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Guide for Foster Parents and Relative Caregivers

Understanding the Nebraska Juvenile Court Child Protection Process



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Nebraska Court Improvement Project
2007 Edition



University of Nebraska-Lincoln

*This handbook is intended to provide
general information, not legal advice. If
you have questions concerning what you
read, please speak with an attorney.*



Nebraska Court Improvement Project

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Judge: One who conducts or presides over a court and resolves controversies between parties.

Minor: This is a person who is under the age of legal competence. In Nebraska this age is 19 years of age.

Order of Protection: A court order requiring certain rules to be observed by the parent or others involved in the hearing, for a specified period of time.

Permanency Goal: A goal set by the judge concerning plans for the child’s permanent living arrangements.

Petition: The legal document that lists the allegations that the state believes support the court becoming involved with the child and family.

Reunification: The goal that children be returned to live with their parent(s).

TPR: Termination of parental rights means that a parent no longer has any legal rights to their child and is no longer responsible for the child.

3A: This is the label that a judge or an attorney might use to refer to an abuse and neglect or dependency case.

3B: This is the label that a judge or an attorney might use to refer to a status offender case. (See status offender below.)

State Ward: A child who is in the legal custody of the Nebraska Department of Health and Human Services.

Status offender: A juvenile who has been charged with or adjudicated for conduct that would not be a crime if committed by an adult. Some examples are truancy, running away from parents or guardians, or being ungovernable and disobedient.

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THE BASICS

Common Questions

Q: When should I appear for scheduled hearings?

A: It is best to arrive 15-20 minutes before the scheduled hearing. The judge likes to start on time, so it is important to be prompt.

Q: What should I wear?

A: Dress appropriately, as first impressions are always important.

Q: What is basic court etiquette?

A: You must show the judge respect and always address him or her as “Judge” or “Your Honor,” use good eye contact, and be polite and attentive.

Q: Who attends the court hearings?

A: The parents, the child or children, the caseworker, the foster parents or relative caregivers, the Court Appointed Special Advocate (CASA), the Guardian Ad Litem. The hearings are open to the public so other people may also attend them.

Q: Who is legally required to report child abuse?

A: In Nebraska, everyone is legally required to report child abuse.

Q: What if I don't understand the questions I am asked?

A: Do not guess at an answer and never lie. If you do not understand a judge's or an attorney's question asked in the court hearings, do not answer the question until you understand it. If you do not understand, ask the judge.

Q: Does everyone have to do what the judge says?

A: Yes, court orders must be obeyed. Anyone coming to court must follow the directions of the judge. Anyone who does not obey a court order could be jailed, fined, or could have children taken away.



Educational Surrogate Parent: An individual appointed by the school district to act in place of a parent in safeguarding a child's rights in the special education decision making process.

Evidence: Proof or testimony submitted to the court to determine the truth or falsity of alleged facts.

Finding: A decision made by a judge.

FGC: Family Group Conferencing offers a new approach for families in which children have been maltreated. The process is based on the belief that families and communities must partner together to ensure child safety and well being. FGC is a facilitated process through which an extended family works to develop safety plans that protect their children.

Foster Care: Out-of-home care in a family setting provided to a child who is involved in an abuse or neglect case, and has been removed from his/her home. Foster care may include living with a relative or with a family the child does not know.

GAL: The guardian ad litem is the attorney who legally represents the child's best interests.

Hearing: A formal proceeding where issues of fact or law are to be argued in a court before the judge. This is very similar to a trial.

ICWA: The Indian Child Welfare Act is both a state and federal law, which regulates placement proceedings involving Indian children. If a child is a member of a tribe or eligible for membership in a tribe, the family has the right to protection under the ICWA. These rights apply to any child protective case, adoption, guardianships, termination of parental rights action, runaway/truancy matter, or voluntary placement of children. The goal of the act when it passed in 1978 was to strengthen and preserve Native American families and culture.



DEFINITIONS OF COMMON TERMS



Abused, Neglected, and/or Dependent Minor: A child who has been harmed, or is at risk of being harmed by physical violence or emotional abuse, by someone responsible for caring for him or her; or a child who has been harmed, or is at risk of being harmed, because the person responsible for him or her does not provide the necessary care for the child.

Allegations: These are statements of what is believed to have happened and reasons why the child needs to be in the State's custody.

Appeal: When an attorney asks a higher court to review a case if one of the parties disagrees with the decision.

ASFA: The Adoption and Safe Families Act provides federal regulations that govern federal foster care law. ASFA was enacted to remedy problems with the child welfare system.

Case Plan: This is a written plan for the child's care and treatment, for any family services to be provided, and for the future care of the child prepared by the Nebraska Department of Health and Human Services. A parent actively participates in creating the case plan. It includes a placement goal for the child, developed by the caseworker, which could be to return the child to his/her home, or find other living arrangements.

CASA: Court Appointed Special Advocates are volunteers who advocate for the child's best interests and safety.

Dependency case: Any juvenile who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian.

Due Process: Refers to fairness in the court process according to the laws.

Q: If I do not receive notice for a permanency or review hearing, what do I do?

A: Notice and opportunity to be heard may not be an enforceable right for foster parents, however, you should send a note to the judge or county attorney requesting notice be sent to you. Another option is to call the case worker and ask when the next hearing will be held.

Q: What information is required to be released to foster parents?

A: The Department of Health and Human Services (DHHS) must share all information that affects the child and your ability to care for him or her. More specifically, the following information must be initially released to a foster parent or relative caregiver: strengths, needs and behaviors of the child, including known health problems, both physical and emotional; circumstances which have necessitated involvement with the Department and placement in foster care, including information regarding abuse or neglect of the child and perpetration by the child; information about the child's family and his or her relationship to the family; relevant medical history including current treatment; important life experiences and relationships which may affect the child's feelings, behavior, attitudes or adjustment in placement; educational history including present grade placement and special strengths and weaknesses; special care needs; services the child is likely to be receiving; anticipated length of stay; anticipated family visitation arrangements; anticipated contacts with significant others; and expectations regarding your work with the family and child. In addition, DHHS has a responsibility to share information on an ongoing basis with the foster parent or relative caregiver regarding the child's behavior, history, specific needs, risks, case plan, role with the child's family, and other relevant information.

Q: How active can I be in the case plan?

A: You should be very involved in all aspects of decision making for the child in your care because you are viewed as a team member. This includes knowing what the case plan is for the child in your care. Since you see the child every day, you should keep in frequent contact with the caseworker and always give your input on what you think the child needs.





Q: If a child has been in your home for 15 out of the past 22 months, which may be a ground for termination, whom should you contact?

A: The foster parent may contact the child's case worker, guardian ad litem, and possibly the county attorney. First, ask the case worker what the permanency goal is for the child. If the goal is not termination of parental rights, ask why not. If you are not satisfied with the case worker's answer, call the guardian ad litem, then the county attorney. Remember that foster parents have no absolute right to intervene, so you cannot file a termination of parental rights petition or hire a lawyer to do so.

Q: Will I have my own attorney?

A: There is no right to an attorney for foster parents. Even though there is no right, you can hire your own attorney.

Q: Who makes educational decisions for a child who is receiving special education services?

A: Parents retain authority to make decisions regarding their child's education, even if their child is a ward of the state. If the parents' authority to make educational decisions has been legally ended, a surrogate parent will be appointed. Relative caregivers and foster parents may become educational surrogate parents in these situations.

Q: How do children move from temporary care to permanency?

A: At a permanency hearing, the court must determine whether a child will be returned to the parent, placed for adoption, referred for legal guardianship, placed permanently with a fit and willing relative, or placed in another planned permanent living arrangement if the agency documents compelling reasons why one of the other four options would not be in the child's best interests.

(Continued on next page.)



Responsibilities
Here are some of the most important responsibilities you have as a foster parent or relative caregiver.

Communicate and work cooperatively as a team member with the worker, parents and service providers towards the goals of the case plan.

November

TO DO:
Advocate for the child's educational rights and help the school staff understand the child's emotional and educational needs.

- Notify the worker of emergencies including medical problems and runaway behavior.
- Arrange for routine and emergency medical care for the child and advise the worker. Use the medical provider covered by the parents' insurance, if applicable, or the provider identified by the worker.
- Secure specific care and treatment for the child such as medical, psychological or school evaluations, under the guidance of the worker as outlined in the case plan.

Notify the worker of emergencies including medical problems and runaway behavior.

Notify the worker of law violations by the child or of law enforcement contact with the child.

- Work toward permanence as outlined in the case plan.
- Regularly discuss with the worker the child's progress, needs, and behaviors.

TO DO:
Attend pre-service and ongoing training if licensure is involved.

IMPORTANT NAMES, ADDRESSES, AND NUMBERS

Child's Judge:

Name: _____

Address: _____ Phone: _____

Notes: _____

Child's Caseworker:

Name: _____

Address: _____ Phone: _____

Notes: _____

Child's CASA Volunteer:

Name: _____

Address: _____ Phone: _____

Notes: _____

Child's GAL:

Name: _____

Address: _____ Phone: _____

Notes: _____

Review Hearing:

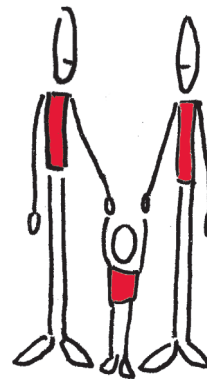
Time: _____ Date: _____

Place: _____

Permanency Hearing:

Time: _____ Date: _____

Place: _____



Q: How do children move from temporary care to permanency? (cont.)

A: Adoption establishes the legal relationship of parent and child between those who are not so related by birth. Adoption creates the same mutual rights and obligations that exist between children and their birth parents.

Legal guardianship is a relationship between child and caretaker that is permanent and self-sustaining. It must transfer the child's protection, education, care and control, custody, discipline, maintenance, support and decision making to the caretaker. It establishes a long-term commitment between a child and family, and at the same time, it allows for future contact and relationship between the child and their biological family.

Q: Is there any financial assistance available?

A: For many special needs children, adoption assistance subsidies can make adoption feasible where it might not otherwise be possible. There are both federally and state funded adoption assistance programs designed to ensure that certain families who adopt are provided with the financial resources and necessary services to meet a child's special needs.

Q: What is the difference between foster parents and relative caregivers?

A: Relative caregivers have preference over foster parents when placement decisions are made. When children are living with their relative, the state is not required to file a termination of parental rights petition.



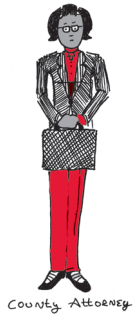
Foster Parent Rights

1. The right to be notified of court hearings by the court.
 - Foster parents, pre-adoptive parents, or relative caregivers are not parties, even though notice to them is required.
2. The right to be provided with a caregiver information form by the court.
3. The right to attend court hearings.
4. The right to complete a caregiver information form about the child and submit it to the court before hearings.
 - Foster parents may be required to testify about information they report in their forms.
5. The right to refuse a placement.
6. The right to be fully informed by DHHS of the child's background and physical and mental functioning to ensure provision of appropriate care and protection.
7. The right to information regarding a child if DHHS knows or suspects that a child has any behaviors or tendencies that could be dangerous or detrimental to the child, a foster family member, or others.
8. The right to be involved in the development of a plan for a child placed with them.
9. The right to file a complaint regarding DHHS policy or specific practices or caseworker decisions.
10. The right to file a grievance if you disagree about the procedures or actions taken by DHHS related to the placement, care or removal of the child from your foster home.
11. The right to at least 7 days notice of plans to remove a child from your home, except in an emergency.



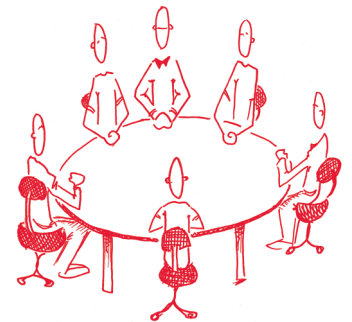
Your Attorney: Parents involved in abuse and neglect cases are entitled to a court-appointed attorney if they cannot afford to hire an attorney themselves. The parent's attorney role is to advocate for their clients' rights and to make sure that parents receive the services they are entitled to.

County Attorney: The county attorney files the first abuse/neglect petition and is responsible for initiating the abuse and neglect case. The county attorney works with the caseworker from the Nebraska Department of Health and Human Services to make recommendations to the court regarding the child's best interest.



Court Appointed Special Advocate (CASA): These people are specially screened and trained volunteers appointed by the court to assist the child and the judge. They gather information about the child and provide recommendations to the judge. The CASA volunteer's only role is to advocate for the best interests and safety of the child. Not every case will have a CASA volunteer.

Foster Care Review Board: These are five member panels of citizens who regularly review the cases and plans of children in out-of-home care to make sure that the children's best interests are protected. These local boards meet in locations all around the state and review the plans of children in their own communities.



WHO'S INVOLVED



The Judge: The judge is the person who conducts the court hearings. The judge will listen to each side and will make a decision that is in the best interests of the child.

The Caseworker: If child abuse is suspected, a caseworker from the Nebraska Department of Health and Human Services will be assigned to the case. The caseworker is generally called a Protection and Safety Worker (PSW). He or she has the job of providing and coordinating services on the case and keeping in contact with the family on a regular basis. The PSW has the best interests of the child in mind. The caseworker will attend all hearings and will make recommendations about what kinds of services should be provided to the family.



Guardian Ad Litem (GAL): The GAL is the attorney who legally represents the child's best interests. The GAL is responsible for investigating the allegations presented in the child's case, interviewing the professionals working with the child, and making recommendations to the court regarding what is in the child's best interest. The GAL will visit the child, and other persons involved in the child's case.

Resources

Support Services Available

Respite Care—occasionally there are times when a foster parent or foster child needs a break from each other. Arrangements can be made for foster children to spend a weekend or a day with another foster family.

Family Support Worker—provides in home assistance and instruction to maintain and strengthen families and to alleviate stresses in the home. Also provides transportation to help in getting the child to needed services.

Information and Support

- Nebraska Foster and Adoptive Parenting Association (NFAPA), <http://nfapa.org/>, (402) 476-2273 or (877) 257-0176
- Answers 4 Families, <http://www.Answers4Families.org>, (800) 746-8420
- Tax advice through Casey Family Programs, <http://www.casey.org/>

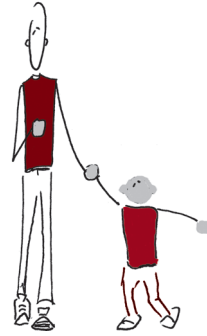
THE COURT PROCESS

Detention or Temporary Custody Hearing: The judge has to sign an order for temporary custody within 48 hours of a child's removal from the home. After an order is signed by the judge, the date and time for the hearing will be set by the judge, usually a few days after the order is signed. This hearing provides due process for the parents and child to assure that the removal of the child was necessary. The court will determine if there is a risk to the child's safety in sending him/her back home. If so, the court will enter an order to remove the child from the home.

Adjudication Hearing: Generally occurs within 90 days of the child's removal from the home. This is the trial stage at which the court determines whether the allegations in the petition concerning the child are proven by the evidence. Attorneys present evidence, both sides can have their attorney question witnesses, and then the judge makes a decision. If the judge finds that the petition has not been proven, the child will be returned to the parent. If the judge decides there was abuse and neglect, he or she then directs that a plan be developed to correct the conditions of abuse and neglect.

Disposition Hearing: Generally occurs within 30 days after adjudication. At this hearing the judge decides what is best for the child and puts it in a court order. This is called a case plan. The plan could be to send the child home if she or he will be safe, or the plan could order the child to be placed in a safe foster care home or other placement. The judge may also order the caseworker to provide certain services for the child and the child's family.

If the child is removed from the home, the judge will tell the child's parents that they must cooperate with the caseworker, follow the requirements included in the case plan, and correct the conditions which required the child to be placed in foster care; otherwise, there is a risk of having parental rights to the child terminated.



Review Hearing: Generally occurs at least every 6 months after the initial dispositional hearing. At this hearing, the court will review the status of the case. This will include examining progress made by the parent(s), determining whether court-ordered services were provided, allowing for changes to be made to the case plan, and making sure that the case moves forward and the child spends as little time as possible in temporary placement.

Permanency Hearing: Generally held within 12 months after the child's removal from the home. This hearing is very similar to a review hearing in all aspects; however, it will emphasize the child's permanent living situation. The judge will decide whether the parent(s) and the child are receiving and participating in the services that will help the family solve its problems. A permanency goal could be returning the child home, adoption, or guardianship. Keep in mind that the judge may also change previously set permanency goals at this hearing.

Termination of Parental Rights (TPR): May be required to be filed if the child has been out of the home for 15 of the last 22 months, unless the judge finds an exception under the statute. If the parents do not correct the conditions that led to the child's removal, the state may decide to file a motion to terminate their right to raise their child permanently. The judge would then have to find that there were grounds to terminate parental rights to the child and that it would be in the child's best interests. Termination of Parental Rights means that a parent no longer has any legal rights to a child and is no longer responsible for the child. This is a permanent situation that may discontinue any more contact between the parents and the child.

