Federal Laws regarding Parent Child Visits

By Rose Marie Wentz, BSW, MPA

Child welfare agencies, the court and the other professionals who comprise the local child welfare system in a community are required to address both purposes of visits according to current federal laws. The requirements related to these two purposes are best summarized in the Children and Family Services Review (CFSR) process.[i]

The CFSR contains the following measurements related to visits and connections. Also listed are the most common challenges for states that did not meet the measurements.

Permanency Outcome 2: The continuity of family relationships and connections are preserved for children

Item 13: Visiting Parents and Siblings in Foster Care

Common Challenges to meeting the standards:

- Agency did not make concerted efforts to ensure sufficient visitation with fathers, mothers and siblings

Item 14: Preserving connections

Common Challenges to meeting the standards:

- Agency did not make concerted efforts to maintain the connections between children and their extended families and/or siblings, schools and community

Item 16: Relationship of child in care with parents

Common Challenges to meeting the standards:

- Agency did not make concerted efforts to support the child's relationship with his/her father and/or mother
- Father connections at much lower rate than mother

Well-Being Outcome 1: Families have enhanced capacity to provide for their children's needs

Item 17: Needs and services of child, parents and foster parents

Common Challenges to meeting the standards:

- The agency did not provide adequate assessments and/or services to father and mothers (fathers more likely to NOT be assessed or provided services)
- Services available in the community were insufficient to meet identified needs

Item 18: Child and Family Involvement in Case Planning

Common Challenges to meeting the standards:

- The agency did not make concerted efforts to involve fathers, mother or children in case planning.

Of all the cases reviewed in the United States that met the CFSR standards the following strengths, related to visits, were commonly found:

Visitation

- Plans comprehensive and revised as needed
- Supported and facilitated by the agency
- Increased as the reunification date approached

Placement

- Placements located to facilitate visitation

Transition to reunification

- Use of transition planning
- Use of trial home visits

Foster parents' efforts

- Committed to child
- Assisting and mentoring the parent
- Facilitating visitation

Federal law clarifies that time-limited family reunification as:

Services and activities described[ii]

The services and activities described in this subparagraph are the following:

(i) Individual, group, and family counseling.

(ii) Inpatient, residential, or outpatient substance abuse treatment services.

(iii) Mental health services.

(iv) Assistance to address domestic violence.

(v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.

(vi) Peer-to-peer mentoring and support groups for parents and primary caregivers.

(vii) Services and activities designed to facilitate access to and visitation of children by parents and siblings.

(viii) Transportation to or from any of the services and activities described in this subparagraph

The 2008 Fostering Connections Act added several requirements related to maintaining and enhancing a child's connections.[iii]

1. A title IV-E agency must have a mechanism in place to exercise due diligence to identify and notify all adult relatives of a child's removal from his parents within 30 days of that removal (subject to exceptions due to family or domestic violence) (section 471(a)(29) of the Act). The notice must specify that the child has been or is being removed from the custody of the parent, the relative's options to participate in the care and placement of the child (pursuant to Federal, State and local law), any options that may be lost by

not responding to the notice, the agency's requirements for becoming a foster family home and the additional services and supports for children in foster family homes. If the title IV-E agency has elected to operate a title IV-E guardianship assistance program, the notice also must describe how a relative guardian may receive such assistance on the child's behalf. We encourage the agency to develop protocols for caseworkers that describe the steps that should be taken to identify and notify relatives when a child is removed from his or her home. Further, we encourage the agency to go beyond this requirement to specify ways to identify and work with relatives when the agency first becomes involved with a child at risk of removal.

2. A title IV-E agency must make reasonable efforts to place siblings removed from their home in the same foster care, adoption or guardianship placement, or to facilitate frequent visitation or ongoing interactions (for example, letters, phone calls, text, email and other electronic communication) for those that cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings to do so. If the agency determines that the siblings cannot be placed together and/or cannot have frequent visitation, the agency must document the reasons that it is contrary to the safety or well-being of the siblings to be placed together or to have frequent visitation. We encourage the agency to develop standard protocols for caseworkers to use in making decisions about when it would be contrary to a child's well-being or safety to place siblings together or provide for frequent visitation. A standard decision making tool could assist workers with guidelines in making this important decision, and address difficult situations, such as a sibling's refusal for visitation. We also encourage the agency to periodically reassess sibling visitation and placement decisions in cases where siblings are separated or not visiting to determine if a change is warranted.
3. A title IV-E agency is required to include a plan for ensuring the educational stability of a child in foster care in the child's case plan as established in section 475(1)(G) of the Act. The plan must include:
    - an assurance that the child's placement in foster care takes into account the appropriateness of the current educational setting and the proximity to the school the child was enrolled in at the time of placement; and,
    - an assurance that the title IV-E agency has coordinated with the local education agency or agencies to ensure the child can remain in that school, or if remaining in that school is not in the best interests of the child, an assurance to enroll the child immediately in a new school with all of his or her educational records.

Reasonable Efforts definition

The Adoptions and Safe Families Act of 1997, the latter of which contains the original reasonable efforts requirements as well as specific exceptions to those requirements. The U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau provides the following information:

> "We have not, nor do we intend to define "reasonable efforts." To do so would be a direct contradiction of the intent of the law. The statute requires that reasonable efforts determinations be made on a case-by-case basis. We think

> any definition would either limit the courts' ability to make determinations on a case-by-case basis or be so broad as to be ineffective. In the absence of a definition, courts may entertain actions such as the following in determining whether reasonable efforts were made."

The department then lists examples of services, safety protections, and transportation solutions that the agency could employ that would allow the child to remain safely at home or pursue another permanent plan. The American Bar Association's Child Safety Guide for Judges and Attorneys includes additional efforts that agencies can undertake, including the exploration or development of a "sufficient safety plan."[iv]

Though it is clear that the laws require visits at this time the federal laws or federal appeal court rulings have not established a standard regarding frequency or duration of visits.[v]

---

[i] U. S. Department of Health and Human Services, Administration for Children & Families. *Federal Child and Family Services Review: Aggregate Report: Round 2: Fiscal Years 2007-2010.* December, 2011. 25-31. http://www.acf.hhs.gov/programs/cb/cwmonitoring/results/fcfsr_report.pdf

[ii] TITLE 42—THE PUBLIC HEALTH AND WELFARE SUBPART 2—PROMOTING SAFE AND STABLE FAMILIES (7) Time-limited family reunification services. http://www.gpo.gov/fdsys/pkg/USCODE-2011-title42/pdf/USCODE-2011-title42-chap7-subchapIV-partB-subpart2-sec629a.pdf

[iii] U. S. Department of Health and Human Services, Administration for Children & Families. *Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) Comprehensive Guidance, Titles IV-B and IV-E Plan Requirements.* 2010. http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.htm#secth

[iv] Lund, Theresa Roe Lund and Jennifer Renne. *Child Safety: A Guide For Judges and Attorneys.* American Bar Association and ACTION for Protection. 2003. 8.

[v] Edwards, Leonard P. *Judicial Oversight of Parental Visitation in Family Reunification Cases.* Juvenile and Family Court Journal. 54.3 (2003): 1-24. National Council of Juvenile and Family Court Judges. 7 June 2008. 5-6.