



# Iowa Department of Human Services

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March 11, 2016

## GENERAL LETTER NO. 17-C-23

ISSUED BY: Bureau of Child Welfare and Community Supports  
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 17, Chapter C, **CASE PLANNING POLICY**,  
Contents (pages 1 and 2), revised; pages 2, 3, 5 through 20, revised;  
and pages 21, 22, and 23, new.

### Summary

Chapter 17-C is revised to add Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act policy requirements, including the definitions of the "reasonable and prudent parent standard" and "sex trafficking."

### Effective Date

Upon receipt.

### Material Superseded

This material replaces the following pages from Employees' Manual, Title 17, Chapter C:

| <u>Page</u>              | <u>Date</u>    |
|--------------------------|----------------|
| Contents (pages 1 and 2) | March 13, 2015 |
| 2, 3                     | May 4, 2007    |
| 5-20                     | March 13, 2015 |

### Additional Information

Refer questions about this general letter to your area service administrator.

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### **Scope of Chapter**

This chapter includes statements that summarize the essence of the laws, rules, and Department-required practice associated with child welfare case planning. The administrative rule and state law references are linked to the actual state rule or law chapter. The chapter ends with a table that identifies the topic of the policy and the applicable legal references.

Unless otherwise specified, links to “Procedure” in this chapter refer to Chapter 17-C(1), which describes state procedures for carrying out the case planning process for child welfare cases.

Unless otherwise specified, links to “Practice Guidance” refer to Chapter 17-C(2), which provides background information to support the procedures or policy and the clinical or programmatic rationale for the actions that are required during the case planning phase.

### **Legal Basis**

Federal laws related to child welfare services include:

- ◆ Title IV-B of the Social Security Act, including 42 U.S. Code, section 622, “State plans for child welfare services.”
- ◆ Title IV-E of the Social Security Act, “Foster Care and Adoption Assistance,” including:
  - 42 U.S. Code, section 671, “State plan for foster care and adoption assistance,” on reasonable efforts.
  - 42 U.S. Code, section 675, “Definitions,” on case plans.
  - 42 U.S. Code, section 677, “John H. Chafee Foster Care Independence Program,” on transition planning.
- ◆ Public Law 93-247, the Child Abuse Prevention and Treatment Act of 1974, as amended.
- ◆ Public Law, 95-608, Indian Child Welfare Act of 1978, Policy Sec. 4(4), 101(a), (b), and (c), 102(a), 102(d), 103(a), 105(b), 201.
- ◆ Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980.
- ◆ Public Law 98-457, the Child Abuse Amendments of 1984.

- ◆ Public Law 100-294, the Child Abuse Prevention, Adoption, and Family Services Act of 1988.
- ◆ Public Law 103-432, the Social Security Act Amendments of 1994.
- ◆ Public Law 104-235, the Child Abuse Prevention and Treatment Act of 1996, as amended.
- ◆ Public Law 105-89, the Adoption and Safe Families Act of 1997 (ASFA), which requires accountability by states to keep children safe and healthy and to establish permanency as quickly as possible.
- ◆ Public Law 109-239, the Safe and Timely Interstate Placement of Foster Children Act of 2006.
- ◆ Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act.

Federal regulations pursuant to these laws are found in Title 45 Code of Federal Regulations (CFR):

- ◆ Part 96, "Block Grants."
- ◆ Part 1355, "General," requirements for federal financial participation under Titles IV-B and IV-E of the Social Security Act.
- ◆ Part 1356, "Requirements Applicable to Title IV-E."
- ◆ Part 1357, "Requirements Applicable to Title IV-B."

Iowa law related to case planning for children can be found in:

- ◆ Iowa Code Chapter 232, "Juvenile Justice," including:
  - Division I, "Construction and Definitions,"
  - Division III, "Child in Need of Assistance Proceedings," and
  - Division IX, "Interstate Compact on the Placement of Children."
- ◆ Iowa Code Chapter 232B, "Indian Child Welfare Act," which incorporates federal requirements for services to Native American children into state law.
- ◆ Iowa Code Chapter 234, "Child and Family Services," which vests the authority in the Department to use funds for child welfare services.
- ◆ Iowa Code Chapter 235, "Child Welfare," which defines Department responsibilities for child welfare services.
- ◆ Iowa Code Chapter 235A, "Child Abuse," which authorizes the child abuse prevention program and the central child abuse registry and provides procedures for accessing child abuse information.

### **Parent Visitation**

**Rule:** [441 Iowa Administrative Code 202.12\(4\)](#); 45 CFR 1355.25 and 1355.37

**Policy Statement:** The Department shall conduct face-to-face visits with both of the child's parents for all in-home and foster care service cases. The frequency of the visitation shall be based on the needs of the case but, at minimum, shall occur once every calendar month and shall be specified in the child's case permanency plan. Progress towards goal attainment shall be reviewed with the parent and documented in the case record.

### **Family Team Decision-Making Meetings**

**Law:** Public Law 113-183

**Rule:** [441 Iowa Administrative Code 130.7\(234\)](#)

**Policy Statement:** The Department is committed to the use of family team decision-making meetings to plan for services to children and families.

Subject to the availability of funds and within the capacity of the Service Area, every family shall be offered the opportunity to participate in a family team meeting that is structured within the approved family team decision-making standards.

### **Reasonable and Prudent Parent Standard**

**Law:** Public Law 113-183

**Rule:** [441 Iowa Administrative Code 202.11\(234\)](#), [112.11\(237\)](#), [113.8\(237\)](#), [117.8\(6\)](#)

**Policy Statement:** Regardless of the age of a child placed out of the home, foster parents and private entities under contract by the state, caring for children who are placed out of the home, are permitted to apply the reasonable and prudent parent standard to approve age-appropriate and developmentally-appropriate activities for children placed out of the home.

Child care institutions are required to have an on-site official authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age-appropriate or developmentally-appropriate activities.

"Age-appropriate or developmentally-appropriate activities" means activities generally accepted as suitable and developmentally appropriate for the children's chronological age or maturity level, based upon the cognitive, emotional, physical, and behavioral capacities of the individual child.

The term “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encourage the emotional growth of the child to participate in extracurricular, enrichment, cultural, and social activities.

### **Participation of the Child in Court Hearings**

**Law:** [Iowa Code sections 232.91](#)

**Policy Statement:** A child aged 14 or over shall attend all hearings, staffings, and family team meetings involving placement options or services provided to the child unless the child’s attorney finds it is not in the best interests of the child. Video or telephonic means may be used, if needed.

If a child aged 14 or older does not attend a court hearing, the court shall determine if the child was informed of the child’s right to attend.

If the child is excluded from attending a hearing or meeting, the Department shall maintain a written record in the child’s file detailing the reasons for excluding the child. Upon request of the child at age 18 or older, the Department must provide a copy of the written record detailing the reason the child was not allowed to attend.

### **Informed Consent**

**Rule:** [441 Iowa Administrative Code 130.7\(3\)](#)

**Policy Statement:** Unless determined otherwise by court action, children and families involved with the Department shall at all times be fully informed of their right to make their own decisions and choices concerning programs offered by the Department.

### **Assessing Child Safety and Risk**

**Rule:** [441 Iowa Administrative Code 175.26\(2\)](#)

**Policy Statement:** A safety assessment of a child shall be conducted at the following critical junctures throughout the course of the Department’s involvement with the family:

- ◆ Within 24 hours of first contact with a child during child protective assessment
- ◆ At completion of the child protective assessment
- ◆ Whenever circumstances suggest the child is in an unsafe situation
- ◆ Before the decision to recommend unsupervised family interaction
- ◆ Before the decision to recommend reunification
- ◆ Before the decision to recommend closure of protective services

### **Developing a Safety Plan**

**Rule:** [441 Iowa Administrative Code 175.26\(2\)](#)

**Policy Statement:** When the safety assessment decision is that the child is conditionally safe, a safety plan is required.

### **Family Risk Assessment**

**Rule:** [441 Iowa Administrative Code 175.26\(1\)](#)

**Policy Statement:** The type and severity of the risk is assessed during intake with respect to the allegations. The child protection worker completes form 470-4133, *Family Risk Assessment*, before the completion of the child protective assessment.

### **Sex Trafficking**

**Law:** Public Law 113-183

**Rule:** [441 Iowa Administrative Code 175.21\(232,235A\)](#), [175.22\(232\)](#)  
[through 175.25\(232\)](#)

**Policy Statement:** "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. "Severe forms of trafficking in persons" means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

Within child welfare children and youth at risk of sex trafficking include:

- ◆ Any child or youth for whom there is an open child welfare case but has not been removed from the child's home.
- ◆ Any child or youth for whom the Department has responsibility for the child's or youth's placement, care, or supervision.
- ◆ Any child or youth under the age of 18 who has run away from foster care.
- ◆ Any youth not in foster care but who is receiving Chafee services.

Report immediately (no later than 24 hours) to local law enforcement specific children or youth who have been identified as being a sex trafficking victim. Local law enforcement will enter their information into the National Crime Information Center database of the FBI.

Also report immediately (no later than 24 hours) the children who are missing or abducted to the National Center for Missing and Exploited Children at 800-843-5678.

Identify, document, and provide appropriate services for children and youth who are at risk of becoming a sex trafficking victim or who have been a victim of sex trafficking.

### **Safe Case Closure**

**Law:** Statewide required practice

**Policy Statement:** Safe case closure requirements shall define:

- ◆ Necessary behavioral patterns that the caregiver must consistently demonstrate to maintain or reunify the family and to conclude external supervision.
- ◆ Sustainable conditions and supports that must be put into place in order to either maintain or reunify the family and to terminate and close external supervision.
- ◆ Methods and timetables for measuring behavioral changes, sustainable conditions and supports, and progress toward meeting goals.

## **Planning for Permanency**

### **Assessing the Need for Placement**

**Rule:** [441 Iowa Administrative Code 202.2\(2\)](#)

**Policy Statement:** The need for foster care placement and service shall be determined by an assessment of the child and family to determine their needs and appropriateness of services.

Assessments shall address the educational, physical, psychological, social, family living, and recreational needs of the child and the family's ability to meet these needs. The assessment shall be a continual process to identify needed changes in service or placement for the child.

### **Efforts to Prevent Removal of a Child**

**Law:** [Iowa Code section 232.78](#) and [232.79A](#)

**Rule:** [441 Iowa Administrative Code 202.2\(4\)](#)

**Policy Statement:** Unless the child is in immediate danger at home, the Department shall recommend foster care placement only after efforts have been made to prevent or eliminate the need for removal of the child from the family.

### **Social History**

**Law:** [Iowa Code sections 232.97](#) and [232.181](#)

**Rule:** [441 Iowa Administrative Code 202.2\(3\)](#)

**Policy Statement:** The placing worker shall complete a social history on each child before making a Department recommendation for foster care placement. Exceptions:

- ◆ For voluntary emergency placements, complete a social history before a decision is made to extend the placement beyond 30 days.
- ◆ For court-ordered emergency placements, complete a social history before the disposition hearing.

### **Establishing the Permanency Goal**

**Law:** Public Law 113-183; 42 USCA 675(5); [Iowa Code section 232.2\(4\)](#)

**Rule:** 45 CFR 1355.20; [441 Iowa Administrative Code 202.15\(234\)](#)

**Policy Statement:** The Department shall establish in the case plan a permanency goal for every child receiving services. The Department shall establish steps and clear time frames for achieving reunification or proceeding with an alternate permanent placement.

As a permanency goal, the use of Another Planned Permanent Living Arrangement (APPLA) refers to a situation in which a child is placed in a setting and is expected to remain there until adulthood. APPLA is limited to children who are 16 years of age or older and only after documentation of the intensive, ongoing, and unsuccessful efforts made for family placement. The Department retains care and custody responsibility for the child.

For a child for whom APPLA has been determined as the permanency goal, the Department must document the steps taken to ensure that the child's foster family home or child care institution is following the reasonable and prudent parent standard. This information shall be conveyed to juvenile court at the time of the child's review hearing.

### **Timelines for Permanency**

**Law:** 42 USC 675(5); [Iowa Code section 232.102](#)

**Rule:** 45 CFR 1355.20; [441 Iowa Administrative Code 130.7\(3\)](#)

**Policy Statement:** Timelines for permanency are established through the judicial review process in accordance with applicable state and federal statutes.

### **Reasonable Efforts to Achieve Permanency Goal**

**Law:** 42 USC 671(a)(15)(B)(ii), 675(1)(a), 675(5);  
[Iowa Code section 232.102](#)

**Rule:** 45 CFR 1355.20; [441 Iowa Administrative Code 130.7\(3\)](#)

**Policy Statement:** The Department shall make reasonable efforts to provide to the family the services necessary for the safe return of the child to the child's home, or if reunification is not possible to achieve an alternate permanency goal. The case plan shall document child-specific recruitment efforts to facilitate a timely in-state or interstate permanency placement.

### **Concurrent Planning**

**Law:** [Iowa Code sections 232.2\(4\)](#) and [232.102\(10\)](#)

**Rule:** [441 Iowa Administrative Code 130.7\(234\)](#)

**Policy Statement:** Concurrent planning means the Department may, depending on the assessment of the child and family, make plans for reunification of the child while simultaneously establishing one or more alternative permanency options.

### **Termination of Parental Rights**

**Law:** [Iowa Code section 232.111\(2\)“b”](#)

**Policy Statement:** When a child has been in foster care under the responsibility of the state for 15 of the most recent 22 months, the Department shall initiate the process to file a petition to terminate parental rights.

The petition must be filed by the end of the child’s fifteenth month in foster care unless the case plan documents compelling reasons why termination of parental rights would not be in the child’s best interest.

### **Transition Planning**

**Law:** 42 USC 675(1)(c); 42 USC 677; [Iowa Code Supplement section 232.2\(4\)“f”](#); [Iowa Code section 232.91](#); [232.147-151](#); Public Law 113-183

**Policy Statement:** For all youth in foster care who are 14 years of age and older, the transition planning process shall include all of the following:

- ◆ Initial and ongoing assessment of the youth’s preparedness for adulthood.
- ◆ A written plan of services, supports, activities, and referrals to programs to assist the youth in preparing for the transition from foster care to adulthood.
- ◆ The transition plan must be personalized at the direction of the youth and developed with a youth-centered transition team.
- ◆ An annual review with the credit reporting agencies (TransUnion, Equifax, and Experian) to see if there is any consumer credit report for the youth. If such a report exists, the social work case manager will assist the youth in understanding the report and resolving any inaccuracies.
- ◆ Per federal requirements of the National Youth Transition Database (NYTD), a quarterly survey sent to the youth’s social work case manager will be completed to indicate which, of the independent living services listed, the youth received during the previous quarter.

- ◆ The transition plan is a working document and must be reviewed and updated:
  - At a minimum of every six months by a court or by administrative review, and
  - Within the 90 days before a youth reaches age 18, and
  - During the 90 days immediately before the youth is expected to leave foster care if the youth remains in foster care after reaching age 18.
- ◆ During the review conducted within 90 days of the youth reaching age 18, the youth shall be provided information and education about the importance of having a durable power of attorney for health care decisions. Provide the youth with the option to execute such a document once they reach age 18.
- ◆ The Rights of Youth in Out-of-Home Placement (form 470-5337) shall be reviewed with the youth. The youth must sign and date the document, confirming understanding of their rights, and be given a copy. A copy is filed in the case file. The document is a part of the case plan and must be provided to all legal parties of the case.

Before the youth reaches age 17 1/2, a transition committee for the area in which the youth resides must review and approve the transition plan. If the youth enters foster care at age 17 1/2 or older, the committee must review and approve the youth's transition plan within 30 days of completion.

Transition assessment and transition plan development is also available upon request to youth who have exited foster care at age 16 and older in order to be adopted or to enter a subsidized guardianship arrangement.

### **Health Care Treatment Decisions**

**Law:** Public Law 111-128

**Rule** [441 Iowa Administrative Code 202.11\(7\)](#)

**Policy Statement:** During the 90-day period immediately before the youth's eighteenth birthday, the Department shall provide:

- ◆ Education about the importance of designating another person to make health care treatment decisions on behalf of the youth; and
- ◆ The option to execute a health care power of attorney or a health care proxy.

### **Transfer of Records**

**Law:** Public Law 113-183; 42 USC 675(1)(c); 42 USC 677; [Iowa Code section 232.2\(4\)"f"](#)

**Policy Statement:** A free copy of the youth's health and education record must be provided to youth when the youth exits from foster care at 18 years of age or older.

On or before the youth's eighteenth birthday, the Department or its designee shall provide to the youth a certified copy of the youth's birth certificate, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and driver's license or state identification card. The state or county registrar shall waive the fee for the certified copy that is otherwise chargeable under Iowa law.

### **Developing the Initial Case Plan**

**Law:** Public Law 113-183; 42 USCA 671(a)(15)(A), 671(a)22, 675(1), and 675(15); [Iowa Code Supplement section 232.2\(4\)](#)

**Rule** [441 Iowa Administrative Code 130.7\(234\)](#) and [202.15\(234\)](#)

**Policy Statement:** The Department shall develop a case plan for each child and family receiving services that meets federal and state requirements. A case plan shall be developed in partnership with the child and family. The case plan shall:

- ◆ Define the change requirements to be met by the family.
- ◆ Frame a long-term view of what it takes for the family to live together safely and successfully, independent of outside supervision.
- ◆ Specify the necessary behavior patterns that the caregiver must consistently demonstrate to reunify the family and conclude external supervision by the court and the Department.
- ◆ Include sustainable conditions and supports necessary to reunify the family and conclude external supervision by the court and the Department.
- ◆ Be completed within 60 days from the date the child enters foster care or the date the Department opens a DHS child welfare case, whichever comes first.
- ◆ The case plan must be developed in consultation with the child if the child is 14 years of age or older. The child may choose up to two members of the case planning team who are not the caseworker or the child's foster parent.

### **Family Strengths and Needs**

**Law:** 42 USCA 671(a)(15)(A), 671(a)22, 675(1), and 675(15);  
[Iowa Code section 232.2\(4\)](#)

**Rule:** [441 Iowa Administrative Code 130.6\(2\)](#)

**Policy Statement:** The Department is committed to completing a thorough assessment that identifies strengths and needs for each child and family. Strengths are the foundation for the case planning process and the basis upon which solutions to concerns are based.

Strengths must be family member assets that can be used to help families change. Strengths are defined and connected with a family need. There must be a clear connection between the strategies or interventions utilized to help the family change and the identified strengths.

### **Addressing Safety Issues**

**Law:** 42 USCA 671(a)(15)(A), 671(a)22, 675(1), and 675(15);  
[Iowa Code section 232.2\(4\)](#)

**Rule:** [441 Iowa Administrative Code 130.7\(234\)](#)

**Policy Statement:** The safety of children is the paramount concern that must guide all child welfare services. Children shall be protected from abuse and shall be safely maintained in their homes whenever possible.

The case plan shall state whether the child would be at “imminent risk of removal” from the home if in-home services were not provided. Cases that meet this standard are eligible for federal Title IV-E funding as candidates for foster care.

The worker shall document in the initial case plan whether DHS would ask the court to consider removal if the family refused or terminated in-home services and why.

A redetermination of whether the child remains at “imminent risk of removal” from the home shall be conducted at minimum once every six months. If it is determined that the child remains at “imminent risk of removal” if in-home services were not provided, document this and why in the case plan.

### **Goals, Services, and Strategies**

**Law:** 42 USCA 671(a)(15)(A), 671(a)22, 675(1), and 675(15);  
[Iowa Code section 232.2\(4\)](#)

**Rule:** [441 Iowa Administrative Code 130.7\(1\)](#)

**Policy Statement:** In partnership with the family, the worker shall develop goals and strategies that are measurable and build on client strengths whenever possible. The foundation for developing effective strategies is rooted in a thorough functional assessment. The purposes of strategies are to identify actions that must occur in order to reach the desired goals.

### **Health and Education Needs**

**Law:** 42 USCA 675(1)(c); [Iowa Code Supplement section 232.2\(4\)](#)

**Rule:** [441 Iowa Administrative Code 130.7\(2\)](#)

**Policy Statement:** The case plan for a child entering out-of-home placement shall:

- ◆ Include the most recent information available concerning the child's health and education records.
- ◆ Document completion of the following efforts to maintain educational stability:
  - An evaluation of the appropriateness of the child's educational setting while in placement.
  - An evaluation of the proximity of the educational setting to the setting in which the child was enrolled at time of placement.
  - Coordination with the appropriate local education agencies to identify how the child could remain in the educational setting in which the child was enrolled at time of placement.
  - Immediate and appropriate enrollment of the child in another educational setting if it is determined not in the child's best interest to remain in the same setting.
  - Transfer of the child's educational records to the new educational setting within five days of notice that the child is changing schools.

### **Completing the Case Plan**

**Law:** 42 USCA 675(5)(c)(iii); [Iowa Code section 232.2\(4\)](#)

**Rule:** [441 Iowa Administrative Code 130.7\(234\)](#)

**Policy Statement:** A case plan shall be filed within 60 days from the date the child enters foster care or the date the Department opens a child welfare service case, whichever occurs first.

The recommendation and strategies from the *Child Protective Services Assessment Summary* and the safety plan developed with the family, when applicable, serve as the interim case plan until the full plan is completed.

### **Documenting Family Participation in the Case Plan**

**Law:** 42 USCA 675(5)(c)(iii); [Iowa Code section 232.2\(4\)](#)

**Rule:** 42 CFR 1355.25; [441 Iowa Administrative Code 130.7\(234\)](#)

**Policy Statement:** To the fullest extent possible the Department shall provide opportunities for the family to participate in the development of the case plan. The family will be provided opportunities to make comments or indicate their agreement with the case plan.

### **Case Notes**

**Law:** Statewide Required Practice

**Policy Statement:** Initial case notes shall be completed within the first 20 business days from the date the child enters foster care or the date the Department opens a child service case, whichever occurs first. Thereafter, case notes should be completed within 20 business days whenever you have phone contact with the parents, caretaker, service provider, and soon after any face-to-face visits, throughout the life of the case.

### **Reviewing the Case Plan**

**Law:** 42 USCA 675; [Iowa Code section 232.2](#)

**Rule:** [441 Iowa Administrative Code 130.7\(4\)](#)

**Policy Statement:** The status of each child shall be reviewed periodically but no less frequently than every six months by a court or by administrative review in order to determine:

- ◆ The safety of the child,
- ◆ The continuing necessity for and appropriateness of placement, and
- ◆ The extent of compliance with the case plan and the extent of progress that has been made toward alleviating or mitigating the causes necessitating services.

“Administrative review” means a review open to the participation of both parents of the child, which is conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of, or delivery of, services to either the child or the parents who are the subject of the review.

### **Safety Assessment**

**Law:** Statewide Required Practice

**Policy Statement:** Form 470-4132, *Safety Assessment*, shall be completed at critical junctures throughout the course of the Department’s involvement with the family:

- ◆ Whenever circumstances suggest the child is in an unsafe situation,
- ◆ Before the decision to recommend unsupervised family interaction or visits,
- ◆ Before the decision to recommend reunification, and
- ◆ Before the decision to recommend closure of protective services.

### **Risk Reassessment**

**Law:** Statewide Required Practice

**Policy Statement:** Risk is formally and informally reassessed periodically throughout the life of the case. The results of the risk reassessments and the assessment of the family’s functioning are used to gauge progress and determine appropriate services.

Formal risk reassessments are completed using form 470-4134, *Risk Reassessment*:

- ◆ During case permanency plan reviews, and
- ◆ Before case closure

Informal risk reassessments are completed without the use of a tool at the following points during the life of a case:

- ◆ Before reunification,
- ◆ At family decision-making team meetings,
- ◆ In unsafe situations,
- ◆ During any contact with child, caregiver, or future caregiver,
- ◆ After review of reports,
- ◆ In clinical case consultations with the supervisor and other professionals,
- ◆ Before unsupervised family interactions or visits, and
- ◆ Whenever circumstances suggest.

### **Evaluating the Case Plan**

**Rule:** [441 Iowa Administrative Code 130.7\(4\)](#)

**Policy Statement:** The worker shall determine progress toward achieving the desired results. The plan must include a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship.

### **Reassessing Strengths and Needs of the Child and Family**

**Rule:** [441 Iowa Administrative Code 130.7\(4\)](#), [130.7\(5\)](#)

**Policy Statement:** Throughout the service process, the worker shall continuously reassess the strengths and needs of the child and family and use this information to modify and update the family case plan.

## **Case Planning for Native American Children**

### **Inquiry About Native American Ancestry**

**Law:** Public Law 95-608, section 4(4); [Iowa Code section 232B.4](#)

**Policy Statement:** Department staff shall make inquiries regarding tribal membership or eligibility for tribal membership for all children accepted for services. Staff shall document these inquiries and inform the court about them.

### **Involvement of Tribal Representatives**

**Law:** Public Law 95-608; [Iowa Code section 232B.2](#)

**Policy Statement:** The Department shall seek the involvement of tribal representatives, as well as other persons with specific knowledge of Native American culture and child-rearing practices in child welfare case assessment and case planning for Native American children.

### **Child Custody Proceedings**

**Law:** Public Law 95-608, sections 101(c), 102(a), 103(a);  
[Iowa Code section 232B.5](#)

**Policy Statement:** In a state court proceeding for the placement of an Indian child in foster care or a termination of parental rights, the Indian child's custodian or the tribe shall have the right to intervene at any point in the proceeding.

### **Notification of Involuntary Custody Proceedings**

**Law:** Public Law 95-608, section 102(f); [Iowa Code section 232B.5](#)

**Policy Statement:** When an Indian child is involved in a foster care placement or termination of parental rights, the party seeking the action shall notify both parents, the Indian custodian, or the Indian child's tribe of the pending proceedings by registered mail.

If the identity or location of both parents, the Indian custodian, or the Indian child's tribe cannot be determined, the Secretary of the Interior shall be notified by registered mail.

No foster care placement shall be made nor shall there be a hearing for termination of parental rights until at least ten days after receipt of notification by both parents, the custodian or the tribe.

### **Transfer to Indian Tribal Court**

**Law:** Public Law 95-608, sections 101(a), (b), & (c);  
[Iowa Code section 232B.5](#)

**Policy Statement:** Proceedings involving an Indian child shall be transferred to the Indian tribal court when the child:

- ◆ Resides on a reservation that has a tribal court, or
- ◆ Is a ward of the tribal court, regardless of where the child resides, or
- ◆ Resides on the reservation of heritage and federal law does not specify contrary jurisdiction, or
- ◆ Is a resident of a reservation that has a tribal court although presently residing off the reservation.

Either parent of the child, the custodian, or the tribal court may object to this transfer. If objection occurs, the case shall proceed in state court.

### **Interstate Transfer of an Indian Child**

**Law:** Public Law 95-608; [Iowa Code section 232B.5](#)

**Policy Statement:** When a child has tribal heritage with a tribe whose residence is in a state other than Iowa, and the child is involved in initial proceedings in a child custody action, the Department shall notify both parents, the custodian, the tribe, and the Secretary of the Interior, and will initiate transfer proceedings to that tribe.

### **Efforts to Maintain the Family Unit**

**Law:** Public Law 95-608, section 102(d); [Iowa Code section 232B.5\(19\)](#)

**Policy Statement:** Any party seeking to effect a foster care placement or termination of parental rights to an Indian child under state law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have been unsuccessful.

### **Standards of Evidence**

**Law:** Public Law 95-608; [Iowa Code section 232B.5\(2\)](#)

**Policy Statement:** The standard of evidence for foster care placements of Indian children is “clear and convincing” evidence that continued custody of the child by both of the child’s parents or Indian custodian is likely to result in serious emotional or physical damage to the child. For termination of parental rights and pre-adoptive or adoptive proceedings, the evidentiary standard is “beyond a reasonable doubt.”

### **Use of Expert Witnesses**

**Law:** Public Law 95-608, section 102(f); [Iowa Code section 232B.10](#)

**Policy Statement:** Before ordering foster care or termination of parental rights, the judge must hear testimony from one or more qualified expert witnesses with specific knowledge of the child’s Indian tribe. Placement shall be ordered only with a determination supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parents or Indian custodian is likely to result in serious emotional or physical damage to the child.

## **Placement Requirements**

### **Voluntary Placement of Indian Children**

**Law:** Public Law 95-608; [Iowa Code section 232B.7](#)

**Policy Statement:** To be valid, a voluntary consent to either foster care placement or termination of parental rights for an Indian child must:

- ◆ Be executed in writing;
- ◆ Be executed at least ten days after the child's birth;
- ◆ Be recorded before a judge; and
- ◆ Be accompanied by the judge's certification that all terms and consequences of the consent were fully explained in detail and were fully understood by both of child's parents or custodian.

### **Emergency Removal of Indian Child**

**Law:** Public Law 95-608, section 112; [Iowa Code section 232B.6](#)

**Policy Statement:** An Indian child may be removed from the parental home and placed in an emergency foster home when the child is in imminent danger or physical danger or harm. The placement shall end immediately when no longer necessary to prevent physical danger or have, and the child shall be returned to the child's parents or Indian custodian, unless otherwise ordered or agreed.

### **Placement Preference Hierarchy**

**Law:** Public Law 95-608, sections 105(d) and 301(a);  
[Iowa Code section 232B.9](#)

**Policy Statement:** Preference requirements shall be the prevailing social and cultural standards of the Indian community in which the parents or extended family resides or maintains cultural ties.

Preference will be given to placing Indian children with relatives and extended family members, as defined by tribal customs and practices, rather than in non-related foster care settings.

In the absence of such law or custom, the extended family shall include a person who has reached the age of 18 and who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin or step-parent.

### **Foster Care or Pre-Adoptive Placement Preference**

**Law:** Public Law 95-608, section 105(d);  
[Iowa Code section 232B.9\(2\)](#)

**Policy Statement:** Any child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting which most approximates a family and in which the child's special needs, if any, may be met. In the absence of good cause to the contrary, preference shall be given to:

- ◆ A member of the Indian child's extended family,
- ◆ A foster home approved by the Indian child's tribe,
- ◆ An Indian foster home approved by the Department, or
- ◆ An institution for children approved by the Indian tribe.

### **Adoptive Placement Preference**

**Law:** Public Law 95-608, section 105(c); [Iowa Code section 232B.9](#)

**Policy Statement:** Placement preference shall be given (in absence of good cause to the contrary) in the following in order:

- ◆ A member of the child's extended family,
- ◆ Other members of the Indian child's tribe, or
- ◆ Another Indian family.

However, if the child's tribe has established a different order or preference by resolution, the agency or court affecting the plan shall follow such order so long as the plan is in the least restrictive environment appropriate to the needs of the particular child.

### **Adoption Vacated Upon Voluntary Consent of Adoptive Parents**

**Law:** Public Law 95-608, section 106(a); [Iowa Code section 232.116](#)  
and [232B.8](#)

**Policy Statement:** Whenever a final decree of adoption of an Indian child has been vacated and the adoptive parents have voluntarily consented to termination of their parental rights, a biological parent (father or mother) or prior Indian custodian may petition for return of child. The court shall grant such petition unless there is showing that such return of child is not in the best interests of the child.

## **Records Retention and Access**

### **Child Welfare Records**

**Law:** Public Law 95-608, section 105(e); [Iowa Code section 232B.13](#)

**Policy Statement:** If placement is made of an Indian child, the state must keep a record of such placement that evidences the efforts to comply with the order of preference specified. Such records will be made available at any time upon the request of the Secretary or the Indian child's tribe.

### **Adoption Records**

**Law:** Public Law 95-608, section 201; [Iowa Code section 232B.13](#)

**Policy Statement:** Any state court entering a final decree or order of any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary of the Interior with a copy of such decree or order together with such other information that documents:

- ◆ The name and tribal affiliation of the child.
- ◆ The names and addresses of both biological parents.
- ◆ The names and addresses of both adoptive parents.
- ◆ The identity of any agency having files or information relating to such adoptive placement.

## **Case Planning for Children With Mexican Citizenship**

**Law:** Vienna Convention on Consular Relations; Consular Convention Agreement between the United States and Mexico

**Policy Statement:** The Department shall assess whether a child taken into state custody is a Mexican national or a multiple-nationality minor. If so, the Department shall involve the Mexican Consulate in case planning for the child according to the terms of the Memorandum of Understanding Between the State of Iowa and the United States of Mexico Concerning Child Welfare Cases Involving Mexican National and Multiple Nationality Minors.

## **Interstate Placement**

**Law:** 42 USC 471(a), Kinship Care; [Iowa Code sections 232.158 – 232.164](#)

**Policy Statement:** All placements of children across state lines shall comply with the requirements of the Interstate Compact on Placement of Children. When the placement involves either parent or relative, the permanency planning and best interests of the child need to be maintained.