

CHAPTER 9560
DEPARTMENT OF HUMAN SERVICES
SOCIAL SERVICES FOR CHILDREN

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9560.0221 CRITERIA FOR SEEKING CHILD'S REMOVAL FROM HOME.

Subpart 1. Agency evaluation before seeking removal. Before seeking removal of a child from the child's home, the local agency must evaluate whether:

A. the child is an Indian child as defined in Minnesota Statutes, section 257.351, subdivision 5; and if so, the agency must follow the process in subpart 3;

B. the agency has made reasonable efforts to provide services that are:

- (1) relevant to the safety and protection of the child,
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances;

C. in the case of child maltreatment, the alleged perpetrator can be removed from the child's home;

D. a caregiver is willing and able to protect the child if the alleged perpetrator cannot be removed from the child's home; or

E. the child and child's caregiver are informed of the services and accept the services the agency offers.

Subp. 2. Removal of non-Indian child from home.

A. If the local agency determines that a child is in imminent danger of maltreatment and that the actions in subpart 1 would not ensure the child's safety, then an emergency exists and the agency must seek removal of the child from the home according to part 9560.0220, subpart 9, or obtain an appropriate protective court order.

B. The local agency may seek legal authority to place the child in foster care in nonemergency circumstances when

- (1) a parent voluntarily requests placement of the child; or
- (2) when the local agency believes the child is in need of protection and services as defined in Minnesota Statutes, section 260.015, subdivision 2a.

Subp. 3 Removal of Indian child.

A. The agency must seek emergency removal of any Indian child who is temporarily or permanently located off the reservation if necessary to prevent imminent physical damage or harm to the child. The agency must expeditiously initiate a child custody proceeding subject to the Indian Child Welfare Act, United States Code, title 25, chapter 21, sub-

chapter I, section 1915, transfer the child to the jurisdiction of the appropriate tribe, or restore the child to the parent. The emergency placement must terminate immediately when it is no longer necessary to prevent imminent physical damage or harm to the child.

B. If the agency believes it will be involved with an Indian child for more than 30 days, it must notify the child's tribe of the potential for foster care placement within seven days of determining that the child might be placed out of the home.

C. If the Indian child resides on a reservation with jurisdiction over child welfare matters or is a ward of a tribal court, the agency may not seek nonemergency removal of the child even when the maltreatment occurs off the reservation. In nonemergency cases, the agency must refer the Indian child to tribal social services.

D. In cases involving an Indian child who is not a resident of or domiciled on a reservation, the agency may seek nonemergency removal of the child only if clear and convincing evidence can show that the child is likely to suffer serious emotional or physical damage in the care of the parent or Indian custodian.

E. An agency removing an Indian child must 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 proved unsuccessful. Active efforts include, but are not limited to, soliciting the advice of tribal representatives and, if the parents do not object, members of the child's extended family.

F. Removal of an Indian child requires testimony by a qualified expert witness as to the likelihood of harm from continued residence with the parent or Indian custodian.

G. A "qualified expert witness" means:

(1) a member of an Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs of family organization and child rearing;

(2) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or

(3) a professional person having substantial education and experience in the area of the professional person's specialty, along with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2777

9560.0500 SCOPE.

Parts 9560.0500 to 9560.0670 govern the administration and provision of foster care to children and their families by the local agency that has placement and supervisory responsibilities.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2778

9560.0510 PURPOSE OF FOSTER CARE SERVICES.

The purpose of foster care is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the conditions causing placement and to reunite the family or, if the child cannot be returned home, to provide some other permanent plan.

Foster care may be provided only after services to prevent the need for placement of a child in foster care have been considered, provided, or refused by the child's family.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2778

9560.0520 [Repealed, 20 SR 2778]

9560.0521 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9560.0500 to 9560.0670 have the meanings given them in this part.

Subp. 2. **Administrative review.** "Administrative review" means a review open to participation of the parents or guardian and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to the child, parents, or guardian.

Subp. 3. **Child.** "Child" means a person under the age of 18.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 5. **Custodian.** "Custodian" means a person who is under a legal obligation to provide care and support for a child or who is in fact providing care and support for a child. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the parent of the child, as provided in Minnesota Statutes, section 257.351, subdivision 8.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **Difficulty of care payment.** "Difficulty of care payment" means a supplemental maintenance payment determined by the local agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

Subp. 8. **Dispositional hearing.** "Dispositional hearing" means a hearing held by a family or juvenile court, a tribal court, or another court of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be placed for adoption or kept in foster care temporarily or on a long-term basis.

Subp. 9. **Foster care.** "Foster care" means the 24-hour-a-day care of a child following placement by the commissioner or a licensed child-placing agency with legal placement responsibility pursuant to a court order or voluntary placement agreement, in any facility that regularly provides one or more children, when unaccompanied by a parent or guardian, with a substitute for the care, food, lodging, training, education, supervision, or treatment they need which for any reason cannot be furnished by a parent or guardian in the child's home.

Subp. 10. **Foster care maintenance payments.** "Foster care maintenance payments" means payments to cover the cost of a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institution.

Subp. 11. **Foster care provider.** "Foster care provider" means a person or entity licensed to provide foster care.

Subp. 12. **Foster family home.** "Foster family home" means a family licensed under parts 9545.0010 to 9545.0260 to provide foster care in their home for children.

Subp. 13. **Guardian or legal guardian.** "Guardian" or "legal guardian" means a person appointed by a parent's will or by the court to have the powers and responsibilities of a parent, except that the guardian is not legally obligated to provide support for the ward out of the guardian's own funds.

Subp. 14. **Indian child.** "Indian child" means an unmarried person under the age of 18 who is either a member of or eligible for membership in an Indian tribe.

Subp. 15. **Legal custody.** "Legal custody" means the right to the care, custody, and control of a child as defined in Minnesota Statutes, section 260.015, subdivision 8.

Subp. 16. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide social services and financial assistance under Minnesota Statutes, section 393.07.

Subp. 17. **Parent.** "Parent" means a child's parent by birth or adoption. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in Minnesota Statutes, section 257.351, subdivision 11.

Subp. 18. **Placement plan.** "Placement plan" means the written plan as specified in part 9560.0603 for a child in placement.

9560.0521 SOCIAL SERVICES FOR CHILDREN

Subp. 19. **Relative.** "Relative" means an individual who is related to the child and also includes members of the child's extended family and important friends as noted in Minnesota Statutes, section 260.181, subdivision 3.

Subp. 20. **Residential facility.** "Residential facility" means any group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility licensed by the state, county, or other political subdivision, or any agency thereof, to provide foster care.

Subp. 21. **Voluntary placement.** "Voluntary placement" means an out-of-home placement of a child by or with participation of the local agency, after the child's parent or guardian has requested the assistance of the agency and signed a voluntary placement agreement.

Subp. 22. **Voluntary placement agreement.** "Voluntary placement agreement" means a written agreement between the local agency and the parent or guardian of a child, which specifies the legal status of the child and the rights and obligations of the parent or guardian, the child, and the local agency.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0523 AUTHORITY FOR CHILD'S PLACEMENT BY LOCAL AGENCY.

A local agency obtains authority to place a child in foster care:

A. through a voluntary placement agreement; or

B. by a court order granting legal custody.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0525 LOCAL AGENCY GIVEN LEGAL CUSTODY BY COURT.

When a court has given legal custody of a child to a local agency, the local agency must:

A. place the child according to the court order;

B. before expiration of the court order, send written reports to the court giving information, evaluations, and recommendations to help the court make decisions about the child and the child's family;

C. notify the court and the child's parent or guardian if the child is placed out of the jurisdiction of the court;

D. inform the foster care providers of court hearings that pertain to any foster child in their care by sending advance written notice by mail to the foster care providers of the date, time, location, and purpose of any court hearing. The notice shall contain a statement that receipt of the notice does not confer standing on the foster care provider to participate at the hearing;

E. request the court's permission for any special treatment and care if the child's parent or guardian fails to provide it;

F. obtain the consent of the court before terminating foster care and returning the child to the family; and

G. obtain the written consent of the child's parent or guardian and the court if a child is to be placed in foster care outside the state. If the child's parent or guardian refuses consent, the court's written consent is sufficient authorization for placement outside the state.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0527 LOCAL AGENCY PLACING CHILD UNDER VOLUNTARY AGREEMENT.

When a local agency places a child in foster care under a voluntary placement agreement, the local agency must:

A. before placement, obtain the written consent of both parents, or the legal guardian, unless placement is in the child's best interest and the other parent's signature is unobtainable;

B. if only one parent signs the agreement, the agency must document why the other parent did not sign the agreement;

C. in addition, in the case of an Indian child, advise the parent or custodian that the child is to be returned upon demand in a written and dated statement complying with the requirements of Minnesota Statutes, section 257.351, subdivision 4, and notify the Indian child's tribe within seven working days of placement;

D. obtain the agreement of the non-Indian child's parent or guardian to notify the local agency in a written and dated statement if the parent or guardian wishes the child returned from placement before the date specified in the voluntary placement agreement; and

E. return the child to the child's parent or guardian as soon as possible and no later than 24 hours after receiving a written and dated demand for return of the child unless a longer response time is specified in the demand for any child, or in the voluntary placement agreement for a non-Indian child; for Indian children, the demand must be a written and dated statement complying with the requirements of Minnesota Statutes, section 257.351, subdivision 4.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0529 PLACEMENT IN LICENSED FACILITY.

A local agency authorized to place a child in foster care must place the child in a licensed residential facility, in the home of a relative who is undergoing or who will later undergo evaluation for an emergency license, under Minnesota Statutes, section 245A.03, subdivision 2a, or in some other facility as permitted by the licensing statute, Minnesota Statutes, chapter 245A.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0530 [Repealed, 20 SR 2778]

9560.0532 REMOVAL OF CHILDREN.

An agency seeking to remove a child from the child's home must do so pursuant to procedures specified in parts 9560.0210 to 9560.0485 and Minnesota Statutes, sections 260.015, 260.165, and 260.181.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0535 LOCAL AGENCY SEARCH FOR RELATIVES.

Subpart 1. **Search for relatives required.** The local agency must search for relatives with whom to place a child, unless the child's parent specifically objects.

Subp. 2. **Parental objection to relative search.** If a child's parent specifically objects to the search for relatives, the local agency must, without contacting relatives, evaluate and address the parent's concerns by considering:

A. the child's and the parent's or guardian's preferences about relatives and the reasons for those preferences;

B. if there are specific relatives the parent does not want contacted, whether there are other relatives who may be contacted;

C. whether any relatives have offered to care for the child;

D. whether placement with relatives would interfere with the parent's ability to follow a placement plan; and

E. in the case of an Indian child, the tribe's position on contacting the relatives.

If a parent still objects to the relative search, the agency must notify the juvenile court of the parent's reasons for objecting. The agency must send each parent a copy of the notification to the court. The local agency may not contact the child's relatives unless ordered to do so by the court.

In the case of an Indian child, the agency must seek a relative placement unless the court has determined that there is good cause under the Indian Child Welfare Act, United States

Code, title 25, chapter 21, subchapter I, section 1915, not to do so. The preference of the Indian child, parent, or custodian must be considered in accordance with the Indian Child Welfare Act.

Subp. 3. Initiation of search for relatives. For six months following the child's first placement, the agency must search for the child's relatives, even if the first placement is with a relative. The agency is permitted to continue the search thereafter only if it determines it is in the best interests of the child or if the court orders it to do so. The agency must thoroughly document the search efforts. If a subsequent placement becomes necessary and other relatives might be available as foster care providers, the local agency must renew the search for those relatives. Pursuant to Minnesota Statutes, section 260.191, subdivision 3a, the court will review the agency's efforts to search for relatives and may order the agency to continue recruitment of relatives if the agency has not performed the search properly.

Subp. 4. Special efforts for relative search. As required by Minnesota Statutes, section 257.072, subdivision 1, a local agency must make special efforts to recruit a relative custodian or foster care provider. To make special efforts, the local agency must:

A. question the child, the child's parents or guardians, and the child's guardian ad litem, if any, about the child's relatives and preferences about the relatives;

B. in the case of an Indian child, request the child's tribe to provide the names of the child's extended family in accordance with the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915. The local agency must defer to tribal judgment as to suitability of a relative's home when the tribe has intervened pursuant to the Indian Child Welfare Act;

C. contact relatives and divulge only that information necessary for them to consider possible placement, and request names of other relatives if necessary; and

D. with the written consent of the parent or guardian for release of information about the child, or by order of the court, consult with:

(1) persons, other than those in the local agency, providing services to the child or the child's family; and

(2) other persons who know the child's family.

Subp. 5. Other sources of information. With the written consent of the parent or guardian for release of information about the child, the agency may contact the Office of the Ombudsperson for Families, the state ethnic council related to the child's ethnicity, and other potential sources of information about the child's relatives.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0540 [Repealed, 20 SR 2778]

9560.0542 CONSIDERATION OF THE CHILD'S HERITAGE.

For an Indian child, the Indian Child Welfare Act controls the placement. In all other cases, an agency may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster care provider to meet the needs of the child as one of a number of factors used to determine the best interests of the child. The agency must not delay placement of the child solely to search for a same-race family.

A. In selecting the foster care provider most suitable for the child, the agency may consider the child's:

- (1) current functioning and behavior;
- (2) medical, educational, and developmental needs;
- (3) history and past experience;
- (4) cultural and racial identity needs;
- (5) interests and talents; and
- (6) other needs and characteristics

B. The agency may also consider a foster care provider's ability to:

- (1) form a relationship with the child;
- (2) help the child integrate with the family;

(3) accept the child's background and help the child cope with the child's past;

(4) accept the behavior and personality of the child;

(5) validate the child's cultural, racial, and ethnic background;

(6) meet the child's educational, developmental, or psychological needs; and

(7) meet any other needs of the child.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2778

9560.0545 DOCUMENTATION OF PLACEMENT EFFORTS.

Subpart 1. **General requirements.** The local agency must document in the child's case record:

A the date the agency began its search for relatives;

B. the effort made to place the child with a relative and the results of the effort;

C. the effort to place the child in the least restrictive or most family-like setting, as required under title IV-E of the Social Security Act, United States Code, title 42, sections 470 to 476,

D all the factors used in making the placement decision, including race, color, or national origin if it has been determined under part 9560.0542 that consideration of such factors is in the best interests of the child; an Indian child's heritage must always be considered; and

E in the case of an Indian child, the identity of the child's tribe and the actions taken to conduct a diligent search pursuant to the Indian Child Welfare Act, United States Code, title 25, chapter 21, subchapter I, section 1915.

Subp. 2. **Requirements for court-ordered placement.** For court-ordered placements, the local agency must place in the child's record copies of the court's findings, decisions, disposition of the case, and any other information that may aid the local agency in providing services to the child.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2778

9560.0550 [Repealed, 20 SR 2778]

9560.0552 DECISIONS ABOUT CHILD IN FOSTER CARE.

Subpart 1. **Written agreement.** The placement plan or the voluntary placement agreement must specify the decisions that the local agency will make and the decisions that require consent of the court, parent, or guardian.

Subp. 2. **Request to court for authorization.** If the child's parent or guardian refuses to consent to decisions essential to the child's well-being, the local agency must seek a court order authorizing the local agency to act for the child. If there is a question about whether a decision requires parental or judicial consent, the agency must consult the court.

Statutory Authority: *MS s 257.071; 257.072*

History: 20 SR 2778

9560.0560 RELATIONSHIP TO SCHOOLS AND OTHER AGENCIES.

Subpart 1. [Repealed, 20 SR 2778]

Subp. 2. **Contact with the child's schools.** The local agency must notify the present school of a child in foster care of any change in the child's address and custodian and the date on which the change occurred or will occur. The local agency must notify the present school and the school the child may attend if there is to be a change in the child's enrollment.

Subp. 3. **Contact with the local agency of another county.** A local agency that wants to place a child in another county must request the approval of that county's local agency before making the placement. If the local agency receiving the request agrees to the placement, both local agencies must agree in writing about the responsibilities for services to be

delivered to the child, progress reports, procedures for handling foster care payments, and other matters they deem important.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0570 [Repealed, 20 SR 2778]

9560.0580 SERVICE REQUIREMENTS.

A local agency that places a child in foster care must:

A. provide at least one preplacement visit for the child unless the child is placed because of an emergency or is under six months old;

B. provide social services to the child as necessary to meet the child's needs;

C. provide social services to the child's family as necessary to:

(1) remedy the conditions that caused placement; and

(2) prepare for the child's return home or, if return home is not possible, involve the family in making an alternative plan;

D. assist the foster care providers in meeting the needs of the child; and

E. provide follow-up services to the family and child if the child returns home.

Statutory Authority: *MS s 257.071, 257.072*

History: *20 SR 2778*

9560.0590 WAIVER.

The local agency may disregard those requirements listed under part 9560.0580 that are not applicable for children under state guardianship or for placements of children in emergency facilities. The agency may also disregard those requirements under part 9560.0580 which may be contrary to the child's best interests but must document the rationale behind such waivers.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0600 PROVISION FOR MEETING HEALTH NEEDS.

The local agency must meet the health and dental needs of every child by.

A. assuring that each child has had a health examination in the 12 months before initial placement or has an examination within 30 days after placement;

B. assuring that a child's ongoing health and dental needs are met and that the child has at least one health examination per year while in placement,

C. assuring that a Child and Teen Checkup is offered or provided pursuant to parts 9505.1693 to 9505.1748 to a child eligible for the medical assistance program;

D. giving the foster care provider information about the child's immunizations and other pertinent health data with instructions for the record to be kept up to date, and

E. giving the foster care provider a written authorization for obtaining routine health care for the child with clear instructions as to which health care provider is to treat the child and who is responsible for payment.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0603 PLACEMENT PLAN.

Subpart 1. Placement plan required. A local agency must prepare a written placement plan for the child within 30 days of placement.

Subp. 2. Preparation of plan. Placement plans must comply with Minnesota Statutes, section 257.071, subdivision 1. Plans for court-ordered placements must also comply with Minnesota Statutes, section 260.191, subdivision 1e.

Subp. 3. Signing of plan. The plan must be signed by the agency, the parents, the foster care provider, and, if able to understand the meaning of the agreement, the child.

Subp. 4. **Components of placement plan; general.** A child's placement plan must set forth

A. the reasons for placement of the child, including a description of the problems or conditions in the home that caused placement of the child, and services provided to prevent placement,

B. placement options that were considered, the reasons the specific foster care provider was chosen for the child, with documentation of the search for the child's relatives. If the child was placed in another county or state, the plan must address why the child was not placed in the child's local county;

C. the specific actions to be taken by the child, the child's parent or guardian, or foster care provider to correct the problems or conditions identified in item A and the period in which the actions are to be taken;

D. the financial responsibilities and obligations, if any, of the parent or guardian for the support of the child in placement;

E. the need of the child and the child's family for care, treatment, or rehabilitation,

F. the services requested or needed by the child, the child's parent or guardian, and foster care provider, the services to be provided and who will provide them, or the reasons for denying the services,

G. the visitation rights and obligations of the parents, guardians, and other relatives if the visitation is consistent with the best interest of the child;

H. the specific efforts the local agency will make to reunite the family;

I. the decisions about the child that the local agency will make and the decisions requiring consent of the parents or guardian;

J. the authority and responsibility of the foster care provider to arrange for the education of the child and to meet with teachers regarding the child's progress;

K. the notice required under subpart 7; and

L. the date on which the child is expected to return home.

Subp. 5. **Information to foster care provider.** The local agency must fully inform the foster care provider of the provisions in the plan.

Subp. 6. **Assistance from social services, legal counsel, or guardian ad litem.** The local agency must advise the child, the parent or guardian, and any grandparent with the right to participate under Minnesota Statutes, section 260.155, subdivision 1a, that they may consult any person or agency in preparation of the placement plan, that the parent and child each has the right to legal counsel in the preparation of the placement plan; and that the child has the right to a guardian ad litem as set forth in Minnesota Statutes, section 260.155, subdivision 4.

Subp. 7. **Notice to parents.** The local agency must inform the child's parent or guardian.

A. about the conditions that must be corrected to assure the child's return home;

B. that the inability or unwillingness of the parent, guardian, or child to correct the conditions leading to the child's placement may result in a petition to the court to terminate parental or custodial rights,

C. the right of the parents or guardians to receive notice if the local agency petitions the court for a termination of parental rights in accordance with Minnesota Statutes, sections 260.221 to 260.241. In this event, the local agency must document in the child's case record that it gave the required notice to the child and the child's parents or guardians.

Subp. 8. **Notice to child.** The local agency must explain the placement plan and any subsequent changes in the plan to the child in a manner appropriate to the child's age.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0606 AGENCY REVIEW.

Subpart 1. **Change in placement.** The local agency must not change a child's placement unless it determines that another placement is in the best interest of the child. For Indian

children, best interests must be determined in accordance with placement preferences in the Indian Child Welfare Act. If the local agency changes the placement, it must notify the child's parent or guardian and document the reasons for the change. If placement with a specific foster care provider was ordered by the court, the local agency must obtain the court's permission before changing that placement, except in emergencies. In emergency changes of court-ordered placement, the agency must, as soon as possible, notify the court of the change and bring the matter before the court for its approval of the change.

Subp. 2. Administrative review. All cases must be reviewed by an administrative panel at least once every six months. The review must be open to the parent or guardian, the child, and the foster care provider. The review must determine:

- A. whether the placement remains necessary and appropriate;
- B. the extent of compliance with the placement plan;
- C. the extent of progress which has been made toward mitigating the causes for placement in foster care; and
- D. the date by which the child may be returned to the home or a permanent placement may be made.

As an alternative, the local agency may bring a petition for review of a voluntary placement pursuant to Minnesota Statutes, section 260.131. A dispositional hearing may substitute for the administrative review as long as administrative review requirements are met, but an administrative review cannot substitute for a dispositional hearing.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0609 COURT REVIEW OF VOLUNTARY PLACEMENTS.

Subpart 1. Definitions. For purposes of this part, "developmentally disabled" and "emotional handicap" have the meanings given them in Minnesota Statutes, section 257.071, subdivision 4.

Subp. 2. Initial court review of voluntary placements. If a child has been in voluntary placement for 18 months because of a developmental disability or for six months because of an emotional handicap, the local agency must either return the child home or petition the court under Minnesota Statutes, section 260.131, for review of the placement. For all other voluntary placements, the local agency must return the child home or file a petition for review within six months of the child's placement pursuant to either Minnesota Statutes, section 260.131, or a petition to terminate parental rights under Minnesota Statutes, section 260.231.

Subp. 3. Subsequent reviews. If the court approves the voluntary placement of a child because of either a developmental disability or emotional handicap, the local agency must petition the court under Minnesota Statutes, section 260.131, for one further review within two years of the initial review and for additional further reviews within every two years thereafter. In all other voluntary placements which the court has approved, the local agency must request that the court conduct further review six months after the preceding review if the child continues in placement.

Subp. 4. Update of child's placement plan. The local agency must update the child's placement plan and prepare a specific plan for permanency when filing a petition for review.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0610 [Repealed, 20 SR 2778]

9560.0613 COURT REVIEW OF COURT-ORDERED PLACEMENTS.

Subpart 1. Request for court review of court-ordered placement. For a child in court-ordered placement, the local agency must request the court for review six months after the initial placement. The agency must ensure that further reviews take place within each six-month period thereafter during the continuation of placement to determine whether continued out-of-home placement is necessary or whether the child should be returned home.

Subp. 2. Filing for permanent placement determination by court. The local agency must request the county attorney to file pleadings to establish the basis for a permanent place-

ment determination in a manner that allows for court review no later than 12 months after a child is placed in a residential facility by court order. Alternatively, the agency may request filing of pleadings recommending a delay in the permanent placement determination because of a circumstance specified in Minnesota Statutes, section 260.191, subdivision 3b, paragraph (b). Pleadings to establish a basis for permanent placement determination must contain the following information:

A. the local agency's recommendations about the child's permanent placement and the reasons for those recommendations;

B. the local agency's efforts to reunify the family and prevent placement or, in the case of an Indian child, active efforts to reunite the child with the child's parent or custodian;

C. whether there is a substantial probability of the child being able to return home in the next six months;

D. a recommendation for a permanent plan; and

E. a recommendation whether to delay the permanent placement determination for six months because of a circumstance specified in Minnesota Statutes, section 260.191, subdivision 3b, paragraph (b).

A permanent placement determination is not required if a child is returned home or if a termination of parental rights petition is filed before the permanency planning determination.

Subp. 3. Dispositional hearing required; child in long-term foster care. When a child is placed in long-term foster care through a dispositional hearing and the order specifically states the name of the foster parent or parents, no further dispositional hearings are required unless the placement is terminated. Administrative reviews pursuant to Minnesota Statutes, section 257.071, subdivision 2, must continue while the child remains in the specific placement named in the court order.

Subp. 4. Dispositional hearing required; child under guardianship. Except as set forth in subpart 5, dispositional hearings for a child under the guardianship of the commissioner or a licensed child-placing agency must occur every two years following the establishment of the guardianship. The dispositional hearing shall meet the requirements of Minnesota Statutes, section 260.242, subdivision 2, paragraph (d).

Subp. 5. Dispositional hearing not required. A dispositional hearing is not required for a child under the guardianship of the commissioner or a licensed child-placing agency and in court-ordered long-term foster care or in an adoptive placement during the continuation of that specific long-term foster care or adoptive placement. The court order establishing long-term foster care must state the name of the long-term foster parent or parents.

Subp. 6. Administrative review required. Administrative review pursuant to United States Code, title 42, section 675(5)(B), and Minnesota Statutes, section 257.071, subdivision 2, must continue in the case of a child placed in court-ordered long-term foster care or a child under the guardianship of the commissioner or licensed child-placing agency. Additionally, administrative review must continue for a child in an adoptive placement until the court grants a decree of adoption. Court review may substitute for an administrative review as long as the administrative review requirements are met.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0615 CRITERIA FOR RETURN OF CHILD TO HOME.

Subpart 1. Return or release of non-Indian child.

A. For a child removed from the home of a parent or guardian and placed in foster care pursuant to court order, the local agency must seek a court order to end its custody and return the child to the parent or guardian under the following circumstances:

(1) if the child was removed because of an emergency as described in part 9560.0221, subpart 2, item A, and the conditions that resulted in the need for foster care have been corrected sufficiently to ensure the child's safety with the parent or guardian; or

(2) if the child was removed because of a nonemergency situation as described in part 9560.0221, subpart 2, item B, and the conditions that led to the out-of-home placement have been mitigated.

B. For a child in foster care pursuant to a voluntary placement agreement, the local agency must return the child to the parent or guardian as soon as possible and no later than 24 hours after receipt of a written and dated request from the parent or guardian unless, because of child protection concerns, the local agency secures legal authority to continue placement outside the home of the parent or guardian.

C. A local agency may seek a court order to end its custody of a child so that the child can be released into the care of a relative if the child could be safely maintained in the relative's home without formal legal authority and the relative is willing to care for the child without formal legal authority. Before releasing the child into the relative's care, the local agency must give the relative information orally and in writing about the rights and responsibilities of a relative and child in various formal and informal relationships.

Subp. 2. Return of Indian child.

A. An Indian child in foster care who was removed because of an emergency must be returned to the parent or custodian when the placement is no longer necessary to prevent imminent physical damage or harm.

B. An Indian child who was removed because of a nonemergency circumstance must be returned to the parent or custodian when the agency determines that restoring custody to the parent or custodian is not likely to result in serious emotional or physical harm to the child.

C. An Indian child in voluntary placement must be returned to the parent or custodian as soon as possible and no later than 24 hours after the agency receives a written and dated statement complying with the requirements of Minnesota Statutes, section 257 351, subdivision 4.

Statutory Authority: *MS s 257.071, 257.072*

History: *20 SR 2778*

9560.0620 CHILD'S OR FOSTER CARE PROVIDER'S ABSENCE FROM RESIDENTIAL FACILITY.

The local agency's permission must be obtained any time the foster care provider or child is to be away from the residential facility for more than three nights or, if the child leaves the state, for any period of time. The local agency may give specifically defined blanket permission for departures from the state if a provider or child regularly leaves the state for an identified routine purpose.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0630 [Repealed, 20 SR 2778]

9560.0665 NOTICE AND APPEAL PROCEDURES.

Subpart 1. Request for foster care payments. If a relative who is caring for a child contacts the county and requests foster care services or payments, the county must give the relative a written notice explaining:

A. that if the relative believes the child in the relative's care needs child protective services, the relative may contact the county to make a child protection report, how the contact can be made, and that the county will determine if child protective services are required and, if so, what those services shall be; and

B. that if the relative believes the county has placed the child in the relative's home pursuant to a court order or a voluntary placement agreement and the relative is not receiving foster care payments on the child's behalf, the relative may request payments. The county must enclose a "Request for Foster Care Payment Based on Placement" form for that purpose. The form must include a statement that the county will approve or deny the request within 30 days.

Subp. 2. Response to request for foster care payments. Within 30 days of receiving a request for foster care payments on the form provided under subpart 1, item B, the county must evaluate the request and provide a written notice to the relative. The notice must include:

A a statement of the county's decision of approval or denial and an explanation for the decision;

B. a statement of the legal authority for the decision;

C. a statement that the relative has a right to a fair hearing review by the department;

D. the procedure for seeking review;

E. a statement describing the scope of review; and

F. a name and telephone number of a contact person at the county.

Subp. 3. Review of claims of erroneous benefits. Before or at the time of mailing the first foster care payment to a foster care provider, the county must give the foster care provider a written notice that includes:

A. a statement of and explanation for the starting date of the payments;

B. the amount of room and board,

C. the amount of any difficulty-of-care payment, if any, and an explanation of the manner in which the difficulty-of-care payment was calculated;

D. an explanation of any offset for public assistance paid;

E. a statement of legal authority;

F. a statement that the foster care provider has a right to a fair hearing review by the department;

G. a statement describing the scope of review; and

H. a name and telephone number of a contact person at the county.

Subp. 4 Notice of initial assessment of difficulty of care. As soon as reasonably practicable following the initiation of foster care placement of a child, the county must perform the difficulty-of-care (DOC) assessment required under part 9560.0653. Upon completion of the assessment, the county must give the child's foster care provider a written notice that includes.

A. a statement of the DOC rating assigned by the county and the dollar value of the rating assigned;

B. the method of assessment; this requirement may be satisfied by giving the foster care provider a copy of the DOC assessment instrument completed for the child by the county,

C. a statement of the legal authority for the rating;

D. a statement of the circumstances under which the agency must reassess a child as required by part 9560.0650, subpart 6,

E. the procedure for seeking a reassessment; and

F. a statement that, following reassessment, a foster care provider has a right to a fair hearing review of the reassessment by the department.

Subp. 5. Review of reassessment of difficulty-of-care (DOC) rating. Upon reassessment of a child's difficulty-of-care (DOC) rating, the county must give written notice to the foster care provider. The notice must include

A. the prior DOC rating;

B. the new DOC rating;

C. the effective date of the rating; this date may precede the request for reassessment when supported by evidence;

D. the reason for the new rating, a copy of the completed DOC assessment instrument will be sufficient;

E. the reason for the effective date;

F. a statement of the legal authority for the assessment;

G. a statement that the foster care provider has the right to a fair hearing review by the department;

H. the procedure for seeking review;

I. a statement describing the scope of review; and

J. a statement that a foster care provider who requests review of the proposed change in the DOC rating within ten days of the date of the notice may also request that foster care payments continue at the provider's current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayment paid.

Subp. 6. **Notice and review of reduction of days covered.** When the county reduces foster care payments or provides foster care payments for fewer days than the foster care provider requested, the county must provide a written notice to the provider. The notice must include:

- A. a statement of the reduction in payment or of the number of days for which a check is being issued;
- B. an explanation of the reason for the reduction or the number of days;
- C. a statement of the legal authority for the decision;
- D. a statement that the foster care provider has a right to a fair hearing review by the department;
- E. the procedure for seeking review;
- F. a statement describing the scope of review;
- G. in the case of reduction in payment, a statement that a foster care provider who requests review of the proposed reduction in payment within ten days of the notice may request that foster care payments continue at the current level pending fair hearing review, but if the county's proposed action is sustained upon review, the agency may recover any overpayments; and
- H. a name and telephone number of a contact person at the county.

Subp. 7. **Notice of termination.** When the county terminates foster care payments to a foster care provider, the county must send written notice to the foster care provider. The notice must be provided with the final voucher the county sends to the foster care provider if possible, but in all cases, at least ten days before the first month in which no payment will be made. The written notice must include:

- A. the date after which foster care payments will not be made,
- B. the reason the county will terminate payments, and the event on which the county bases its determination that the placement ended;
- C. a statement of the legal authority for the decision;
- D. a statement that the foster care provider has a right to a fair hearing review by the department;
- E. the procedures for seeking review;
- F. a statement describing the scope of the review;
- G. a statement that:

(1) a foster care provider who requests a hearing within ten days of the date of the notice may request that the foster care payments on the child's behalf continue pending fair hearing review if the request indicates in writing that the child remains in the foster care provider's care;

(2) payments will continue only so long as the child remains in the foster care provider's care; and

(3) if the county's action to terminate the benefits is sustained upon review, the agency may recover from the foster care provider any amounts paid pending review; and

- H. a name and telephone number of a contact person at the county.

Subp. 8. **Requesting a hearing.** After receiving notice under subparts 2 to 7, foster care providers or relative custodians who want a fair hearing review of a decision by the county must submit a written request for a hearing to the department within 30 days of receiving the notice, or within 90 days of receiving the notice if good cause can be shown why the request was not made within 30 days. Foster care providers may also seek fair hearing review of a request for foster care payments or reassessment of DOC if they do not receive written notice of the county's decision on their request within a reasonable time.

Subp. 9. **Scope of review.** The scope of hearings involving claims to foster care payments shall be limited to the issue of whether the county is legally responsible for a child's

placement under court order or voluntary placement agreement, and, if so, the correct amount of foster care payment to be made on the child's behalf. The hearing shall not include review of the propriety of the county's child protection determination or child placement decision.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*

9560.0670 RECRUITMENT OF FOSTER CARE PROVIDERS.

Subpart 1. Recruitment; general. The local agency must recruit and license family foster homes from as wide a variety of backgrounds as possible.

Subp. 1a. Recruitment plan. The local agency must develop and implement a plan for diligent recruitment of foster care providers who reflect the ethnic and racial diversity of children in the state for whom foster homes are needed. A local agency may develop the plan directly or through a contract with another county, tribe, or authorized child-placing agency.

Subp. 1b. Outreach for recruitment. The local agency must work diligently with community and religious organizations, Indian tribes, and other individuals and groups to recruit foster care providers who reflect the ethnic and racial diversity of children in Minnesota for whom foster care providers are needed. The agency may contact the Ombudsperson for Families and the state ethnic councils for assistance.

Subp. 1c. Documentation of compliance with plan. The local agency must keep a record of its actions to comply with the requirements of this part.

Subp. 2. Assistance to foster care providers. The local agency must train and assist foster care providers as necessary to assure the well-being of the child in foster care.

Subp. 3. Foster care providers as advisers. The local agency must consult with foster care providers in the development of policies and procedures pertaining to foster care.

Subp. 4. Relicensure. Before recommending relicensure, the local agency must evaluate with the foster care providers the services furnished by the foster care provider and the local agency. The local agency must give a copy of the evaluation to the foster care provider.

Subp. 5. Racial bias. The local agency must work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures. The local agency must assess the foster care applicant's or foster care provider's capacity for accepting children of diverse backgrounds. If the agency concludes that the applicant or provider has negative attitudes toward people of a particular race, religion, color, or national origin, the agency must refuse licensure or relicensure and not place additional children with that provider.

Statutory Authority: *MS s 257.071; 257.072*

History: *20 SR 2778*