110 CMR 6.00: CASE REVIEWS

6.01: Foster Care Review and Permanency Hearing - Generally

(1) Foster Care Review. A Foster Care Review ("FCR") is a review, conducted by a panel under the auspices of the Department's independent Foster Care Review Unit ("FCRU") established under M.G.L. c. 18B, § 6A, of the action plan and progress toward the safety, permanency and well-being of a child or young adult

(a) who is either:

(1) committed by a court to the custody of the Department or an agent of the Department; or

(2) in the custody of the Department via an adoption surrender, executed in conformance with M.G.L. c.210, § 2; or

(3) in the voluntary care of the Department pursuant to a Voluntary Placement Agreement or a petition under MGL c. 119, §23(a)(1); and

(b) who is not living at home at the time the foster care review is scheduled to occur.

(2) Permanency Hearing. A Permanency Hearing is a review conducted by the court which granted custody of a child to the Department. The review is conducted under the provisions of G.L. c. 119, § 29B.

6.02: Foster Care Review ("FCR")

(1) Requirement. The Department shall conduct a FCR within six months after a child or young adult is placed out of the home and every six months thereafter for a child or young adult who remains out of the home.

(2) Content. A FCR shall include consideration of the following issues:

(a) a review of the family assessment and action plan and any updates since the last foster care review, including the reason for the Department’s continued involvement with the family ; and

(b) a review of the ' tasks, services and supports within the action plan since the last foster care review, including:

1. the Department's actions and efforts to address the reason for the Department’s involvement and to achieve safety, permanency and well-being for the child/young adult;

2. the Department’s actions and efforts to ensure the child’s placement is following the reasonable and prudent parent standard;

3. each parent's participation in the tasks, services and supports identified in the action plan intended to reduce or alleviate the danger to, or need for placement of, the child(ren) and whether desired outcomes were achieved, including the visitation schedule;

4.. the placement provider's fulfillment of the expectations necessary to meet the needs of the child, including providing regular opportunities to engage in age or developmentally appropriate activites;

5.. where appropriate, the child/young adult's participation in the tasks, services and supports identified in the action plan and the extent to which the outcomes of safety, permanency and well-being were achieved ; and 6. progress made toward resolving the issues identified in the family assessment, updates to the family assessment or the previous case review;

(c) a review of the safety of the child/young adult, including children living at home, and the necessity and appropriateness of the child/young adult's continued placement;

(d) a review of the extent of progress made toward alleviating or mitigating the causes necessitating the child/young adult's placement and achieving desired outcomes;

(e) a review of the permanency plan of the child/young adult and the projected date by which the child/young adult will achieve permanency either through

1. stabilization with his parents or guardian;

2. reunification and safely maintaining with his parents or guardian;

3. adoption;

4. guardianship by a person other than the Department or its agent;

5. permanently living with Kin; or

6. another planned permanent living arrangement; and

(f) a review of the proposed action planning for the next six months, including:

1. the steps necessary to achieve permanency for the child/young adult; and

2. the visitation schedule for the parents and the means by which the schedule will be implemented.

(g) a review of the child/young adult’s medical and dental checkups, consistent with the well-child schedule and a review of the child’s educational needs; (h) a review of the child/young adult’s regular opportunities to engage in age or developmentally appropriate activities; and(i) for child who have reached the age of 17 years and 6 months, a review of a child’s request to continue with Department services and supports beyond the age of 18.

(3) Structure and Format. A FCR should be conducted by a three member panel consisting of:

(a) a member of the FCRU, who shall convene and chair the panel;

(b) a person who may or may not be a Department employee, provided that such person may not be the social worker, supervisor or manager assigned to the case under review;

(c) a volunteer, provided

1. the volunteer shall represent to the maximum extent feasible the various socio-economic, racial and ethnic groups served by the panel;

2. the volunteer has, prior to participation, attended FCRU orientation and follow up training sessions;

3. the volunteer is not an employee of the Department (but may be a Department foster parent);

4. the volunteer is not an employee of, board member of, or volunteer associated with, an agency contracted to provide services to the child or family whose case is under review;

5. the volunteer does not know and is not known by the family; and

6. the volunteer has signed an agreement to be a foster care review panel volunteer with the Department and acknowledged the circumstances which could lead to termination or non-renewal of the agreement.

(d) The format of the case review may vary depending on the family's needs and circumstances, and the number of participants in the case review. However, the following guidelines shall apply to each FCR review:

1. The review shall be a structured discussion; and

2. All participants shall be encouraged to participate and afforded the opportunity to express their views.

(4) Participants. A FCR shall at a minimum invite the following people, who shall be notified in writing to attend the case review prior to its scheduled date:

(a) parent(s), or guardian if applicable, of the child(ren) being reviewed, unless parental rights have been terminated or surrendered, under M.G.L.c. 210 §§ 2 or 3, or under M.G.L. c. 119, § 26, or the review only concerns a young adult, or unless a parent has a documented history of violent or assaultive behavior that is not mitigated by treatment and changes in behavior by the parent. In such case approval to exclude the parent from in-person participation in the case review shall be obtained from the Area Director/designee in consultation with the FCRU manager, and the parent shall be notified by the Area Director/designee of the reasons for such exclusion and shall be advised of alternative methods of providing input into the review. The parents and child/young adult 14 years of age or older may invite other persons to provide support. While this may include an attorney, an attorney is not required.

(b) a putative or unwed father, unless his parental rights have been surrendered or terminated, if:

1. he is named on any legal papers (i.e. petitions, birth certificate, or other judicial decree);

2. he has formally acknowledged paternity; or

3. he has been named as the father by the mother.

(c) the child/young adult, if 14 years of age or older, unless the child is a danger to him/herself or other participants or exhibits behavior that would make it impossible for the review to be conducted.

(d) the social worker assigned to the family and the children/young adult, including an adolescent outreach worker.

(e) the supervisor of the social worker assigned to the family and the children/young adult, provided such supervisor may but is not required to attend.

(f) foster parents.

(g) substitute care provider, if a child/young adult is receiving substitute care services from an agency under contract with the Department.

(h) the child's attorney or Guardian Ad Litem, if any.

(i) staff of other public or private agencies and other individuals important to the child/young adult or family.

(j) the Guardian for an Incapacitated young adult.

(k) the Department Attorney. and

(l) the family resource worker assigned to the foster home of the child(ren)’s placement

Any of the above persons who are invited, but unable to attend the case review shall be permitted to submit written comments to the Foster Care Review Unit in lieu of attendance.

(5) Responsibilities of Social Workers. As part of a FCR a social worker shall:

(a) verify periodic lists furnished to him/her of all families in his/her caseload who are to be scheduled for case review; and

(b) notify the FCRU of the names of the individuals who are to be invited to the review including any parent who lives out of the child’s home and ensures the current addresses are reflected in the electronic case record; and

(c) notify the FCRU if the family's primary language is other than English and advise the FCRU of resources available for an interpreter; and

(d) ensure that a current family assessment and action plan is available for the case review; and

(e) discuss the pending case review with parents, foster parents, and the child/young adult prior to the review, to ensure all parties understand its format and purpose; and

(f) discuss any change in the action plan with the , parents, children age 14 and older, supervisor, foster parents and providers prior to the case review, if such a change will be proposed at the case review; and

(g) notify FCRU staff of any casework issues which may require particularly sensitive handling during the review, or of any recent significant events which might affect the case review; and

(h) attend the case review and provide clarification and information about the action plan; and

(i) notify his/her supervisor if he/she disagrees with the determinations of the case review panel; and

(j) revise the family assessment and action plan, if needed, for the next six month period in a manner consistent with the determinations of the case review panel, unless such determinations are appealed.

(6) Responsibilities of Supervisors. For a FCR, a supervisor shall:

(a) in instances in which the social worker cannot attend the case review due to an emergency or illness, either attend the case review or provide for alternative staff representation;

(b) ensure the determinations of the case review panel are implemented unless:

1. there is an appeal and reversal of those determinations by the Regional Director, as set forth below; or

2. changes in case circumstances necessitate changes in the action plan; and

(c) notify the Area Director if the determinations of the case review panel will be appealed.(7) Responsibilities of Area Directors. The Area Director or designee shall:

(a) in instances in which the social worker cannot attend the case review due to an emergency, illness, or scheduled vacation, provide for alternative staff representation;

(b) ensure that all families have up to date family assessments and action plans;

(c) review the monthly preliminary list of families due for review and make such adjustments as are necessary to case review scheduling;

(d) provide a person to participate as a member of the foster care review panel, provided that such person may not be the social worker, supervisor or manager assigned to the case under review;

(e) arrange for an interpreter if one is needed for the review; and

(d) ensure the determinations of the case review panel are implemented unless:

1. there is a reversal of those determinations pursuant to 110 CMR of the Department; or

2. changes in case circumstances necessitate changes in the service plan,

(8) Responsibilities of FCRU Staff. FCRU staff shall:

(a) schedule the date, time and place of the review and select the volunteer panel member;

(b) invite all necessary parties to attend the review;

(c) review the family's case record, or the record for the young adult as applicable, including the family assessment any prior service or action plan;

(d) if necessary, seek out additional information from appropriate staff which will facilitate an effective review;

(e) chair the case review; and

(f) prepare a written summary of the case review panel's determinations and recommendations in a format established by the Department.

(9) Responsibilities of Panel Members. Case review panel members shall:

(a) have equal authority during the case review;

(b) prepare for the case review according to procedures established by the FCRU;

(c) maintain the confidentiality of all client related information;

(d) attend the case review as scheduled;

(e) actively participate in the case review, in an objective and unbiased manner; and

(f) notify the FCRU if they have personal knowledge of the client or family whose case is to be reviewed.

(10) Determinations Made by the Panel. The panel members shall discuss and determine:

(a) any concerns for the child(ren)’s safety identified during the review process;

(b) the necessity and appropriateness of the child's continued placement in substitute care;

(a) the extent of the parties' participation and progress as follows:

1. The parent(s) participation in the action plan and whether they demonstrated observable changes that reduce or alleviate danger to their child(ren) or the need for the child’s placement or to achieve other desired outcomes to improve their parental capacity to keep their child safe and provide for their well-being;

2. The child/young adult’s age 14 years of age or older, participation in the action plan and whether they have demonstrated progress in achieving the desired outcomes to improve their safety and well-being;

3. The Department’s actions to address the needs of the family; and

4. The placement provider’s fulfillment of the placement expectations to meet the child(ren)/young adult’s needs. ;

(b) the extent of progress which has been made by all parties to achieve the identified permanency plan(s) in the action plan;

(c) whether the Department has taken steps to

1. ensure the child(ren)’s placement resource is following the reasonable and prudent parent standard; and

2. ascertain whether the child(ren) has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including consulting with the child in an age appropriate manner about the child(ren)’s opportunities to participate in the activities);

(d) the child(ren)’s permanency plan and the projected date by which the child may achieve permanency either through

1. stabilization with his parents or guardian;

2. reunification and safely maintaining with his parents or guardian;

3. adoption;

4. guardianship by a person other than the Department or its agent;

5. permanently living with Kin; or

6. another planned permanent living arrangement; and

In addition, the panel may make and record non-binding advisory recommendations designed to further the child's progress towards permanency.

(11) At the Foster Care Review that occurs within 6 months of a child's 18th birthday, the Foster Care Review panel, the youth and the Department review a child's request to continue a sustained connection and services with the Department after the age of 18 years old.

1. If all parties agree to the sustained connection and services, and the youth meets the criteria for sustained connection under 110 CMR 23.00, the sustained connection and services for the youth will continue.

2. If the Department and youth agree that the youth is not interested in a sustained connection or services after age 18, the Department works with the youth on transition planning for a discharge at age 18.

3. If the youth is requesting a sustained connection and services beyond age 18 and either the Department or the Foster Care Review Panel disagrees, the youth's request is sent to a Young Adult Review Panel at the Area Office responsible for the youth's case for a final determination.

(12) The FCRU panel member shall record the panel's determinations and recommendations and a summary of the review in the electronic case record in a format prescribed by the Department. The FRCU will notify the Area Director and social worker when the report is completed and will send or mail copies of the report to the:

3. parents;

4. child/young adult age 14 or older;

5. placement provider;

6. child's attorney and/or GAL, if applicable.

(13) Panel Disagreement with Action Plan. If the determinations of the panel conflict with the action plan as written, the determination of the panel shall be binding upon the Department and shall be incorporated into a revised family assessment and action plan unless the panel's determinations are successfully appealed as set in 110 CMR 6.02(12).

(14) Appeal of FCR Determination

a. Parents, foster parents, the child’s attorney, and children/young adult age 14 and older may appeal the Foster Care Review determination to change the permanency plan by requesting a Fair Hearing within 30 days after receiving the Foster Care Review Report. All other FCR determinations may be appealed through the grievance process.

b. If the department social worker or supervisor disagree with any of the FCR determinations, the area staff and FCR staff will attempt to resolve the disagreement in accordance with the Foster Care Review Policy.

(15) Permanency Plan Change

Whenever the Foster Care Review panel determines, under section 6.02(10)(f), that the permanency plan for the child/young adult should be changed, the department must schedule the case for a permanency planning conference . The permanency plan does not change until a permanency planning conference is held. If the permanency planning conference permanency plan determination differs with the foster care review permanency plan determination, the case will be referred to the Regional Director who will determine the permanency plan .

6.13: Permanency Hearing

A Permanency Hearing is a review conducted by a court of competent jurisdiction under M.G.L. c. 119, § 29B, of a child or young adult under the age of 22 in substitute care. The Department shall participate in a permanency hearing to determine a child’s or young adults permanency plan within 12 months of an initial order of commitment, or grant of custody to the Department, and every 12 months thereafter as long as the child or young adult remains in substitute care. If a child or young adult has entered substitute care through a voluntary placement agreement as set forth in 110 CMR 4.10 through 4.14, the permanency hearing will be held within 12 months of the child or young adult entering placement or within 60 days of the Department obtaining court custody, whichever is later. For children who remain in the Department’s custody after they are placed home, a permanency hearing will be conducted if at the time the review is scheduled the child has been home for less than 6 months.

The process utilized for a permanency hearing shall be in accordance with Trial Court Rule VI Uniform Rules for Permanency Hearings. The Department shall file with the court which committed the child to the Department’s custody a permanency plan report prior to the permanency hearing date, and shall send a copy of the plan to the attorneys of record, or to a party who is unrepresented. If a parent has signed an adoption surrender, or if a parent’s parental rights have been terminated by a court of law, the parent or his or her counsel will not be sent a copy of the permanency plan report.

The Department shall notify the child’s current foster/pre-adoptive parent of the date of the permanency hearing. The current foster/pre-adoptive parent has the right to be heard at the permanency hearing.

At the permanency hearing the court shall determine the permanent plan for the child. In making such determination the court shall consult with the child, in an age-appropriate manner, the proposed permanency plan for the child. Such consultation may be through a report by the Department Social Worker, the Child’s attorney or a guardian ad litem whose has discussed with the child the proposed permanent plan. A child age 16 and over may attend the permanency hearing review. The Department shall use reasonable efforts to achieve the permanency plan determined by the court. The Department may concurrently use reasonable efforts to achieve an alternative permanent plan if the permanent plan determined by the court is reunification with the family and the goal established through the Department’s permanency planning conference is other than reunification.

REGULATORY AUTHORITY

M.G.L.c. 18B, §§ 6A,7; M.G.L.c. 119, §§ 37 and 29B.