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| Title: | CHILDREN SUPPORTED BY THE DEPARTMENT OF CHILDREN AND FAMILIES (DCF) |
| Purpose: | Some children enrolled in the Birth to Three System are living in DCF foster homes and require the service coordinator to have knowledge of their legal status. |

The mission of DCF is to protect children, strengthen families, and help young people reach their fullest potential. When family relationships become abusive and/or neglectful and children are no longer safe, DCF steps in. While DCF strives to strengthen and support the family relationships, if the safety of the child cannot be guaranteed in the family, DCF removes the child. DCF will make efforts to find a relative known to the child who could serve as a temporary caretaker. In many situations, however, no relative is immediately available or none are appropriate. At this point, arrangements are made for the child to be placed with an unrelated foster family.

**IDEA Definition of Parent**

When a child is referred to the Birth to Three System, the service coordinator is responsible for ensuring that there is a person who meets the definition of parent to represent the child’s interest.Section 602.23 of the IDEA defines parent as (A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent); (B) a guardian (but not the State if the child is a ward of the State); (C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or (D) an individual assigned under either of those sections to be a surrogate parent. Under this definition if a child is placed in a foster home the foster parent acts in the role of the parent to sign for developmental evaluations and assessment and the IFSP.

The service coordinator as part of an evaluation team or IFSP team must determine who meets the IDEA definition of parent above using all information available at the time of the EIS being provided. This determination may change as new information becomes available and should be documented in the record. All children in foster care are under the guardianship of DCF. There are occasional exceptions for example when children are placed in foster care under an order of temporary care (OTC), or there is a 96 hour hold. Service Coordinators with questions about the guardianship of a child should reach out to DCF for clarification. DCF, as guardian of children in foster care, signs for release of medical records. An individual that meets the IDEA definition of parent may sign the *Insurance Information Collection and Consent to Release Information* *Form* (1-3) as part of completing it.  However, a signature of consent is not officially required as consent is part of enrollment into Medicaid. Confirmation about guardianship status is the responsibility of the Birth to Three program. For initial evaluations the person who meets the IDEA definition of “parent” is able to consent to the evaluation. In the extremely rare exception that a child is not living with someone who fits the definition of parent (or a foster parent is unwilling to serve in the role of parent) the Birth to Three System will appoint a surrogate parent.

**Parental Rights (Outside of IDEA)**
**within CT Department of Children and Families (DCF)**



**Source: CT DCF**

DCF is responsible for the legal paperwork that outlines the type of custodianship/guardianship of a child they are involved with.

Types of **Legal Status of Children Placed in DCF Licensed Homes:**

* 1. 96-Hour Hold

A 96-hour occurs when DCF or a hospital exercises the responsibility and authority, without court involvement, to take immediate temporary custody of the child.   The parent remains the legal guardian.  Therefore, the parents have the right to make medical and other types of decisions for the child.  However, during a 96 hour hold, DCF shall provide the child with all necessary care, including medical care, which may include an examination by a physician or mental health professional with or without the consent of the child's parents, guardian or other person responsible for the child's care, provided reasonable attempts have been made to obtain consent of the child's parents or guardian or other person responsible for the care of such child. If it is determined that the child should remain in care beyond 96 hours, DCF must file a motion for an Order of Temporary Custody with Juvenile Court.

* 1. Order of Temporary Custody (OTC)

An Order of Temporary Custody (OTC) occurs when the juvenile court makes a decision to assign immediate care and custody of the child to the Commissioner of the Department of Children and Families. DCF or another suitable agency or person has custody of the child. However, the parent remains the legal guardian.

* 1. Commitment

This occurs after the juvenile court has determined that a child has been abused, neglected or is uncared for. The court places the child under the guardianship of the Commissioner of DCF until commitment is revoked by the court. DCF has authority to make all decisions for the child, although parents are consulted when appropriate. The commitment is reviewed at least annually.

* 1. Termination of Parental Rights

This occurs when the parental rights of the child’s parents have been terminated. Juvenile court generally appoints DCF as the statutory parent. The parents whose rights have been terminated have 20 days to appeal the decision. The child is legally free for adoption after the appeal period or until the appeal has been concluded by the court, and may be considered for adoption. DCF has authority over all decisions and parents have no rights nor are they consulted about decisions.

* 1. Voluntary Placement

DCF does not have guardianship. This occurs when the birth parent/guardian gives permission for the out-of-home placement of the child and they are given the name and address of the person with whom the child is living.   During the 90-day maximum voluntary placement, the parent(s) retain rights and responsibilities to and for the child, including authorization of medical care, educational placements, consent to marriage, enlistment in armed forces, baptism, and other legal decisions.  DCF may authorize necessary medical care if the parent(s) cannot be reached but may not authorize any procedures requiring anesthesia.   At any time during the 90 days, the parent(s) have the right to the return of the child.  If returning home places, the child in immediate physical danger, DCF will take appropriate legal action.

(From DCF/CT Foster Adoption Manual Chapter 5- https://portal.ct.gov/DCF/CTFosterAdopt/Manual/Chapter5#96-HourHold)

**Sharing Information with DCF**

In 2013, the Uninterrupted Scholars Act (USA) (Public Law 112-278), was signed into law which amends Section 444 of the General Education Provisions Act (20 U.S.C. *§* 1232g) (commonly known as the Family Educational Rights and Privacy Act (FERPA). FERPA to permit educational agencies and institutions to disclose a student's education records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student's case plan ''when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student.

The table below shows the requirements for sharing information with DCF and the role of the foster parent or surrogate parent.

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| **Status of Child** | **DCF Roles and Responsibilities** | **B23 Roles and Responsibilities** | **Bio Parent Roles and Responsibilities** | **Foster Parent Roles and Responsibilities** |
| Order of Temporary Custody- Child is in foster care | Responsible for the care of the child including the provision of routine and necessary health care. No consent is required as based on the MOU between the OEC and DCF, DCF is a participating agency(34 CFR § 303.414(a)(1) and (b)) | Release records requested by DCF.Form 1-3 needs to be completed but no signature is required | The biological parents retain rights to be involved, receive PWN and participate in EIS | Foster parents typically meet the definition of Parent and can sign all Part C documents If as “a” parent under IDEA they consent to EIS, then EIS may be provided even if the bio parent does not consent. |
| Committed-Child is in foster care | Responsible for decisions regarding medical and mental health treatment. DCF will request records directly from EIS programs. | Release records requested by DCF.Form 1-3 needs to be completed but no signature is required | May not sign releases | Signs all releases but does not need to give consent to release information requested by DCF |

**Sharing information with Biological Parents/Foster Family**

It is the goal of DCF to move children out of foster care quickly. In many cases this means reuniting children with their biological parents. For this reason, with the consent of the DCF case worker, the biological parent should be informed of the child’s program and receive copies of reports. Again, with DCF consent, biological parents should be offered an opportunity to participate in Birth to Three visits. This can take place during a supervised visitation, regular visitation or at the foster home, with the consent of the foster parent. Occasionally a foster parent will be reluctant to have their identifying information shared with the biological parent. If this is the case, programs must redact all identifying information of the foster parent from the file (name, address,) when sharing information with the biological parent.

Early intervention professionals should use information from multiple sources for an evaluation. This includes information from the biological parents (if possible), DCF, medical reports and the foster parents. It can be challenging evaluating a child when there are multiple viewpoints regarding a child’s abilities. Early intervention professionals should carefully weigh all information and use their best clinical judgement in evaluating a child in foster care. Early intervention professionals must respect the confidential nature of information regarding children and their biological parents.

**Types of Foster Placement**

There are two types of foster placements: Core and Therapeutic Foster Care. It is important for service coordinators to know the difference so that they know if they are working with a DCF or DCF contracted social worker. If a child is placed in a therapeutic foster home, they may be working more with the agency social worker.

* Core - these are foster families that are identified and licensed by the department of children and families and are probably the ones providers will come across most frequently.
* Therapeutic Foster Care - these are foster homes that have been identified by other licensed child placing agencies.  Therapeutic Foster placements are for youth with significant behavioral health needs, or complex medical needs. There is extensive training that goes into being a therapeutic foster home and the placing agency licenses the foster home in addition to them having to meet all DCF Core criteria.  There is typically an agency worker that is attached in addition to the DCF social worker who carries the case.

**Relocation or Exit of Children under the Guardianship of DCF**

As written in the MOU between DCF and the OEC, a child’s DCF social worker should notify a child’s Birth to Three service coordinator or program director within one week when a child engaged in the referral, evaluation or service process is being relocated (DCF Policy 36-55-15) Because of the MOU, DCF is an IDEA participating agency and EI Programs may share PII without consent particularly for pending referrals.

For children involved with DCF, the Birth to Three program shall ensure:

1. That the DCF social worker is notified within one week when there is a change in the child’s Birth to Three service coordinator and
2. That the DCF social worker is notified at least one week before a determination has been made to exit a child, including the reason for the exit.

For all other children being served by DCF, the Birth to Three program shall ensure that with parent permission, information is released to the child’s DCF Social Worker when a determination has been made by either the parent or the Birth to Three System to exit a child, including the reason for exit.

**DCF and Transition to Public School**

When a child approaches 24 months of age the service coordinator should obtain written consent from the foster parent or Birth to Three surrogate parent, if one was assigned, to make a referral to the local public school district by completing Form 3-8, Approval to Include my Local School District in Transition Planning. At the latest, Form 3-8 must be completed by the child’s age of 2 years, 6 months.

When referring a child for preschool special education, the service coordinator must be sure that the school district for the correct nexus town is notified and receives the referral. If there are questions about a child’s nexus, programs should contact the child’s DCF case worker or the Educational Liaison at the DCF office for that child. Best practice is to obtain a release to notify school district personnel in both the town of nexus and the town where the child resides when referring a child for preschool special education.

If during the process of evaluation for special education, DCF relocates the child, the service coordinator should notify the DCF worker that DCF needs to make arrangements with the LEA conducting the evaluation to transport the child in order to complete the evaluation.

The CT State Dept. of Education (SDE) will appoint a surrogate parent to represent the child in the special education system under Part B of the IDEA. The service coordinator should notify the responsible LEA upon referral to the school district that the child is followed by DCF by checking the appropriate area on Form 3-8. The school district should request a current copy of DCF Form 603, *Notification to LEA of a DCF Placement* from the DCF case worker.

Until the State Department of Education appoints a surrogate parent to represent the child in the special education system, a child’s foster parent or Birth to Three surrogate parent, if assigned, is authorized to grant consent for evaluations necessary to determine eligibility for preschool special education. A Birth to Three surrogate parent may be invited to the Planning and Placement Team (PPT) meeting to determine eligibility as someone who knows the child however, the SDE appointed surrogate parent is the only one acting in a parental role for the child at this meeting.

After the child is three years of age, the person appointed by the Birth to Three System will no longer function as the child’s surrogate parent unless the State Department of Education (SDE) has officially appointed them. If the child is found eligible for preschool special education, an SDE surrogate (requested by the school district) must sign consent for initial placement and the IEP services.

Once Form 3-8 has been signed or the child has reached the age of three, the surrogate parent appointed by SDE has statutory authority to receive all records related to the child and may request them from the Birth to Three program. This may be in addition to records that may have already been sent to the Local Education Agency or school district. The SDE surrogate should sign a release (Form 3-3) for all requested documents. The Birth to Three Service Coordinator or program must also request proof from the SDE Surrogate that they have been officially appointed by SDE, this would be in the form of written notice of appointment of the surrogate from SDE.

**Determining the Responsible LEA for a Child in Placement**

An infant or toddler living in a foster home who requires preschool special education at age three remains the educational responsibility of the town in which the child’s biological parent(s) live, unless parental rights have been terminated. That town is often referred to as the child’s “nexus LEA.” If the parents live in separate towns, it is the town in which the child would most likely live, if he or she were not living in a foster home. Usually, this is the parent that is most actively involved with the child.

If the child’s parents are deceased, or if the whereabouts of the child’s parents are unknown or not within the State of Connecticut or if both parents are incarcerated or parental rights have been terminated and the child has no legal guardian other than DCF, then the child is considered to have “no nexus” and it is the town in which the child lives that is responsible for his or her education at age three.

**Birth to Three Surrogate Parents**

A child requires a surrogate parent if he does not live with anyone who meets the IDEA definition of “parent” and the child is under the guardianship of the Commissioner of the Department of Children and Families or the whereabouts of the parent(s) is unknown. This is a very rare occurrence. Programs should contact Birth to Three lead agency if they have questions about appointing a surrogate parent

Child Development Infoline staff begins the conversation of guardianship with the DCF staff person or foster parent who makes the referral.

**Role of Birth to Three Surrogate**

In the rare circumstances when a Birth to Three Surrogate is appointed, the role of that surrogate parent is to serve in place of the child's parent as the child's advocate for early intervention decisions affecting the child. Early intervention decisions include identification, evaluation, placement, development and periodic reviews of the Individualized Family Service Plan (IFSP) and due process procedures. A surrogate parent has access to all early intervention records concerning the child and due process rights. Surrogate parents do not have the authority to request or release medical information or insurance related forms.

A surrogate parent will be asked to be present at and participate in the IFSP meeting. They will be asked for their input into the development of the IFSP. They will also be asked to sign the IFSP, consent forms for evaluations, releases of information, referral to the local public school, and consent for initial evaluation by the school district. They may not sign permission for release nor have access to a child’s medical records. The DCF case worker signs for release of medical records.

**Appointing a Birth to Three Surrogate Parent**

When the appointment of a surrogate is necessary, the service coordinator will request from the DCF case worker a copy of DCF Form 603, *Notification to LEA of a DCF Placement* and send this along with a completed Form 3-10, Request for Surrogate Parent, to the Family Liaison. If the request is because the parent’s whereabouts are unknown, the DCF case worker may write a letter or supply other documentation in lieu of a Form 603. The Family Liaison will review the request and DCF Form 603 or other documentation sent and appoint a person to act as the surrogate parent. The Family Liaison or a Birth to Three administrator in her absence will sign Form 3-10 and send the form to the Birth to Three program along with the contact information for the appointed surrogate parent. The Birth to Three Program will send a copy to the child’s DCF staff person.

Since no child may be evaluated until there is a parent, legal guardian, person in a parental relationship, or surrogate parent to consent for the evaluation, a surrogate parent must be appointed prior to initial evaluation.