immediately notified.

Local review board members shall, at all times, observe all applicable rules of confidentiality under penalty of law. This means that there is no discussion of cases outside of the board meetings – the only exception is if board members are mentoring a new board member, or co-leading on a case, *and if then*, confidentiality must be maintained during all phone calls and emails, including *not mentioning the last name of the child or name of any person in the case*.

All employees and local board members will strive to protect the rights of all interested parties and will assure all parties that their privacy is respected. **A board member can be removed from a board for divulging confidential information outside of a board meeting.**

Conflict of Interest:

Per the **FCRO Volunteer Review Board Member Handbook**, a local review board member cannot review any child's case if they have a conflict of interest. It is important that all children receive an objective review of their case. If they were a former CPS worker, CASA, GAL, Probation Officer or in any way had contact with the children and family involved in the review process, they may not review any of the children in that specific case for whom they served or had personal contact with, nor had personal knowledge of. If they have a personal relationship with a child being reviewed, their biological family, or a foster family, they must remove themselves from that specific case due to the conflict of interest. Review the Handbook for a detailed review of what would be considered a conflict of interest.

BOARD MEMBER CASE REVIEW PROCESS

The local review board meets once a month to discuss the cases they have been assigned to review. The following discussion outlines the work of the local review board member prior to, and during the meeting in order to complete the case review process each month.

The **Review Specialist** synthesizes all the information they have reviewed into a document referred to as a **case summary**. Each case summary covers all the critical “need to know” information from each case for their board members. Along with the case summary, other **supplemental information** is provided for the board member’s review.

The **case summary** and **supplemental information** for each case is mailed to the local review board member 7 calendar days (5 working days) prior to the board meeting so that board members will have ample time to review each case in preparation for the review board meeting. This mailing is often referred to as a **board packet**.

In general, the board packet will contain the following:

1. Board Meeting Agenda:

The board meeting agenda is a list of cases to be reviewed in preparation for the meeting. This agenda must be reviewed by the board member **PRIOR** to reviewing any cases in their board packet to determine if there is a conflict of interest regarding a case. If there is a conflict of interest, the board member must immediately contact the Review Specialist to let them know that a conflict of interest exists and the board member must NOT review the materials. At the meeting the board member must step out of the meeting for all discussions regarding that case.

The information on the agenda will include:

- The date, time, and location of the board meeting
- A listing of the cases to be reviews
- Type of case (Abuse/Neglect, Trial Home Visit, or Probation)
- The board member assigned to be the Lead Questioner for that case
- The name of the case manager or probation officer attending (optional)
- The amount of time allotted for each case.

2. Conflict of Interest and Confidentiality Statements

3. Lead Questioner Form

4. Case Summary: (A case summary is provided for each case / includes all children)

The Review Specialist will prepare a Case Summary document for each case for the board member's review. Case Summary content is based on the information obtained from a thorough review of all case materials as well as conversations or correspondence with parties to the case.

For example, information on an **Abuse/Neglect** case is extracted from the electronic records of the Department of Health and Human Services or NFC (Eastern Service Area), as well as phone calls and/or emails with key parties to the case. In the case of a **Probation** youth, information is obtained from Office of State Probation files as well as phone calls and/or emails with key parties to the case.

Each **Case Summary** document will vary according to the availability (or lack of) case file information, whether or not a child has previously been in the system, whether or not it is an early review, a probation file review, etc.

Generally, each case summary will contain:

- The reason the child/youth entered care—a short explanation to why the child/youth first entered care;
- Visitation information (including sibling contact);
- Any special needs of the child/youth and family (medical, physical, education, psychological, etc.);
- The child/youth's permanency plan and the source of that plan.
- Court information;
- Summary of the services that have been or are being provided to the child/youth and family, or those services which have been proposed or those services which have been offered, but refused; and
- Relevant "other" information (i.e., paternity, ICWA, etc.).

5. Supplemental Information: In addition, the board member will in most cases find:

- Questionnaires or emails received;
- Most recent Court Order;
- Case Plan / Court Report (*The most recent Case Plan/Court Report will be included if available.*)
- FCRO Placement History;
- FCRO Findings - *Board members prepare for the meeting and make preliminary findings. For convenience, the findings are listed at the end of the case summary document;*
- Other documentation may be provided, such as a significant school report, etc.

Board members are encouraged to make notes and highlight important information on these materials. Notes regarding specific questions, comments, or concerns that arise during the review of the case are helpful to have for discussions during the board meeting. Board members should also develop the questions to be asked of participants during the board meeting.

Board packets **must** be returned at each meeting. At the conclusion of the board meeting, all information will be collected to assure it is shredded. Board members **may not** shred the case materials at home.

Note: *Due to the irregular mail delivery some members may receive their case summaries a little later than others. If a board member has not received their case summaries in the mail at least 3 days prior to their scheduled board meeting they should notify their Review Specialist.*

Board Members Preparation Prior to the Meeting

It is each board member's responsibility to:

Read the information carefully and take notes on issues that need to be further addressed. If you are the **lead questioner** you have an added responsibility in regard to the case. **Review and complete the Lead Questioner Form that comes with your board materials prior to the meeting.**

While this information is in the board member's possession, the board member must be acutely sensitive to the rules of **confidentiality**. Generally, the FCRO requires that local board members keep their packets in a closed drawer, preferably under lock and key. Information should **not** be discussed outside of the confines of the review board meeting. **The only exception will be when two board members are co-leading on a case.** The board members may then discuss the case by phone or email. **If by phone, the conversation must always occur in a private setting, and if by phone or email, the last name of the child and/or last names of the parties to the case must never be mentioned or written. The first initial of the last name may be used if necessary to identify the child/person. E.g. Mary F.**

Bring this information to the review. If a board member is unable to attend a board meeting, the board member must get the case summaries/board packet to the board Chairperson or the Review Specialist prior to the board meeting. If this is not possible, the case summaries/board packet should be delivered or mailed to the Review Specialist as soon as possible. The Review Specialist keeps track of all case summaries/board packet and is responsible for ensuring that all materials are returned to them for secure disposal.

The Board Meeting

A local board case review is a structured discussion about what has occurred in a child/youth's life and what the legal parent/s are doing to correct the issues that brought the child/children in to care . During the discussion, the group examines the agency's plan for that child and the legal parent/s.

By law, case plans for a child/youth in out-of-home care must be developed within 60 days. Persons employed by the agency responsible for the child/youth are responsible for creating this plan. It is the local review board's responsibility to review that case plan and to make recommendations regarding that plan with the child/youth's best interest in mind.

The Legislature has mandated the Foster Care Review Office to make findings in different areas on child/youth's plans who are in out-of-home care. Those are:

- Is there a complete written plan for permanency for the child/youth?
- Are services in place to accomplish the plan?
- Is the current placement safe and appropriate?
- Whether medical and educational documentation has been maintained, updated and provided to the foster parents?
- What efforts have been made to carry out the permanency plan?
- Is the family (legal parent/s) making progress towards the permanency objective?
- Is there a continued need for out-of-home placement?
- Is visitation occurring between the child/youth and his or her family members, especially with parents and siblings?
- Does the board agree with the plan? (*e.g., Reunification, guardianship, adoption, independent living, or another planned, permanent living arrangement*)
- Do grounds for termination of parental rights under **§43-292** appear to exist?
- If the return of a child/youth to his or her parents is not likely, recommend referral for adoption and termination of parental rights, guardianship, placement with the relative, or, as a last resort, another planned, permanent living arrangement, **Neb. Rev. §43-1308.**

The goals of the case reviews are to:

- Identify the appropriate permanency plan for each child and the main strengths, barriers and recommendations in each case;
- Make specific findings on the points listed above;
- Assess whether a child/youth who has been in out-of-home care for more than 60 days has a case plan as mandated by federal and State law;
- Encourage appropriate services be delivered in a timely manner;
- Advocate for what is appropriate for the best interest of the child/youth during these reviews;
- Encourage a continuum of citizen involvement in the cases of children/youth who have been removed from their families;
- Advocate for better, more timely, and appropriate actions by the child welfare and juvenile justice system; and
- Identify system breakdowns so the systems involved can address those issues.

Recommendations and Findings

Recommendations and Findings are based on the best interests of the child and include:

- The purpose for which the child has been placed in foster care.
- The estimated length of time necessary to achieve the purposes of foster care placements.
- A description of the services which are to be provided in order to accomplish the purposes of the foster care placement.
- The person or persons who are directly responsible for the implementation of such plan.
- A complete record of the previous placements of the foster child.
- If the type of current placement is necessary for the best interest of the child.
- If the placement is safe and appropriate for the best interest of the child.
- List what are the strengths, barriers and recommendations including what is the appropriate permanency plan for the best interest of the child/ren.

Each individual case review lasts approximately twenty to thirty minutes. During that time, everyone has a chance to express their views on the child/youth's needs and the steps needed to meet those needs.

The Board then makes recommendations and findings on each case. If the Board has additional concerns, or recommendations for advocacy, that is also noted by the Review Specialist.

Local Board Findings and Recommendations Report

During the board's discussion of the case at the board meeting, the Review Specialist documents the input provided by the participant, the board's recommendations, findings and additional concerns discussed. The Review Specialist uses this information to write a final report which is known as a **FCRO Recommendations and Findings Report**.

After the FCRO Recommendations and Findings Report is reviewed and approved by the Review Specialist's supervisor, it is processed and submitted to all legal parties to the case, including:

- The court that placed the child/youth in care;
- The agency responsible for the child/youth;
- The child/youth's guardian ad litem (*attorney responsible for ensuring that the child's best interest is at the forefront in all court hearings*);
- The county attorney;
- The parent's attorney;
- When applicable, reports will also be sent to the Tribal Court, parent's Guardian ad litem, the youth's attorney (other than GAL), and the child's CASA.

All legal parties receive a copy of the Report. If any of the parties have a concern regarding the report, they can contact the Review Specialist. By providing copies of the reports to all legal parties, due process rights are protected.

LOCAL BOARD MEETING PROCESS

Board Meeting Schedule

Each local board is scheduled to meet once a month, with the exception of two local boards (*Dakota City and Seward*) that meet six times a year. The board's meetings are scheduled on the same day and time each month, *i.e., the second Monday at 6:00 p.m. or fourth Tuesday at 9:00 a.m.* The board meeting lasts approximately two to three hours. Board members should arrive 10-15 minutes prior to the meeting.

The Review Specialist will have signs for the meeting posted. This is helpful for both the board member in case a meeting room has changed at the last minute, but also necessary for participants who may attend the meeting.

The Review Specialist is the facilitator of the board meeting and will be there to assist in keeping the discussions on point. They will redirect board members and the flow of the meeting as necessary. It is everyone's role to assure that opinions are communicated in an appropriate and respectful manner in closed door board discussions. This is also important when participants are present. All participants are to be treated with respect. Keep in mind, that information from board packets **cannot** be shared with participants. The only exception is with a case worker, then only after other participants have been excused.

Absent Board Members are expected to return the Case Summaries/Board Packets before or at the next Board Meeting. Case Summaries/Board Packets **cannot** be shredded by Board Members.

Positions held by the Board Members

Chairperson:

The duties of the Chairperson are to:

- Assure that a quorum is present at the board meeting and to serve as a liaison between other Board members and the Review Specialist.
- Assure that the "Opening Statement" is read to each and every participant unless specifically waived by the participant. Only on occasion may this be waived, e.g., a CFS, FPS, or GAL who frequently attends board meetings.
Always read it out loud to other participants, especially to the parents.

- Provide input to the FCRO management at least once a year to assist the FCRO in determining systemic problems and make recommendations to all aspects of the child welfare and/or juvenile system for the annual report which is printed each year. The agencies legislative agenda is determined at this time as well.

Greeter:

The Greeter should find out who is waiting to attend the review. Try to have all participants come into the review together however, allow any party wishing to speak with the board privately the opportunity to do so. The Greeter shall:

- Welcome review participants as they arrive and obtain their name and their role in the case,
- Ask all participants what case they are there for, and
- Find out if any of the participants wish to speak to the board privately.
- Let people know they can provide a comment regarding the case review through our website at www.fcro.nebraska.gov. They should not list a child's last name on the comment form and should only indicate the board date and time, the child's first name and last initial.

Timekeeper:

The Timekeeper must be sure to explain clearly how much time is allotted for each participant. Be sure that participants understand that this is the time for the board to ask them questions to ensure that the board is making appropriate recommendations. Timekeeper is responsible for keeping all participants on track. This is a key position so that the board is respectful to participants while acknowledging the valuable time of other board members.

Secretary:

The Secretary shall draft any additional letters (cards) that the Local Board wishes to send to commend someone in the case that doing good. It could be a youth, a foster parent, a GAL, a CFSS or FPS, etc. The secretary does **NOT** take notes during the meeting - this is the role of the Review Specialist.

Review of Cases at the Board Meeting:

Lead Questioner:

Board members will regularly be assigned to serve as Lead Questioner for a particular case or cases for each board meeting. The duties of the Lead Questioner are as follows:

- Begin the discussion of the assigned case at the beginning of the review and seek input from fellow board members after the Lead Questioner has completed their list of relevant questions. Remember that questions should not be regarding information that is available in the case summary but rather to supplement the information is already known to board members.
- Lead in providing findings with other board members..

The Lead Questioner form will be included in the materials sent to the board members prior to the board meeting and should be used as a tool. Try to focus the questions based upon information needed and **not** use such open-ended questions (e.g. What do we need to know?). There is a **Sample Questions for Lead Questioners** in the **For Review Board Members** section of the FCRO website, under Resources.

Case Review Participants

In all cases, the DHHS case manager, FPS (NFC), or the Probation Officer, and the child's placement will be invited to attend the local board meeting. If parental rights remain intact (there has not been a relinquishment or a termination), the child's parents must also be invited to attend the board meeting. If a child is age 10 or older, they are also invited. Other interested parties are also invited to attend the board's review to share pertinent information to the case.

Individual who are a party to the case are notified of the review. These participants may chose to attend the board meeting to express their views on the case in person. They are provided a questionnaire and may complete the questionnaire or speak with Review Specialist prior to the board meeting in lieu of attending. **Parties** notified that the case is being reviewed include: Parents, teachers, therapists, family support workers, the child, or other interested parties. **Legal parties** to the case include the Guardian ad litem for the child, parent's attorneys, the case worker, the Tribe if a ICWA case, and the assigned CASA. *Only Legal parties to the case will receive a FCRO Findings and Recommendations Report.*

At the board meeting during the review, local board members ask the participant in attendance questions that would help the board make their findings and recommendations as complete and accurate as possible.

The purpose of inviting participants to provide input is to ensure that the board has ample information available. Participants who attend provide an additional opportunity for the board members to ask relevant and clarifying questions. A local board meeting is **NOT** a forum for an individual to complain about their case or the process. There are other avenues available for this to occur such as in the court hearing or through the Ombudsman's Office.

Note: Board members should **not** ask questions regarding information that is already available in the case summary. Questions should focus on what is needed to fill in gaps of information.

Do's and Don'ts for Participant Reviews

Do:

- Treat all participants as though they were guests in your home (i.e., be sensitive to seating arrangements, practice general courtesy and respect, etc.).
- Believe that every child deserves a stable "good enough" home and that every child in out-of-home care deserves a permanency plan.
- Carefully examine this plan with focus on reasonable efforts, services, time frames, etc.
- Listen to all interested parties and allow one person to speak at a time.
- Feel free to ask thoughtful, relevant questions.
- Share your opinions and perceptions with your fellow board members during case discussions.
- Be sensitive to religious, cultural, or social differences that may challenge your value system.
- Recognize achievements and make commendations as warranted.
- Be attentive to body language and other nonverbal communication.
- Be continually aware of the sensitive nature of your reviews and of the materials in your possession.
- Say something positive to every participant.
- Thank every participant for attending the review.

Don't:

- Address foster parents by name. Refer to them as foster mother and foster father as some placements are confidential.
- Counsel interested parties, give advice or use the review as a therapy session.
- Interrupt an interested party or your fellow board member.
- Judge participants or express your own opinions or values to the interested parties.
- Disclose confidential information.
- Quote from specific reports, such as a case plan or a psychiatric evaluation.
- Harass, badger, or lecture a participant on any subject matter.
- Fail to return any portion of your board packet.
- Dominate a board meeting or fail to participate.
- Get caught up in the emotion of a situation. Never say, "It's all going to be OK." That is for the judge to decide.

Bringing the Meeting to Order

The local board Chairperson or designated board member will call the meeting to order. (*Robert's Rules of Order do not apply in the formal sense*). The Review Specialist will have available materials and resources for use by the board members. E.g., *Board Member Roles, Reviewing the Permanency Plan (Findings) document, Medications List, examples of questions, pertinent statutes and policies, as well as other information to assist in the review process.*

Process for Individual Case Discussion

Prior to the Arrival of Participants: A quick discussion should occur regarding the case to insure that all local board members are aware of the cases main issues and any updates that have occurred since the mailing of the board packets.

The Review Specialist may also distribute questionnaires from invited parties who were unable to attend.

Because of confidentiality issues, the Review Specialist and all local board members must **put away, turn over, or cover all** case materials before participants are invited into the meeting room.

Questions should be written on an extra piece of paper or the back of the board packet. All written notes need to be turned in to the Review Specialist at the end of the meeting.

Arrival of Participants: At the scheduled time, the Greeter will escort participants into the meeting room. The Greeter will then introduce the participants to the local board. The board members may introduce themselves, but use only first names.

Reading the Opening Statement: After initial introductions have been made, the "Opening Statement" is read aloud to the participant. Only on occasion may this be waived for a CFSS, FPS, CASA or GAL who frequently attends board meetings.

Lead Questioner Initiates Discussion: At this time, the board member who has been assigned as Lead Questioner shall begin questioning participants, using his or her case notes as a general guideline. Other board members may also question the interested parties at that time after the Lead Questioner has completed their questions.

Recording the Proceedings: Throughout the review process, the Review Specialist will be taking notes of the proceedings, which includes participant input, board member questions, recommendations regarding advocacy, and the Board's recommendations and findings. **Note:** No one is allowed to make a video or audio of the board meeting proceedings.

Staying on Schedule: There is a limited time scheduled for each review. The local board members will at all times attempt to remain on schedule. The Timekeeper will assist in ensuring that the schedule is adhered to as closely as possible, as best as possible, without appearing to be rude to the participants.

Conclusion of Participants: Once the local board has finished asking their questions to the participants, each participant will be thanked. Also, each participant should be told that they can complete a "Feedback Form" on our website if they would like to provide feedback regarding the case review process.

Case Discussion, Findings, and Recommendations: After the participants have left the meeting room, the Lead Questioner will take the lead in the discussion of the case. All board members should be encouraged to express any additional comments or concerns as well. The board members will then identify the main concerns, discuss the strengths and barriers to permanency, discuss what is needed in the case to address the barriers to permanency, and make their recommendations and findings.

The board may choose to recommend additional correspondence be drafted by the Review Specialist such as a note to a participant or party to the case commending their efforts.

The Review Specialist makes notes on the **Board Findings and Signature Worksheet** during the board member's case discussion. The notes taken must reflect the Board's work on the case during the meeting. It should include the discussion regarding the child's permanency plan, strengths, barriers, recommendations and findings. The document is passed to each board member for review, and must be signed by each board member at the conclusion of the case. This document serves as record of the recommendations and findings made by the board members at the meeting.

Determine Additional Advocacy Steps: Local boards often wonder what steps can be taken when they have a concern about a particular case or a systems issue. Discussions at the board meeting should include what additional advocacy steps should be taken. Advocacy may include attending court, staffing the case with the case worker and their supervisor, reaching out the parent's attorney, the GAL, or the county attorney, etc.

Conclusion of the Meeting: The above procedure will be followed for every case on the agenda. After the last case is reviewed and discussed, the local board should decompress by going over any remaining questions they may have, and just taking a few moments to process. Board members should take on the burden of the cases. Some cases are difficult to review and we want board members to leave the meeting knowing that the FCRO will continue to work on behalf of the child.

Preparation of the Board's Recommendations and Findings Report: Following the board meeting, the Review Specialist will compile and prepare the board's findings. Using the **Board Findings and Signature Worksheet** (filled out at the meeting and signed by all board members) and notes taken from the meeting, and notes regarding the questions asked of, and answered by participants, the Review Specialist will prepare the report.

Dissemination of the Board's Recommendations and Findings Report: Once the Review Specialist has completed the report, it is submitted to the Review Specialist Supervisor for review. Once approved, the report is submitted to all **legal** parties to the case.

Legal parties to the case include:

- The Juvenile Court having jurisdiction over the child
- The Case Manager (CFSS or FPS)
- The child's Guardian ad litem (GAL)
- The child's CASA (Friend of the Court)
- The agency having custody of the child/youth (DHHS/NFC)
- The County Attorney of the appropriate county, and
- The parents' attorneys.

Helpful Techniques when Interviewing Participants

Specific Questions: Because there is only a limited amount of time to question participants, board members should come prepared with specific questions. Board members should not rehash information that they already know, but use the participant review as an opportunity to supplement and/or clarify the information provided in the board packet.

Open-ended Questions: Open-ended questions are helpful for gathering general information; however, they should only be asked when information cannot be gathered through a specific question.

Indirect Questions Statements: Direct questions, like closed questions, may be helpful in eliciting brief, direct responses. Indirect questions or statements, however, may be more helpful in getting others to talk. By all means, avoid "why" questions which tend to be threatening.

Some examples of indirect questions include:

Tell me about . . . I notice that . . . Describe . . . I sense that . . . Go on . . . I'm interested that . . . Give me an example . . . I'm hearing you say . . . Say more . . . If I understand correctly . . .

Seek Clarification: If in doubt, ask questions and seek clarification about the information being provided.

Use an Empathic Response: Reflect the content and feeling of a participant's statement without being confronting or interpretive. For example: *It sounds like . . .*

Use Encouragers: Using verbal and nonverbal communication, board members encourage participants to share information by showing that they are very involved in the review process. This means using eye contact, saying go on, etc. A board member should not, however agree (verbal or nonverbal) with what the participants are saying.

Non-Verbal Communication: Be careful regarding your use of non-verbal (facial expressions). Shaking head in agreement, raising eyebrows, frowning, each give a signal of agreement, disapproval, etc. Non verbal expressions can lead a participant to think that you are in agreement or "on their side" and will make recommendations based solely on their contribution of information.

Verbal Skills: Use clear language during the review process. Explain the meaning of terms and offer examples. Be attentive to tone of voice and use your voice to convey interest and support. Seek feedback and restate the question in different words if necessary.

Examples of questions that can be asked of participants:

Parents:

- What is your child/youth's plan?
- Do you agree with the case plan?
- Have you been asked to participate in any services or goals?
- What services are you receiving now or have you received? (such as counseling or parenting classes)
- Have you been given enough time to do what was asked? If not why?
- Have you been visiting with your child/youth? Where? When? How often?
- What problems do you see in having your child/youth returned home?
- Are you in favor of having your child/youth returned home?

Placement (e.g., Foster Parents):

- Did you receive adequate health and education information on the child/youth prior to him/her being placed in your home?
- What services is the child/ren or youth in your care receiving?
- Are there any other services you feel the child/youth needs?
- Do you receive respite care?
- Are there any other services you need?
- If the child is school age - How is the child/youth doing in school?
- How does the child/youth react before and after visits?
- When was the last time the case manager had contact with the child/youth?
- When was the last time the child/youth's Guardian ad Litem/CASA made contact with them?

Child/Youth:

Board members will need to be particularly sensitive when interviewing children/youth to prevent the review from seeming or becoming threatening or traumatizing. It is especially important to be aware of the potential tension that may exist between the child/youth's desire to express his concerns and his allegiance toward others present at the review.

Note: Children/youth will be invited to the review on the advice of the caseworker and/or Guardian ad litem. Consideration will be given to the child/youth's age, intellectual status, emotional stability, etc.

Examples of some types of questions that might be appropriate with child/youth participants are as follows:

- Have you had visits with your parents since you have been in foster care?
- What are your feelings regarding the contacts or visits you have had with your parents since your placement?
- Do you feel safe in your placement/foster home?
- If school age—How is school going? What is your favorite class?
- Are there any problems you are experiencing?
- Is there anything you would like the board to know about you?

Case Manager:

- What was the problem that brought the child/youth into care? (You may not want to ask this question if other parties are in the room)
- What specific services have been provided by the agency?
- Are the services still needed and are they appropriate?
- What effects have the provided services had on the involved parties?
- Describe parent/youth participation in the services.
- In your opinion, what barriers exist or existed regarding the delivery of services?
- What time frames exist regarding future goals relative to the permanent placement of the child/youth and/or the termination of your agency's services?
- Is there anything else you would like the board to know?

Each of the findings local boards make are based on federal requirements, state mandates, and/or children's best interests. **Neb. Rev. Stat. 43-1308(b)** requires that we provide rationale for each finding in the report to the court and legal parties. A clarification of each finding in reference to the plan follows.

It is essential that we, as an agency, review the plan in a consistent and uniform manner across the state and communicate the issues we identify and our recommendations in the most efficient manner possible. As the Court has said, your work is valuable:

"Importantly, §43-285(7) provides that the only prerequisite for the admission in evidence of the Board's written findings and recommendations is that they have been provided to all other parties of record. The Foster Care Review Act and the Board would be empty vessels indeed if the Board's recommendations were not considered by the court. Thus, we do not take the Board's emphatic stand against the DSS plan to be a meaningless gesture." *In re Interests of John T., Court of Appeals, (1995).*

Barriers to the permanency plan, whether the primary plan is reunification, adoption, guardianship, independent living, etc. should focus on what currently exists that prevents permanency from occurring. The Board's main findings and Recommendations (top concerns) should support the barriers.

Pertinent Questions to Answer When Reviewing the Permanency Plan

The cases you will review for the FCRO can be complicated. We have provided you with a list of questions you should be familiar with as you review each child/youth's case. Once you read through these questions a few times you will begin to remember what it is you as a Board member should be focusing on.

As an example: When a seven year old child is placed in a mental institution for a significant amount of time, the Board should question the appropriateness of that placement and should additionally recommend the development of therapeutic foster care so the child could be placed in a less restrictive setting and still receive the care the child needs.

Information to look for on the child/youth at all reviews

- What are the strengths that can be built on?
- If the child/youth is in therapy, how current is the most recent therapy report?
- Has the child/youth had a physical exam in the past year, and if the child just entered care, was an exam done in the first two weeks? Are the child/youth's immunizations up-to-date?
- What are the child/youth's educational needs? Is there a current IEP in the file?
- Does the child/youth have any other special needs, and is there documentation they are being met?
- Are the foster parents submitting a monthly progress summary?
- Has the caseworker make contact with the child/youth during the past 30 days?
- Is the child/youth's placement licensed, or is it an approved home? Is there a home study and Central Registry Check in the file on the placement?
- Has a relative placement been considered?
- Has the Indian Child Welfare Act been followed?

When the plan is REUNIFICATION:

- What is the time frame for the return of the child/youth?
- How long has "Reunification" been the permanency objective?
- What are the efforts (or services) to reunite the family?
- Is there a written agreement by all parties, outlining their current responsibilities?
- What is the parent supposed to be doing to have the child/youth returned home?
- Are there reports from these services? E.g., Current therapy reports, a report from parenting class that documents attendance, if a family support worker is assigned, family support worker notes documenting contacts and what issues were addressed, written proof in the file of attendance at AA?
- When was the last time the parent visited the child/youth?
- What are the current visitation (also called Parenting Time) arrangements? Are they supervised or unsupervised, and is this what the Court has ordered?
- What type of interaction occurs on visitation?
- Does the child/youth act out after visitation with his/her biological family?
- Have the circumstances that caused placement in foster care been alleviated?
- What are the feelings of the child/youth about returning to his/her biological family?
- Where is the child/youth currently placed?
- Is it an appropriate placement?
- Are the child/youth's needs (physical, educational & mental) being met by this placement?
- Will the current placement help facilitate the permanency plan for the child/youth?

When the Plan is ADOPTION (Abuse / Neglect Cases):

- Is the child/youth free for adoption? (All parental rights have been addressed)
- If not, are there grounds to terminate parental rights?
- Has the county attorney filed the Termination Petition? If not, why? You could ask that a letter to the County Attorney be written requesting a petition be filed.
- Has the court hearing date of the termination been set?
- Are the parents relinquishing their parental rights?
- If they have relinquished, has the relinquishment been officially accepted by DHHS or the court? (until this is done, the parents could take back the relinquishment, and the child is not legally free for adoption. Also DHHS will not accept relinquishment of only one parent, the rights of the other must be terminated first, or must also be relinquished).

- Have the rights of both parents been addressed? If not, does publication need to occur on a parent whose whereabouts are unknown?
- Has the caseworker prepared the Termination of Parental Rights study for the agency?
- Has relinquishment of parental rights been pursued properly?
- Is the child/youth in an adoptive placement?
- If the child/youth needs to be moved, what is being done to pursue an adoptive placement?
- Has the child/youth been waiting for an adoptive placement? How long?
- If the child/youth is Native American, has the Indian Child Welfare Act been followed regarding placements?
- Has the adoption summary been done?
- Has an adoptive medical history been completed? Is a subsidy being pursued? Has the subsidy paperwork been started?
- Is the worker qualified to complete an adoption or does the case need to be transferred to an adoption specialist?
- What is the target date for adoption, and is it occurring in a timely manner?
- Have the adoptive parents filed a petition to adopt through the county attorney's office?

When the Plan is “another planned permanent living arrangement”

APPLA:

- Why was the youth placed in foster care?
- What efforts are being made to carry out the plan if APPLA?
- Does the youth have a transitional living plan?
- Is there a target date?
- What type of life skills training is the youth receiving and are there reports or evidence of this? Are these skills sufficient? If not, what areas does the youth need help in?
- Who is responsible for ensuring the youth receives the needed skills?
- Will the current placement help facilitate the permanency plan for the youth?
- Has the Bridge to Independence program been considered or offered to the youth?
- What type of skills does the youth have for the job market?
- Does a vocational assessment need to be completed?
- Has an Ansel/Casey Life Skills assessment been completed?

When the Plan is GUARDIANSHIP (Abuse / Neglect Cases):

- What is the reason for the child/youth entering foster care?
- How long has the child/youth been in foster care? How old is the child/youth?
- What is the extent of the biological parent's involvement with the child/youth?
- Should the child be freed for adoption?
- Is guardianship possible? (Can the foster parents be legally responsible for the day-to-day needs of the child/youth? This includes education, physical custody, and general welfare of the child/youth's guardianship, and does not involve imposition of financial obligation on the foster parent?)
- Is the current placement willing to keep the child/youth on a permanent basis?
- Has the paperwork for the guardianship been started, and will it be subsidized?
- Is this the most permanent plan for the child/youth, or would adoption be a feasible goal given the age of the child?
- Is the youth reaching the age of 16 in the next year? If yes, then would it be in the youth's best interest to wait until the youth reaches the age of 16 in order to be eligible for additional services after the age of 16, and after the age of 19 in the Bridge to Independence Program?

Results of a Review

There are a number of things that happen when children/youth receive citizen reviews:

1. As a result of FCRO reviews, court reviews are held, plans are developed and progress is made on adoptions.
2. As a result of FCRO reviews, cases are monitored on a case-by-case basis. Impractical plans are changed. Arrangements are made for children and families to receive needed services. Attention is given to visitation arrangements. Reviewed cases make faster progress moving through the system than cases that have not been reviewed.
3. Because the Legislature mandated the FCRO to comment on the safety and appropriateness of children's placements, placements are monitored.
4. As the result of concerns recognized by the boards in their reviews of children/youth in out-of-home care, the Foster Care Review Office has sponsored workshops on such topics as bonding and attachment, child sexual abuse, ritualistic abuse, fetal alcohol syndrome, and gangs. These workshops have been attended by county and district court judges, county attorneys, guardians ad litem, state legislators, foster parents, service providers, medical personnel, educators, therapists, local board members, and interested members of the community.

ADVOCACY FOR THE CHILDREN REVIEWED

As previously discussed, there are many ways to advocate for a child/youth on a case being reviewed. Advocacy may be case specific and/or consist of professional relationship building. Advocacy by the Review Specialist after the case is reviewed may include: Staffing a case with their supervisor, attending case specific meetings, contacting a specific party outside the mandatory contacts, special requests, facility tours and child/youth specific special visits, additional research on a case (i.e. medication, diagnosis, treatment, placement), and by attending court.

Examples (not an exhaustive list) for follow-up on case concerns:

- The board strongly disagrees with the child/youth's permanency plan.
- The board recommends Termination of Parental Rights.
- The child/youth's placement or visitation is unsafe or inappropriate.
- The child/youth has been restrained multiple times.
- The visitation arrangements are not in the child/youth's best interest.
- Services are not in place for the child/youth or parents.
- The board identifies concerns regarding case management or service provider shortcomings.
- There are concerns the child/youth is over or under medicated.
- The child/youth's serious health issues are not being addressed.
- The child/youth's educational needs are not being addressed.

If the local board is concerned about a specific case concerns, local board members can:

- Request that the Review Specialist attend the court's next review hearing, and be present at the hearing. Often times, just the presence of FCRO staff in the courtroom causes the judge to pay closer attention to the local board's final recommendations.
- Request that the Review Specialist arrange for a Case Status Meeting with DHHS, foster parents, therapists, attorneys, etc. to discuss the local board's concerns in detail.
- Request that the Review Specialist contact the County Attorney to present the case at the LB1184 Treatment/Investigative Team Meetings.
- If the concern involves an immediate safety issue, a letter should be written to the DHHS Director along with a report to the Child Abuse/Neglect Hotline.
- Letters/emails written to GALs or County Attorneys.
- If applicable, request that the Review Specialist pursue Legal Standing.

Legal Standing

With passage of LB 1222 in 1990, and further defined in 2012, legal standing was granted to the FCRO to request a review hearing of a dispositional order, and then to participate in any such hearing. This allows us the right to intervene at the dispositional level only. The dispositional level is the step in the juvenile justice system after adjudication. This does not allow us the legal right to file for termination of parental rights (TPR). When a legal standing case is identified, the Review Specialist will call his/her supervisor and the Executive Director to discuss the case. The Review Specialist and supervisor can collaborate on the best way to handle the case in the timeframe available.

CHAPTER 2

REVIEWING ABUSE/ NEGLECT CASES

A. Definition of Abuse/Neglect

Nebraska law defines abuse and neglect as: "Knowingly, intentionally, or negligently causing or permitting a minor child to be: (a) placed in a situation that endangers his or her life or physical or mental health; (b) cruelly confined or cruelly punished; (c) Deprived of necessary food, clothing, shelter, or care; (d) left unattended in a motor vehicle if such minor child is six years of age or younger; (e) sexually abused; or (f) sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions."

There are several types of abuse or neglect of a child:

Physical Abuse: the existence of an injury that is unexplained, not consistent with the explanation given, or is non-accidental, or poses substantial risk of bodily injury.

Physical Neglect: the failure of the parent to provide basic needs or a safe and sanitary living environment for the child.

Sexual Abuse: any sexually oriented act, practice, contact, or interaction in which the child is or has been used for the sexual stimulation of a parent, the child, or other person.

Emotional Abuse: psychopathological or disturbed behavior in a child which is documented by a psychiatrist, psychologist, or licensed mental health practitioner to be the result of continual scapegoating (blaming or targeting a child), rejection, or exposure to violence by the child's parent or caretaker.

Emotional Neglect: the child is suffering or has suffered severe negative emotional effects due to a parent's failure to provide opportunities for normal experiences that produce feelings of being loved, wanted, secure, and worthy. Lack of such opportunities may impair the child's ability to form healthy relationships with others.

Medical Neglect of a Handicapped Infant: The withholding of medically indicated treatment (including appropriate nutrition, hydration, and medication) from disabled infants with life threatening conditions. Exceptions include those situations in which:

1. The infant is chronically and irreversibly comatose;
2. The provision of this treatment would merely prolong dying or not be effective in ameliorating or correcting all the life threatening conditions; or
3. The provision of the treatment and the treatment itself under these conditions would be inhumane.

B. Key Stakeholders in the Child Welfare System

A. The Child Welfare System

The child welfare system can be very confusing. It is important to know something about the legal terms, the definitions of the legal parties in the system, and the process of children/youth moving through the system. As a FCRO local board member, you will need to have an understanding of this system to review the cases of children/youth that are impacted by it.

B. Definition of the Juvenile Court

Juvenile court cases share many characteristics with cases in a regular trial court but there are key differences. It is these differences which require attention. First, and most importantly, the goal of juvenile court actions is significantly different than those of actions in county or district courts. The goal of the juvenile court's abuse, neglect, and dependency actions is protection of the child/youth, when such protection is warranted always keeping in mind the best interests of the child/youth.

In Nebraska, juvenile courts are found within the county court system. Because of the higher population base, separate juvenile courts exist in Douglas, Lancaster and Sarpy counties.

Trials occur to the extent that there is due process of law, though there are no juries. Trials in juvenile court are called adjudications. There are no guilty or not guilty findings. There are no sentences imposed on parents found to have abused, neglected, or endangered their child/youth. Rather, there are dispositional hearings. At dispositional hearings, rehabilitation plans are court ordered with which the parents must comply or face civil contempt or other consequences, the most significant being the complete loss of their parental rights to the child/youth.

The juvenile court findings are based on different burdens of proof. In a case of law violation (delinquency case), the court must be convinced beyond a reasonable doubt before proceeding. In an abuse/neglect cases, the court must be convinced by a preponderance of evidence. And in a termination of parental rights case, the court must find the evidence to be clear and convincing.

Duties of the court are to:

- Determine adjudication status of each case;
- Determine initial dispositional requirements and set the date for the next review hearing where the court can adopt the agency's case plan and/or hear objections and evidence if such evidence is presented - and to rule on that evidence;
- Conduct a review hearing every six months of the child or youth's case plan;
- Conduct a hearing within 30 days after a child/youth has been in foster care for 15 of the most recent 22 months in order to determine whether an exception to the statute which requires the County Attorney to file a petition to terminate parental rights is appropriate;
- Conduct a permanency hearing within 12 months of a child/youth's entrance into foster care;
- Receive the FCRO local board's case findings and recommendations at any review hearing and utilize the FCRO local board's findings and recommendations as an aid in the judicial review of each case;
- Make decisions on each case relating to the child/youth returning home; and
- Hear and observe the evidence and make a ruling if a petition is filed to terminate parental rights. The court must find by clear and convincing evidence (1) that one or more of these eleven grounds exist, and (2) if the termination would be in the best interest of the child/youth. In cases where the children are Native American the preponderance of evidence must be beyond a reasonable doubt.

The courts' responsibilities are to act as an external check on the agency's efforts on behalf of the best interests of the child/youth. Virtually every state in the country has a provision for the courts to review the cases of children/youth who are wards of the state. Some of the relevant statutes include the following:

Neb. Stat. §43-1313 states: "When a child has been in foster care for a period of one year, the court having jurisdiction over such a child for the purposes of foster care placement shall review the dispositional order for such child. After the initial review, the court having jurisdiction over such child for the purposes of foster care placement shall conduct additional reviews or issue orders concerning continuing foster care once every six months. At the additional review, the court may reaffirm the order or may direct other disposition of the child."

Neb. Stat. §43-1314 states: "Notice of the court review and the right of participation in all court reviews pertaining to a child in foster care shall be provided by the court having jurisdiction over such child for the purposes of foster care placement either in court, by mail, or in such other manner as the court may direct. Such notice shall be provided to: (1) the person charged with the care of such child; (2) the child's parents or guardian, unless the parental rights of the parents have been terminated by court action as provided in Sections §43-292 or §43-297; (3) the foster child if age 14 or over; (4) the foster parent or parents of the foster child; (5) the guardian ad litem of the foster child; and (6) the state board. Notice of the court review shall also be provided to the pre-adoptive parent or relative providing care for the child. Notice to the foster parent, pre-adoptive parent, or relative providing care shall not be construed to require that such foster parent, pre-adoptive parent, or relative be made a party to the review solely on the basis of such notice and opportunity to be heard"

Neb. Stat. §43-1315 states: "In reviewing the foster care status and permanency plan of a child and in determining its order for disposition, the court shall continue placement outside the home upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts to preserve and reunify the family, if required under section 24 of this act, have been made. In making this determination, the court shall consider the goals of the foster care placement and the safety and appropriateness of the foster care plan or permanency plan established pursuant to Section 43-1412."

Other Key Stakeholders and Their Roles

Law Enforcement:

In the law enforcement system, there are several opportunities for officers to become involved in abuse, neglect, and dependency cases. Law enforcement officers have the primary responsibility for the initial investigation of such cases after a report is received and the ability to remove children from unsafe environments without a court order. Only law enforcement may remove a child from their home unless there is a valid court order directing removal of the child.

Law enforcement officers may also participate in local multi-disciplinary teams which review the case management of a particular child or family. These law enforcement personnel may come from local police departments, or sheriff or state patrol's offices. Within metropolitan areas there may also be some overlap of these departments and offices. Child abuse investigations and treatment teams which include law enforcement personnel are formed throughout the state.

County Attorney:

In Nebraska, County Attorneys are elected officials. Depending on the caseload and each county's budget, a county attorney can work either full-time for the county or part-time with their own practice and part-time for the county.

The County Attorney files the petition detailing the reasons the state is intervening to protect a child or youth. The detail of information in the petition depends on how well the investigation is conducted by law enforcement, how knowledgeable the County Attorney is regarding Juvenile Law and whether the County Attorney will plea bargain some of the issues out of the petition in exchange for admission by the parents to the other charges against them or for relinquishment of their parental rights. Under Nebraska statutes, the petition must detail the most serious issues of the case to ensure that parents receive due process under the law.

Many cases involve plea bargain arrangements where certain allegations in a petition may be dismissed by the county attorney. This raises many concerns depending upon what allegations have been dismissed since once removed the court is unaware of such charges and can't require these allegations to be part of any rehabilitative plan for the parent(s). The rehabilitation plan that the court and the Department of Health and Human Services subsequently set forth must limit itself to correcting conditions addressed in the petition which becomes the basis for the court to take jurisdiction over the juvenile. Therefore, the parents may not receive services to address unwritten (i.e. plea bargained) concerns which may place children/youth in serious danger through unsupervised visits or inappropriate reunification.

Another area of concern is the failure to file appropriate and necessary supplemental petitions. For example: A child/youth comes into care because of abuse and neglect on the part of the parents. A few months later the child/youth discloses that her parents sexually abused her. Unless a supplemental petition addressing the sexual abuse is filed and proven in court, it will not be an issue in the case. Neither the parents nor the child/youth will be ordered by the court to address this issue through counseling. The child/youth can consequently be endangered by being inappropriately reunified with the parents, who may have successfully addressed the issues outlined in the petition but not the additional issue of sexual abuse. Another example: A child/youth comes into care due to abuse or neglect on the part of one parent but the other parent is not part of the petition. No services or plan can be entered against the parent not adjudicated by the juvenile court. A supplemental or petition must be filed against the non-adjudicated parent to ensure permanency for the child/youth.

Under Nebraska statutes, the County Attorney or Guardian ad Litem is required to file a petition to terminate parental rights once a child/youth has been in foster care fifteen out of the most recent 22 months, unless one of the statutory exceptions applies.

Guardians ad litem (GAL):

Guardians ad litem are appointed by the court for the child/youth and for the child/youth's parents when those parents are found to have intellectual or mental disabilities or when the parents themselves are children. "Guardian ad litem" specifically refers to that person who is charged with representing the *best interests* of the child/youth or impaired parent.

Under **Neb. Stat. §43-272.01**, guardians ad litem must file a written report with the court for each and every review and permanency planning hearing. They must also visit the child/youth they represent within two weeks following their appointment and once every six months. There are specific Guardian Ad Litem Rules issued by the Nebraska Supreme Court. Guardian ad litem may also file motions in juvenile court on behalf of the child, including the filing of a petition to terminate parental rights.

Defense Counsel:

Provisions for defense counsel fall under **Neb. Stat. §43-279.01(1)(b)**. Counsel for the defendant parents may be either a lawyer of their own choosing and retained at their own expense or a lawyer who has been appointed for the defendant parents by the court if the defendant parents are unable to afford a lawyer and are found by the court to be indigent.

The defense attorney must be committed to ensuring that an appropriate basis for the court's jurisdiction has been set forth in the petition. While the primary focus of the juvenile court process is on rehabilitation and amelioration of the problems that led to court involvement in the family's life, the attorney must protect his or her client from involvement in the court process unless it is legally justified.

Probation Officers:

Probation Officers can be involved in abuse, neglect, and dependency actions in juvenile court when the youth is also adjudicated as a delinquent/status case. Their primary responsibilities are the investigation of the child/youth's and family's circumstances, providing written reports to the court, and making recommendations to the court about the child/youth and his or her family. The probation officer gathers information from the child or youth, the child or youth's parents or guardians, school reports, and psychological or psychiatric information.

CASA Volunteers:

Unique to juvenile court actions are volunteer Court Appointed Special Advocates for the children or youth who are the subjects of the abuse, neglect or dependency action, or for a child or youth's family. These unpaid advocates are often referred to as "CASAs".

Because each CASA's caseload is kept quite low, the CASA is often able to acquaint him or herself with the facts and circumstances of the child or youth or family to a higher degree than other professionals involved in the case. Additionally, because the CASA is a layperson, he or she may have access to parties that the lawyers are prohibited from contacting.

For example, the CASA may become well acquainted with both the child or youth and the parents, while the defense counsel is not allowed independent access to the child or youth who is a represented party and the Guardian ad litem is not allowed independent access to the represented defendant parties. Of course, either lawyer may instruct his or her client not to cooperate with the CASA's investigation, but such an instruction could reflect badly on the client when the judge places faith in the

CASA's evenhandedness and thoroughness in investigating facts and making recommendations. The CASA is to make recommendations to the court regarding the needs of the child(ren).

DHHS - Department of Health and Human Services OR NFC – Nebraska Families Collaborative - Lead agency in the Eastern Service Area

Intake workers are responsible for the initial investigation of complaints or reports about situations involving the abuse, neglect or dependency of a minor.

Case managers (CFSS – Child and Family Service Specialists) Care managers who manage the ongoing services provided to children and families and who oversee the direction and the progress of the DHHS cases.

Note: CFSS Case managers are also synonymous with FPS - Family Permanency Specialists that are located at the lead agency in the Eastern Service Area of the state due to the privatization of child welfare pilot occurring in that area.

The services provided by case managers include:

- Provide and facilitate home-based, family-centered services to support family reunification;
- Provide case management;
- Provide family assessment, assessment of need for out-of-home placement and exploration of alternatives to placement;
- Develop a case plan within 60 days of the child or youth coming into care and develop service agreements for the child or youth and parents with input from all involved parties, to be consistent with the needs of the child or youth and any judicial mandates;
- Find a placement appropriate to meet the needs of the individual child/youth;
- Provide supervision and services for the child/youth in placement;
- Review and update the case plan periodically, with an assessment of the continued need for placement;
- Inform the court in regard to above-named services;
- Initiate action toward termination of parental rights, when this action is determined to be in the best interests of the child or youth;
- Attend the FCRO local board meetings, if possible, to explain the aspects of the case plan;
- Participate in the review as an information giver and as someone responsible for implementing the case plan; and
- Facilitate the court order.

When the board reviews a child or youth and the case manager attends the review, the case manager is not considered a decision-maker in this meeting. The case manager's role is to present the child or youth's case plan and to join the other participants in a discussion of how appropriate that plan is. The local board makes the findings and recommendations in a case.

Permanency Unit workers (formerly known as Adoption Units) are transferred cases as the permanency plan changes to adoption. These workers are trained in the legal process of adoption, relinquishment and termination of parental rights, subsidized and open adoptions, and the paperwork involved with these proceedings. **Not every area of the state has a permanency unit.**

Case Manager Supervisors (CFSS Supervisors or FPS Supervisors) are those persons charged with supervising the case managers and intake workers.

Child and Family Outcomes Monitors (CFOM) are those individuals at DHHS (the Department of Health and Human Services) that are responsible for oversight on cases that are managed by the Lead Agency in the Eastern Service Area.

DHHS Staff Attorneys:

DHHS Staff Attorneys are located in DHHS offices throughout the state. They make occasional court appearances, usually in cases involving a difficult legal issue, such as termination of parental rights or a factual dispute regarding DHHS handling of a particular case. Staff Attorneys do not routinely appear in court on behalf of DHHS workers to present DHHS case plans. They are also responsible for training DHHS workers and are available to these individuals when answers are needed to legal questions which affect the direction or management of a case.

Foster Parents:

The legal role of the foster parent is not always clearly defined. According to law and custom, natural parents have all the rights and responsibilities for their children.

Foster Parents provide physical care for the child or youth and often times provide emotional care as well. Many children who are placed in care have experienced severe emotional trauma. Foster parents provide care, stability and security.

An emerging area of law is considering what, if any, legal rights a foster parent has. In Nebraska, case law has stated that foster parents have the right to be notified and appear at court hearings but do not have the right to intervene and become a legal party to a case.

Caregiver Reports to the court are welcomed by the Court. In 2006, the Legislature passed a provision that allows a Court to inquire into the well-being of the foster child by asking questions of the foster parent, pre-adoptive parent, or relative providing care for the child during the hearing.

Legal Parents:

The legal parent may be the lawful and natural father or mother of child, or a parent through adoption or same-sex relationships. A parent could also be described as an individual who, in law, has custody, guardianship or access rights in regards to a child and who may have corollary obligations to financially support a minor child.

Legal Father vs Biological Father:

There may be cases in which there is both a legal father and a biological father. For example, the child may have been born in marriage thus establishing a legal father even though there was a different man who actually conceived the child.

There is a difference between a legal father and a putative father. A *putative father* is a man who may be a child's father, but who is not married to the child's mother on or before the date that the child is born, or who has not established paternity of the child in a court or administrative proceeding or completed an acknowledgement of paternity affidavit before the filing of an adoption petition for the child.

When making findings in the case, if the legal father has not been included in the case plan, the Board can recommend that the legal father needs to be included in the petition if he is not appropriate for immediate placement. If there is a putative father , the local board can and should make the recommendation that legal proceedings are initiated to establish him as the legal father.

For an extensive review of PATERNITY refer to the FCRO website section: **For Review Board Members / Resources**.

How Children Move Through the Child Welfare System

How Children/Youth Enter into Out-of-Home Care as State Wards:

There are two ways a child or youth can enter into out-of-home care. One type of placement is **voluntary**, which has no court involvement, the other is **court-ordered** which then means that the court does have oversight on the case. Within court-ordered cases are **abuse/neglect/dependency cases**, which are due to the actions of the parents or to provide financial means for providing the child certain types of care, and **delinquency cases**, in which the actions of the youth brought the youth under the care of the court.

You may want to keep in mind the following reasons children/youth enter foster care as you review your cases:

- Most children enter foster care due to a failure of the parent or parents to provide for a child's basic physical, medical, educational, and/or emotional needs. This is referred to by those in the child welfare system as "neglect" and covers a variety of serious conditions.
- The next most common reason for children to enter care is parental substance abuse.
- Other common reasons for children to need to be removed from the home for their own safety include: substandard or unsafe housing, physical abuse, domestic violence, parental mental health issues, sexual abuse, abandonment, parental illness or disability.
- Children and youth may also be placed in foster care to address certain behaviors, some of which are a predictable response to prior abuse or neglect, children's mental health needs, children's substance abuse, and children with serious disabilities or illnesses with which the parents are unable to cope.

The Juvenile Court Process for Abuse or Neglect Cases

Note: The FCRO has the authority to review children's cases any time after the removal from the home. Typically the FCRO schedules reviews so that information gathered from the review can be shared with all legal parties just prior to a court hearing, so that the court can address the issues identified by the FCRO.

Report of abuse or neglect (also called a complaint) – is made by medical personnel, educators, neighbors, foster parents, social workers, policy, and/or others. State law requires anyone with reason to believe abuse or neglect is occurring to report this to authorities. This may be reported to the DHHS or a local law enforcement agency. Each of these agencies is to cross report to the other.

Report accepted or screened out – after CPS receives a report, it assesses the nature of the complaint and assigns a prioritization for investigation. Not all reports are accepted for an investigation. Some reports are screened out when a finding of no safety issues is found and other cases can be referred to Alternative Response. Alternative Response is a voluntary case during which DHHS case managers voluntarily work with a family to alleviate and prevent further involvement in the child welfare system.

Investigation– law enforcement and/or CPS (child protective services division of DHHS) investigates the allegations or issues identified in the report. The investigation determine whether or not there are safety issues within the family and provides the evidence for the County Attorney by which they determine whether or not to file a petition in juvenile court. The child may be removed from the home if an emergency safety situation exists.

County Attorney files a petition – The Petition must detail all of the abuse or neglect allegations. This is done within 48 hours of an emergency removal; if not an emergency removal, the County Attorney files a petition requesting removal from the home or requesting DHHS supervision of the home. Nothing is determined, found, or ordered at this point, that is done at the hearings described below. Parents who abuse their children can be tried in adult courts for the criminal part of their actions as well as being involved in a juvenile court action about the child and the child's future. Criminal charges are a totally separate legal action and not handled within the juvenile court system.

Petition definitions – Sections §43-247 is the basis for jurisdiction for juvenile court in the following types of cases:

- Subsection (1) includes juveniles who have committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under state or local laws.
- Subsection (2) includes juveniles who have committed an act which would constitute a felony under Nebraska law.
- Subsection (3a) refers to children generally referred to as neglected, abused, or abandoned either due to the fault of the parent or no-fault of the parent. Children are considered dependent when it is due to no-fault of the parent;
- Subsection (3b) refers to children who have exhibited behavior problems by being incorrigible, runaway, or truant, and are called status offenders;
- Subsection (3c) refers to a juvenile who is mentally ill and dangerous as defined in §83-1009.

The petition must contain specific allegations, not merely conclusions, regarding each child or youth that is the subject of the petition and of the court's potential jurisdiction and the parent's alleged deficits in caring for each child or youth. This mandate applies to every initial, amended or supplemental petition that may be filed.

Each case progresses sequentially through three steps of court hearings: protective custody hearing; adjudication; and disposition. These steps can be combined and heard simultaneously or heard individually over a span of weeks or months. Depending on the case load of the juvenile court, a case may be heard immediately after the child or youth comes into care, or it may continue over many months.

- 1) **Protective Custody Hearing is held** – At this hearing, the legal rights are explained to the parents, a Guardian ad litem (special attorney) is appointed to represent the child's best interests, and counsel may be appointed for the parents. This hearing determines if probable cause exists to warrant the continuance of Court action and/or the child remaining in out-of-home care. The Court can only rule on the allegations in the petition. Affidavits and testimony can also be used.
 - After the parents have been informed of their rights, the court may accept an in-court admission, an answer of "no contest," or a denial by the parents to all or any part of the allegations in the petition. The burden of proof is on the state, through the county attorney.
 - If an emergency removal did not occur, the child may be removed from the home or may remain in the home under the supervision of DHHS. Services may be offered to the child and/or the parents after the protective custody hearing. This hearing does NOT determine whether the parent was at fault but rather just the appropriate placement for the child while the court action is pending. Sometimes parents are advised by their counsel not to accept services, as this may be an admission of guilt for the adjudication hearing to come.
 - **DHHS is given custody at the Protective Custody Hearing** – DHHS is then responsible for the child's placement, plan, and services, if the court finds probably cause that the child should remain out-of-home. DHHS is responsible for developing the child's case plan, submitting the plan to the court, and updating the plan at least every six months while the child remains in care. The Court can adopt the DHHS case plan and other legal parties can present evidence that the plan is not in the child's best interest or the Court amends the case plan based on its own motion. If placed in out-of-home care, the child is always to be placed in the least restrictive type of placement.
 - **DHHS makes a placement** – the child's needs are to be evaluated and the child is to be placed in the most home-like setting possible that meets the child's needs, whether through direct foster parents, relatives, or agency-based care. This may occur either before or after the detention hearing, depending on circumstances.

2) Adjudication Process

- **Plea-bargaining** –If there has been a plea agreement, there will not be a formal adjudication but rather a court order detailing the terms of the plea agreement and an admission/no contest by the parent(s). The reasons for this plea agreement due vary and should be considered during our case file review process.
- **Adjudication hearing is held** – facts are presented to prove the allegations in the petition. The burden of proof is on the State, through the county attorney.

At this hearing the finding of fact occurs, the allegations in the petition are found to be true or false, and the child is either made a state ward or not. The Court cannot order the parents to services prior to completion of the adjudication hearing. By law this must occur within 90 days of the child entering out-of-home care. In practice the 90-day rule is not always followed.

3) Dispositional/Review Hearing Process

- **Dispositional review hearings** – If it is found that a parent(s) committed the acts as alleged in the petition, or they admit to the acts, a disposition hearing is held. In Nebraska juvenile courts, the judge decides what disposition, or orders, will be in the "best interest of the child." These orders generally include what services are needed in order to rehabilitate the parents and/or child based upon the reasons that are adjudicated.
- Under State law, the Nebraska Department of Health and Human Services is to prepare and file with the court a proposed plan for the care, placement and services which are to be provided to such child and his or her family. The plan must relate to the alleviation of the conditions specified in the adjudication. The Department of Health and Human Services has the authority to determine, with the assent of the court, the care, placement, medical services, psychiatric services, training, and expenditures to be received by each juvenile committed to it.
- **Review Hearings** - After the initial dispositional hearing, review hearings are held every six months thereafter for every child or youth under the jurisdiction of the juvenile court. The department, association or individual who has care of the juvenile shall file a report with the court once every six months, or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or an individual [§43-285 (3)].

- **Permanency hearing** – After the child has spent 12 months in foster care, the Court is to hold a special dispositional hearing to determine the most appropriate permanency plan for the child. Under Nebraska statutes, a permanency hearing must be held every 12 months. These hearings must include what is the permanency objective specified by the Court. Many areas of the State do combine a permanency planning hearing with a review hearing.
- **Exception Hearing** - When a child has been in care for 15 of the last 22 months, the court is required to hold a hearing to determine whether reasonable efforts are no longer needed and a termination of parental rights should be filed or to find that one of the statutory exceptions apply and termination is not needed.

Under Nebraska law (**§43-292.02**), if a child has been in out-of-home care for 15 of the most recent 22 months or if the Court determines that reasonable efforts are not required, the County Attorney must file a petition to terminate parental rights unless an exception applies. Exceptions include:

- The child is being cared for by a relative;
- The Department of Health and Human Services has documented in the case plan a compelling reason for determining that terminating parental rights would not be in the child's best interest; or
- The child's parents have not been given a reasonable opportunity to avail themselves of the services deemed necessary in the case plan.
- **Permanency** – is obtained through any of the following: 1) a safe return to the parent's home, 2) adoption, 3) guardianship, 4) independent living or 5) by reaching adulthood. Adoption or guardianship can occur following either a relinquishment of parental rights or by a Court-ordered termination of parental rights.
- **Trial Home Visits** – Anytime during the life of the case, the child/youth could be returned home and still be under the jurisdiction of the court. The FCRO does have authority to review any case where children have been returned home but remain wards of the State.
- **Termination of parental rights hearings** – If the State through a county attorney proceeds to a termination of parental rights action, the parents have the right to counsel. In such a trial, the burden of proof is greater than the level of proof needed in juvenile court proceedings.

Many county attorneys have equated the time to establish grounds and proceed to trial as being equal to involvement in a murder trial. The role of the defense counsel is adversarial—that is the parental attorney has an obligation to defend the client against the allegations in the petition. There is a right to appeal, and many parental attorneys automatically appeal any decision to terminate parental rights.

A **termination of parental rights** is not an end unto itself but rather a means to meet another permanency objective. The objective of preference always is adoption, because it provides the greatest degree of legal protection for the child and family, on a short term and long term basis, including establishment of all parent-child rights and responsibilities.

In Nebraska, the legal grounds which govern termination of parental rights are as follows:

- Abandonment of the child or youth for six months or more immediately prior to the filing of the complaint;
- Substantial, continuous, or repeated neglect of the child or youth, or a sibling, and refusal to give the child or youth the necessary parental care and protection;
- Despite the financial ability to do so, the willful failure to provide the child or youth with the subsistence, education, and other care necessary for his or her health, morals, or welfare;
- The willful failure to pay for the subsistence, education, and other necessary care when legal custody of the child or youth has been placed with others and such payment has been ordered by the court;
- The unfitness of parents by reason of "debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals or well-being of the juvenile;"
- Inability to discharge parental responsibilities because of mental illness or mental deficiency, where reasonable grounds exist to believe that the parents' mental condition will continue for a prolonged, indeterminate period;
- When there is a determination that the child or youth is one described in the subdivision (3)(a) of section §43-247, and reasonable efforts, if required, under the direction of the court have failed to correct the conditions leading to that determination;

- When the juvenile has been in an out-of-home placement for fifteen or more of the most recent twenty-two months;
- When the parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;
- When the parent of the juvenile has subjected the juvenile to aggravated circumstances, including abandonment, torture, chronic abuse, or sexual abuse;
- When the parent has committed murder, voluntary manslaughter, or a felonious assault that resulted in serious bodily injury either against the juvenile or another child of the parent.

Parents have the right to counsel at termination of parental rights hearings. The role of this defense counsel is adversarial—that is, he or she has the ethical obligation to defend the client against the allegations in the petition. If the parent is incapacitated (mental illness, etc.), he or she is also entitled to the appointment of a Guardian ad litem in order to protect his or her interests. Defense counsel and Guardian ad litem will resist efforts to terminate parental rights. The parents also have the right to appeal a decision by the juvenile or county court.

- **Post-Termination Procedures** - A termination of parental rights is not an end unto itself but rather a means to meet another permanency objective. The permanency objective of preference is always adoption, because it provides the greatest degree of legal protection for the child and family, on a short-term and long-term basis, including establishment of all parent-child rights and responsibilities. Depending upon the situation, guardianship can also be a permanency objective.
- **Relinquishing Parental Rights** -Often parents are aware that they are unable to parent their children and are satisfied with the placement that has been made for their children. Rather than resort to a termination of parental rights proceeding, many parents willingly relinquish their rights if they are assured of maintaining contact with the children, or of receiving information through an exchange of information contract.
- **DHHS Requirements for Relinquishment:**

The following are the Department of Health and Human Services requirements for relinquishment of parental rights:

- Both parents sign relinquishments or there is an alternative plan to assure that rights of both parents can be terminated either by the court or by voluntary relinquishment, or that there is no other parent with legal rights to the child or youth;

- The person signing is competent to relinquish;
- The relinquishment does not involve fraud. The parent must be fully informed of the results of relinquishment and of signing the form;
- The relinquishment does not involve duress. The decision must be that of the parent rather than the result of pressure from within the system, by relatives of the parent, by pending legal action, etc.;
- Relinquishment be in the best interest of the child or youth;
- Relinquishment not occur less than 48 hours after birth of the child; and
- The parent has been provided with the opportunity for adequate counseling to ensure that the parent is making an informed decision, including other options which might assist in parenting the child and other agencies which could provide relinquishment services.
- **Adoption** - If adoption is sought, the department determines an appropriate adoptive family for the child or youth and continues to provide services and supervision to assist integration of the child or youth into the family, including assisting the family to be prepared to meet the future needs of the child or youth. When determination is made by the case manager and family that the family is ready for the actual adoption to occur, the case manager prepares the necessary paperwork, including the agency's consent to adoption, and provides it to the family's attorney, for filing of the adoption petition and obtaining the decree. Until the decree is issued, DHHS continues to have guardianship responsibility and authority.

Open adoption is a legally enforceable exchange of information contract between biological parents who have relinquished rights and adoptive parents, that is agreed to by both parties. This is only applicable for children who are state wards.

- **Guardianship** - A guardianship is established, typically with the consent of the parents of the child or youth, however it can be court ordered. The parental rights remain intact so visitations, input on major decisions for the child or youth, and financial support can be part of the guardianship arrangement dictated by the court. Court and agency involvement typically ends at this time however guardianships can be subsidized.

The Guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian may consent to the marriage or adoption of his or her ward. This legally-sanctioned relationship is not broken except by court order or when the child reaches age of majority.

- **APPLA** – DHHS will continue to serve as guardian for the child until the court discharges the child from custody, the child reaches age 19, or, in a small number of cases, the Department administratively discharges the child. During the time the child is in custody the Department must continue to meet the child's needs and plan for the child, including preparation for independent living. For youth age 14 and older a Transitional Living Plan must be written and part of the youth's plan. There must also be an update to the transition plan within 90 days of the date the youth will "age out" of the system that includes housing plans.

Voluntary Placements - There are a variety of reasons for parents to voluntarily place their child or youth in foster care. These include: an illness the child or youth suffers; a handicap, special impairment, mental illness or uncontrollable behaviors of the child or youth; a physical or mental illness of one or both parents; a disability of one or both parents; the death of a parent; or because their mothers are minors and not able to care for the child. Voluntary placement means the placement by a parent or legal guardian who relinquishes the possession and care of a child to a third party, individual, or agency. Placements can be arranged through the Department of Health and Human Services. Sometimes it may come through private agencies or hospitals.

Note: The current trend is that more families are being offered voluntary services by DHHS and children are often removed and placed with family members or other foster home during the period of time the parent/s are voluntarily agreeing to services (Voluntary CFS Case). DHHS may offer the parent/s services through a voluntary agreement, and as part of that agreement the parent could receive Family Support, Visitation, Therapy, Drug Treatment, or other needed services.

Keep in mind that Voluntary CFS cases **do not have court oversight**. The Foster Care Review Office may review the cases of children in voluntary out-of-home placements. A new law put into effect 2012 also gives Child Advocacy Centers and 1184 Teams the authority to review all voluntary cases.

Hierarchy of Least Restrictive Placements - The least restrictive or most family like placement is sought for children or youth. The hierarchical listing of placements are parents, other relatives, friends (persons known or familiar to the child or youth), foster parents, group homes, and treatment facilities.

FCRO Legal Standing in Cases. The FCRO also has legal standing as a party to file any pleading or motion to be heard by the court with regard to such filings and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code. The FCRO reviews the child or youth's plan and makes recommendations concerning that plan as it relates to the best interests of the child and the permanency for that child.

CHAPTER 3

REVIEWING CASES: CHILD ABUSE / NEGLECT

Permanency Planning Philosophy & The Case Plan for Abuse / Neglect Cases

Permanency Planning Framework

Perhaps the most dramatic change in the field of child welfare is the formal recognition—in law and in policy—of what many parents and child advocates already knew - children need roots in order to grow; and specifically, that foster children need families they can count on, not just today but always.

To the social work practitioner—and certainly to the case reviewer—the notion of permanency planning brings up a host of related and difficult questions.

- What does "permanent" mean?
- How can anyone ensure permanence?
- Is a permanent home in the best interest of every foster child?

To try to define "permanence," researchers with the Oregon Permanency Planning Dissemination Project broke the concept down into four major components. These are:

1. Intent: A permanent placement is overtly expected to last until the child's maturity. A child may spend many years in a placement and not feel that it is home unless all parties agree that it will not be changed.
2. Commitment and continuity in relationships: A permanent family is a family forever. Permanency assumes a quality which ensures that the relationships formed during placement will last beyond the placement—will, in fact, be ties which see a child through his/her adolescence and into adulthood, parenthood and the aging process.
3. A sense of belonging, rooted in cultural norms and definitive legal status: In American culture biological or adoptive parents are expected to be a child's primary caretakers and protectors. This special relationship is protected by law. Without legal sanction, caretaking relationships are ultimately fragile.
4. A respected social status: Both biological and adopted children are seen by the community as "real" members of a family. Other types of relationships may stigmatize children as "different" or strange."

In the videotaped lecture, **The American Family: Who Cares?**, Dr. Uri Bronfenbrenner captures the essence of permanence in a less formal but equally eloquent manner. **All children, he stated, require the same thing:**

. . .the enduring, irrational involvement of one or more adults. Someone who is crazy about the kid. . .a love affair that lasts a lifetime.

What both definitions share is an attempt to capture a quality of relationship that is the spirit of the permanency planning movement. It is the search for this quality that guides both the delivery of the child welfare services and the case review effort in Nebraska today.

Yet, if defining permanency is hard, putting it into practice is even more difficult. Two unanswered (and perhaps unanswerable) questions remain:

- How can permanence be ensured?
- Is permanency the right plan for everyone?

The Case Plan (*The case plan and court report are provided to the board for review.*)

Based on Pertinent State And Federal Requirements Regarding Case Plans:

Definition, Development, and Timeframes:

A Permanency Plan (case plan) is “a written document which is a discrete part of the case records, in a format determined by the State/Tribe agency, which is developed jointly with the parent(s) or guardian(s) of the child in foster care”. The case plan is intended to assure permanence in a child's living arrangements and continuity of relationships.

Under Federal **45 CFR 1356.21** states are required to develop case plans jointly with the parents. If the parents are unwilling, this should be noted in the case plan.

A written case plan for a child in foster care must be developed within a “reasonable” time period after a child's removal from his/her home, but not later than 60 days after that removal.

A thorough written case plan to cover the following topics:

1. Reasons Entered Care:

The purpose (reason) for which the child has been placed in foster care.

2. Estimated Time to Permanency:

The estimated length of time necessary to achieve the purposes of foster care placement. *The estimated time to permanency.*

3. Services:

- A Description of the services offered and provided to prevent removal of the child from the home and to reunify the family [if appropriate].
- Address services to be provided to the parents, child, and foster parents that will improve conditions in the parents' home, facilitate the return of the child, and address the needs of the child while in foster care.
- A discussion of the appropriateness of the services that have been provided to the child.

4. Medical and Educational Information:

- The child's health and education records, and ensure the educational stability of the child entering or in foster care.
- The plan will ensure that the child remains in school. The plan will ensure that each placement take into account the appropriateness of the educational setting and proximity to the school in which the child was enrolled at time of placement. If remaining in the home school is not in the best interests the plan will discuss why.
- Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement. And, if remaining in such school is not in the best interests, provide immediate and appropriate enrollment in a new school with all of the educational records of the child provided to the school.
- Procedures for the referral of children under age three who are involved in substantiated cases of child abuse or neglect to early intervention services.
- Ensure a school-age child's enrollment in elementary or secondary education, and plan for the educational stability of each child. The Education Stability Plan must assure the appropriateness of the school that the child is currently enrolled in, and consider the proximity to the child's placement.

5. Placements:

- Address if out-of-home care is necessary.
- The written case plan—required for each child in foster care—must include a description of the home or other setting where the child is placed, and a discussion of its safety and appropriateness for the child.

- A discussion of how to achieve a safe placement in the least restrictive (most family-like) setting in close proximity to the parents if the goal is reunification and discussion of how the placement is consistent with best interests.
- The plan will set forth reasons why a placement **at substantial distance** from the parents is in the child's best interests.
- Must contain a complete record of previous placements.

6. Older Youth (especially age 14-18):

- A Transitional Living Plan (TLP) is a plan describing programs and services designed to assist the youth in acquiring independent living skills. This plan must be developed for a state ward 14 years of age or older and be designed to empower youth in achieving successful adulthood by acquiring independent living skills. The TLP will be based on assessment of the youth utilizing the Ansell Casey Assessment.
- When a child placed in foster care turns fourteen years of age or enters foster care and is at least fourteen years of age, a personalized written independent living transition proposal shall be developed at the direction and involvement of the child (youth), the GAL, and at least 2 persons selected by the youth who are not foster parents of the youth, or the caseworker for the youth, and individuals who have knowledge of services available to the youth.
- The plan must include a written description of the services and programs to help him/her transition to independent living. The youth must also be provided a copy of their credit report and assistance in resolving any inaccuracies in that report.
- The transition proposal shall be personalized based on their needs. *The lifeskills needs of the youth should be determined by administering the Ansel Casey Lifeskills Assessment and reviewing the results with the youth.

7. Guardianship:

- Case plans for guardianship must include finding regarding the appropriateness of guardianship instead of reunification or adoption, efforts to discuss the guardianship with the parents, reasons for any separation of siblings, and the child's eligibility for Title IV-E kinship guardianship assistance.

8. Concurrent Planning:

States have the option of making reasonable efforts to make and finalize an alternate permanent placement concurrently with reasonable efforts to reunify a child with his/her family. Concurrent planning can be an effective tool for expediting permanency, and the statute offers it as such. However, since it may not be an appropriate approach for every child or family, States are not required to use concurrent planning and the decision to do so must be made on a case-by-case basis. The most common type of concurrent plan would be a primary plan of reunification with a concurrent plan of adoption/guardianship.

9. Case Records

- The case record should include all health and education records of the child, including detailed medical reports, psychological evaluations, etc.
- Caseworkers must have monthly visits with each child and this should be documented in the case record. The visit should be in the physical home of the child.

10. Relatives:

- Within 30 days after a child's removal from the custody of his or parent, the state must "exercise due diligence" to identify all adult relatives of the child, notify them that the child has been, or is being removed from the custody of the parents(s) and inform them of their options to participate in the child's care and placement.

11. Siblings:

- States are required to place siblings removed from their home in the same living arrangement, or when this is not possible to facilitate frequent visits or permit other ongoing interactions between siblings. This contact must be no less often than once a month. [Further per Nebraska statute] this requirement applies even if the custody orders of the siblings are made at separate times.
- When siblings are not placed together in a joint-sibling placement, the department shall make a reasonable effort to provide for frequent sibling visitation or ongoing interaction between the child and the child's siblings unless the department provides the siblings and the court with reasons why such sibling visitation or ongoing interaction would be contrary to the safety or well-being of any of the siblings.

Plan Timeline:

The timeline is the agency's best estimate of when the plan will be achieved. Ideally, it will include time estimates (target date) of when the plan will be achieved. Ideally, it also will include time estimates for critical intermediate actions which the agency must take to reach its goal.

The requirement of a clear discharge plan creates pressure for the agencies to work with children regarding suitable living arrangements and continuity of relationships prior to closing the case. Discharge plans are determined not only by the case, but by the action of the court, the child, and a number of other factors that are involved in child welfare cases. A discharge plan can be for adoption or incarceration.

- How long do the biological parents have to rehabilitate?
- Does each service identified have a timeframe for completion?
- What percentage of the life span of the child is this rehabilitation plan?
- Is the rehabilitation plan reasonable or feasible?

Local board members should assert themselves to clarify each of these four elements during each individual child review. Failure to do so will make it more difficult to reach an answer and to monitor progress at subsequent reviews.

It is important that each case plan goal or service ordered also have a timeframe for completion. For example if one of the goals in the permanency plan states that a parent is to address chemical dependency issues, how the parent will go about addressing that issue and the timeframes set for the achievement of that goal should be clearly laid out in the child's permanency plan.

Each child's permanency plan should be developed in light of his or her unique circumstances.

DHHS (or NFC in the Eastern Service Area) is responsible for continuing a smooth permanency planning process when workers change or when cases are transferred between units and also for changing the plan if and when circumstances warrant. A change in the plan is a major decision but one which the participants in the process can see as the outgrowth of non-achievement of the old plan. **The goal is for the child to be a stable member of a stable family.**

Permanency Planning Process

The permanency planning process shall be used to reduce "foster care drift" and to place children in permanent care as soon as possible. The process is as follows:

- The process begins when a decision is made that a child must be placed away from his or her birth parents or guardians.
- A permanency plan (plan) must be formulated within 6 months of placement (or sooner) and clearly stated in the record.
- The plan must include the service goals and objectives, the barriers, the steps to be taken to achieve the goals, and the time frame for goal achievement.
- The plan shall be detailed in a written service agreement, which has been discussed with the parents, unless profound incapacitation or absence.
- The plan shall be accomplished as soon as possible, but no later than 15 months after child has entered foster care.

Implications for Local Board Members

The review process is founded upon the belief, that for the vast majority of cases, it will be better for the agency to adopt a clear plan with firm time limits, communicate its plan to all interested parties, and push hard to accomplish a high priority plan before too many months have passed. Local board members should be comfortable in pressing for clarity and firmness, recognizing them as distinct from oversimplification and inflexibility.

The Foster Care Review Office has adopted the following classification system:

- Return home to parents or legal guardians,
- Placement with relatives with appropriate legal status,
- Adoption,
- Guardianship to the foster parents,
- Another Planned Permanency Living Arrangement (APPLA) such as independent living.

The first three types of plans listed are considered to be in order of priority and to be more desirable than the other plans listed. When all three of the high priority options have been ruled out, necessitating continuing foster care status for the child, the local boards should be selecting appropriately the next viable options.

Concurrent Permanency Planning

The adoption of the Nebraska Adoption and Safe Families Act now allows the Department of Health and Human Services to develop a **concurrent plan**, whereby a contingent permanency plan is stated. In cases where Concurrent Planning is taking place, there will be a primary plan and a secondary plan in place. The primary plan is most important and will be the plan that the Department is actively working towards.

For example, the DHHS Case Plan may have reunification as its primary goal, but with a concurrent plan of guardianship. If the primary plan is not accomplished, parties will have had notice of what direction the DHHS intends to go with the case. Concurrent planning has allowed the case manager to start planning now for an alternate permanent solution for the child, shortening the time the child will spend in foster care.

Bridge to Independence Program

For any youth over the age of 16, the plan should also include a discussion about the Bridge to Independence (B2i) Program:

The Bridge to Independence (B2i) Program is for Young Adults (age 19-21):

B2i is an extended foster to 21 program. The FCRO has been given authority to review these cases, however these cases are reviewed differently due to the need to review these cases one-to-one with the young adult present and the need to be highly flexible in order to meet the youth adult when they are available.

The take away for local boards members is:

- If a youth is nearing the age of 16 and preparing to enter a guardianship, ensure that the youth has full knowledge of the benefits of the B2i program and its benefits upon their 19th birthday.
- That this is a sound plan for permanency for this youth (will the guardianship relationship be sustained after the age of 19 for the purpose of family, financial assistance (college, insurance, a place to come home to?)

B2i Eligibility:

Young adults are eligible to apply for the Bridge to Independence program if they are between 19 and 21 years old and are in one of these situations:

- Aged out of foster care in an out-of-home placement.
- Were discharged into independent living from foster care.
- Were adopted from foster care at age 16 or older (benefits may be little different).
- Entered into a guardianship agreement at age 16 or older (benefits may be little different).

In order to stay in the Bridge to Independence program and keep getting the benefits of the program, young adults must:

- Meet with their Independence Coordinator at least once a month.
- Be working toward productive adulthood in ONE of these ways (*unless medically unable*):
 - Completing high school or getting your GED.
 - Taking classes (at least part-time) at a college or vocational education program.
 - Working at least 80 hours per month (about 20 hours per week).
 - Volunteering, participating in an internship, working with a career center or participating in another activity designed to help the young adult get work in the future.
- Provide written verification to their IC every six months that they are able to continue to meet the above program eligibility.

For more information on B2i and eligibility under Extension of Subsidy for youth who have obtained state funded guardianship and adoptions after the age of 16, refer to the DHHS website for the most current information.

http://dhhs.ne.gov/children_family_services/BridgeToIndependence