

Guidelines

For

Legal Risk Placements



Connecticut Council on Adoption

TABLE OF CONTENTS

INTRODUCTION	1
THE CHILD	3
THE LEGAL RISK ADOPTIVE FAMILY.....	4
THE SOCIAL WORKER	6
STATEMENT OF UNDERSTANDING AND AGREEMENT FOR LEGAL RISK PLACEMENT	8

INTRODUCTION

When the Practice Committee wrote its position paper on legal risk placements in 1986, we stated that we were not in a position to develop guidelines as most legal risk placements being made at that time were not on a planned or formalized basis. There was also no available pool of legal risk families, families who had been recruited specifically for legal risk placements, and no formalized legal risk program.

In the Adoption Practice Guidelines prepared by the Department of Children and Families (DCF) in 1993, it was reported that "the department may seek prospective adoptive parents for a child not yet freed for adoption" (Page 10). However, nothing was spelled out as to how this should be done and there was no policy to guide social workers.

Today many legal risk placements occur, many of them older children. We hope that social workers and adoptive families find these guidelines helpful in working with children being considered for legal risk placement and with their prospective adoptive families.

Legal risk is defined as the placement of a child not yet legally free for adoption with a licensed family who wishes to adopt. The intent is that the child will become legally free and that the placement will be permanent, but that cannot be guaranteed to the adoptive parents. Until the child is legally free, the placement is made on a foster care basis.

Permanency planning should begin whenever placement of a child is being considered for reasons of abuse, neglect or abandonment. While in most cases the goal is to return the child to the birth family, alternative planning needs to be considered simultaneously in case the goal of reunification is not realized. Part of this planning should include researching, evaluating and documenting the appropriateness of possible relative placements.

Birth parents have a right to know that alternative placement, including adoption, is being considered parallel with reunification planning. They need to understand what will happen if they are unable or unwilling to meet the expectations required for the child's return. This should not be presented as a threat but as a realistic explanation of what the options are for them and for the child.

Children who need to leave their present placements and for whom there is little chance of return to the birth family are prime candidates for legal risk placements. Legal risk placement is also appropriate for children who could benefit from an earlier placement in a permanent home. The point at which reunification seems unlikely is a crucial time for a decision to be made about a legal risk placement.

Among the different kinds of legal risk are:

1. Both parents have consented to the termination of their parental rights but the termination has not been decreed.
2. Parental rights have been terminated but the judgment is not yet final or the termination has been appealed.
3. Petitions to terminate parental rights have been filed in court but the case is still pending or is being contested.
4. The long-range plan is adoption but petitions have not been filed.

Among the children to be considered for an early legal risk placement are:

1. Children who have been abandoned under circumstances that indicate the birth parents' intentions to sever their relationships with the child.
2. Children who come from birth families in which parental rights were terminated involuntarily on other siblings and there is a realistic expectation that the family will not ever be able to provide a minimum level of care for this child.
3. Children whose birth parents are mentally and/or emotionally disabled to the extent that there is a realistic expectation that they will not be able to provide a minimum level of care for this child.
4. Children who have been so severely abused that it is unrealistic to expect that their parents will be rehabilitated in the foreseeable future and be able to provide a safe environment for them.
5. Children whose birth parents have failed to correct in a contracted length of time conditions that necessitated the removal of the children from their care.
6. Children for whom reunification has occurred but who have been removed again because of new abuse or neglect.

Note: Not included here are those children whose parents are voluntarily terminating their rights, usually in probate court, even though a dispositional hearing has not yet been held or, if one has been held, the appeal period has not expired. These children are usually placed with non-legal risk adoptive families and this practice should continue.

THE CHILD

In order to have healthy growth and development, children need positive and permanent parental figures and a safe, stable, nurturing environment as early as possible. Foster care is unpredictable and impermanent. Children in foster care need to be moved as quickly as possible but planfully to the security of a permanent family. For those children not yet legally free, a legal risk adoption placement may be the most appropriate way to achieve this goal. The foster family may wish to be considered the legal risk adoptive family [See CCA pamphlet "Adoption and the Foster Family"].

A child who is being prepared for a legal risk placement needs to be helped to understand, to the extent that he is capable, that while it is hoped this family will be one where he will stay permanently, this cannot be guaranteed right now. Commensurate with his age, the child should know that the court is involved and that it will be up to the judge whether he returns to his birth family or remains with the legal risk family. If a child is in a legal risk placement and has bonded with the family, it is often easier to obtain termination of parental rights.

There needs to be an ongoing dialogue with the child about the involvement of the court. It may be advisable for the child's attorney to talk directly with the child. Children are apt to blame themselves and to assume responsibility for what happens to them so the more they can understand the decision-making process, the better.

A child in legal risk placement will be very anxious about what is going to happen to him. He may also have conflicting loyalties. Part of him may want to stay where he is while part of him may want to be with the birth family. The child should be helped to understand, to the extent he is able, what his birth parents need to do to have him return home. If the parents are unable or unwilling to fulfill their contract, the child may be better able to understand why he is not returning to his birth family. The child will need help in relinquishing the birth parents, both psychologically and emotionally, and in grieving for them.

Similarly, the child who returns to the birth family should be given the opportunity to transition from the adoptive family and to grieve for them. This move should be included in his life book, which should go with him. If the child's return to the birth family fails, his return to the legal risk family should be the first consideration, if this is appropriate.

THE LEGAL RISK ADOPTIVE FAMILY

It is very important that legal risk adoptive parents be clear about their roles and what is expected of them. They need to have training and resources available to them. Their relationship with the agency should involve mutual sharing of information and ready access to their social worker. They need to be included in the case planning and to receive a high level of support on an ongoing basis. They need to be treated positively and with respect. Respite care should be available to them when necessary. They should know what their rights are as well as their responsibilities.

Legal risk adoptive parents need to be able to love and let go. They need to be able to make a commitment to a child who may not remain with them permanently. They need an acceptance of birth parents being physically present in the child's life as well as emotionally. They need to know that legal risk placements will be anxiety producing for everyone involved. They need to learn to manage their own anxiety in such a way that the negative impact on the child will be minimal. They need to be aware of their motivation to parent a child whom they may not be able to keep. They need to be able to stand up under what may be a long period of uncertainty and delays and to seek support and guidance from the agency or a support group. It is imperative that they receive support.

The Connecticut Association of Foster and Adoptive Parents (CAFAP) is one resource for legal risk families. That organization can provide supportive services to adoptive parents and can act as a mediator or an ombudsman when needed. Because they are not part of DCF or a private agency, they can be non-judgmental and non-threatening. Many of the staff have had first hand experience in legal risk adoption.

The decision about which legal risk family will be considered for a child is made by the Permanency Planning Team. Once the decision is made, the adoption home finder and the child's worker and supervisor together should present information about the child to the family that was selected. If appropriate, the CAFAP liaison might also be present at this meeting with the prospective adoptive parents. All pertinent information about the child and his background should be provided to the family. [See CCA pamphlet "What to Tell and Give Adoptive Parents."]

The family should be empowered to make their own decision as to whether or not this placement is right for them. In addition to information about the child, the adoptive family should be made aware of what the financial arrangements for the child will be, including information about adoption subsidies. The family should be advised of the specifics of the legal process, which may be unpredictable and lengthy.

If the child is having visits with the birth family, the adoptive family should know the frequency of the visits and who will provide transportation. They will need support in handling the child's behaviors and feelings in response to these visits as well as in understanding and managing their own reactions.

If the child is to return to the birth family, support needs to be provided to the adoptive family. It is important for them to be aware that everything they have given to the child will always be part of him regardless of where he grows up.

If reunification with the birth family is not successful and if the placement with the adoptive family was an appropriate one, the child's return to the adoptive family should be the first consideration. The appropriateness of the placement would be evidenced by the adoptive family understanding and performing their roles and meeting the child's needs. Legal risk families who were appropriate should be given, in writing, a statement that they will be the first option for the child's replacement. This statement should be given to them at the time the child is returned to the birth family. Copies of these statements should also be placed in the family's and in the child's record.

THE SOCIAL WORKER

Ideally the adoptive home finder should follow through with both the adoptive family and the child after placement, while the treatment worker should continue with the birth family. The home finder knows the adoptive family and has an already established relationship with them that can be invaluable in helping them once the child arrives. This is particularly important in legal risk placements where the uncertainty about the child's future can create more anxiety for the adoptive family than exists in other adoptive placements.

If it is not possible for the home finder to continue with the adoptive family, IT IS STRONGLY RECOMMENDED THAT SERVICES BE PURCHASED FROM A PRIVATE AGENCY THROUGH PERMANENCY PLACEMENT SERVICES PROGRAM (P.P.S.P.) FOR PLACEMENT SERVICES TO THE CHILD AND THE ADOPTIVE FAMILY, for the following reasons. If the child's worker assumes the role of adoptive family worker, she would need to be prepared to be very supportive to the family. This would be a difficult position in which to be, especially when still involved with the birth family around possible reunification. It would also be difficult for the child who may continue to identify the worker with the birth family and with moving. The adoptive family may find it hard to discuss the child's negative behavior with a worker who has had a longstanding and positive relationship with the child.

No matter which social worker follows through after placement, an on-going assessment and evaluation of the child and the legal risk adoptive family are essential. Referrals to supportive services should be provided to the adoptive family. To augment these services, referrals to training programs, mental health services, and any other resources that might be helpful to them and to the child should be made. The social worker is there to help the family understand what the child is going through, the possible reasons for his behavior, and suggestions for ways in which they can help the child. The social worker is also there to help the family understand what they are going through and to act as a sounding board for them to vent their feelings and frustrations.

Prior to the child's placement, the adoptive family should be given a copy of the most recent treatment plan and the form "Statement of Understanding and Agreement for Legal Risk Placement" (see attached). The form should outline the current legal status in detail and include any expectations of the family and the Department. It is important that the adoptive family be kept informed on an on-going basis of what is happening in regard to the termination of parental rights. It may be appropriate to obtain clarification for them from the Assistant Attorney General (AAG).

It is the responsibility of the child's worker to see to it that transportation is available for the child's visits with the birth family. Often the adoptive parents provide the transportation, enabling them to let the child know that they are giving their permission for this contact with the birth family. The visits should take place in a neutral setting such as the agency's office, therapist's office or other community setting.

The worker needs to stay on top of what is going on with the child, the adoptive family, and the birth family. The worker should be aware of the current laws affecting adoption as well as any new legislation. The worker also needs to be familiar with current practice issues in adoption and should participate in training workshops on an ongoing basis.

The worker should maintain contact with any therapists involved with the child and adapt planning to reflect any changes. If the child's visits with the birth family appear detrimental, it may be advisable for the therapist to recommend a modification of the visits or that they be stopped altogether.

If the final outcome is adoption, the social worker providing direct service to the family does the necessary paperwork to finalize the adoption. If this worker is not experienced in the finalization process, it may be advisable to refer the case to P.P.S.P. (See p. 9) for completion of the adoption. The family should be advised of what post-placement services are available to them and to the child.

If the P.P.S.P. worker or the home finder take over direct services to the child at placement with the legal risk family, the DCF treatment worker continues with the birth family until the termination of parental rights is final. Or, if the child returns home, the treatment worker will continue until the case is closed. This social worker is responsible for working with the birth family on all issues related to the child and prepares court reports and treatment plans.

STATEMENT OF UNDERSTANDING
AND AGREEMENT FOR LEGAL RISK PLACEMENT

I/We _____ accept the placement of _____ into our home effective _____. I/We understand that the child is being placed on a legal risk basis and:

1. The child is in the care and custody of DCF and is not legally free for adoption at this time.
2. I/We agree to use the child's legal name.
3. The child is placed on a foster care basis and /We agree to follow all foster care rules/regulations and certification procedures.
4. I/We agree to cooperate with all treatment plan activities which may include regular visitation between the child and his/her birth family as well as other services to promote the child's reunification of the child with the birth family.
5. DCF intends to file/has filed with the Superior Court, Juvenile Matters, for the termination of parental rights.
6. While the child is in the custody of DCF, DCF has the right to remove the child at anytime, if it decides it is in the best interest of the child to do so.
7. When the child is legally free, I/We will be considered the child's adoptive parents.
8. I/We understand if the Court grants termination of parental rights, parties have the right to appeal the decision up to 120 days from the date of the signed journal entry. Until all appeals are resolved, I/We agree to continue to cooperate on a foster care basis.
9. If termination of parental rights is not granted permanent custody by the court, I/We will cooperate with the new plan for the child which may include reunification with the child's birth family.
10. We have received the Placement Packet, Treatment Plan and all medical, social, psychological, educational and background information which was available at the time of placement.
11. (Case specific information should be given here including the current legal status in detail and expectations of the family and DCF) _____

I/We have had ample opportunity to discuss this "Statement of Understanding" with the agency representative and agree to care for the child on a Legal Risk basis.

Legal Risk Parent

Legal Risk Parent

Agency Representative

Date Signed