



## INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

**Chapter 6:** Court

**Section 11:** Permanency Hearing

**Effective Date:** December 1, 2023

**Version:** 11

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### POLICY OVERVIEW

A Permanency Hearing will be held for a child:

1. Within 30 days after the court finds that Reasonable Efforts (RE) to reunify or preserve a child's family are not required and every 12 months thereafter;
2. Every 12 months after the date of the original Dispositional Decree or the date the child was removed from the child's parent, guardian, or custodian, whichever comes first; or
3. More often if ordered by the court.

**Note:** The Indiana Department of Child Services (DCS) may request the court hold a Permanency Hearing at any time.

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### PROCEDURE

DCS will provide notice at least 10 calendar days before the Permanency Hearing to the following:

1. The child;
2. The child's parent, guardian, or custodian;
3. The child's representatives, if applicable;

**Note:** Beginning at 14 years of age, youth may select up to two (2) child representatives. The child representatives must be at least 18 years of age, members of the Child and Family Team (CFT), and may not be a foster parent or Family Case Manager (FCM).

4. An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian;
5. Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL);
6. Resource parent and/or long-term foster parent; and
7. Witnesses for the hearing.

DCS will present the child's views regarding the proposed Permanency Plan in the Progress Report-Permanency and make diligent efforts to include the child in court proceedings, if appropriate (see policy 6.14 Children Attending Court Proceedings).

**Note:** If DCS determines that the youth is unable to participate effectively in the hearing due to a physical, mental, emotional, or intellectual disability, DCS may request the court to excuse the child/youth from the hearing.

DCS will make reasonable efforts to preserve and reunify families as follows:

1. Efforts to prevent or eliminate the need for removing the child from the home if the child has not been removed from the child's home; or
2. Efforts to make it possible for the child to return safely to the home as soon as possible if the child has been removed.

**Note:** In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate, the child's health and safety are of paramount concern.

The court will issue a finding on Reasonable Efforts to Finalize the Permanency Plan (REPP) at least every 12 months. REPP is required to ensure a child continues to be eligible for federal funding to reimburse the costs of out-of-home care and DCS's administrative expenditures (see policy 15.10 Continued Eligibility).

The FCM will:

1. Ensure required parties are notified of the Permanency Hearing and receive the Progress Report-Permanency at least 10 calendar days prior to the hearing (see policy 6.04 Providing Notice);
2. Ask if the parent, guardian, or custodian or the child needs a reasonable accommodation due to a disability;
3. Ensure the Permanency Plan is discussed with the child in an age-appropriate manner prior to the Permanency Hearing. The CFT should have a meaningful and informed discussion with the child regarding the child's views on the Permanency Plan (see policy 5.07 Child and Family Team [CFT] Meetings);

**Note:** It is vital to include the child's opinions in the Progress Report – Permanency even when they may conflict with the recommendation to the court. The child's views can also be expressed by an attorney for the child, the FCM, or the GAL/CASA at the Permanency Hearing;

4. Make diligent efforts to include the child in court proceedings, if appropriate (see policy 6.14 Children Attending Court Proceedings);

**Note:** Youth 14 years of age and older should participate in the Permanency Hearing. The youth should complete and submit a Youth Report to the Court regarding the youth's well-being, progress, and views regarding permanency if the youth is unable to attend the court hearing. If the youth refuses to participate in the Permanency Hearing and/or is unable to complete the Youth Report to the Court, DCS must record the reasons preventing the youth from completing the report and/or document efforts made to obtain the youth's input or participation in completing the report.

5. Work with the DCS Staff Attorney to prepare for the Permanency Hearing;
6. Attend and participate in the Permanency Hearing for a child:
  - a. Within 30 days after the court finds that RE to reunify or preserve a child's family are not required and every 12 months thereafter, or
  - b. Every 12 months after the date of the original Dispositional Decree or the date the child was removed from the child's parent, guardian, or custodian, whichever comes first, or

- c. More often if ordered by the court.
7. Enter court hearing details and outcome, as well as future hearings scheduled in the case management system, including the court's findings related to RE toward the Permanency Plan.

The FCM Supervisor will:

1. Assist the FCM in preparation for the Permanency Hearing; and
2. Ensure all required data and court findings are entered into the case management system.

The DCS Staff Attorney will:

1. Provide the Progress Report-Permanency to the court, along with any additional necessary documentation (e.g., Qualified Residential Treatment Program (QRTP) Determination Report and drug screens), and ensure it was received. See policy 6.10 Permanency Plan for additional information;
2. Assist the FCM in preparation for the Permanency Hearing, as needed;

**Note:** For a child receiving treatment in a Qualified Residential Treatment Program (QRTP) (see policy 6.15 Court Process for the Assessment of Admission to a QRTP), the DCS Staff Attorney will prepare the FCM in order to submit evidence at the Permanency Hearing demonstrating the following:

- a. The reason for the child's admission to the QRTP, including a discussion of the following:
    - i. That the ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster home;
    - ii. That the QRTP is the most effective and appropriate level of care for the child;
    - iii. That the QRTP is the least restrictive environment for the child; and
    - iv. That the QRTP placement meets the short-term and long-term goals for the child, as specified in the Permanency Plan.
  - b. The specific treatment or service needs the QRTP meets for the child and the length of time the child is expected to need the treatment or services,
  - c. The efforts that have been made to prepare the child to return home or be placed with a fit and willing relative, legal guardian, adoptive parent, or in a foster family home, and
  - d. A description of the child-specific short-term and long-term mental and behavioral health goals.
3. Participate in the Permanency Hearing; and
  4. Request and verify that within 12 months from the child's removal from the home and every 12 months thereafter, a finding of REPP is obtained in a court order.

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## RELEVANT INFORMATION

### Definitions

#### Long-term Foster Parent

A long-term foster parent is a resource parent who has provided care and supervision for a child/youth for at least:

1. The 12 most recent months;
2. Fifteen (15) months of the most recent 22 months; or
3. Six (6) months, if the child is less than 12 months of age.

#### Qualified Residential Treatment Program (QRTP)

A QRTP is a designation for a Child Caring Institution (CCI), Group Home (GH), or Private Secure Facility (PSF) which meets requirements specified by the Family First Prevention Services Act (FFPSA). Requirements a program must meet for this designation may be found in policy 17.03 Verification of QRTP Designation. A program which receives this designation may qualify for federal Title IV-E matching payments after a child's first two (2) weeks in the program. See policy 15.13 Title IV-E Eligible Placements for additional information regarding this eligibility.

#### Resource Parent

For purposes of DCS policy, a resource parent includes a foster parent, licensed or unlicensed relative or kinship caregiver, and a pre-adoptive parent.

#### **Forms and Tools**

- Case Plan/Prevention Plan (SF 2956)- Available in the case management system
- Progress Report-Permanency- Available in the case management system
- Youth Report to the Court- Available in the case management system

#### **Related Policies**

- [5.07 Child and Family Team \(CFT\) Meetings](#)
- [6.04 Providing Notice](#)
- [6.10 Permanency Plan](#)
- [6.14 Children Attending Court Proceedings](#)
- [6.15 Court Process for the Assessment of Admission to a Qualified Residential Treatment Program \(QRTP\)](#)
- [15.10 Continued Eligibility](#)
- [15.13 Title IV-E Eligible Placements](#)
- [17.03 Verification of QRTP Designation](#)

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#### **LEGAL REFERENCES**

- [IC 31-9-2-76.5: Long-term Foster Parent](#)
- [IC 31-10-2-3: Rights of persons with a disability](#)
- [IC 31-17-2-8.1: "Disability"; custody](#)
- [IC 31-32-1-4: Hearing notices regarding CHINS or delinquent cases](#)
- [IC 31-34-21-4: Notice of Case Review; testimony in periodic case review](#)
- [IC 31-34-21-7: Permanency hearing](#)
- [IC 31-34-22: Reports required for reviewing dispositional decrees](#)
- [42 USC 672: Foster care maintenance payments program](#)
- [42 USC 675 Section 675\(5\)\(C\)\(i\)](#)
- [42 USC 12102: Definition of disability](#)

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## PRACTICE GUIDANCE- DCS POLICY 6.11

*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.*

### **Child Representatives**

Youth may select one (1) of the child representatives to also be their adviser, and if necessary, advocate for age-appropriate activities. Child representatives are subject to the approval of DCS, and they may be rejected if there is cause to believe that they would not act in the best interest of the child.

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ARCHIVED: 3/10/2024 Legislative Chair