 Department of <b>Children &amp;  Family Services</b> <i>Building a Stronger Louisiana</i>	<b>Division/Section</b>	Child Welfare
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	<b>Part No./Name</b>	8 – Case Planning for the Foster Child
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## I. STATEMENT OF POLICY

Legal Guardianship is defined as the duty and authority **\* of a guardian \*\*** to make **\*\*\*** decisions in matters having a permanent effect on the life and development of the child and the responsibility for the child's general welfare until he reaches the age of majority, subject to any residual rights possessed by the child's parents. It shall include but not necessarily be limited to:

- The authority to consent to marriage, **\* right to consent to the child's \*\*** enlistment in the armed forces of the United States, to represent the minor in legal actions, to make other decisions of substantial legal significance concerning the minor.
- The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order. **\*\*\***
- Guardianship includes the rights and responsibility of legal custody. Legal Custody is the right to have physical custody of the child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents..

A guardianship subsidy is a financial support that can be provided to some guardians. The subsidy enables the Department to make payments to certified relative **\*\*\*** kin **\* caregivers**, or other certified **caregivers** with whom the child has a significant familial bond; with whom it would be in the child's best interest to remain until the age of majority on behalf of a child who otherwise might not be able to achieve permanency outside of Department custody because of special needs or other circumstances. The relationship between the child and **caregivers** as well as the importance of sustaining the relationship through guardianship as the best option for achieving permanency for the child must be clearly documented in the child's case record. The availability of the guardianship subsidy program shall be discussed with every potential guardian of a child from foster care to determine the appropriateness and applicability of the subsidy to support the care of the child. Refer to [6-2100](#), Guardianship Subsidy Program, for further details regarding the purpose, legal base, and terms regarding the Guardianship Subsidy.

Legal Guardianship is more permanent than Transfer of Custody as the guardianship order can only be modified or terminated by the court if there is clear and convincing evidence of a substantial and material change in the circumstance of the guardian or child. Transfer of Custody may be more appropriate for a responsible adult to have temporary custody of the child due to a health issue that can be resolved or when a parent may be incarcerated for a short period of time. **\*\***

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## II. PROCEDURES

### A. CASEWORKER RESPONSIBILITY

The caseworker assigned to a child entering foster care should discuss \* with any identified relative/kin \*\* \*\*\* or other \* significant connections of the child/family at the transfer staffing with the Child Protection Services (CPS) worker or Family Service (FS) worker prior to initiating the foster care placement. The caseworker should obtain the contact information of any relatives or other connections of the child/family from the CPS and/or FS worker. Additional information should be collected from the parent(s), the child, and already identified relatives or connections.

If no relative resources were identified prior to the child's placement in foster care, the parent or caregivers from whom the child was removed, any other known relatives, parents or previous caregivers, \*\* and the child should be asked to identify all known relatives, as well as godparents and close family friends who have a relationship with the child. The first priority is to identify a legal or biological parent who lives separately from the parent or caretaker from whom the child was removed. Refer to [6-400](#), Placement of the Child.

Before guardianship is established as a child's permanency goal, it must be determined:


- The child cannot be reunited with the parent(s) after diligent efforts by the Department to help both parents achieve reunification. \*\*\*
- Adoption has been ruled out as a better permanency option for the child.

Once a prospective resource for guardianship placement of the child has been identified, the FC case \* worker \*\* shall refer the family to Home Development for certification, if the family is not already certified.

Upon determining the appropriateness of guardianship as the child's permanency goal, documentation of the change in goal, as well as the appropriateness of the goal, must be documented in the child's case plan and in case notes.

### B. ASSESSMENT OF GUARDIANSHIP FOR PERMANENCY

Only when both reunification and adoption are ruled out as feasible options for a child should guardianship be considered as the permanency goal. The caseworker must document in the child's case documentation and case plan all efforts to overcome any barriers to the case plan goals of reunification and adoption as well as the decision points in determining guardianship is the most appropriate goal for achieving permanency for the child. A clear and concise statement of the facts regarding the reasons guardianship is sought and why neither adoption nor reunification with a parent is in the best interest of the child must also be documented in reports to the court.

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The child's caseworker shall discuss plans for a guardianship arrangement with the child and document the outcome of the discussion with the child in the case record.

When a relative \*\*\* kin or other \* caregiver \*\* with a significant familial bond with the child is willing to commit to legal guardianship for a child, the individual or family is assessed for eligibility for a guardianship subsidy. Refer to [6-2100](#), Guardianship Subsidy Program for definitions of relative, \*\*\* kin and other terms related to the Guardianship Subsidy.


If a child is placed in a guardianship arrangement with a certified relative \*\*\* kin \* caregiver or other certified caregiver \*\* with a significant familial bond with the child in another state, \*\*\* \* or other home-based placement in another state, a new CW Form [ICPC 100A](#), Interstate Compact Placement Request, should be submitted through the regular ICPC process requesting certification of the home as a foster/adoptive home. \*\*

When \*\*\* notice of certification of the family as a foster/adoptive family has been received, the Department shall make every effort to work with the family to determine the most appropriate case goal to achieve the best interests of the child for permanency. As a child must remain in a certified placement six months prior to pursuing adoption or guardianship, staff should never request only a relative home study when considering placement of a child out of state. Staff should very clearly indicate on the ICPC request forms certification as a foster/adoptive home is required even in relative placements. This does not include home study requests on parents.

\* When guardianship is considered the primary permanency option for any child, the child's caseworker must consult with the supervisor and CW Manager over the case to ensure agreement with the assessment of the appropriateness of this goal for the child.

A PPS staffing must be held prior to changing the child's permanency goal to guardianship, the goal must then \*\* be approved by the court. After a staffing which determines it is in the best interest of the child to recommend changing the case plan goal to guardianship, the caseworker discusses the recommendation with the child's parent(s), the child's attorney, and the CASA volunteer for the case prior to going into court. On the rare occasion when a prospective guardian expresses the need to have their own attorney in court, the caseworker will notify the prospective guardian that the Department will reimburse the attorney's fees up to a maximum total of one thousand dollars (\$1,000.00) for non-Title IV-E eligible children and up to a maximum of two thousand dollars (\$2,000.00) for Title IV-E eligible children for representation of the prospective guardian during the hearing if the child and prospective guardian are eligible for a guardianship subsidy. Refer to [6-2120](#), Maintenance, Special Board, and Special Subsidy. If the child and guardian are not eligible for a subsidy, the prospective guardian is responsible for their own legal representation.

Eligibility of the family and child for a subsidy must be determined and the Guardianship Subsidy Agreement initiated prior to the permanency hearing in which guardianship is

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recommended. Case planning meetings and court review hearings must take place prior to finalizing the Guardianship Subsidy Agreement and must address the appropriateness of the goal as well as the child's adjustment to the placement and goal. For children age 12 or older, there must be case documentation of discussions with the youth regarding the youth's feelings about the goal. The youth must also be prepared by the caseworker, prior to each review hearing, once the child reaches age 12, for the child to be able to discuss feelings about remaining in the care of the current family permanently with the court during the review hearing.


Prior to the permanency goal being changed to guardianship, the child's assigned case \* worker documents the following in the child's case plan:

- Efforts the Department has made to achieve reunification with the parents, efforts to achieve adoption with the caregivers, \*\* including efforts to overcome barriers to these permanency goals, and the reasons it has been determined reunification, and adoption are not appropriate.
- The reasons for any separation of siblings during placement, if such has occurred or would occur as a result of the child being placed with a prospective guardian.
- The reasons a permanent placement through guardianship and provision of the guardianship subsidy is in the child's best interest.
- The ways in which the guardian and child do or do not meet the eligibility requirements for the Guardianship Subsidy \*\*\*.
- Efforts made by the Department to discuss the goal of guardianship and any guardianship assistance payment arrangements with the child's parent(s), or the reasons such efforts were not made.

The above documentation will be included in case plans until permanency is achieved through an established Guardianship or the goal is changed.

Court reports should include information regarding the appropriateness of permanency for the child through guardianship, as well as the status or any steps taken towards achieving permanence through guardianship. Information regarding Department efforts to achieve reunification or adoption for the child, including rationale for determining these permanency goals are no longer viable options for this child, should also be included in reports to the court.

If all requirements are met and it is in the best interest of the child to finalize the permanency goal prior to the next regularly scheduled court hearing, the caseworker manager and supervisor may choose to request an earlier hearing date.

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## C. PERMANENT PLANNING WITH THE PROSPECTIVE \* CAREGIVERS

After the caseworker discusses guardianship with the caregiver; a staffing with the caseworker's supervisor is held to discuss available permanency options for the child. If guardianship is in the best interest of the child, the caseworker refers the prospective guardians to Home Development for certification as foster parents, if they are not already certified.

After the caregivers are certified as foster parents and the child has been placed in the certified home for six months, the prospective caregivers may be eligible to enter a Guardianship Subsidy Agreement with the Department. Refer to [6-2110](#), Eligibility Criteria, [6-2140](#), Preparing for Guardianship Placement, and [6-2120](#), Maintenance, Special Board and Special Subsidy.


When reunification or adoption cannot be achieved for a child, guardianship may be awarded by a court to an individual or family deemed appropriate whether the individual or family is eligible for a subsidy or not. The Department \*\*\* recommends guardianship as a permanency goal for a child when the Department can clearly document this goal to be the child's best option for permanency and only with caregivers determined to be safe through the home study process. Refer to [6-430](#), Home Study for Noncertified Caregivers. When the foster caregivers and child also meet subsidy guidelines, the Department may offer the subsidy as a support to the guardian family.

If the child and foster caregivers are eligible for a Guardianship Subsidy, the caseworker completes the Guardianship Subsidy Agreement (GSA) form with the foster caregivers, who must sign and date the agreement. The GSA is then forwarded to the caseworker's supervisor for approval. Prior to approving the proposed agreement, the supervisor should document in the case notes that:

- Approval of guardianship as a case goal.
- Any child age 12 or older has been consulted regarding the case goal. \*\*\*
- The reasons Guardianship is in the best interests of the child.

Once the GSA is signed by the FC supervisor, the original GSA is maintained in the local office until the court grants a guardianship order. A guardianship subsidy record is created and maintained by the caseworker's for the placement of all subsidy related documents. Refer to [6-2180](#), Format of the Guardianship Record. The record is forwarded to whomever the region designates as the Guardianship Subsidy Worker after the Final Determination of Approval is signed on the GSA. A copy of the final GSA is sent to the foster caregivers. \*\* When received by the caseworker, a certified copy of the court order granting guardianship is also immediately sent to the guardian. If the court does not order guardianship, the caseworker merges the guardianship subsidy record into the FC record.



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The following parties may seek to enforce, modify, or terminate a guardianship order:

- a. The \* Department of Children and Family Services. \*\*
- b. Counsel for the child.
- c. The guardian, or if the guardian is incapacitated, an individual previously named as a successor guardian in a guardianship subsidy agreement with the department.
- d. A parent permitted to intervene under Children’s Code [Article 707](#). \*\*\*
- e. The court on its own motion.

A copy of the motion to modify shall be personally served on the parents, and the court shall promptly notify the program representing the child and indigent parents, respectively, in child in need of care proceedings.


#### D. CLOSING THE FOSTER CARE RECORD

The child's foster care record shall be closed once guardianship is granted by the court. The caseworker closes the case on the TIPS 102 screen, effective the day prior to the day guardianship is granted, using the code FC GWR, if guardianship is granted to a relative and FC GWN, if guardianship is granted to a nonrelative/fictive kin. All guardianship subsidy documents are transferred to the subsidy record created by the caseworker to the regionally designated Guardianship Subsidy Worker, who will then open a guardianship subsidy case in TIPS and conduct annual reviews of the guardianship subsidy (Refer to [6-2150](#), Guardianship Subsidy Agreement, Review of Subsidy and Renewals). A region may choose to allow the caseworker to retain responsibility for the Guardianship Subsidy case at the discretion of the Area \* Director. \*\*

On the TIPS 103 screen, the caseworker enters the code for guardianship (GN) in the disposition type category, effective the date of the hearing in which the court ordered guardianship. When guardianship is ordered the caseworker is responsible for providing the guardian with the child’s original birth certificate, social security card, immunization record and copies of all medical and educational records available in the foster care case record. This should also include the [Youth Transition Plan](#) for any youth age 14 or older and information on independent living services and education training vouchers for youth age 16 or older.

#### E. OTHER OPTION FOR PERMANENCY

A court may order legal custody to an individual, but this option should not be recommended by the Department, as it is the least stable legal option available for a child. The only exception would be when a noncustodial parent who is not involved in the abuse/neglect episode is identified. Initial efforts in working with this parent shall include seeking modification of the disposition to allow for placement in the home of the previous noncustodial parent. Otherwise, DCFS may recommend legal custody be placed with the parent if they are assessed to be a safe \* caregiver \*\* for the child and able to accept custody of his/her child.

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No parent can be considered for a guardianship subsidy. Refer to [6-400](#), Placement of the Child.

### III. FORMS AND INSTRUCTIONS

[Form](#) / [Instructions](#) Guardianship Subsidy Agreement (GSA)

[Form](#) / [Instructions](#) ICPC 100A, Interstate Compact Placement Request Youth Transition Plan (YTP)

### IV. REFERENCES

[Louisiana Children's Code Article 707](#)