

Delinquency Proceedings and Title IV-E Findings

TITLE IV-E OF THE SOCIAL SECURITY ACT (42 U.S.C. §670 ET SEQ.)	RESULT IF NO FINDING
Initial Required Findings and Orders to Provide Eligibility	
<p>A. <u>Court must make finding that continuance in the home of the parent or legal guardian would be contrary to the child’s welfare.</u> 42 U.S.C. §672(a)(1)-(2). <i>See also</i> 45 C.F.R. §1356.21(c) (continuation would be contrary to the welfare, or placement would be in the child’s best interest). This finding must be <i>made at the time of the first court ruling authorizing removal of the youth from the home.</i> <i>Id.</i> This includes youth who are initially placed in detention and subsequently moved to a family foster home or child care institution.</p> <p><i>Commentary:</i> A temporary detention order detaining the youth until sentencing based on the risk s/he will run away does not meet the “contrary to the welfare” standard. Neither does language indicating the youth is a threat to the community. Federal regulations require this finding, as well as reasonable efforts findings, to be explicitly documented in the court order and be made on a case by case basis. 45 C.F.R. §1356.21(c). <i>See</i> Child Welfare Policy Manual (Children’s Bureau, 2011). <u>Best practice is to hand write (or type) in the factual basis for the finding in the order.</u></p>	<p>Youth not eligible for Title VI-E funding for duration of stay in care within this removal episode. 45 C.F.R. §1356.21(c).</p>
<p>B. <u>Court must order that placement and care are the responsibility of the state agency or any other public agency with whom the responsible state agency has an agreement, or tribe, as defined by the act.</u> 42 U.S.C. §672(a)(1)-(2); 45 C.F.R. §1356.71(d)(1)(iii). Placement and care responsibility may be granted at removal or at any point in the foster care episode.</p>	<p>Title IV-E maintenance payments may not be claimed before the month in which this order is made.</p>
<p>C. <u>Court must make finding that reasonable efforts have been made to prevent or eliminate the need for removal.</u> 42 U.S.C. §671(a)(15); 42 U.S.C. 672(a)(1)-(2); 45 C.F.R. §1356.21(b)(1). This finding must be made within 60 days of the date of removal.</p> <p>If there is a judicial determination to the effect that efforts to prevent removal or reunify the family have not been made due to immediate danger to the child, or that the lack of efforts is appropriate due to the particular circumstances of the case, the reasonable efforts requirement is met. 45 C.F.R. §1356.21(b); Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Review (63 FR 50057, 50073; 65 FR 4020, 4053)</p> <p><i>Commentary:</i> The focus should be on efforts to address the youth’s behavior and needs without resorting to detention or out of home care. Have appropriate assessments been done, and can the youth’s service needs be met in the community. These findings need to be explicitly made on a case by case basis. 45 C.F.R. §1356.21(d). <u>Best practice is to hand write (or type) in the factual basis for the finding in the order.</u></p>	<p>Youth not eligible for Title VI-E funding for duration of stay in care within this removal episode. 45 C.F.R. §1356.21(b)(1)(ii)</p>
Voluntary Placements	
<p>Within the first 180 days of the youth’s placement, the court must make a determination that the placement is in the best interests of the child. The 180 day period begins to run from the date the youth is physically placed in foster care, or the date the voluntary placement agreement is signed, whichever is first. 42 U.S.C. 672(e); 45 C.F.R. 1356.21(k)(3).</p>	<p>Funding only available for first 180 days if no best interest finding made.</p>

Delinquency Proceedings and Title IV-E Findings

<p>Periodic Review</p> <p>Court or administrative review required no less frequently than once every six months from the date the youth entered foster care in order to determine: (1) the safety of the child; (2) the continuing necessity for and appropriateness of the placement, (3) the extent of compliance with the case plan,¹ (4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, (5) to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or guardianship, (6) whether reasonable efforts have been made to make it possible for the youth to safely return home, (7) placement and care responsibility are continued in the state agency, or public agency with whom the state agency has an agreement, or tribe, as defined by the act. 42 U.S.C. §§671(a)(15); 672(a)(2); 675(5)(B).</p>	<p>While funding is not impacted on individual cases, lack of required findings at periodic reviews could potentially result in the state being out of compliance with its Title IV-E plan, with potential financial penalties and PIP (Program Improvement Plan).</p>
<p>Permanency Hearings</p> <p>Court must hold a permanency hearing no later than 12 months from the date the youth was considered to have entered foster care², and must hold subsequent permanency hearings every 12 months thereafter. Required findings (<i>See</i> 42 U.S.C. §675(5) for more detail):</p> <ul style="list-style-type: none"> • if youth has been in care 15 out of the last 22 months, determination regarding termination of parental rights; • permanent plan for youth and date the youth will be returned, placed for adoption and the state/tribe will file a petition to terminate parental rights, referred for guardianship, or placed in APPLA; • consideration of in and out of state placement options and if the youth is placed out of state, the appropriateness of that placement; • reasonable efforts to finalize the permanency plan (must be explicitly stated on a case by case basis); and • appropriate transition services are in place for youth age 16 and older. <p>For a case in which no reunification services are offered, the permanency hearing must be held within 30 days of the court's determination that reasonable efforts are not required.</p>	<p>Funding ceases at the end of the month in which the reasonable efforts finding was due, and resumes when the determination is made. 45 C.F.R. §1356.21(b)(2).</p>

¹ The case plan must be developed within the first 60 days of the youth's entry into care. *See* 42 U.S.C. §675(1) for specific requirements.

² The date the youth was considered to have entered foster care is: the date of the first judicial finding that the child has been subjected to child abuse or neglect, or the date that is 60 days after the date on which the youth is removed from the home, whichever is first. 42 U.S.C. §675(5)(F).