

Role and Function of the Foster Care Review Office

A. Independent Nature of the Foster Care Review Office (FCRO)

1. FCRO is NOT a part of DHHS
2. FCRO is NOT a part of the Courts
3. FCRO was created to be an independent State agency (per Foster Care Review Act, Neb. Rev. Stat. §43-1301-1308).

B. Tracking Function

1. Independently track all children in out-of-home care.
 - a. DHHS, child caring agencies, and courts are mandated to report to the Foster Care Review Office within three days when children enter foster care (out-of-home), have a status change or leave foster care. Status changes include when there are changes in the child's case regarding the DHHS worker, Lead Agency FPS, or changes in placement. DHHS automatically issues the reports when the N-FOCUS record is changed.
2. Volume of tracking work – prior to reviews.
 - a. Sort and input 90-100,000 DHHS documents annually.
 - b. Sort and input 40,000+ court records annually.
 - c. Sort and input multiple other placement reports annually.
3. Information collected from FCRO Findings and Recommendations and FCRO data forms – entered into the FCRO database after the review has occurred.
 - a. Input 4,500+ seven--page data forms from reviews annually.
 - b. Input mandatory findings made on each child during each review (about 58,500 annually).
 - c. Input the codes for the barriers to permanency identified for each child at each review (about 10-15,000 annually).

C. Review Function

1. Conducting 4,500+ reviews across the state utilizing approximately 300 + trained, multi-disciplinary, volunteer citizen reviewers that each serve on one of 48 local boards that meet in communities across the state.
2. Reviewing case files at DHHS, the Lead Agency, and on N-FOCUS for all cases.
3. Conducting case reviews that meet State and Federal Statutes and Regulations.
4. Sending required notifications of upcoming reviews to legal parties, concerned parties, bio-parents, child's placement, and to youth when age appropriate.
5. Making collateral contacts, including federally mandated contacts to the Lead Agency FPS, DHHS worker and Foster placement.
6. Assigns children's cases for review (including alternates).
7. Distributes Final Recommendation reports to the legal parties within 30 days of the case review as outlined in statute.

8. Working to promote best interests of the child, per statute – by appearing in court several times annually, jointly staffing cases with DHHS and/or lead agency regarding case concerns, and providing other advocacy efforts on behalf of the child as needed.
9. Special projects

D. Reporting

1. Mandatory annual report, with data on length of time in foster care, number of placements, frequency and results of court review, and number of children in foster care program(s) annually, and analysis of the foster care system.
2. Special reports

E. How FCRO Identifies Issues and Brings them Forward

1. Work with DHHS and the Lead Agency
2. Work with Chief Justice and the Courts
3. Work with other decision-makers

The Nebraska Foster Care Review Act:

The Nebraska Foster Care Review Act, Neb. Rev. §43-1301 to §43-1318 was adopted in 1982 in response to the work of the Nebraska Foster and Adoptive Parents' Association and to Federal Law P.L. 96-272, specifically 42 U.S.C. § 671, which mandates the development of permanent plans and periodic reviews of those plans for children in a foster care placement. Various changes have been made to the agency structure and responsibility through the years including a change to the name of the agency to Foster Care Review Office (FCRO) in 2012.

The Nebraska Foster Care Review Act:

1. Mandates that the agency or court in charge of the child or youth establish an appropriate plan for the child. [Neb. Rev. Stat. §43-1312 (1998)] The plan shall contain at least the following:
 - a. The purpose for which the child or youth has been placed in foster care;
 - b. The estimated length of time necessary to achieve the purposes of the foster care placement;
 - c. A description of the services that are to be provided in order to accomplish the purposes of the foster care placement;
 - d. The person or persons who are directly responsible for the implementation of such plan; and
 - e. A complete record of the previous placements of the foster child.
2. Requires the Nebraska Foster Care Review Office to review the case of each child or youth in a foster care facility to determine what efforts have been made to carry out the plan for the foster child and biological family, or for permanent placement of the child or youth. [Neb. Rev. Stat. §43-1308 (2012)]

3. Establishes a central registry and tracking system of all children in a foster care facility. [Neb. Rev. Stat. §43-1303 (2012)]
4. Requires the court to review the dispositional order at least once every six months; [Neb. Rev. Stat. §43-1313 (2012)]
5. Requires the child or youth to be provided a medical examination within two weeks of removal from the parent's home. [Neb. Rev. Stat. §43-1311 (1998)]
6. Allows the Foster Care Review Office to visit and observe foster care facilities to ascertain whether the individual physical, psychological and sociological needs of each foster child are being met. [Neb. Rev. Stat. §43-1303(4) (2012)]
7. Requires the Foster Care Review Office to establishing training programs for local board members. [Neb. Rev. Stat. §43-1303 (2)]
8. Requires the Foster Care Review Office to evaluate and disseminate the data it collects. [§43-1303 (2)(b)(iv) (2012)]

Findings and Performance Standards Used to Measure the Child Welfare System

The performance standards used as a baseline in the assessment of the cases the FCRO and Local Board review are contained in State and Federal law and regulations and thus are readily known.

The Child Welfare System (DHHS) and the Lead Agency (Eastern Service Area) are made aware of what is being measured by reviews and what each part of our review is responsible for providing.

On each case reviewed, trained Local Board members make child-specific findings regarding the child's best interests, given his or her specific circumstances.

The Foster Care Review Office's – Local Board Findings and Supporting Legal Citations:

Were reasonable efforts made to prevent the child's removal from the home?

- This is a requirement for federal IV-E reviews.
- DHHS is required to make reasonable efforts to prevent a child's removal from his or her family, unless an exception exists. [Neb. Rev. Stat. §43-283.01 (2) (1998) and the federal Adoption and Safe Families Act]
- In determining whether reasonable efforts have been made to preserve and reunify the family, the child's health and safety are of paramount concern. [Neb. Rev. Stat. §43-283.01 (1) (1998)]

Does the Board find that the current placement appears appropriate and safe? [§Neb. Rev. Stat. 43-1308(1)(b) (2012)].

Are all services in the plan presently in motion for the Mother, Father, and Child?

Is there a written permanency plan with services, timeframes, and tasks specified?

- [§Neb. Rev. Stat. 43-283.01(6) (1998)] provides that “reasonable efforts to place a juvenile for adoption or with a guardian may be made concurrently with reasonable efforts to preserve and reunify the family, but priority shall be given to preserving and reunifying the family as provided in this section.”
- [Neb. Rev. Stat. §43-1308 (2012), §43-1312 (1998), Section 475 (1) of the Social Security Act (SSA) and 390 NAC 5-004.02A, 8-001.11]
- Each child in foster care shall have a case plan that is written and complete with services, timeframes, and tasks identified within 60 days of placement.
- The plan shall contain at least the following:
 - a) The purpose for which the child has been placed in foster care; [Neb. Rev. Stat. § 43-1312 (1) (a) (2011)]
 - b) The estimated length of time necessary to achieve the purposes of the foster care placement; [Neb. Rev. Stat. § 43-1312 (1) (b) (2011)]
 - c) A description of the services which are to be provided in order to accomplish the purposes of the foster care placement; [Neb. Rev. Stat. § 43-1312 (1) (c) (2011)]
 - d) The person or persons who are directly responsible for the implementation of such plan; [Neb. Rev. Stat. § 43-1312 (1) (3) (2011)]
 - e) A complete record of the previous placements of the foster child; [Neb. Rev. Stat. § 43-1312 (1) (3) (2011)]and
 - f) The name of the school the child shall attend as provided in [Neb. Rev. Stat. §43-1312 (1) (f).]
- The child’s case plan objective shall be appropriate to the individual child’s circumstances. Circumstances would include such items as the reason(s) that the child entered care, pertinent concerns uncovered after the child’s removal, and the child’s physical, emotional, and psychological needs.
- If a child is 16 years of age or older, the plan shall include services designed to assist the youth in acquiring independent living skills. [Neb. Rev. Stat. §43-285(2), Neb. Rev. Stat, 43-1311.03 (2011) and 390 NAC 5-004.02A]
- Whether the custodial agency, normally DHHS, has evaluated the safety of the child and taken the necessary measures in the plan to protect the child. [federal Adoption and Safe Families Act]

Is progress being made towards the permanency objective? What barriers to permanency remain?

- The Board shall review what efforts have been made to carry out the plan, including the progress or lack thereof towards meeting the case plan objective, and reasonable efforts to accomplish permanency. [Neb. Rev. Stat. §43-1308 (1) b) (2012)]

Does the Board agree with the permanency plan?

- [Neb. Rev. Stat. 43-1308(1)(b) (2012)]

Has the Department evaluated the safety of the child and has it taken the necessary measures in the plan to protect the child?

- A child's current placement is to be safe and appropriate. [Neb. Rev. Stat. §43-1308 (1) (b) (2012)]
- When a child cannot remain with his/her parents, relatives shall be given preference as a placement resource. [Neb. Rev. Stat. §43-533 (4) (1998)]
- The State shall minimize the number of placement changes for children in out of home care. [Neb. Rev. Stat. §43-533 (4) (1998)] The State shall make reasonable efforts to locate all relatives within 30 days to determine if a relative placement may be appropriate. [Neb, Rev. Stat. §43-1311.01 (2011)]
- The DHHS case manager shall have contact with the child each month as required by DHHS guidelines. [DHHS Program Memo Title 390, #1-2002 issued 10-30-02 and DHHS Program Memo: Title 390, #7-2004]
- A written home study must be completed on the child's placement prior to placement. [390 NAC 6-002.04] Each child's placement shall receive educational and health information at the time of placement. [Section 475 (5) of the Social Security Act (SSA)]
- An updated health and education record shall be maintained in the department's case file. [Section 475 (5) of the Social Security Act (SSA)]

Are reasonable efforts being made to return the child home?

- When children are removed from their home, permanency planning shall be the guiding philosophy. It shall be the policy of the state (a) to make reasonable efforts to reunite the child with his or her family in a time frame appropriate to the age and developmental needs of the child so long as the best interests of the child, the health and safety of the child being of paramount concern, and the needs of the child have been given primary consideration in making a determination whether or not reunification is possible, (b) when a child cannot remain with parents, to give preference to relatives as a placement resource, and (c) to minimize the number of placement changes for children in out-of-home care so long as the needs, health, safety, and best interests of the child in care are considered; [Neb. Rev. Stat. 43-533 (1998)] and
- When families cannot be reunited and when active parental involvement is absent, adoption shall be aggressively pursued. Absent the possibility of adoption other permanent settings shall be pursued. In either situation, the health, safety, and best interests of the child shall be the overriding concern. Within that context, preference shall be given to relatives for the permanent placement of the child. [Neb. Rev. Stat. §43-533 (1998)]

Have parental visitation arrangements been made and do they allow adequate parent-child contact?

- A visitation plan is to be developed for the child and parents to ensure continued contact when appropriate. [390 NAC 7-001.02A and Neb, Rev, Stat, §43-1312 (c) (2011) – visitation is considered a service]

Have sibling visitation arrangements been made and do they allow adequate sibling contact?

- Per section 206 of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (HR 6893) States must make reasonable efforts to place siblings in the same foster home, kinship guardianship, or adoptive placement unless that placement would be contrary to the safety or well-being of any of the children. If siblings aren't placed together, the state must provide for frequent visitation or interaction unless it would be contrary to a child's safety or well-being.

Is there is a continued need for out of home placement?

- DHHS is required to make reasonable efforts to reunite a child with his or her family unless certain circumstances exist Neb. Rev. Stat. §43-533 (4) (1998), Neb. Rev. Stat. §43-283.01 (1998) and the federal Adoption and Safe Families Act].
- In determining whether reasonable efforts have been made to preserve and reunify the family, the child's health and safety are of paramount concern. [Neb. Rev. Stat. §43-283.01 (1998)]
- The Board is to determine whether there is a continued need for out-of-home placement. [Neb. Rev. Stat. §43-1308(1)(b) (2012)]

If the return of the child home is unlikely, what specific alternate permanency plan does the Board recommend?

- The Board is to determine if the child is likely to be returned to their parent's care and if not, recommend an alternative plan. [Neb. Rev. Stat. §43-1308 (1) (c) (2012)]

Does the FCRO Local Board find that grounds for termination of parental rights appear to exist under the subsections of §43-292?

- The petition filed by the county attorney affects the adjudication and all court proceedings thereafter, since the courts can only require a parent to rehabilitate on those issues found to be true. [Neb. Rev. Stat. §43-274 (1) (2003)]
- Whether all potential parents have been identified and included in the action. [DHHS Program Memo: Title 390, Protection and Safety #1-2005, Neb, Rev. Stat. §43-1311.01 (2011)]
- The Board must determine if grounds for termination of parental rights appear to exist and whether termination of parental rights is in the child's best interest. [Neb. Rev. Stat. § 43-1308 (c) (2012)]

- The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(1) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;

(2) The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;

(3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;

(4) The parents are unfit 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;

(5) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;

(6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-147 reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;

(7) The juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months;

(8) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;

(9) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(10) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent; or

(11) One parent has been convicted of felony sexual assault of the other parent under section 28.319.01 or 28.320.01 or a comparable crime in another state. – [Neb. Rev. Stat. 42-292 (2009)]

Other Elements Considered During Case Review

The FCRO Local Board also reports in each case the following elements that affect the well-being and permanency efforts being made for a child in out-of-home care:

Guardian ad litem (GAL) Contact:

- The Guardian ad litem is to make every reasonable effort to become familiar with the needs of the protected juvenile, which includes consultation with the juvenile within two weeks of appointment and every six months thereafter. [Neb. Rev. Stat. §43-272.01 (d) (2010)]

Time to Adjudication, Timeliness of Court Hearings and Date of Last Court Hearing:

- Adjudication and court hearings are to be completed within the statutory timeframes. [Neb. Rev. Stat. §43-278 (2010)]
- Timely court hearings are a factor that affects the efforts to carry out the plan that the Board is to review. [Neb. Rev. Stat. §43-1308(1)(b) (2012)].
- The Court shall review each child's case at least once every six months. [Neb. Rev. Stat. § 43-278 (2010)]
- The court shall hold a permanency hearing once a child has been in out of home care for 12 months. [Adoption and Safe Families Act] [Neb. Rev. Stat. § 43-1312 (3) (2011)]

The FCRO Local Board may make additional findings and recommendations and give its rationale on what would serve the child's best interests [Neb. Rev. Stat. § 43-1308 (b) (2012)].