

Date – June 9, 2020

Manual - Child and Family Services Manual, Chapter E, Foster Care

Transmittal # - 292

The purpose of this transmittal is to provide new, revised, and clarified guidance for the Foster Care Chapter (E) of the Child and Family Services Manual. Unless otherwise stated, the provisions included in this transmittal are effective July 1, 2020.

Changes to the manual incorporate federal and state laws as well as state regulations into the guidance; clarify existing guidance; and enhance guidance on meeting the safety, permanency, and well-being needs of children in foster care.

This transmittal and manual are available on FUSION at:

<https://fusion.dss.virginia.gov/dfs/DFS-Home/Foster-Care/Foster-Care-Guidance>

Significant changes to the manual are as follows:

| Section(s) Changed | Significant Changes |
|--|--|
| 1.2 Definitions | Adds definitions for fictive kin, human trafficking, labor trafficking, and adds fictive kin to the definitions of Kinship Guardianship Assistance and Kinship Guardianship Assistance Agreement. |
| 1.5 Organization of manual | Adds definition for the use of the term “must” when discussing requirements and directives in the remaining sections of Foster Care Guidance. |
| 3.9.1 Pregnant and parenting youth in foster care | <p>Renames section 3.9.1, reorganizes the section and adds the following subsections:</p> <ul style="list-style-type: none"> • 3.9.1.1 Services for pregnant and parenting youth • 3.9.1.2 Foster care plan and documentation requirements • 3.9.1.3 Minor child of youth in foster care <p>These subsections clarify services for which pregnant and parenting youth are eligible, what is required in their foster care plans and case documentation, and clarifies payments for which minor children of youth in foster care are eligible.</p> |
| 3.9.3.4 The youth’s custody upon release from commitment | Clarifies that when a youth re-enters foster care after DJJ commitment, it is a second episode of foster care and that the agency must file a petition to resume the court timeline. |

| | |
|---|--|
| 7.3 Permanency Goals | Adds the requirement that if return home is not the goal for the child, the agency must provide information to the child’s parent regarding voluntary relinquishment of parental rights, unless the parent’s rights have already been terminated. |
| 7.3.3 Transfer of custody to a relative | Clarifies that the goal of transfer of custody to a relative can include fictive kin for the purpose of establishing eligibility for the Kinship Guardianship Assistance Program. |
| 8.5 LDSS efforts to support reunification | Adds the requirement that when a child has been in foster care for 12 months and reunification remains the goal, the agency must consult with their regional consultant regarding case planning. |
| 8.6.7 Exploring post-custody transfer supports | Adds a new subsection clarifying that transferring custody with prevention services should be considered, if appropriate, versus extending trial home visits. |
| 9.9 Adoptive home identification and preparation | Renames the section and adds information about concurrent planning and adoption, as well as links to information that has been moved to the Adoption Chapter. |
| 10.1 Introduction | Adds that kinship guardianship assistance may be available to fictive kin in addition to relatives. |
| 10.6 Relative assuming custody of child or youth | Removes the full list of possible services to be discussed with the relative assuming custody and adds a link to a discussion guide for those services (“A Relative’s Guide to Services Post-Custody Transfer”). |
| 10.7 Achieving permanency with goal of Custody Transfer to Relative | Adds that the goal of Custody Transfer to a Relative can also include fictive kin for the purposes of establishing eligibility for the Kinship Guardianship Assistance Program. |
| 10.10 Special circumstances for relative foster families | Adds that special circumstances for relative foster families also apply to foster parents who are fictive kin, beginning July 1, 2020. |
| 10.11 Overview of kinship guardianship assistance | Adds that relatives and fictive kin can be eligible for kinship guardianship assistance as of July 1, 2020 as long as they meet the other eligibility requirements and that the terms “relative” and “relative custodian” in kinship guardianship assistance guidance include fictive kin. |
| 10.12 Preparing and partnering with prospective relative custodian(s) | Clarifies that the child support collection continues for kinship guardianship assistance cases and provides direction on how the agency notifies the Division of Child Support Enforcement of the case change and the need for collection to continue. |

| | |
|---|---|
| <p>10.14.2 Assessing basic maintenance needs of the youth</p> | <p>Adds that the Worksheet for Assessing and Negotiating Assistance may be used as an additional resource when assessing the funds the prospective relative custodian may have available to care for the youth.</p> |
| <p>10.14.3 Assessing additional supervision and support needs of the youth</p> | <p>Adds that the LDSS must administer the VEMAT within 14 days of the LDSS decision to assess or reassess the enhanced maintenance.</p> <p>Clarifies that a VEMAT does not have to be readministered prior to the KinGAP agreement if the KinGAP agreement is signed within six months of the prior unexpired VEMAT.</p> <p>Clarifies that when the relative custodian and LDSS agree to a time-limited enhanced maintenance payment, LDSS will notify the relative custodian 60 days prior to the end date via certified letter.</p> |
| <p>10.15.1 Role of the Negotiator</p> | <p>Adds that the Assistance Negotiator will provide the LDSS and family with the negotiation report within 30 days of receiving the referral and supporting documentation.</p> |
| <p>10.15.2 Role of LDSS during the negotiation process</p> | <p>Changes the requirement for the LDSS to review, gather information, and submit the referral for negotiation within 14 days of receiving the application.</p> <p>Clarifies the circumstances under which the LDSS must complete the VEMAT prior to submitting the referral.</p> <p>Adds the requirement that the LDSS will submit any additional documentation requested by the negotiator within 7 days of the request.</p> |
| <p>10.15.3 Negotiation Process</p> | <p>Clarifies that the negotiation will be completed and submitted to the LDSS no later than 30 days from receiving the referral and all supporting documentation.</p> |
| <p>10.15.4 Appealing negotiation results</p> | <p>Clarifies that the notice of action and right to appeal should be provided within 60 days from the date the LDSS received the completed application.</p> |
| <p>10.20 Annual affidavit</p> | <p>Clarifies that the relative custodian shall be notified in writing 60 days prior to the date the annual affidavit is due.</p> |
| <p>10.21.7 Assessing conditions warranting continuation beyond 18th birthday</p> | <p>Adds that the notification by the LDSS to the relative custodian, six months prior to the youth turning 18, advising them that the agreement will terminate on the youth's 18th birthday unless they submit documentation warranting continuation prior to the youth attaining age 18, must include the Family Services Notice of Action and Right to Appeal.</p> <p>Modifies the name of the state negotiator to Assistance</p> |

| | |
|--|--|
| | <p>Negotiator.</p> <p>Adds that the notification by the LDSS to the relative custodian, advising them that the youth’s circumstances do not warrant continuation past the youth’s 18th birthday, must include the Family Services Notice of Action and Right to Appeal.</p> |
| 12.5.1 Children who are victims or at risk of human trafficking | <p>Adds information on assessing and service planning for children who are at risk of human trafficking, specifically sex trafficking and reorganizes the information in 12.5.1.</p> <p>Adds new subsections including:</p> <ul style="list-style-type: none"> • 12.5.1.1 Services for children who are victims or at risk of sex trafficking • 12.5.1.2 Human Trafficking Assessments and children and youth in foster care • 12.5.1.3 Resources <p>These subsections detail services for victims and children at risk of sex trafficking and clarifies the requirement for Human Trafficking Assessments when service workers receive information that a youth in foster care has experienced a human trafficking incident.</p> |
| 12.5.2 Safety Services | <p>Adds information around continual safety assessment and the provision of safety services when safety factors are present in foster care cases.</p> |
| 13.5.3 Frequency of administering CLSA | <p>Makes the initial and annual administration of the life skills assessment required.</p> |
| 13.7.3 Chafee Program Transition Plan (Transition Plan) for youth age 14 and older | <p>Changes the required timeframe for the Transition Plan to be completed within 30 days of the youth turning 14 years old in foster care or entering foster care when age 14 and older.</p> |
| 14.2.2 Legal citations | <p>Adds the Code of Virginia citations for the court review of VCSSA for former foster youth and the citations for the Fostering Futures Program.</p> |
| 14.4.4.2 Voluntary Continuing Services and Support Agreement (VCSSA) | <p>Adds that the VCSSA must include that services and support are to be provided to the youth no later than 30 days after both the youth and local department sign the VCSSA, that youth agrees to regular contact with worker, and that the youth agrees to timely payment of housing fees and other requirements deemed necessary.</p> <p>Clarifies that at the time the VCSSA is signed by the youth, the LDSS service worker must complete a IV-E application.</p> <p>Clarifies that if the youth is enrolled in Fostering Futures, they</p> |

| | |
|--|---|
| | must be in a supervised independent living setting. |
| 14.4.4.4 Court approval | <p>Clarifies that the LDSS must file a petition for court review within 30 days of signing the VCSSA and that the court must schedule a hearing no later than 45 days from receipt of the petition.</p> <p>Adds that the LDSS must identify to the court any individuals who may have a legitimate interest in the hearing and that the court must consult with the youth at all hearings.</p> <p>Changes the requirement for the court to approve the VCSSA requiring the court to determine if remaining in foster care is in the best interest of the youth and then approve, deny, or revise the foster care plan.</p> <p>Adds that if revisions are ordered or the foster care plan is not approved, the LDSS must file a petition within 30 days for additional court review.</p> <p>Adds that if the court does not approve the foster care plan, the VCSSA remains in place and the youth remains in foster care.</p> <p>Clarifies that once the initial court hearing is completed and foster care plan approved, the court may retain jurisdiction and conduct six month reviews.</p> |
| 14.5.2 Funding maintenance costs | Adds that if the youth is experiencing difficulty in managing the expenses their maintenance payment is intended to cover, the worker should review the youth’s budget with them and consider holding an FPM. |
| 14.6.2 Termination by the LDSS | Specifies that the notice of intent to terminate must include information about community resources that may benefit the participant. |
| 14.9 Life skills assessment | Clarifies that the life skills assessment must be readministered annually. |
| 14.10.3.1 Development and maintenance of the transition plan | Changes the requirement for initial administration of the Transition Plan to within 30 days of the youth turning 14 in foster care or entering foster care when they are 14 or older. |
| 16.2.6.3 Materials submitted to court | Adds the requirement that if the child has been in the custody of the agency for 15 out of the last 22 months and no termination of parental rights (TPR) petition has been filed, the agency must state in its petition for permanency planning the reasons why a TPR petition has not been filed and the reasonable efforts made towards reunification or transfer of custody to a relative and the timeline of such efforts. |
| 16.2.6.4 Submitting new Foster Care Service Plan | Moves the reasons not to terminate parental rights to Section 16.2.6.5 and renames 16.2.6.5 “Exceptions to the requirement to |

| | |
|--|--|
| | file for TPR.” |
| 16.2.6.5 Exceptions to the requirement to file for TPR | <p>Adds documentation requirements for each exception to the requirement to file for TPR at 15 months out of the last 22 months and includes examples of compelling reasons not to file for termination of parental rights.</p> <p>Adds the requirement for LDSS to submit documentation of their reasons and diligent efforts to achieve permanency to their regional consultant when they decide not to file for TPR at the 15 month mark.</p> |
| 19.10.2 Length of time service records shall be retained after closure | Reorganizes information contained in 19.10.2 and 19.10.3 and adds clarifying information for children who are adopted, service records are not maintained in the locality but are sent to VDSS in accordance with Adoption guidance and that disclosure restrictions apply at the time of finalization. |

Questions about this transmittal should be directed to the Regional Foster Care/Permanency Consultants:

- Central- Lisa Tully, 804- 840-4099, Lisa.Tully@dss.virginia.gov
 Eastern- Gayle Brown, 757- 985-4944, Gayle1.Brown@dss.virginia.gov
 Emily Lowe, 757-636-0052, e.lowe@dss.virginia.gov
 Northern- Sarah Gilbert, 540-454-7786, S.Gilbert@dss.virginia.gov
 Tara Gilbert, 540-359-1711, tara.gilbert@dss.virginia.gov
 Piedmont- Dawn Wilson, 540-580-4121 Dawn.M.Wilson@dss.virginia.gov
 Tiffany Ray, 540-520-3227, tiffany.ray@dss.virginia.gov
 Ali Bell, 540-988-3800, ali.bell@dss.virginia.gov
 Western- Heather Lewis Owens, 276-525-0446, H.Lewis@dss.virginia.gov
 Latisha Kidd, 276-608-0367, latisha.kidd@dss.virginia.gov
 Jeannie Adams, 276-393-9564, jeanniem.adams@dss.virginia.gov

S. Duke Storen
 Commissioner