



## INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

**Chapter 10:** Guardianship and Adoption

**Section 24:** Choosing Guardianship or Adoption as a Child's Permanency Plan

**Effective Date:** June 1, 2022

**Version:** 1

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### POLICY OVERVIEW

When reunification is not in a child's best interest, developing a Permanency Plan or Second Permanency Plan (if concurrent planning) of guardianship or adoption may be an appropriate option to secure legal permanency for the child. Guardianship and adoption both create a legal relationship between a child and caregiver that is intended to be permanent.

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### PROCEDURE

The Indiana Department of Child Services (DCS) will convene a Child and Family Team (CFT) Meeting and/or Case Plan Conference to discuss permanency planning and identify any needed services for a child in out-of-home care and for whom reunification is not in the child's best interest. See policy 5.07 Child and Family Team Meeting for additional guidance.

The process for developing an alternative permanency plan for a child in out-of-home care may be initiated when:

1. The court rules that reasonable efforts to reunify the family are not required; or
2. A child has been under a dispositional decree for at least six (6) months with no significant progress toward a plan of reunification.

In accordance with the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996 (MEPA-IEP), DCS will neither delay nor deny the guardianship placement or adoptive placement of a child based on the race, color, or national origin of the guardianship resource family, adoptive resource family, or the child involved. DCS will not deny the guardianship or adoptive placement of a child based solely on a prospective guardian's or adoptive parent's disability or any disability of the child involved. If a Native American child is involved, refer to the Indian Child Welfare Act (ICWA). See policies 2.12 Indian Child Welfare Act and 8.02 Considerations of Race, Color or National Origin - The Interethnic Placement Act (IEPA) for further guidance.

DCS will conduct a diligent search throughout the life of the case to locate all possible relatives and kin to discuss guardianship and adoption. DCS will educate relatives and kin providing care to the child on the differences between guardianship and adoption. See policy 5.23 Diligent Search for additional information.

The Family Case Manager (FCM) will:

1. Schedule and convene a CFT Meeting or conduct a Case Plan Conference if all required parties are not members of the CFT. The resource parent and Court Appointed Special Advocate (CASA)/Guardian ad Litem (GAL) must be involved in developing the Case Plan/Prevention Plan if they are not already members of the CFT. Youth 14 years of age and older and their child representatives should be included in the CFT meeting and/or Case Plan Conference unless the youth is unable to participate effectively in the development of the Permanency Plan due to a physical, mental, emotional, or intellectual disability;
2. Educate identified relative/kinship families on the difference between guardianship and adoption to help them better understand the options and allow the relative/kinship families to provide input on the best option for achieving permanency for the child in their care. See 10.C Tool: Differences Between Guardianship and Adoption for additional guidance;
3. Discuss the Permanency Plan recommendations with the FCM Supervisor and DCS Staff Attorney to ensure appropriate documentation is submitted to the court;
4. Complete the Progress Report- Permanency and submit to the FCM Supervisor for approval; and
5. Consult with the DCS Staff Attorney for next steps.

The FCM Supervisor will:

1. Ensure the Permanency Plan is documented in the Case Plan/Prevention Plan and all required steps are completed by the FCM;
2. Guide and support the FCM, as needed; and
3. Approve the Progress Report- Permanency and submit it to the DCS Staff Attorney.

The DCS Staff Attorney will:

1. Review the Progress Report- Permanency and discuss with the FCM and/or FCM Supervisor, as needed;
2. Submit the approved Progress Report- Permanency report to the court; and
3. Request that the proposed Permanency Plan and a finding of Reasonable Efforts to Finalize the Permanency Plan (REPP) be included in a court order.

The Adoption Consultant will:

1. Participate in the scheduled CFT Meeting; and
2. Support the FCM in educating participants on the permanency options of guardianship and adoption when reunification is not in the child's best interest.

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## RELEVANT INFORMATION

### Definitions

#### Adoption

Adoption is the legal process of a child becoming the legal child of a person other than the child's biological parents.

#### Adoption Summary

The Adoption Summary is a written report that is prepared for the court. The Adoption Summary provides the court with recommendations as to the advisability of the adoption.

## Legal Guardianship

Legal Guardianship is the transfer of parental responsibility and legal authority for a minor child to an adult caregiver who intends to provide permanent care for the child.

Guardianship may be established with or without (Termination of Parental Rights) (TPR). Transferring legal responsibility removes the child from the child welfare system, allows the caregiver to make important decisions on the child's behalf and establishes a long-term caregiver for the child.

## **Forms and Tools**

- [10.C Tool: Differences between Guardianship and Adoption](#)
- [Adoption Consultants Map](#)
- Case Plan/Prevention Plan (SF2956) – Available in the case management system

## **Related Policies**

- [2.12 Indian Child Welfare Act](#)
- [5.07 Child and Family Team Meetings](#)
- [5.23 Diligent Search for Relatives/Kin and Case Participants](#)
- [8.02 Consideration of Race, Color, or National Origin – The Interethnic Placement Act \(IEPA\)](#)

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## **LEGAL REFERENCES**

- [IC 31-9-2-99.2: Prospective adoptive parent](#)
- [IC 31-19-11-1.1 Prohibited discrimination and considerations for petitions for adoption filed by persons with a disability](#)
- [IC 31-34-21-4: Notice of case review; testimony in periodic case review](#)
- [IC 31-34-21-5.7: Permanency Plan; requirement; approval; reports & orders not required](#)
- [25 U.S.C. §1903\(4\): Definition: "Indian child"](#)
- [25 U.S.C. §1911: Indian tribe jurisdiction over Indian child custody proceedings](#)
- [25 U.S.C. §1913: Parental rights; voluntary termination](#)
- [25 U.S.C. §1915: Placement of Indian children](#)
- [42 U.S.C. Sec.1996b: Interethnic adoption](#)
- [42 U.S.C. Sect. 12102: Definition of disability](#)

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## PRACTICE GUIDANCE- DCS POLICY 10.24

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

N/A

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