

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 PUBLIC WELFARE DIVISION

CHAPTER 945

SERVICES TO CHILDREN IN OR NEEDING SUBSTITUTE CARE

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-945-1 Policy. (a) The policy of the department is to assure permanency for children who come to the attention of the department and are at risk of or are in placement in substitute care. Toward this end, the department is committed to the provision of available and appropriate services to children and their families to ensure a safe, nurturing, permanent home for the child.

(b) Permanency for children begins at home, in maintaining the integrity of the family unit unless the

home cannot be made safe even with the infusion of support services. The child's right to proper parental care and maintenance of a continuing parental relationship makes essential the provision of appropriate services to strengthen and support the family home. Placement of a child into substitute care should, therefore, be a temporary measure, preferably for no longer than a year, during which time services focused on making the family home a safe home are provided.

(c) Placement of a child into substitute care is not to be considered unless all available and appropriate pre-placement preventive services have been provided but have not been successful in resolving the problems which make placement necessary; or, an assessment of the family and their situation establishes the provision of all available and appropriate pre-placement preventive services as insufficient to ensure a safe family home for the child.

(d) When placement into substitute care is needed and reunification with family cannot be achieved within a reasonable period of time, even with the assistance of a service plan, the child's right to an alternative permanent home, through permanent separation from the child's family, shall be pursued. [Eff 3/21/88]
(Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-2 Goals. Services provided under this chapter shall be focused on helping families and children maintain or achieve permanency for children. The department shall serve eligible families and children toward:

- (1) Maintaining the family unit and preventing the removal of the child wherever possible;
- (2) Reuniting the family at the earliest possible time;
- (3) Securing adoption for the child who is unable to be returned to a safe family home;
- (4) Securing placement with a specified permanent custodian or legal guardian for the child who is unable or unwilling to be adopted;
- (5) Securing long-term substitute care placement with a specified individual when an individual permanent custodian or legal guardian cannot be found. [Eff 3/21/88]
(Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-3 Definitions. As used in this chapter:

"Administrative review" means a periodic review, open to the participation of the parent(s) or legal guardian(s) of the child, conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"Case plan" means, for families and children subject to chapter 587, HRS, the safe home guidelines and the service plan and agreement in the 587 format, or the safe home guidelines and the permanent plan, or the permanent plan; for children not subject to chapter 587, HRS, the case plan means the service plan and agreement in the non-587 format.

"Child" means any person under eighteen years of age or a person who is a full time student in a secondary school or in a program of an equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching the age of nineteen.

"Close proximity to home" means placement on the same island as the parents' home except for the island of Hawaii where close proximity shall mean on the same side of the island (east or west) as the parents' home.

"Date of original placement" means the most recent date on which the department assumed placement responsibility of the child through court order, written voluntary consent of the parent(s) or legal guardian(s), or the transfer of protective custody to DHS pursuant to section 587-22, HRS.

"Dispositional hearing" means a review held by the court or a court-appointed or approved body within eighteen months of the date of original placement and at least every eighteen months thereafter until the child is placed into a permanent home.

"Least restrictive setting" means a placement which is most family-like in setting that can meet the needs of the child.

"Periodic review" means a review of the status of each child in substitute care under the placement responsibility of the department which is held within six months of the date of original placement and at least every six months thereafter. The review shall be conducted by the court, a body appointed by the court or by administrative review.

"Placement responsibility" means the authority of the department or other agency or individual to

determine the placement and care of the child.

"Reasonable efforts" means appropriate and available services offered or provided to prevent the placement of a child or to reunify a family.

"Substitute care" means a placement with extended family or a setting, such as a foster family boarding home, or a child-caring institution, licensed by the State which is apart from the child's parent or legal guardian and which provides twenty-four hour parenting care. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-4 Eligibility requirements. Children in substitute care or at risk of placement into substitute care under the placement responsibility of the department shall be eligible for services under this chapter. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-5 Geographic areas of service. (a) Services under this chapter are available to eligible children throughout the State.

(b) Services shall be available to eligible children placed out of State if the placement has been approved by the receiving state's office on the interstate compact on the placement of children and a request for such services is made. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627, HRS 350E)

§17-945-6 Confidentiality. The provisions of chapters 17-601 and 17-920.1 shall apply to families and children served under this chapter. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-7 Appeals and Fair Hearings. The provisions of chapter 17-602 shall apply to families and children served under this chapter. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-8 Reserved.

§17-945-9 Reserved.

SUBCHAPTER 2

SERVICE PROVISION

§17-945-10 Scope of services. (a) Based upon an assessment of the family, the department shall provide a range of available and appropriate services to eligible children and their families. Subject to the eligibility provisions for the specific service, the department may provide services identified in chapters 17-804 through 17-840, and chapters 17-912 through 17-950, as well as attempt to secure, by referral, available and appropriate services from other agencies and individuals in the community. Where necessary to ensure the family's understanding of any aspect of the department's involvement with the child and the child's family, the branch shall secure the services of an interpreter.

(b) The department shall offer all available and appropriate services to families with children at risk of placement into substitute care in order to maintain the family unit. When it is not possible to maintain the child safely at home, the department shall assume placement responsibility of the child pursuant to appropriate statute or through written voluntary consent of the parent(s) or legal guardian(s) in order to effect temporary placement of the child into substitute care.

(c) In effecting placement of the child, the department shall:

- (1) Effect placement only via the written voluntary consent of the parent(s) or legal guardian(s), by court order, or by assuming temporary foster custody of the child through the transfer of protective custody from the police and proceeding pursuant to section 587-24, HRS;
- (2) Make every reasonable effort to place the child into the most appropriate family-like setting available which is able to meet the needs of the child;
- (3) Make every reasonable effort to place the child in close proximity to home;
- (4) Attempt, where appropriate, to place siblings together;
- (5) Consider and, when appropriate, effect placement with relatives before placement into licensed substitute care facilities is

considered;

- (6) Make reasonable efforts to reunite the child with family at the earliest possible time;
- (7) Enter into or revise a case plan with the family identifying tasks to be accomplished toward achieving an identified permanency goal.

(d) Based upon its assessment and in accord with the goal to be achieved as set out in the case plan, the department will offer and provide available and appropriate services to the family, substitute caretakers, and the child. The services may be provided directly by department staff, through purchase of service contractors, or by other individuals and agencies through referral by the department.

(e) Unless the situation requires the immediate change in the placement of the child, the department shall inform the parent(s) or legal guardian(s) of any planned change and reason for the change in the child's placement at least two weeks in advance of the change. Where necessary to ensure the family's understanding, the branch shall secure services of an interpreter.

- (1) Notification shall be in writing or, if provided verbally, shall be confirmed in writing.
- (2) When the situation necessitates immediate change in the placement of the child, the parent(s) or legal guardian(s) shall be informed verbally within three working days, confirmed by written notice, or by written notice sent within three working days of the change in placement.
- (3) Should the parent(s) or legal guardian(s) not agree with the proposed or actual change in placement, if the case is known to court, they shall be referred to their attorney or, if they do not want an attorney, they shall be advised as to their alternative of a hearing in family court. Where appropriate in a voluntary placement, the department shall petition the court for jurisdiction.

(f) Unless the situation necessitates immediate change in the visitation schedule set up for the child and parent(s) or legal guardian(s), the department shall inform the parent(s) or legal guardian(s) of any planned change at least two weeks in advance of the change. Where necessary to ensure the family's understanding, the branch shall secure the services of

an interpreter.

- (1) Notification shall be in writing or, if provided verbally, shall be confirmed in writing.
- (2) When the situation necessitates immediate change in the schedule, the parent(s) or legal guardian(s) shall be informed verbally within three working days, confirmed by written notice, or by written notice sent within three working days of the change in visitation.
- (3) Should the parent(s) or legal guardian(s) not agree with the proposed or actual change in visitation, if the case is known to court, they shall be referred to their attorney and, if they do not want an attorney, they shall be advised as to their alternative of a hearing in family court. Where appropriate in a voluntary placement situation, the department shall petition the court for jurisdiction.

(g) When reunification is clearly and convincingly established as not being able to be accomplished in the reasonably foreseeable future, permanent separation and placement of the child into another permanent family shall be pursued. The department shall consider:

- (1) Placement into an adoptive home with relatives, foster parents(s), legal guardian(s), permanent custodian(s) or other appropriate individuals;
- (2) Permanent placement with other specified individuals as permanent custodians or legal guardians when continued care by that individual is in the child's best interest but that individual is not willing or able to adopt the child;
- (3) Permanent custody to the department with permanent long-term substitute care placement with a specified individual when continued care by that individual is in the child's best interest but an award of legal responsibility to that individual would jeopardize the placement.

(h) Effective April, 1988, the department shall assure that the situation of every child under its placement responsibility for six months or more is reviewed through six month periodic reviews as set out

in section 17-945-12 and by dispositional reviews as set out in section 17-945-13. The reviews shall continue to be held at intervals no greater than six months for as long as placement responsibility is held by the department. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-11 Case plan. (a) The department shall develop or revise an existing case plan with the family within sixty days of the date of original placement.

- (b) The case plan shall:
- (1) Describe the type of home or facility in which the child is placed;
 - (2) Discuss the appropriateness of the placement;
 - (3) Reflect placement in the least restrictive, most family-like setting appropriate to the needs of the child;
 - (4) Reflect placement in close proximity to home;
 - (5) Reflect efforts made to prevent the placement and, if placement is made, also reflect efforts to reunify the family;
 - (6) Reflect services provided to the parent(s), legal guardian(s), child, substitute caretaker to improve conditions in the home, facilitate return of the child to the home, or to establish a permanent placement;
 - (7) Document how the needs of the child in care are being addressed;
 - (8) Reflect the appropriateness of the services being provided under the plan;
 - (9) Reflect a likely date by which the goal of the plan is expected to be achieved;
 - (10) Where appropriate, for a youth sixteen years of age or older, contain a description of the programs and services which will help the youth prepare for transition from substitute care to independent living;
 - (11) Following the first and all subsequent reviews, reflect documentation of the orders of the court or the recommendations of the administrative review panel and contain a discussion of how the orders or recommendations are to be met; and
 - (12) Include the health and education records of the child including:
 - (A) The names and addresses of the child's health and educational providers;

- (B) The child's grade level performance;
- (C) The child's school record;
- (D) Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;
- (E) A record of the child's immunizations;
- (F) The child's known medical problems and medications; and
- (G) Any other relevant health and education information concerning the child determined to be appropriate by the department of human services.

(c) The department shall offer and provide services according to the case plan and shall monitor and assess the family's compliance with the plan and progress in making the home safe.

(d) The department shall review the case plan with the family including but not limited to the parent(s) or legal guardian(s) and the child, depending on the age and understanding of the child, at least once every three months to assure their understanding of the department's assessment of the progress being made under the plan and, if appropriate, the case plan shall be revised and updated.

(e) The case plan shall be submitted for review at the time of the periodic and dispositional reviews.

(f) The department shall provide a copy of each case plan to each of the parties to the case plan at least once every six months. Health and educational information shall be provided to the substitute care provider at the time of placement and at the time of any change. [Eff 03/21/88; am 10/05/91] (Auth: HRS 346-14) (Imp: 42 U.S.C. 675)

§17-945-12 Periodic reviews. (a) Effective April, 1988, the status of each child in substitute care under the placement responsibility of the department shall be reviewed by the court or by an administrative review panel at intervals no greater than six months. The reviews shall be held within six months of the date of original placement and at least every six months thereafter.

(b) If a periodic review is due but, in the assessment of the department, a dispositional hearing is more appropriate, a dispositional hearing shall be requested in its place. The dispositional hearing

shall take the place of the periodic review in this instance.

(c) For children adjudicated under chapter 587 or chapter 571, HRS, the department shall request that the court review the status of the case to determine whether the child is receiving appropriate services and attention, that case plans are being properly managed, and that activities are directed toward a permanent placement for the child. Procedural safeguards relating to notice, participation of the parties and appeal shall be provided according to the rules of the court. The court shall be requested to:

- (1) Determine the continued need for and appropriateness of the placement;
- (2) Determine the extent to which each party has complied with the case plan and the progress which the family has made in making their home safe;
- (3) Determine the extent of progress toward resolving the problems which caused the placement and necessitate continued placement;
- (4) Project a likely date for return of the child home, or to be placed for adoption or legal guardianship or other permanent out of home placement of the child.

(d) The department shall request that the periodic reviews required by Pub. L. 96-272 be held at the same hearing as that scheduled for the chapter 587 or chapter 571, HRS, matters.

(e) The status of each child in substitute care under the placement responsibility of the department who is not under the jurisdiction of the court shall be reviewed by an internal administrative review panel. At least one member of the panel shall not be directly involved in the provision of services, including case management services, to the child and family.

- (1) The administrative reviews shall be held at intervals no greater than six months from the date the department assumes placement responsibility and at least every six months thereafter unless the child falls under the provisions of chapter 587, HRS, which requires a satisfactorily completed service plan by twelve months. In this instance, only one internal administrative review will be held and a petition shall be filed with the family court pursuant to chapter 587-21

(2), HRS.

Exception: If the court hearing cannot be held within six months of the last review, the department shall hold a second administrative review within the required time period.

- (2) The administrative review panel shall review the status of the child in care to determine whether the child and the child's family are receiving appropriate services and attention, that case plans are being properly managed, and that activities are directed toward a permanent placement for the child.
- (3) The review panel shall:
- (A) Determine the continued need for and appropriateness of the child's placement;
 - (B) Determine the extent to which each party has complied with the case plan and the progress the family has made in making their home safe;
 - (C) Determine the extent of progress toward resolving problems that caused the placement and necessitate continued placement;
 - (D) Project a likely date by which the child may be returned home, placed for adoption, legal guardianship or permanent custody with a specified person, or be placed in long term substitute care.
- (4) The administrative review shall be open to the participation of the parent(s), legal guardian(s) and family.
- (5) At least two weeks prior to the administrative review, written notice of the review stating date, time, purpose and location of the review shall be provided to:
- (A) Biological and legal parent(s), legal guardian(s), where appropriate;
 - (B) Substitute caretakers;
 - (C) Other members of the review panel;
 - (D) Appropriate others such as a guardian ad litem.
- The child and department staff may be informed verbally.
- (6) Any party noticed to attend the review may bring a representative of choice to the

- review and shall be informed of this right prior to the review.
- (7) Written consent of the parent(s) or legal guardian(s) must be secured for participation of any non-departmental individuals in the review process unless permitted under chapters 17-601 or 17-920.1.
 - (8) The chairperson of the administrative review shall complete the administrative review panel report in sufficient detail to assure that all areas were discussed and appropriate recommendations made. The parent(s), legal guardian(s), child, if appropriate, guardian ad litem, if appointed, the social worker and the chairperson shall sign the report indicating agreement or disagreement with the report. Other members shall sign the report indicating their participation in and attendance at the conference. A copy of the report shall be given to the parent(s), legal guardian(s), and guardian ad litem, if appointed.
 - (9) If the child falls under chapter 587, HRS, and out of home placement is to continue for another six months or if the recommendation is to revise the case plan and the parent(s) and social worker do not agree, the department shall submit a petition to bring the child under the jurisdiction of the court, pursuant to chapter 587, HRS.
- (f) Children in pre-adoptive or adoptive homes or in court ordered or sanctioned substitute care with a specified family shall be referred for continuing periodic reviews beginning no more than six months after their last dispositional review. [Eff 3/21/88; am 6/12/90] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-13 Dispositional hearings. (a) Effective April, 1988, the department shall request that the court or court appointed body review the situation of each child who has been in substitute care for eighteen months or longer under the placement responsibility of the department. The reviews must be held within eighteen months of the date of original placement and at least every eighteen months thereafter for as long as the child remains in substitute care under the placement responsibility of the department.

(b) The department shall request that the court review the status of the case to determine whether the child is receiving appropriate services and attention, that case plans are being properly managed, and that activities are directed toward a permanent placement for the child. Procedural safeguards relating to notice, participation of the parties and appeal shall be provided according to the rules of the court. The court shall be requested to:

- (1) Determine the continued need for and appropriateness of the placement;
- (2) Determine the extent to which each party has complied with the case plan and the progress that the family has made in making the home safe;
- (3) Determine the extent of progress toward resolving the problems that caused the placement and necessitate continued placement;
- (4) Project a likely date for return of the child home, or to be placed for adoption or legal guardianship or other permanent placement; and
- (5) Determine whether the child should be returned to the parent(s), should be continued in substitute care for a specified period, should be placed for adoption or legal guardianship with a specified individual, or should be continued in substitute care on a permanent or long-term basis.

The department shall request that the dispositional hearings required by Pub. L. 96-272 be held at the same hearing as that scheduled for the chapter 587 or chapter 571, HRS, matters. In the event the child is not under the jurisdiction of the court, the department shall submit appropriate documents requesting a separate hearing covering the requirements of Pub. L. 96-272.

(c) Further dispositional hearings shall not be required for children in pre-adoptive or adoptive homes unless:

- (1) The child is removed from the home, or
- (2) The adoption is not finalized within a year.

Should either event occur, the department shall request that the court resume dispositional hearings. Periodic reviews shall continue while the child is in the pre-adoptive or adoptive home.

(d) Further dispositional hearings shall not be required for children in court ordered or sanctioned substitute care with a specified family unless the caretaker changes or the child is removed from the home. Periodic reviews shall continue if the department continues to have placement responsibility while the child is in placement with the specified family. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)

§17-945-14 Termination of service. Services under this chapter shall be terminated when:

- (1) The child is returned permanently to family;
- (2) Adoption of the child is finalized;
- (3) The child is placed with a legal guardian or permanent custodian and the department is relieved of placement responsibility. [Eff 3/21/88] (Auth: HRS 346-14) (Imp: 42 U.S.C. 627)