

REASONABLE EFFORTS



What is the "Reasonable Efforts" standard?

The "reasonable efforts" standard is the most important legal standard used by the courts and CRB to assess whether ODHS is doing their part in a child welfare case to preserve or reunify families, or to quickly finalize a permanent placement if reunification is impossible. Statute directs that the child's safety and well-being are the paramount concerns when determining the reasonableness of ODHS's efforts.

At the CRB, we assess ODHS's efforts to reunify families under Finding 4 (we also assess ODHS's efforts to preserve families under Finding 4's sub-finding on the first CRB review of each case). We assess ODHS's efforts to finalize a child's permanent placement under Finding 5.

A Note About ICWA Cases

The following pages describe "reasonable efforts." In cases where ICWA applies, the standard is elevated from "reasonable efforts" to "active efforts."

Active efforts can be understood as more active assistance to families than what would constitute reasonable efforts. Unlike reasonable efforts, active efforts are actually defined in federal law.

Active efforts are "affirmative, active, thorough and timely" efforts that "involve assisting the parent(s)... through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan." Active efforts must be documented, consistent with the child's tribe's prevailing culture, and provided in partnership with the child's parents, extended family and tribe.

WHAT ARE REASONABLE EFFORTS



For a reason.

Efforts must be related to the reason efforts are needed in the first place. For example, ODHS is required to make reasonable efforts to make it possible for the child to safely return home (Finding 4). Imagine a case where the reason the child is out of the home (or in other words, the basis for jurisdiction) is, "The mother has not seen the child since birth and requires the assistance of the state to establish a parenting relationship and learn about the child's heightened medical needs."

Reasonable efforts then might include therapeutic visitation to rehabilitate the relationship between mother and child and help mother learn to feed the child via his G-Tube. On the other hand, paying for mother's orthodontics may be helpful for her future employment prospects, but is not an effort made for the *reason* of making it possible for the child to safely return home. Mother's attorney therefore could not demand such assistance, helpful though it may be, because it is not *reasonable*.

Not extreme.

Imagine a case where father argues that ODHS should drive his child 3.5 hours each way to visit him in prison every two days and pay \$850 per hour for a family-child therapist to meet with them at the prison, because such services would make it possible for the child to safely return home to father's care as soon as he is released in 10 months. Such efforts would be extreme, therefore not *reasonable*.

Sensible.

Imagine a case where ODHS delayed referring a father to batterer's intervention training for 7 months after a court ordered it, because father's mental health evaluation noted that he needed a year of sustained sobriety before batterer's intervention would be successful. The 7 month delay was *reasonable* because it was sensible under the circumstances.

Accessible.

Imagine a case where father's basis of jurisdiction is that due to his autism, he has not yet gained the skills necessary to safely parent his infant. ODHS refers father to standard group parenting classes. This was not *reasonable*, because ODHS did not make efforts to provide parenting information that was accessible to someone with father's particular special needs when those special needs were an explicit basis for jurisdiction. Likewise, it may not be *reasonable* to refer a California father to a program in Portland, or a non-religious parent to a faith-based program.

Timely.

Imagine a case where ODHS provides mother with needed therapy 9 months after jurisdiction is established. The reason for the delay was that ODHS simply did not submit the paperwork until 5 months after jurisdiction was established, and then there was a wait list. This effort was not timely and therefore not *reasonable*.

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An attempt.

To make an effort is to try. Success is not guaranteed or required. For instance, imagine a case where ODHS referred mother to a substance abuse treatment program and offered to drive her to her intake appointment. Mother refused. The agency made a reasonable *effort*. By the same token, a parent's refusal to sign releases of information or to work with ODHS does not excuse the agency from the requirement of at least trying to provide assistance to the parent. As another example, imagine ODHS referred a parent to parent training but a waiting list kept the parent out of the class. ODHS's *effort* should include attempts to find another parent training resource or attempts to get the parent into the class.

By ODHS.

The only efforts that are assessed under the "reasonable efforts" standard are those made by ODHS. For instance, a substance abuse treatment referral made by a father's probation officer is not a reasonable effort, because it is not an *effort made by ODHS*.

For all legal parents/guardians.

ODHS must make efforts as to all legal parents for all bases of jurisdiction. Efforts cannot simply focus on the parent who seems most likely to achieve reunification or ignore an incarcerated parent because they will not be released until the child is an adult.

Documented.

The agency's efforts must be documented. When they are not, you will need to verify the agency's efforts by asking questions at the review. Experienced board members do not just rely on the caseworker for answers. Sometimes you will need to ask follow-up questions of others to verify ODHS's statements when documentation is not available to serve that function. If ODHS's efforts are not documented, make a recommendation that the agency do so.



Something ODHS does; An action.

ODHS's efforts often involve providing services or a referral to services. But all relevant actions on the part of ODHS count. Such actions could include case planning, meeting with a parent at the parent's home, texting a parent to remind them of a service appointment, sending an incarcerated parent photos of their child, keeping a parent informed about the case, providing the parent with a reading list and literature, helping a parent re-engage with their Tribe, or working with family members to overcome a past dispute so that a relative would be willing to supervise father-daughter visits again. So remember to consider all the relevant things ODHS *does*, not just a checklist of services required. Also, this activity must be ongoing; Making an effort one month does not suffice for the whole case.