

Voluntary Placement

Rhode Island Department of Children, Youth and Families

Policy: 700.0015

Effective Date: July 9, 1984—Revised Date: January 5, 2004—Version: 5

Rhode Island General Law (RIGL) 42-72-14 allows the Department to accept a request for voluntary placement of a child if the child could benefit from foster care or residential treatment services. A voluntary placement may be initiated in situations outlined in the procedure with prior administrative approval when a parent or guardian consents to the out of home placement of a child. Voluntary placements are only used when precipitating problems are expected to be resolved within six months unless the child has an emotional, behavioral or mental disorder or developmental or physical disability. It must also be clearly documented that home based or preventive services have not been successful or do not appear to be appropriate, that alternative resources are unavailable and that court action is unnecessary. When out of home placement is necessary, the Department will first explore with a parent or guardian and, if appropriate, the child the possibility of placement with a relative caretaker.

The Voluntary Application/Authorization/Consent for Placement of Children (DCYF #023) specifies the child's legal status and outlines the rights and obligations of the parent(s) or guardian, the Department and the child while the child is in placement. In compliance with federal law [42 U.S.C. §672(g)(2)] and state law (RIGL 42-72-14), upon the timely request of a parent(s) or guardian, the Department must return the child to the parent(s) or guardian or obtain a valid court order prohibiting the child's return. The Department is required to petition the Family Court within 120 days of admitting a child on a voluntary basis to determine whether or not continued placement is in the child's best interest and, if so, whether or not there is an appropriate case plan. According to both federal and state law, the Family Court must conduct a hearing within 180 days of the voluntary placement of the child. The Adoption and Safe Families Act (P.L. 105-89) also requires that any child in voluntary placement be subject to the same provisions relating to administrative reviews, permanency hearings and time frames for permanency, including termination of parental rights for all children in out of home placement.

When any child, except a child with disabilities, remains in voluntary placement for a period of 12 months, the Department must petition the Family Court to request care, custody and control of the child in accordance with RIGL 14-1-11.1. The law does not require and the Department will not seek custody of a child with an emotional, behavioral or mental disorder or developmental or physical disability who has been voluntarily placed with the Department by a parent or guardian for the purpose of accessing an out of home program for the child in a facility that provides services for children with disabilities when there are no issues of parental abuse or neglect. These services may include, but are not limited to, residential treatment programs, residential counseling centers and therapeutic foster care programs.

RIGL 42-72-13 (Liability for Support of Committed Children) requires the Department, within its available appropriation, to pay for the support and maintenance of children in its care who are placed outside of their natural home through court action or by Voluntary Application/Authorization/Consent. RIGL 15-9-1 allows the Department to seek reimbursement from the parents of children in placement.

Related Procedures

[Voluntary Placement](#)

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Procedure From Policy 700.0015: Voluntary Placement

- A. Voluntary Assessment and Approval Process
1. The primary worker thoroughly reviews the voluntary placement request and carefully assesses the problem and circumstances.
 2. All reasonable efforts must be made, when possible and appropriate, to prevent placement:
 - a. The primary worker/supervisor reviews and offers to the parent(s) appropriate Department and/or community or home-based services and resources as alternatives to placement.
 - b. All preventive efforts must be documented in a Case Activity Note.
 3. The primary worker assesses the nature and severity of the problem to determine if it is likely that placement and additional services will achieve successful reunification within six (6) months (except for children with disabilities).
 4. The primary worker assesses the ability and willingness of the parent and child to work actively and cooperatively throughout the placement process and to follow through with an effective Case Plan. Voluntary placement may be considered in the following situations:
 - a. Child Welfare Issues—There is suspicion of abuse and/or neglect but after a careful investigation by Child Protective Services and after consultation with Legal Counsel, it is determined that sufficient evidence does not exist to warrant a petition or the petition has been denied by Family Court.
 - i. The parent(s) must be willing to participate in the voluntary placement process.
 - ii. At times, the Department may use a voluntary placement as a protective service to a child pending filing or disposition of a dependent/neglected/abused petition.
 - b. Children with Disabilities—The child requires foster or residential treatment due to emotional, behavioral or mental disorder or developmental or physical disability which is of an extended or indeterminate period and the parent is willing and able to participate in a treatment plan.
 - c. Short term Shelter Placement—The child is in need of respite/shelter care for a brief time period.
 5. The primary worker discusses in supervision, and administrative approval (assistant administrator level or above) is obtained, prior to formalizing a Voluntary Application/Authorization/ Consent for Placement of Children or securing a placement and this is documented in a Case Activity Note.
 6. The primary worker follows procedures for securing a shelter or longer term placement.
 7. The primary worker reads and explains the terms of the Voluntary Application/ Authorization/Consent for Placement of Children (DCYF #023) to the parent(s) to ensure that parent(s) understands the rights and obligations. If the parent(s) does not speak and fully understand English, a translator is sought. The parent(s) is also informed of the following:
 - a. The Department must petition Family Court within 120 days of the placement date to schedule a hearing to determine whether or not continued placement is in the best interest of the child and, if so, whether or not there is an appropriate case plan. This hearing must be held in Family Court within 180 days of the date of placement.
 - b. If the parent is unable or unwilling to participate in the educational decision-making process of a child suspected or identified as having a handicapping condition, the child is referred for the appointment of an Educational Surrogate Parent.

- c. ~~Financial support by the parent is mandatory and is based on ability to pay. The Department seeks to become representative payee, effective as of the date of placement, for any state or federal subsidies or benefits the parent(s) receives on behalf of the child.~~

- d. Children in voluntary placement are subject to the same provisions relating to administrative reviews, permanency hearings and time frames for permanency, including termination of parental rights, as all children in out-of-home placement.
8. The non-custodial parent is notified of the voluntary placement unless it has been clearly established that the non-custodial parent would jeopardize the child's placement.
 - a. The worker makes every effort to locate the non-custodial parent (e.g., parents separated/divorced).
 - b. The non-custodial parent may have a potential impact on the visitation plan.
 - c. The non-custodial parent can seek custody as an alternative to foster care.
9. Two copies of the Voluntary Application/Authorization/Consent for Placement of Children (DCYF #023) are signed and dated by the primary worker or Departmental representative and by each custodial parent as well as the appropriate supervisor and administrator.
 - a. One copy of the Voluntary Application/Authorization/Consent for Placement of Children (DCYF #023) is given to the parent(s) and one copy is filed in the case record.
 - b. If the child has a disability or is suspected of having a disability, the parent(s) may not wish to participate in further educational decision-making. In these situations, a statement to this effect, via the Educational Participation Agreement (DCYF #062), must be signed by the parent(s) and must be attached to each copy of the Voluntary Application/ Authorization/ Consent for Placement of Children (DCYF #023).
10. The worker must also secure the following signed forms prior to the removal of the child:
 - a. Medical Consent Authorization (DCYF #003).
 - b. Release of Confidential Information (DCYF #007) for medical records, school records, psychological records or any other information deemed necessary for the child's smooth transition into foster care.
11. The primary worker records in Case Activity Notes, all discussions between parents and workers and circumstances regarding the voluntary placement agreement, specifically the following:
 - a. Parent(s) reasons for requesting voluntary placement.
 - b. Efforts to secure alternatives to placement.
 - c. Time, place and manner of the discussions.
 - d. Potential consequences of placement for both child and parent (including social, economic, legal and educational)
 - e. Notification to the non-custodial parent.
 - f. Conditions of the voluntary, including whether a petition is to be filed or is pending before the Court.
 - g. Decision regarding appointment of an Educational Surrogate Parent when appropriate.
12. A Case Plan outlining the objectives and tasks to be accomplished for reunification must be completed within the time frames stipulated in policy.
13. The legal status is entered into RICHIST as voluntary.
14. The worker regularly monitors the placement, maintains contact with the parent(s) and notifies the parent(s) of any change in worker and/or in the location, progress or condition of the child. This information must be documented in Case Activity Notes.
15. The worker, upon proper administrative consultation and approval, notifies the parent(s) in writing within a reasonable period of time of any decision to terminate the voluntary placement agreement. Such notification shall indicate that the child will either be returned home or that the Department is initiating legal action.

B. Legal Review Process

1. The worker meets with Legal Counsel before the child's 120th day in placement and presents a Summary of Facts to support a Miscellaneous Petition that will review the circumstances of a child in voluntary placement when there is an expectation that the voluntary placement will continue to be necessary beyond 120 days.

2. ~~The Office of Legal Counsel files a Miscellaneous Petition with the Court for review of the voluntary placement on or before the child's 120th day in placement. A copy of the~~

- Miscellaneous Petition is forwarded to the Child Advocate's Office by the Office of Legal Counsel. A summons is issued to the parent named on the Miscellaneous Petition through the Juvenile Clerk's Office.
3. If there are any changes in circumstances between the interim period when the petition is filed and the review is scheduled, the worker notifies the Office of Legal Counsel of the change and also documents the change in a court letter.
 4. A Family Court review of the voluntary placement must occur on or before the child's 180th day in voluntary placement.
 5. The Court will conduct a Permanency Hearing for all children in voluntary placement within a period of 12 months from the date the child was voluntarily placed in the care of the Department. If a child continues to need placement and a TPR is not appropriate, the worker must complete the compelling reasons documentation, attach it to the case plan, and present it to the Court at the Permanency Hearing.
 6. For children with disabilities, if the Court finds that the continuation in voluntary placement is in the best interest of the child, the Court has continuing jurisdiction to review and conduct further Permanency Hearings whenever it deems it necessary or desirable, but at least every 12 months. However, children with disabilities in voluntary placement are subject to the same requirements relating to administrative reviews, permanency hearings and time frames for permanency, including termination of parental rights, as all children in out of home placement.
 - a. There is no requirement that the Department file a dependency petition to seek care, custody, and control of a child with disabilities placed in the voluntary care of the Department for a period in excess of 12 months.
 - b. In certain circumstances the Department may justify a need to seek legal custody of a child with disabilities who has been voluntarily placed in the care of the Department through the filing of a dependency, neglect and/or abuse petition. In that event, the social worker confers with his or her supervisor and seeks a legal consult.
 7. **For all children except those with disabilities, when placement is expected to continue beyond 12 months**, a petition seeking custody must be filed with the Family Court within and not exceeding 12 months from the date the child was voluntarily placed in the care of the Department. (Refer to Policy: 1100.000 Obtaining Custody of Child Through the Dependent/Neglected/ Abused Petition.)

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TITLE 214 - DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

CHAPTER XXX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

SUBCHAPTER XX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

PART 1254 - VOLUNTARY PLACEMENT

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