

What Judges Can Do To Ensure Foster Children Make A Successful Transition From Foster Care to Adulthood

Eyes of the Child Conference
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Hon. Lindsay Partridge, Marion County
Hon. Norman Hill, Polk County
Rakeem Washington, Marion Co. CRB Field Mgr.
Kristi Matsunaga, Intern to Judge Hill

Do You Remember Your Transition to Adulthood? Imagine If You Grew Up In Foster Care and What Different Challenges You Would Have Faced!

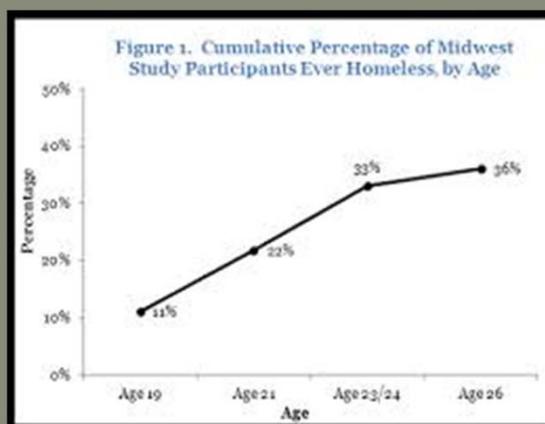
- *Homelessness
- *Incarceration
- *Drug Abuse
- *Lack of Education
- *Accessing Health Care
- *Obtaining Mental Health Services
- *Support of an Adult Who Really Cared

Homelessness

- An estimated 24,000 unaccompanied youth experience homelessness on any given day
- Each year, approximately 20,000 youth “age out” of the System in the U.S. (most states at age 18)



Over 1/3 Experience Homelessness by Age 26



Physical Health



Outcomes

- Between 87% and 95% of foster youth have at least one physical health condition
- 12% of foster youth do not receive routine medical care
- 34% of foster youth have not received immunizations
 - Compare with 9% of general population with access to private health coverage and 14% of non-foster youth with access to Medicaid

Mental Health Needs



- More than 1/3 of foster youth suffer from:

- Depression;
 - Dysthymia;
 - Post-Traumatic Stress Disorder (PTSD); and/or
 - Social Phobia
-
- 12% of youth in general population suffer from depression; and
 - 5% of youth in general population suffer from PTSD



Drug & Alcohol Abuse

- 24% of foster youth between ages 18-24 support themselves by selling drugs, while 11% are engaged in prostitution



Incarceration



- In Clark County, NV, 41% of former foster youth spent at least one night in jail

- In Wisconsin: 18% of former foster youth experienced incarceration after leaving foster care



- Approximately 25% of former foster youth will engage with the law after exiting the System

Education



High School Diploma Struggles

- 45% of foster youths ages 11-14 classify for special education v. 16% of students who have never been in foster care
- Factors include new placements, up to 3x per year, each moving resulting in change of school. Each school change = student loses 4-6 months of educational progress
- 54%-58% of former foster youth graduate high school by age 19 - Compare to 87% of youths in the general population

Post-Secondary Schooling

- **70%** of foster youths express an interest in attending college
- By age 19, only **18%** of foster youths are working on four year degree
 - Compare with 62% of general population
- By age 25, less than **3%** of foster youths completed a bachelor's degree or higher
 - Compare with 24% of general population

The Role of the Judge In Ensuring A Successful Transition

- Federal and state law requires DHS to develop and implement transition plans to ensure success for foster care alumni
- Judges review plans, make suggestions, encourage participation by foster youth in the planning and participation in services.

Judges Must Inquire About Plans At Three Type of Hearings

- Review Hearings
- Permanency Hearings
- Prior to Termination of Wardship

Review Hearings

ORS 419B.449(1)(d) - Review hearing

- If a child 14 yr. or older is in substitute care and will remain in substitute care, the Court **must** determine:
 - If the child is progressing adequately toward high school graduation
 - If not, what efforts has DHS made to assist the child or ward to graduate
- The Court **may** order DHS to consider additional information in developing the case plan or concurrent case plan. ORS 419B.449(6).

Review Hearings (cont.)

- ORS 419B.443(1)(b) requires DHS court reports to include "[a] description of the type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the child or ward." This statute can be construed to require DHS to report on transition planning at each review hearing.

Permanency Hearings

- **419B.476(3)(a) – Permanency Hearings**
- For wards between 14-21 years of age with case plans other than reunification, the Court must review the comprehensive transition plan (CTP)*
- Court must determine the following:
 - (A) Whether the plan is **adequate** to ensure the ward's successful transition to independent living;
 - (B) Whether the department has offered **appropriate services** pursuant to the plan; and
 - (C) Whether the department has **involved** the ward in the development of the plan.
 - *change effective October 1, 2015 due to HR 4980/HB2908

Termination of Wardship

ORS 419B.337(7) - Termination of Wardship/Dismissal of Commitment to DHS

For a ward between 14-21 years of age, the Court may dismiss commitment to DHS/terminate wardship if: (1) dismissal is appropriate; and (2) proper case planning and implementation has occurred.

First - Dismissal is appropriate if reunification has occurred or if the Court has implemented an alternate plan

Termination of Wardship (cont.)

Second - Proper Case Planning If:

- DHS has provided **case planning** that addresses the ward's needs and goals for a successful transition to independent living, including needs and goals relating to housing, physical and mental health, education, employment, community connections and supportive relationships;
- DHS has provided **appropriate services** pursuant to the case plan;
- DHS has **involved the ward** in the development of the case plan and in the provision of appropriate services; and
- The child/young adult has safe and stable housing and is **unlikely to become homeless** as a result of dismissal of commitment of the ward to the department.

Terminating Wardship When Plan Has Been Changed

- Wardship ends when a young adult turns age 21. Prior to that time, the juvenile court may terminate wardship upon finding that:
 - DHS has provided case planning that addresses the ward's needs and goals for a successful transition to independent living, including needs and goals relating to housing, physical and mental health, education, employment, community connections and supportive relationships;
 - DHS has provided appropriate services pursuant to the case plan;
 - DHS has involved the youth in the development of the case plan and in the provision of appropriate services; and
 - The ward has safe and stable housing and is unlikely to become homeless.
- At least 60 days prior to the date DHS will be relieved of legal custody of a youth who will become independent, the caseworker must inform the youth of the hearing, including:
 - The date, time and location of the hearing;
 - His or her right to attend the hearing, and the importance of attending;
 - Possible options for transportation to and from the hearing.

What Should Judges Ask?

- Is the **plan adequate** to ensure the youth's successful transition to independent living;
- Has DHS offered **appropriate services** pursuant to the plan; and
- Has DHS **involved the youth** in the development of the plan.

Planning v. Services

- The transition process begins with development of a Comprehensive Transition Plan (CTP)
- The second step is providing appropriate services to achieve the goals of the CTP

OAR 413-30-0400

- OAR 413-030-0400 to 413-030-0460 describes the responsibilities of the DHS regarding **comprehensive transition planning** and **providing services** to a child or young adult to:
 - (1) Obtain personal and emotional support and promote healthy relationships that can be maintained into adulthood;
 - (2) Develop the personal life management skills necessary to function independently;
 - (3) Receive education, training, and services necessary to lead to employment;
 - (4) Attain academic or vocational education and prepare for post-secondary education or training;
 - (5) Gain experience in taking responsibility and exercising decision-making control; and
 - (6) Transition to living independently.

Comprehensive Transition Plan (CTP)

- DHS must develop a "Comprehensive Transition Plan" (CTP) that outlines the transition goals, action steps and services a youth needs to successfully transition to adulthood.
- Includes – education, housing, supportive relationships/community connections, employment, transportation, mental and physical health, and life skills. Often referred to as "T2". Youth will complete a "Transition Readiness Index" or "T1" just prior to the CTP to identify the youth's readiness for services, commitment to participate, ability to interact with and connect to supportive adults, and ability to successfully transition to living independently.
- A Comprehensive Transition Plan is required when a youth is age 14 or older if the youth is in substitute care. **(HR 4980/HB 2908 change – effective October 1, 2015)**. The youth must agree to the plan. The plan may be developed through an Independent Living Program or with the caseworker. It is the caseworker's responsibility to ensure the plan is developed. The plan goals and services should be regularly reviewed by the caseworker during monthly face to face contacts with the youth and during 90 day case plan reviews. The caseworker is required to document the youth's progress in achieving the plan goals, along with any barriers to achieving the goals, and plans to address those barriers. The plan should be updated every six months.
- Youth who are receiving Developmental Disabilities Services will have an "Individual Support Plan" (ISP) that is updated annually. This may satisfy Comprehensive Transition Planning requirements, as long as it is adequately tailored to the youth's level of functioning.

Common Court Responses

- Typical court orders may include:
 - No Plan Exists – Order DHS to meet with the youth to develop a CTP within 45 days, and provide CTP to the juvenile court/CRB at the next scheduled review.
 - Inadequate Plan – Order DHS to meet with the youth to address planning for skill/services that is deficient (i.e. housing, education, transportation, medical, etc.) and revise the CTP accordingly within 45 days.
 - Lack of Services – Order DHS to meet with the youth within 30 days to determine appropriate service necessary to achieve youth’s goal (insert: getting a driver’s license, planning for college, etc.)

Independent Living Program (ILP)*

- Independent Living Programs (ILP) are designed to provide youth with services that will help them transition to independence. Independent Living Programs are provided in local communities through for-profit, non-profit and governmental agencies who offer skills training and support services for youth and young adults.
- ILP provides a variety of services, including skill building, transition planning, and various subsidies and grants to provide assistance with the costs of post-secondary education and training, as well as housing. Skill building services include: (1) basic living skills such as money and home management, consumer skills, legal issues, parenting, health care, access to community resources, transportation, educational assistance and housing options; (2) educational and vocational training support, post-secondary education and academic support, job readiness and job search assistance; (3) skill building and social skills training; and (4) development of community networks and supports.
- *HB2908 changes “independent living” to “successful adulthood”

Independent Living Program (cont.)

- Youth are eligible for some ILP services, including life skills training (at age 16), educational assistance (college tours, homework/study groups, financial aid/scholarship applications), and discretionary funds to assist the youth in obtaining services needed to meet their goals for transition. Youth have the right to refuse services. DHS remains under the obligation to develop a Comprehensive Transition Plan, regardless of whether the youth is participating in ILP. Youth in residential care or who are eligible for developmental disabilities services may have other transition planning services available.
- For eligible Youth, the court orders and permanency judgments should require that DHS refer age appropriate youth to ILP and that DHS has ensured appropriate services for the child.

COMMON ISSUES

- ◆ **Driver's License**
- ◆ **Credit Reports**
- ◆ **Tuition Waiver Programs**
- ◆ **Education and Training Vouchers (ETV)**
- ◆ **Housing Programs**
- ◆ **Health Insurance**

Driver's License

- DHS should provide age appropriate youth with information about how to obtain a driver's license. This information may also be presented through the Independent Living Program. Before a youth may enroll in driver's education, the caseworker and other adults involved with the youth must agree he or she is ready to pursue a driver's license. Factors to consider include:
 - Is the youth old enough for a permit (age 15)?
 - Is the youth enrolled and attending school, maintaining at least a "C" average or working with a tutor or receiving academic assistance? Has the youth's school attendance been regular without incidents of suspension, absence or expulsion during the last six months?
 - Is the youth mentally and physically healthy?
 - Has the youth been free from drug and alcohol use for the past year?
 - Does the youth display age-appropriate behavior?
 - Does the youth have placement stability?

Driver's License (cont.)

- A caseworker may apply for driver's education course payments through the local Independent Living Program on behalf of a youth. In order to qualify, a youth must:
 - Be in substitute care;
 - Be between the ages of 15 to 17;
 - Have a driver's permit;
 - Sign up with an approved driver's education school;
 - Have a plan for obtaining auto insurance coverage.
- It may be appropriate for the Court to inquire as to whether DHS has informed the youth about how to acquire a driver's license, and whether DHS has provided the youth with assistance in obtaining his or her driver's permit if the youth has indicated a desire to do so. Note the youth may not obtain his or her license prior to completing the course.

Credit Reports

- Credit Reports
- Federal law requires DHS to ensure that youth in foster care receive a consumer credit report annually starting at age 14 (effective 10/1/15).
 - Purpose to ensure oversight of the youth's credit history and no one is fraudulently using the youth's identity.
 - DHS must provide the youth with assistance in interpreting the credit report. If there are any inaccuracies, DHS must ensure the youth receives assistance resolving them.
 - When reviewing youth age 14 and up, it is appropriate to ask the caseworker when the last time the youth's credit report was accessed and reviewed with the youth. This is a service that is relevant to reasonable/active efforts that DHS has ensured that appropriate services are in place to safeguard the children's safety, health, and well-being.

Tuition Waivers

- Oregon law allows for a waiver of undergraduate tuition and certain fees for current and former foster children.
 - "Former foster child" means the person spent six or more months in care between the ages of 14 and 21, and was not dismissed from care before reaching 16 years of age.
 - The waiver applies to Oregon public universities, Oregon community colleges and OHSU.
- In order to qualify for the waiver, a youth must:
 - Complete a Free Application for Federal Student Aid (FAFSA) for that academic year;
 - Participate in a minimum of 30 volunteer service hours per academic year while receiving the waiver.
- The Court may inquire of the caseworker and/or the youth if the youth has been informed of the availability of the tuition waiver. If the answer is no, the Court should order that DHS provide the youth with information about the waiver.

Education/Training Vouchers

- Also known as “ETV” this program provides financial assistance to a youth for post-secondary education or training. Funds may be used toward the costs of attendance for all two and four year colleges or universities, as well as some trade and vocational schools.
- Youth in foster care may access funds beginning at age 14. Youth who have left care after age 16 may also access funds, provided he or she has 180 or more cumulative days of substitute care, and he or she accesses the funds prior to age 21.

Housing Programs

- Two Housing Programs - the Independent Living Housing Subsidy and Chafee Housing program. They each have specific eligibility requirements and provide monetary support to allow for independent living while a youth is attending school or working.
- ILP Subsidy is for youth who are still in care, while Chafee Housing is only available for youth who aged out of care after age 18, and have not yet reached age 21.
- Both programs may provide assistance up to \$600 per month for basic living expenses, based on the youth’s need. The youth must be involved in 40 hours of productive activity per week, and is required to be working on his or her secondary education if he or she does not already have a high school diploma or GED.
- A one-time housing voucher may be issued to provide the initial costs for establishing a residence.

ILP Discretionary Funds

- ILP discretionary funds are available as an added support to assist youth with services or items needed to accomplish goals provided in their CTP.
 - The caseworker must make the funding request to the local Independent Living Program.
 - The youth must be enrolled in skill building services through ILP to be eligible for these funds.

Health Care Coverage

- **OHP Coverage**
 - Available for young adults who aged out of foster care system
 - Eligibility – left foster care at 18 or older and resides in Oregon
 - Cover until age 26
 - Called Former Foster Care Youth Medical Program

Is Termination Appropriate?

- **Prior** to reaching age 18, the Court should ensure DHS has prepared the youth for the transition to independence.
- DHS should hold a Benchmark Review where a “Transition Tool Kit” is prepared.
- The Court should not terminate wardship without the review and tool kit in place.

Benchmark Review

- A Benchmark Review is a meeting the caseworker must hold **six months prior to a youth’s 18th birthday** for the purpose of documenting that the youth and DHS have a plan for the adult decisions that need to be made after the youth turns 18. The determinations made at the Benchmark Review should be documented in the Comprehensive Transition Plan (T2). Planning regarding the following is required:
 - Education;
 - Housing;
 - Identification of people who provide supportive relationships to the youth;
 - Identification of community resources, including government assistance;
 - Employment;
 - Medical decision making;
 - Transportation;
 - Life skills development.
- If you are reviewing the case plan of a youth who has reached **seventeen years of age**, it is appropriate to ask about planning for the Benchmark Review and whether DHS has ensured appropriate services for the child. For youth who are beyond age 17 and a half and no review has been provided, the Court should order the caseworker schedule the Benchmark Review.



Transition Tool Kit

- At the time the court relieves DHS of custody, the caseworker must provide the youth with a “Transition Tool Kit”. These are documents that the youth will need regarding his or her medical history, for employment purposes and to continue post-secondary education. It must include:
 - Family history;
 - Placement history;
 - Location and status of siblings and contact information the youth can use should s/he want to obtain additional information;
 - Health and immunizations records;
 - Chafee Medical Referral form;
 - Education summary and records;
 - Original birth certificate;
 - Official proof of citizenship or residence in a form acceptable to an employer who is required to verify immigration status;
 - Social security card;
 - Driver’s license or other form of state identification;
 - Copy of death certificate of youth’s parent(s) (if applicable);
 - Written verification of placement in substitute care between the ages of 14 to 18 through DHS or one of the federally recognized tribes.
- The Court should ensure these items are in place prior to terminating wardship. For youth with immigration issues, advance planning by the caseworker to secure the required proof of citizenship/residence will be necessary, as it may take several months to obtain the required documents.

H.R. 4980

(Preventing Sex Trafficking and Strengthening Families Act of 2014)

H.B. 2980

(New Oregon Laws)

- **Effective October 1, 2015**
- **For Foster Children 14 and older:**
 - CTP for all youth 14 or older
 - Youth choice of team member
 - “transition to successful adulthood” instead of “independent living”
 - Signed receipt of Oregon Foster Children’s Bill of Rights in case plan
 - Annual Credit Checks

H.R. 2908 (cont.)

- Court must find:
 - Is the plan adequate?
 - Have appropriate services been offered?
 - Did DHS involve the Youth in developing the plan?

H.R. 2908 (cont.)

- For Foster Youth 16 and older:
 - If the plan is APPLA, the CRB and Court must find that DHS has ensured that the substitute caregiver is following the ***reasonable and prudent parent standard*** and whether the youth has opportunities to engage in ***age, or developmentally, appropriate activities***

Reasonable Prudent Parent Standard ORS 419A.004

- “The careful and sensible parental decisions that maintain the health, safety, and best interests of a child used by substitute care provider when determining whether to allow a child to participate in extracurricular, enrichment, cultural and social activities.”

Age Appropriate or Developmentally Appropriate Activities

- “Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are developmentally appropriate for a child.”

SCENARIO 1

- Rachel is four months away from her eighteenth birthday. She has been in the foster care system since she was twelve years old and her plan was changed to APPLA when she was fourteen. Her mother has battled drug and alcohol addiction for as long as she can remember and her father has been incarcerated the entire time she's been in care. She is currently in a regular, non-relative foster placement.
- Recently, Rachel's grades have started to suffer and she has been exhibiting some concerning behaviors. She was suspended from school for smoking marijuana and she has missed curfew 3 times in the past month. She, through her attorney, is seeking termination of wardship at next month's hearing.

SCENARIO 2

- Jordan is sixteen years old and in an APPLA plan. He came into care a year ago and the plan was changed from reunification after neither parent made an effort to engage in case planning. He is in regular non-relative care with several other teens his age. His grandmother wanted to become a foster placement, but DHS was unable to certify her due to a past DUII conviction. Jordan is allowed to have unsupervised contact with his grandmother on the weekends, but DHS suspects that he is having unauthorized contact with his mother while at his grandmother's home.
- Over the past several months, the foster parent and school have noticed that Jordan seems distant and withdrawn. He quit playing sports and has complained about sharing a room with his foster brother. He recently had a mental health evaluation that strongly recommended he engage in individual counseling. At this time, he is refusing to see any therapists. Jordan has been present for all court hearings and will likely attend the upcoming hearing.

Applicable Administrative Rules

PLAN DEVELOPMENT

- **413-030-0445 Development**
 - Transition plan to include
 - Skills and readiness through interviews
 - Written independent living assessment
 - Education
 - Employment
 - Health
 - Housing
 - Life skills
 - Supportive community connections
 - Transportation
- **413-030-0449 Review**
 - Caseworker to make F2F contacts with youth
 - Progress in achieving plan goals
 - Barriers to achieving plan goals
 - Changes
 - Notice to service providers

BENCHMARK REVIEW

- **413-030-0454 Benchmark Review**
 - Child plays a central role in meeting
 - Agree on person to make decisions for educational and health services for youth after reaching age 18
 - ID positive relationships for child and community resources
 - Plan for employment
- **413-030-0460 Requirements at Independence**
 - Providing youth with health and education records; identification documents
 - Written verification of placement

Administrative Rules

APPLA PLANS

- **413-070-0552(1) Ongoing Department Responsibilities When APPLA is the Child's or Young Adult's Permanency Plan**
 - (e)
 - Description of youth's relationships and how those provide continuity, belonging, support, and cultural connections
 - How those relationships can be maintained
 - (g)
 - Considerations not in statute the Department can account for to make sure each youth is prepared for transition into adulthood
 - Interview skills
 - Education and career planning
 - Insurance
- (h)
 - "Reasonable efforts" made by Department to meet the needs of youth and enhance stability of youth when youth is not living with specified adult
- (i)
 - Services Department must provide to ensure emotional, medical, educational, cultural, and physical needs of youth

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