

# **Nebraska State Foster Care Review Office**

## **Guidebook on Findings**

### **For**

## **Delinquent or Status Offender**

The Foster Care Review Office conducts reviews in order to assure that probation youth in out-of-home care (OOH) have their needs met while in OOH care and reach a timely, appropriate permanency. The FCRO also works to provide system oversight. Statistics gathered from reviews, such as the findings described in this document assist in providing that oversight.

Each of the findings local boards make is based on federal requirements, state mandates, and/or youth's best interests. **Neb. Rev. Stat. 43-1308(b) requires that rationale be provided for each finding in the report to the court and legal parties.** Findings should be made for each individual youth being reviewed.

It is essential that plans are reviewed across the agency in a consistent and uniform manner and issues and recommendations communicated in the most efficient manner possible. Recommendations must be submitted within the timeframe established by individual courts. Court requirements differ, most allowing submissions no later than a minimum of 5 days prior to the hearing.

### **Defining “Documentation”**

Throughout the findings there are references to “documentation.” The following should help define what is, and is not, included in that term. Documentation may be in electronic or written form. There are three major classifications of documentation.

1. Legal Documents.
  - a. Legal documents used as a basis for the rationale for a finding may include Birth Certificates, Court Orders, notarized statements, etc.
2. Reports that are signed and dated.
  - a. Some examples include evaluations, assessments, probation plans/court reports, emails from legal parties, and completed questionnaires.
3. Narratives, notes, and minutes.
  - a. Some examples could include probation officer narratives, family group conference minutes, notes, etc.

#### **All types of documentation can be used, but they may be given different weight.**

Review specialists cite the sources for the documentation within the body of the FCRO's recommendation reports. For example (Probation officer narrative dated 10/1/2016). Review specialists should specify who it was that provided narrative. Narratives can be from any of a number of professionals involved in the case and different weight may be given each. There may be times within a recommendation that conflicting documentation will need to be cited and clarification requested.

## **Safety Considerations**

Review specialists should immediately consult with their supervisor any time there is a finding regarding a child being unsafe – whether that is due to issues in the placement, issues with visitation, efforts not being made to protect the youth, service issues, etc.

## **How the Probation Findings are Divided**

### **Youth's current placement**

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## Safety & Appropriateness of Current Placement Section

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| <b>Finding “22” - Appropriateness and safety of current placement.</b> |
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### **General considerations:**

- Safety and appropriateness are assessed separately, however, are put together in this finding to mirror the language in Neb. Rev. Stat. 43-1308(b).
- Documentation to be considered includes home studies, placement reports, reports of GALs and probation officers who have visited the homes, etc.
- The Legislature specifically mandated that you, as local board members, address safety and appropriateness in reviews to help ensure the youth receives adequate care.
- As with every finding, rationale must be provided.

### **Considerations regarding Safety of Placement:**

- **Do not assume** a placement is safe in the absence of an updated home study and appropriate written documentation regarding the youth's progress in the placement.
- Licensed and/or agency homes are **required to provide written reports to Probation on a monthly basis**. Judgment should be used if one or two such reports are missing.
- Relatives and kinship homes also should also be reporting.
- This can be a place to comment on in-placement visits that are, or are not, occurring.
- Home studies for licensed foster homes need to be current within two years. If there is a temporary extension the recommendation should state that the extension was granted without an update.
  - If documentation of the home study is not available for review, it needs to be requested by the review specialist.
  - The board needs to consider:
    - *Is there a current home study?*
    - *Are the foster parents licensed?*
    - *Is the home physically safe?*
    - *If with a relative or kin, does that person have the willingness and ability to provide a safe, stable, and nurturing environment for the youth?*
- For a youth living in a group home or treatment placement, there should be written documentation regarding safety practices available. There also should be written goals for the youth and progress on these goals. Placement considerations can include:
  - *How many staff are on duty?*
  - *Do they have awake overnight staff?*
  - *Do they use restraints or seclusion?*
  - *What have the behaviors of the youth been while in this placement?*
  - *What type of treatment services are being offered the youth?*
  - *What type of educational services are being offered the youth?*

- *Has the youth ran from the placement?*
- Regardless of the type of placement, when determining whether a placement is safe, the board should consider:
  - *What is the mix of youth in the placement?*
  - *What are the individual needs of the youth in the placement?*
  - *Is there a need for safety plan for that particular youth?*
    - For example, a youth with perpetration issues should have a safety plan that includes additional monitoring of that youth to ensure the placement can be considered safe for other youth.

### **Considerations regarding Appropriateness of Placement:**

- If there is an absence of information regarding the placement, it is essential that the board **does not assume** it is appropriate.
- Information used in making this finding can include a home study, reports of care and well-being in the placement, etc. Judgment should be used when weighing the types of information available.
- A placement can be safe, but not appropriate to meet an individual youth's needs for a variety of reasons.
- The question "*Is this placement the **least restrictive placement** for this youth?*" needs to be considered.
  - For example, if a youth were placed in a group home on the sole basis that there was not an appropriate foster home available, the finding on inappropriate placement would be utilized. It would be appropriate to state that the board does not find this placement is the least restrictive placement for the youth.
- Another question that needs the board's attention is "***Is this particular home appropriate for THIS particular youth?***"
  - An example of this would be a case where the foster home is licensed, it is well known, the home study states the home is best suited for children under five, however the current case being reviewed shows a 17 year old placed there.
  - Or consider the case of a 16-year-old sexual perpetrator placed in a licensed foster home with younger children.
  - The placement may not be the appropriate one for that particular youth, but utilized because it is the only home where a bed is available in that area, or at that time.
- If the review is on a child in a relative or kinship home that has been approved then the board will need to determine if it has enough other information on which to make the finding.

#### **22-1 The youth's current placement appears appropriate and safe.**

- If there is an absence of information regarding the placement, it is essential that the board **does not assume** it is appropriate.

#### **22-2 The youth's current placement appears unsafe and therefore inappropriate.**

- The board notes that a specific safety issue exists and is recommending the **immediate** removal of the youth from the home unless a specific plan can be developed to keep the youth safe. Specific rationale must be provided when making this finding.

- If the finding is made that the placement is unsafe, the Review Specialist should contact their supervisor and/or an FCRO Administrator immediately. **This must also be stated in the top concerns/recommendations.**

**22-3 The appropriateness and/or safety of the child’s current placement could not be determined due to [a lack of documentation, home study, safety plan, or a change in placement that occurred since the file review, etc.].**

- Specify what was lacking.
- Homes that accept youth with developmental disabilities (Enhanced Family Homes/Host Families) rarely are licensed and there may not be home studies. If a home study is not located, this needs to be requested. **Remember that home studies will not be available for relative and kinship placements.**
- The following language has been helpful to some boards.
  - "There was a lack of information/ documentation regarding the foster home in the case record. This is not a negative reflection on the care provided by the foster parents at this time, rather an indication of a lack of information."
  - "The board recommends that a home study of the foster placement and clarification if the foster home is licensed or approved be provided in the probation record. Additionally, it is recommended that documentation about the youth's progress in the placement be placed in the probation record."
- **This must also be stated in the top concerns/recommendations.**

**22-4 The current placement appears safe, but is inappropriate due to [foster parents wanting only younger children, being more restrictive than necessary, the youth has completed the placement requirements, the youth no longer requires a treatment placement etc.].**

- Rationale should be provided for making that specific finding.
- Examples:
  - Placement of a youth in a residential treatment center may be safe but inappropriate if the youth should be in a less restrictive environment.
  - If a youth were placed in a group home on the sole basis that there is a lack of foster homes available, that placement would be inappropriate.
  - Long-term shelter or DCYC placements are also not appropriate for a youth, especially if they are not receiving appropriate services while in that placement.
- Clarify if the reason for the lack of alternative placement is due to the lack of availability or the lack of Medicaid approval for level of care.
- **This must also be stated in the top concerns/recommendations.**

**22-5 The appropriateness and/or safety of the youth’s current placement is unknown because the child is missing from care. [Efforts to locate]**

- If the board makes this finding, the efforts or lack of efforts being made to locate the child should be summarized. It is Probation policy that probation officers are to immediately contact law enforcement when notified that a youth is on run, and that they follow up with law enforcement on a monthly basis. These contacts are to be documented.
- Missing from care status should also be in the top concerns.

## **Probation Plan Section**

### **Finding “43” – Plan that Probation has Prepared for the Court**

**General considerations:**

- This finding measures the completeness of what Probation has prepared. It does not measure whether the court adopted that plan or whether we agree with the plan. Those elements are measured elsewhere.

**43-1 A Probation Plan that addresses goals was provided for review.** [Give date of plan]

**43-2 A Probation Plan that addresses goals was NOT provided for review.**

- Document what was missing from the team plan.

### **Finding “45” – Appropriateness of Probation Plan for Successful Probation Completion.**

**General considerations:**

- This finding measures the appropriateness of the provisions of the Plan prepared by Probation. It will be based upon the needs of the youth and whether the Plan addresses these needs.

**45-1 The Probation Plan is appropriate.**

- This finding does not always mean that the board thinks that the youth should return home immediately. Rather we are looking at what services are being offered to the youth to successfully complete their probation requirements.

**45-2 The Probation Plan is NOT appropriate due to [being outdated, recent changes in circumstances, not addressing the needs of the youth, alternative plan is parent’s refuse to engage with the youth needs, etc.]**

- Specific reasons based on written documentation must be given.

**45-3 There is insufficient documentation to determine if the Probation Plan is appropriate.**

45-4 It is unclear if the Probation Plan is appropriate due to the youth being missing from care.

45-5 There is no Probation Plan identified.

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| <b>Finding "38" Services Occurring Towards the Goals Set for the Youth</b> |
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**General considerations:**

- **This finding addresses services offered by Probation in order to facilitate the goals of the Team Plan.**
- Remember that the goal of probation involvement with a youth is to offer targeted services to the youth to reduce the risk to reoffend upon release from probation and to ensure community safety.
- This **DOES NOT** include offering services to other members of the family.
- The board needs to determine that services are being offered in a timely manner in order to facilitate the Team Plan to correct the reason that the youth being reviewed entered out of home care.
- **Youth compliance is not what is being measured here.** That is measured under 57 Finding.
- These goals can be set by a court through a court order or by probation through the use of graduated sanctions.
- Some board considerations:
  - *If a particular service has been court-ordered, is it occurring?*
  - *Are there services that are not court-ordered, but needed?*
  - *Are the services being offered in a way that takes into account language or cognition barriers, if any?*
  - *Are the services available in a realistic proximity to the youth?*
  - *Are there professional recommendations for certain services that are not being followed?*
  - *Are the services for the youth being offered in a way that is age appropriate?*

**38-1 All services needed to address the goals for the youth are being offered.**

- If all services court ordered or required through the terms of probation are being offered, the board would choose this finding.

**38-2 Some services needed to address the goals for the youth are being offered.**

- The board would make this finding if only some of the services are being offered. The board should specifically note what is lacking and recommendations should be made for the facilitation of those services.

**38-3 Services needed to address the goals for the youth are NOT being offered.**

**38-4 Services for the youth are not currently offered due to the youth being missing from care. (Comment on effort to locate the youth)**

**38-5 There is a lack of [documentation/information] on which to base a finding regarding the offering of services for the youth.**

- Specify what is missing. For example, “a lack of documentation regarding whether therapy has been offered.”

### **Finding “46” – Plan to Transition Home.**

#### **General considerations:**

- This finding gives the board the opportunity to comment on the recent progress towards the return of the youth to the parental home based on documentation.
- Progress can also be reflective of other system barriers such as not having an appropriate next placement for the youth or parents refusing to accept youth back in the parent home or youth has been missing from care etc.
- The aim here is to identify barriers to transitioning the youth home and get them addressed.

**46-1 The youth is nearing readiness to transition home and there is an appropriate plan to do so.**

**46-2 The youth is nearing readiness to transition home and there is NO transition plan.**

**46-3 The youth is NOT ready to transition home so a plan for that move does not need to be completed.**

**46-4 It cannot be determined if the youth is nearing a transition home.**

- This could be due to a lack of information by which to make this determination or the youth has been missing from care.
- This needs to be reflected in top recommendations (concerns) and the Review Specialist and their Supervisor need to discuss how to effectively advocate for this youth.

**46-5 The plan is NOT a plan to transition the youth back to the parental home but rather to alternate placement.**

- The plan could be that the youth is transitioning to a foster home from a congregate care facility OR that the youth is transition to someone other than their parent.
- This could include youth that are missing from care once the youth is located.

### **Finding “57” – Progress towards Successful Completion of Probation**

#### **General Consideration:**

This finding is designed for the board to determine whether or not progress is being made by the youth regarding his/her terms of probation. It is to gauge the engagement of the youth in completing his/her probation.

**57-1 Progress is being made by the youth towards successful completion of probation.**

- The Board would make this finding if the youth is complying with all of the requirements of the plan. It does not mean that the youth can be returned home at this time but rather that the youth is progressing towards his/her goals.

**57-2 Some progress is being made by the youth towards successful completion of probation.**

- The Board would make this finding if the youth is complying with some but not all of the requirements of the plan. The areas that still need to be worked on by the youth should be included under the recommendations section.

**57-3 No progress is being made by the youth towards successful completion of probation.**

**57-4 It cannot be determined if progress is being made by the youth toward successful completion of probation due to \_\_\_\_\_.**

- Specific reasons must be given under this finding as to why this could not be determined. For example lack of documentation or information.

## **Continued Need for Out-of-Home Care Section**

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| <b>Finding “82” - Need for Out-of-Home Placement</b> |
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**General Considerations:**

This finding is designed for the board to recommend whether or not the youth needs to remain in some type of out-of-home placement. This finding is based upon the totality of the situation and the facts of the case both as to the youth, family and probation officer.

**82-1 There is a continued need for out of home placement.**

- Reasons for this recommendation must be included.

**82-2 There is no longer a need for out of home placement.**

- This finding should be used if the board finds that the youth no longer needs to be in out-of-home care and could be transitioned home. **This needs to be a top concern.**

**82-3 It cannot be determined if there is a continued need for out of home placement due to \_\_\_\_\_.**

- Specific reasons must be given under this finding as to why this could not be determined. For example lack of documentation or information.

## Finding “83” – Need for Probation Supervision

### General Considerations:

This finding is designed for the board to recommend whether or not the youth needs to remain on probation or if supervision can end. By recommending an end to probation supervision, the case would be closed with the courts. This finding is based upon the totality of the situation and the facts of the case both as to the youth, family and probation officer.

#### **83-1 Probation supervision should continue.**

- Reasons for this recommendation must be included.

#### **83-2 Probation supervision should be ordered to end and the case be closed.**

- This finding should be used if the board finds that the youth no longer needs to be on probation and the youth could be transitioned home. **This needs to be a top concern.**

#### **83-3 It cannot be determined if there is a continued need for Probation supervision.**

- Specific reasons must be given under this finding as to why this could not be determined. For example lack of documentation or information.

#### **83-4 Further filings are needed.**

- This finding is when some further type of filings need to be made before the court. This could include new delinquency charges or status offense. It also could include situations where there is a safety risk to the youth is returned to the parental home and some type of abuse/neglect filing needs to be considered. If this is recommended it does need to be a top concern but only after a review by the review specialist supervisor.

## Termination of Parental Rights Finding

## Finding “94” – Grounds for Termination of Parental Rights

### General considerations:

- **The Nebraska Foster Care Review Act (§43-1308) requires that board make a finding regarding whether grounds for termination of parental rights under section 43-292 appear to exist no matter what type of filing is before the court.**
- Since delinquency and status cases involve the behaviors of the youth and not the actions of a parent, a TPR is never applicable to these types of cases. TPR statutes ONLY apply to abuse/neglect cases filed under 43-247(3)(a) but FCRO statutes still require a finding be made by the board.

#### **94-5 The board’s statutorily required finding on whether the grounds for termination of parental rights appear to exist is NOT applicable because this is a probation case.**