

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER a: SERVICE DELIVERY

PART 316  
ADMINISTRATIVE CASE REVIEWS AND COURT HEARINGS

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| AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and Section 1 of the Adoption Act [750 ILCS 50/1].

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| SOURCE: Adopted at 23 Ill. Reg. 2528, effective February 1, 1999; amended at 26 Ill. Reg. 16909, effective November 1, 2002; amended at 35 Ill. Reg. 14942, effective September 1, 2011; amended at 36 Ill. Reg. 4082, effective March 5, 2012; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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**Section 316.20 Definitions**

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a person who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review. (See 42 USC 675(6)). The administrative case review is also open to the

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participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in ~~this PartSection 316.50 (Conduct and Participation at Administrative Case Reviews)~~.

"Administrative case reviewer" means a trained professional who is not responsible for the case management of, or delivery of services to, either the child or the parents who are the subjects of the review.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

~~"Contact between siblings" means contact among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook) and any other agreed upon forms of communication technology.~~

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"Family" means one or more adults and children, related by blood, marriage, civil union, or adoption and residing in the same household.

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"Parents" means the child's legal parents, including adoptive parents, whose rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition in ~~Permanency Planning (89 Ill. Adm. Code 315-20)~~. (Permanency Planning).

"Permanency goal" means the desired outcome of intervention and service, ~~that~~<sup>which</sup> is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

~~"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who~~

~~is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent, great-uncle, or great-aunt; or~~

~~is the spouse, or party to a civil union, of such a relative; or~~

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is the child's step-father, step-mother, or adult step-brother or step-sister; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative.

"Service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan toward the permanency goals for the children.

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

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"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, and care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Visitation" means face-to-face contact:

- between parents and their children who are in substitute care;
- between siblings in substitute care who are placed apart from one another; or
- between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, adopted, placed in private guardianship, living in home of parent, etc.).

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(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 316.30 Administrative Case Review System**

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- a) The Department has an administrative case review system for all the children in placement and their families. Administrative case reviews are conducted for children living in foster family homes, relative homes, group homes, child care institutions, youth emergency shelters, or detention, correctional, mental or physical health related facilities. In addition, the Department may elect to conduct administrative case reviews on other groups of children as fiscal and staffing resources permit.
- b) Case reviews are conducted in order to:
  - 1) assure that parents and the children (if participating in the planning) are involved in and collaborating in development of the plan and understand and discuss the plan and know what is expected of them;
  - 2) ensure siblings are being placed together whenever possible; when sibling are placed apart, efforts continue to locate a placement that will accept all of the children; contact and visitation between siblings is encouraged and occurring in accordance with the Visitation and Contact Plan; efforts are made to support contact among siblings in substitute care with siblings who are not in substitute care (e.g., because of adoption, legal guardianship, emancipation or adulthood);
  - ~~3~~2) review whether the Department's continuing intervention is necessary;
  - ~~4~~3) review whether services, including placement services, are necessary, relevant, coordinated, and appropriate and address the health and safety needs of the child;
  - ~~5~~4) identify services needed but that are not being provided to the child, family or foster parents and the reasons why they are not being provided;
  - ~~6~~5) review the disability status of a child to determine the need for and/or appropriateness of specialized services;
  - ~~7~~6) review the appropriateness of the child's educational placement and the child's educational progress and recommend changes to the caseworker;
  - ~~8~~7) review health information on the child and family;

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- | ~~98~~) review any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination;
- | ~~109~~) review, for any minor age 16 or over, programs or services that will enable the minor to prepare for independent living;
- | ~~1140~~) review whether the Department, the service providers, the family, the substitute care provider, if any, and the child are complying with the service plan and, if they are not complying, whether changes in the service plan or goals are needed;
- | ~~1244~~) review whether there is progress to resolve the child's and family's problems and whether the progress is satisfactory and whether the child can safely return home;
- | ~~1342~~) review whether the projected month for achieving the permanency goal should be changed;
- | ~~1443~~) review the appropriateness of the permanency goal and recommend changes in the goal (if appropriate);
- | ~~1544~~) review and finalize the service plan for the next period, including an analysis of:
  - A) the appropriateness of the services contained in the plan and whether those services have been provided and, if not, why not;
  - B) whether reasonable efforts by the Department, and reasonable progress by the family have been made to achieve the goal;
  - C) whether the plan and goal have been achieved;
- | ~~1645~~) refer the case for a family meeting as described in 89 Ill. Adm. Code 315.120 (Family Meetings) when one has not been conducted; and
- | ~~1746~~) report findings and make recommendations.

| ~~c)~~ The Department shall provide training for all Administrative Case Reviewers, their supervisors and their managers regarding the importance of maintaining

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sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 316.40 Frequency of Administrative Case Reviews**

- a) The first administrative case review shall be conducted within six months after the temporary custody hearing.
- b) Following the six month administrative case review, administrative case reviews shall be conducted every six months thereafter.
- c) Additional Administrative Case Reviews
  - 1) The DivisionOffice of Administrative Case Review may schedule more frequent case reviews for the following reasons:
    - A) the case requires more than the scheduled six-month review. Such cases may be ones in which it is important that follow-up to the recommendations made at the last administrative case review is monitored. For example, cases for which concurrent planning, as described in 89 Ill. Adm. Code 315 (Permanency Planning), is being utilized.
    - B) the biological family requests an Administrative Case Review prior to the first six-month review; or
    - C) cases of workers, teams, offices, and purchase of service agencies are selected for special reviews because those workers, teams, offices, and agencies are shown to be in non-compliance with mandated requirements. Non-compliance of mandated requirements may include, but is not limited to:
      - i) failure to establish and implement procedures for assessment and service planning;
      - ii) failure to set and conduct family meetings; and

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iii) failure to establish or fully implement a Visitation and Contact Plan; and

iv) failure to comply with current and ongoing consent decrees.

- 2) The caseworker and supervisor must attend administrative case reviews scheduled by the Division Office of Administrative Case Review in accordance with this subsection.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 316.80 Caseworker Responsibilities at the Administrative Case Review**

The caseworker's responsibilities at the administrative case review will be to:

- a) present a completed service plan, based on the assessment and developed in collaboration with the family;
- b) present a recommendation regarding the permanency goal;
- c) report on the placement, best interests, health, safety, and well-being of the child;
- d) present a copy of the Visitation and Contact Plan and report on the efforts made to encourage and maintain sibling relationships;
- e) present a copy of a Post Permanency Sibling Contact Plan when one has been developed;
- f) report on the progress of the parent to date toward changing the behaviors and conditions that require the child to be in out-of-home care;
- ge) provide a statement as to whether the child can return home, and, if so, when and with what supports;
- hf) provide the casework rationale and supporting documentation for all decisions and recommendations.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 316.110 The Department's Role in the Juvenile Court**

- a) The Department shall inform the Juvenile Court of the Department's planning for the children and families it serves and of their progress toward those goals.
- b) When in the Juvenile Court, the Department shall provide information and recommendations to the court and the parties and shall recommend that the court keep families together in all instances when it is consistent with the children's best interests, health, safety, and well-being. In those instances when children must be removed from their parent's care, the Department shall recommend that the court reunite children for whom the Department is legally responsible with their families as soon as returning home is consistent with their best interests, health, safety and well-being. Finally, when it is clear to the Department that the child's health and safety needs cannot be met by the parents and it is in the child's best interests, the Department will provide that information to the court and recommend that the court establish other permanency goals.
- c) When the Guardian is appointed as the temporary custodian of a child whose siblings are in substitute care and the child and all of his/her siblings are not placed together, the Department shall file with the court and serve on the parties a Visitation and Contact Plan within 10 days, excluding weekends and holidays, after the appointment.
- d) When the Department has legal responsibility for a child, a representative of the Department or its provider agency shall attend all hearings required by the court. At each hearing the Department or its provider agency shall provide information relating to the child's placement, best interests, health, safety, and well-being, and make any appropriate recommendations. Such hearings include:
  - 1) the temporary custody hearing;
  - 2) the adjudicatory hearing;
  - 3) the dispositional hearing;
  - 4) permanency hearings (as described in Section 316.120 below); and
  - 5) all other hearings the court may require.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 316.120 Permanency Hearings**

- a) The Department or its provider agency will participate in permanency hearings conducted by the court at 12 months following the temporary custody hearing and every six months thereafter in order to:
  - 1) select the permanency goal;
  - 2) review the appropriateness of the services contained in the plan and whether those services, including sibling visitation and contact, have been provided as specified and, if not, why not;
  - 3) determine whether reasonable efforts have been made by all parties to the service plan to achieve the goal; and
  - 4) evaluate whether the plan and goal have been achieved.
- b) The Department or its provider agency shall provide, no later than 14 days in advance of the hearing, a copy of the most recent service plan and Visitation and Contact Plan, prepared within the prior six months, to the court and all parties to the permanency hearings.
- c) If not contained in the plan, the Department or its provider agency shall also include a report setting forth:
  - 1) any special physical, psychological, educational, medical, emotional, or other needs of the minor or his or her family that are relevant to a permanency or placement determination; and
  - 2) for any minor age 16 or over, a written description of the programs or services that will enable the minor to prepare for independent living.
- d) The Department's or its provider agency's written report must explain why, if the goal is other than return home, continued involvement is appropriate and why termination of parental rights or private guardianship is not being sought.
- e) The Department's or its provider agency's written report must explain why, if the goal recommended is continuing foster care, all other goals have been rules out based on the child's best interest and delineate the compelling reasons for selection of this goal.

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- f) The Department's or its provider agency's caseworker is required to appear and testify at the hearing and prepare a written report for the court.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 316.130 Caseworker Responsibilities at the Permanency Hearing**

- a) The caseworker's responsibilities at the permanency hearing will be to:
- 1) present a recommendation regarding the permanency goal, time frame for achievement, clinical intervention, social services, and visitation and contact plans;
  - 2) report on the placement, best interests, health, safety, and well-being of the child;
  - 3) report on the progress of the parent to date toward compliance with the service plan and progress toward correcting the conditions that require the child to be in care; and
  - 4) provide the basis for all decisions and recommendations.
- b) Within ten working days after the permanency hearing, the worker will:
- 1) amend the service plan to conform to the court order, if necessary;
  - 2) attach a copy of the permanency order to the amended service plan (as well as ensuring that a copy of the order is in the case record);
  - 3) engage the family to ensure that the family understands the recommendations and decisions made at the permanency hearing and obtain the family's signature on the service plan;
  - 4) file six copies of the plan with the court; and
  - 5) send a copy of the plan to the Administrative Case Review Office Administrator/Scheduler in the region where the next administrative case review will be held.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)