

LINCOLN/LYON COUNTY
CHILD PROTECTION
BEST PRACTICES GUIDELINES

Adopted 2018

Updated March 2023

Foreword

The Best Practices Manual is intended to provide a convenient tool to communicate the best practices of all stakeholders. The guidelines are goals and aspirations. While some of these topics may incorporate rules or statutes, the topics themselves are not rules or requirements of practice, and should not be used in such a manner.

This Best Practice Manual is intended to outline practice norms in Lyon and Lincoln Counties. The manual will need to be reviewed from time to time to ensure the guidelines continue to meet the needs of stakeholders and continue to outline current practices in our counties.

It is the hope of this Children's Justice Initiative Team that this manual will service as a useful tool to all stakeholders so the best outcomes can continue to be reached for the citizens of our counties.

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BEST PRACTICES GUIDELINES

COURT SCHEDULING

1. The Court Administrator will reserve sufficient time on the master track calendar for various CHIPS hearings, including Emergency Protective Care Hearings, Admit/Deny Hearings, Pretrial, and Review Hearings.
2. Judges shall review all requests for continuances and limit continuances to those which the Court finds to be in the best interests of the child.
3. All stakeholders should bring their calendars to court to immediately notify the court of any conflicts with the date and time selected for the next hearing.
4. Hearing dates and times will be announced in the Courtroom when possible and included in subsequent Orders. Court Administration will send Notices of Hearing and, when applicable, Zoom information.
5. Scheduling orders will be issued by the judge in a timely manner.
6. The Court Administrator, judges, and stakeholders should give priority to child protection cases and comply with all statute and rule permanency timelines in order to provide timely outcomes in the best interests of the child.

BEST PRACTICES GUIDELINES

ADVISORY OF RIGHTS

1. Court Administration shall send each party and participant a statement of rights along with the notice of the first scheduled court hearing or shall serve the notice on the parties/participants along with the Petition if the first hearing is an Emergency Protective Care Hearing. (See Appendix A).
2. If SWHHS is aware that any party or participant requires an interpreter, they shall notify the Court Administrator's Office as soon as they are aware of the need, including pre-petition.
3. Parents and custodians of a child shall view the CJI video, *In the Best Interests of Your Child*, prior to the first Court appearance. SWHHS shall make arrangements with the parents to view the video. SWHHS shall file with the Court written verification that the parents and custodians of a child have viewed the video at or before the first Court appearance. If a parent or custodian has not viewed the video prior to the first Court appearance, the Court will require that the parent or custodian view the video immediately after the hearing and verification of the viewing shall be filed with the Court.
4. When parties or participants are allowed to appear remotely, they shall promptly connect by Zoom video at least five minutes prior to the scheduled hearing and they shall ensure their name is displayed in Zoom for identification. For in-person appearances, parties and participants should report to the Court Administrator's Office upon arrival.
5. During the initial hearing, the judge should ensure that the parties understand their rights.

Appendix A:

ADVISORY OF PARTY AND PARTICIPANT RIGHTS - CHIPS

WHO IS A PARTY

You are a party to this case pursuant to Rule 32 of the Rules of Juvenile Protection Procedure if you are one of the following:

- The child’s legal custodian, including a **parent** or legal guardian who has sole or joint legal or physical custody of the child.
- In the case of an Indian child, the child’s **parent**, child’s Indian custodian, or child’s Indian tribe.
- The person or social services agency who filed the petition.
- The social services agency when someone else has filed a termination of parental rights or other permanency petition.
- The child’s guardian ad litem.
- A relative to whom the social services agency proposes to transfer the child’s permanent legal and physical custody.
- The child in a case where the only allegation in the petition is that the child is an habitual truant or a runaway.
- The school district in a case where the only allegation in the petition is that the child is an habitual truant.
- Any person who intervenes as a party pursuant to Rule 34 or who is joined as a party pursuant to Rule 35.
- Any other person who is determined by the court to be important to a resolution that is in the best interests of the child.

WHO IS A PARTICIPANT

You are a participant to this case pursuant to Rule 33 of the Rules of Juvenile Protection Procedure if you are one of the following:

- The child who is the subject of petition.
- The child’s **parent** if you are not the child’s legal custodian or if you are the child’s alleged, adjudicated, or presumed father.
- The child’s grandparent if the child has lived with you at any time during the two years before the filing of the petition.
- The child’s relative or other person providing care for the child.
- The child’s foster parent or a person proposed as a long-term foster parent.
- The child’s spouse.
- The responsible social services agency, when the responsible social services agency is not the petitioner.
- The guardian ad litem for the child’s legal custodian.
- Any other person who is determined by the court to be important to a resolution that is in the best interests of the child.

YOUR RIGHTS AS A PARTY OR PARTICIPANT ARE AS FOLLOWS:

Party	Participant	Your Rights
X	X	To receive a copy of the Petition regarding this Juvenile Protection Matter
X	X	To receive notice of all hearings (only if you keep the court administrator informed of your address)
X	X	To attend all hearings, unless excluded by the Court.
X		To receive copies of your social services file and other records.
X		To bring motions before the court and to present evidence.
X		To participate in settlement discussions and agreements.
X		To subpoena witnesses to testify on your behalf.
X		To make argument in support of or against the petition.

Party	Participant	Your Rights
X		To examine and cross-examine witnesses.
X		To request review of the referee's findings and order, if your case is heard by a referee.
X		To ask the court to review its disposition upon a showing of a substantial change of circumstances or that the previous disposition was inappropriate.
X		To bring post-trial motions and to appeal from final orders of the court.
X	X	To be represented by an attorney. If you are the child, the child's parent, or the child's legal custodian, the Court may appoint an attorney to represent you if the Court determines that you qualify financially and that the appointment is appropriate. If you are the parent or Indian custodian of an Indian child, the court is required to appoint an attorney to represent you if you qualify financially. The Court cannot appoint an attorney to represent you if the only allegation is that the child is a truant, unless out-of-home placement is being considered by the court. The Court may order a parent or legal custodian to reimburse some or all of the attorney's fees.
X	X	If you are the child's foster parent, preadoptive parent, relative providing care for the child, or a relative to whom the social services agency proposes to transfer permanent legal and physical custody of the child, you have a right to offer information at each hearing. Any other person may request an opportunity to be heard, but the court is not required to grant your request.
	X	To automatically become a party to the case if you are the child who is the subject of this proceeding, or the child's parent, or the child's grandparent and the child has lived with you at any time during the two years prior to the filing of the petition in this matter. All other persons may ask the Court's permission to become a party to the case. Ask the court administrator for the correct form to intervene as a party.

QUESTIONS ABOUT YOUR RIGHTS should be addressed to your attorney or to the Court at the time of any hearing.

BEST PRACTICES GUIDELINES

ADMIT/DENY HEARING

1. An Admit/Deny Hearing (ADH) may be combined with an Emergency Protective Care (EPC) Hearing only if the parties have sufficient information available to make a meaningful decision with the advice of counsel, if desired.
2. Parties and counsel should confer with clients and other counsel prior to the date of the scheduled hearing to share information.
3. If counsel has not already been appointed, Court Administration shall notify the parties of their right to court-appointed counsel when the parties check in for the ADH. If a party desires counsel, an application will be made available. SWHHS and the Guardian Ad Litem (GAL) shall encourage parties who desire court appointed counsel to apply for an attorney at least five days prior to the ADH.
4. If the parents and child choose to proceed to an ADH without an attorney, the County Attorney (CAO), GAL, and social worker shall confer with the parents prior to the hearing to discuss possible settlement or to identify issues to be reported to the Court.
5. If a party enters an admission, it must be on the record and under oath. The questions must require the party to acknowledge an understanding of their rights and to admit specific facts sufficient to support the grounds alleged in the Petition and to justify the need for the services required by the Case Plan or agreement.
6. If there is an admission, disposition should occur at the hearing if a Case Plan has been developed.
7. If there is a denial, the judge shall confer with the parties regarding the date for a pretrial and trial. The dates shall be announced on the record and included in a scheduling order to assure that all parties and participants receive notice of the hearings. All parties must have their calendars available to identify any conflicts.
8. If there is an admission, an Order shall be issued no later than 10 days following the hearing.
9. If there is a denial, a Scheduling Order complying with Minn.R.Juv.Prot.P. 6.02 shall be issued within 15 days of the ADH.
10. If services or evaluations are ordered after the ADH, the social worker should meet with the appropriate party immediately following the hearing to discuss making the necessary appointments and to obtain signed releases of information.

11. If a denial is entered, a Settlement Conference will be scheduled. The GAL and child's attorney, if any, shall attempt to schedule meetings with the parents and child as soon as possible. The social worker and GAL will cooperate in a manner that will enable each to fulfill their separate and distinct roles and responsibilities. (See Appendix B).
12. SWHHS shall bring blank release of information forms to the hearing and the signing of any necessary releases shall be addressed at the hearing.
13. All parties should bring their calendars to the hearing to assist in scheduling future appointments and hearings.
14. In cases where a child is in court-ordered out-of-home placement, the Judge will include in the Order Following Admit/Deny Hearing and all subsequent Orders a reminder of the following deadlines and applicable dates: Permanency Progress Review Hearing, Permanency petition filed, Admit/Deny Hearing on permanency petition, and final permanency decision.

Appendix B:

GUARDIAN AD LITEM AND SOCIAL WORKER ROLES AND RESPONSIBILITIES

Guardians Ad Litem (GAL) and social workers (SW) have separate and distinct responsibilities to families and the court in CHIPS cases. To ensure that their responsibilities are met, it is important that each entity develop its own recommendations to the court through observation and meetings with family members. At times these meetings may occur separately or they may occur jointly. Communication needs to occur so that both entities meet the requirements of the statutes and rules that apply to them. Communication ensures that both entities know and are aware of the services and behaviors occurring to alleviate the circumstances surrounding the need for a CHIPS petition.

The GAL shall be notified of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case. Timely notice of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case must be provided to the GAL by the party scheduling the proceeding.

A SW shall work with the appropriate members of the family unit, and, if applicable, custodians, GAL, and, if a tribe has intervened, tribal representatives, to formulate the case plan and provide the appropriate members of the family unit with a copy of the case plan signed by the appropriate members of the family unit and the SW.

BEST PRACTICES GUIDELINES

PETITION PROCESS

1. Southwest Health and Human Services (SWHHS) should contact the County Attorney's Office (CAO) if the worker believes a CHIPS petition is required regarding a family. If the CAO agrees a petition should be pursued the social worker should provide the CAO with all prior intakes regarding the family, an outline of concerns, the parents' and children's names, the parents' and children's addresses, the parents' and children's dates of birth, the length of time the children have been out of the home within the past five years, the parents' and children's race and any relatives with significant relationships with the children, if known by SWHHS.
2. If a child is enrolled in or eligible for membership in an American Indian tribe, then the Indian Child Welfare Act (ICWA) and the Minnesota Indian Family Preservation Act (MIFPA) apply and the appropriate tribe must be notified by SWHHS by registered mail, return receipt requested. Proof of the mailing and return receipt must be e-filed with Court Administration.
3. In emergency protective care cases, the CAO should provide a courtesy notice to the Guardian Ad Litem.
4. If the child was placed on an emergency hold the procedures outlined under **Emergency Placement** should be followed.
5. The Court Administrator should open a file for the petition and schedule an appropriate hearing, if the child is not in custody, no sooner than three (3) days and no later than twenty (20) days after the filing of the petition.
6. The Court Administrator should appoint a guardian ad litem; serve notice of the hearing and a copy of the Petition on parties and participants; and provide copies of orders issued to all parties and participants.
7. Upon notification that a Petition has been or will be filed, the Guardian ad Litem Coordinator should immediately make arrangements to assign a Guardian ad Litem and advise Court Administration of the name of the person assigned. If the Guardian Ad Litem Coordinator does not respond within 24 hours of notification, Court Administration shall notify the default Guardian Ad Litem. In any event, the Guardian Ad Litem shall be notified the day before the EPC Hearing or Admit/Deny Hearing, whichever is first.

8. SWHHS should make arrangements for the parents to watch the In the Best Interests of Your Child video prior to the Admit/Deny Hearing and e-file the Acknowledgement form with Court Administration.
9. Justice partners should sign up for e-service as soon as they are notified of the appointment and/or the case being assigned a file number.

BEST PRACTICES GUIDELINES

PRIVATE CHILD IN NEED OF PROTECTION OR SERVICES PETITIONS

1. Any person is authorized to file a CHIPS petition by statute and rule.
2. Any person filing a private CHIPS should report any allegation or child abuse or neglect to Southwest Health and Human Services (SWHHS) in the county where the child resides before filing a Petition with the Court.
3. Any person other than an agent of Human Services or the County Attorney's office must use the form developed by the State Court Administrator. There is additional information required with private CHIPS. The form is contained in the Minnesota Supreme Court Website in the Form Bank. There should be no confidential information pursuant to the Minnesota Rules of Juvenile Protection Procedure unless filed appropriately.
4. After the petition is complete, it is reviewed by the Court Administrator prior to filing. The Petitioner shall contact Court Administration to secure the contact information to send the document to. The Court Administrator shall review the petition before it is filed to determine that it is completed. The petition needs to indicate that the petitioner has contacted SWHHS; or the Court Administrator may reject the petition.
5. Once accepted by Court Administration and filed, the Judge shall review the petition within three days of the filing.
6. If the Judge determines there is a prima facie case that a CHIPS exists, the Judge shall set the matter for an Admit/Deny hearing pursuant Minnesota Rules of Juvenile Protection Procedure.
7. If the Judge determines that the petition does not establish a prima facie case, the sole purpose of the petition is to modify custody between parents, or the petition fails to set forth the information as required by the Minnesota Rules of Juvenile Protection Procedure, the petition shall be dismissed without prejudice and Court Administrator shall notify the petitioner.
8. A petition seeking alternative permanent placement relief filed by a party other than SWHHS may only seek transfer of permanent legal and physical custody to a relative as an alternative to termination of parental rights.
9. If a party other than SWHHS files a petition to voluntarily terminate parental rights in response to a permanency petition filed by SWHHS, the voluntary petition will be considered a new petition.

10. Any petition seeking alternative permanency placement relief or a petition seeking voluntary termination of parental rights filed by a party other than SWHHS must be served and filed at least ten (10) days prior to the pretrial conference.

BEST PRACTICES GUIDELINES

CASE PLANS BEST PRACTICES

1. A case plan should be prepared with family participation prior to a formal CHIPS proceeding. This plan should be e-filed prior to the first court hearing, which would typically be an admit/deny hearing.
2. If the case plan is not developed prior to the hearing, the Court should set a deadline for filing the plan and encourage the parents to participate in developing a plan.
3. When a petition is initiated by emergency protective care placement of the child, the parties will first appear at an Emergency Protective Care Hearing (EPC). Recommendations for services for the family should be included in the written petition filed with the Court.
4. If no case plan is filed at the disposition hearing, a separate disposition hearing will be scheduled or a case plan consistent with the Court-ordered disposition will be filed.
5. For a child who has been removed from his or her home, a signed copy of the plan should be obtained and e-filed within 30 days of the child's removal.
6. The Judge will indicate in their order whether or not the proposed case plan is approved.
7. Southwest Health and Human Services will complete a shell or outline of the case plan with the parents and GAL by day 20, when possible. Parents should be advised to discuss concerns with their attorneys.
8. By the time the child(ren) have been in placement for 30 days, the case plan and goal summary sheet, when requested, will be filed with the Court and distributed to the parties.
9. When the child is placed out of home, day number one would be the date the child was removed per Minn. Stat. §260C.212, Subd. 1.
10. When the child is not placed out of home, day number one would be the date of the initial hearing in the matter.

BEST PRACTICES GUIDELINES

PRETRIAL HEARINGS

1. If a Settlement Conference has not been held previously (see **Settlement Conferences**), a settlement conference should be held at least 14 days prior to the pretrial hearing.
2. The Pretrial Hearing (PTH) shall begin promptly as scheduled.
3. All parties shall personally appear at the PTH.
4. Any pretrial motions or motions in limine and witness and exhibit lists should be served and filed at least five days prior to the hearing.
5. The parties should file any objections, other than objections based upon relevance, to the admissibility of any exhibit, together with the grounds for the objection at least three days prior to the hearing.
6. The judge will address all issues identified in the Minnesota Rules of Juvenile Protection Procedure at the PTH and will issue a pretrial order confirming findings and orders made on the record regarding all issues. In addition to the Minnesota Rules of Juvenile Protection Procedure issues, the judge should also address the following issues: (a) whether the court will be asked to take judicial notice of any other files; (b) continuances once trial has started; (c) confidentiality of reports/exhibits; (d) submissions of proposed findings and order; (e) whether telephonic testimony will be necessary; and (f) scheduling of appearances by experts.
7. Following the PTH, parties and counsel should confer to schedule any necessary meetings to comply with the judge's pretrial directives.
8. If any additional services or evaluations were ordered, appointments for the same should be made immediately after the hearing and all necessary releases of information must be signed.
9. The judge should issue a pretrial order confirming findings and orders made on the record and addressing all other issues raised at the hearing.
10. The parties shall confer and discuss the order of presentation of evidence.

BEST PRACTICES GUIDELINES

SETTLEMENT CONFERENCES

1. A Settlement Conference, if deemed appropriate by the Court, will be scheduled as soon as possible but not later than 5 days before the pretrial hearing. The Lyon County Attorney's Office will reserve appropriate meeting room(s) for the parties and coordinate the date and time of the conference. An in-person conference is preferred, however a Zoom conference may be utilized where circumstances warrant.
2. All involved must make an effort to gather and share all appropriate information prior to the Conference. However, it is possible that formal discovery may not be completed prior to the Conference.
3. All those attending the Conference shall be encouraged to meet in the room designated by the County Attorney's Office to facilitate open discussion in the time provided. Counsel may choose to separate clients when the facts and circumstances of the case warrant it.
4. A Settlement Conference Summary Report Form shall be completed for the Court File. (See Appendix C). All persons attending will be noted on the form. The form will be filed with the Court after the Conference by the County Attorney.
5. If the Conference results in a settlement agreement, the Petitioner's attorney shall notify the Court Administrator and the agreement will be placed on the record as soon as practicable, but no later than the next scheduled hearing. The parents and the child, if appropriate, must be prepared to answer questions and acknowledge the facts to support the adjudication of CHIPS. Attorneys must review the questions and prepare their clients.
6. If the Conference does not result in a settlement agreement, the Petitioner's attorney shall file the Summary Report Form with the Court immediately following the Conference.
7. Nothing said by any party or participant at a Settlement Conference may be admissible in court without the consent of all parties.

Appendix C:

SETTLEMENT CONFERENCE SUMMARY REPORT FORM

Family: _____

Court File: _____

Date: _____

ATTENDANCE:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

ISSUES IDENTIFIED:

AGREEMENT REACHED:

ISSUES REMAINING FOR TRIAL:

All items discussed at this Settlement Conference are NOT admissible as evidence at any future trial or hearing.

If an agreement is reached, the following certify that the information on this form is accurate:

CAO

SWHHS

Mother

Mother's Attorney

Father

Father's Attorney

Child

Child's Attorney

Guardian Ad Litem

Other (_____)

BEST PRACTICES GUIDELINES

TRIAL

1. Children in need of protection or services (CHIPS) trials shall be given high priority. A trial must commence within sixty (60) days of the Emergency Protective Care hearing or the Admit/Deny hearing, whichever is earlier.
2. All parties involved must assess their case to determine how much time is needed for trial. All parties should confer regarding timing of witnesses.
3. When criminal charges are filed against a parent alleging egregious harm, the County Attorney's Office (CAO) shall determine whether the criminal or juvenile court matter proceeds to trial first.
4. Trials should not be continued unless it is found to be in the best interests of the child(ren) or absolutely necessary to protect the rights of a party. The trial must be completed within ninety (90) days of a denial.
5. All parties should be in the Courtroom thirty (30) minutes prior to the start of the trial, unless otherwise ordered.
6. If the parties are aware of security concerns, they must advise the Court and parties 24 hours prior to the commencement of trial.
7. The parties should advise the Court at the pre-trial if an interpreter is needed for Trial.
8. All parties, participants and Judges should comply with the time requirements of the Rules of Procedure for submitting reports, written arguments and issuing Findings of Fact, Conclusions of Law and Order.
9. If the child is adjudicated to be in need of protection or services, a Disposition Hearing should be scheduled within ten (10) days as required by the rules.
10. The trial on permanency proceeding must commence within sixty (60) days of the Admit/Deny hearing. The trial must be completed within 30 days of the commencement of the trial.

BEST PRACTICES GUIDELINES

DISPOSITION HEARING

1. Disposition must occur within ten (10) days of adjudication. It is in the best interests of the family to begin services as soon as possible.
2. If a settlement is reached, the terms should be orally outlined in Court, in the presence of all parties.
3. If the child's custody is transferred to SWHHS the parties should detail the reasonable or active efforts that have been made by SWHHS to avoid the out-of-home placement. The parties should also describe why return of the child to a parent or custodian would be contrary to the welfare of the child.
4. The recommended disposition should provide for parenting time between the child and parents and sibling visits, where appropriate or, if such contact is not appropriate, the basis for the restriction.
5. The Judge should state, on the record or in a written order, the legal basis for the adjudication of the child and identify the specific facts that support the disposition ordered. The Court should address alternative dispositions considered, reasonable or active efforts to avoid out-of-home placement, whether the disposition ordered is in the child's best interests, and that return is contrary to the welfare of the child.
6. The Court should set a review date and permanency progress review hearing date in the written order and on the record, if possible.
7. Following the Disposition Hearing, the parents' attorney, Guardian ad Litem and social worker should attempt to review the terms of the Disposition Order and Case Plan.

BEST PRACTICES GUIDELINES

INTERMEDIATE DISPOSITION REVIEW HEARING

1. No later than ninety (90) days after a child is placed out of home, the Court must conduct a review hearing to determine whether SWHHS has made diligent efforts to identify and search for relatives, and to assess whether SWHHS has selected a home that meets the needs of the child. This should be a component of the ninety (90) day review hearing.
2. The report of the Social worker should include names of relatives who may be able to provide support or be a placement option, whether the relatives have been contacted, and the relatives' response, if any.
3. When a child is placed outside the home, the Court must hold a Permanency Progress Review Hearing within 180 days of the child's court-ordered placement. At the hearing the Court must determine whether to permit additional time for reunification, or whether to order SWHHS to file a permanency petition. Additional guidance for this hearing is found under the **Permanency Progress Review Hearing** section.
4. Each review hearing must include a discussion of progress that has been made toward goals, problems or obstacles that remain or have arisen, and a realistic assessment of the further needs of the child and family.
5. If modifications are being requested to the Case Plan or a party is requesting the child be returned to or removed from parental care these topics should be addressed at a review hearing, if possible, unless an emergency arises.
6. At each review hearing the court should assess whether SWHHS has exercised reasonable efforts to eliminate the underlying circumstances that led to their involvement.
7. At review hearings, prior to permanency proceedings, SWHHS must advise the Court and all parties of the concurrent plan, if the child is not able to return to parental care.
8. The Court should assess whether the child's placement continues to be in the child's best interests.
9. When custody has been granted to SWHHS, review hearings must be held at least every 90 days. If the child remains with the custodial parents and SWHHS has been granted protective supervision the matter must be reviewed every six months.

10. When the Court has ordered a transfer of permanent legal and physical custody to a relative, the court may retain jurisdiction over the case and conduct review hearings every ninety (90) days to assess whether the child is receiving appropriate services, and whether any conditions ordered by the court are being followed.
11. When the Court has ordered a termination of parental rights, a review hearing must be scheduled at least ninety (90) days from the date the termination is ordered and every ninety (90) days thereafter to review the progress toward the finalization of an adoption.
12. When the Court has ordered a child into the permanent custody of the agency the matter must be reviewed every twelve (12) months to consider whether the disposition continues to be in the child's best interests and whether the placement continues to be the best permanent plan for the child.
13. When the court has ordered a child into the temporary legal custody of the agency the matter must be reviewed prior to the child being placed under the petition for twelve (12) months.

BEST PRACTICES GUIDELINES

PERMANENCY PROGRESS REVIEW HEARING

1. When a child has been in placement a permanency progress review hearing should be held no later than 180 days after the court-ordered placement.
2. When a child has been in out of home placement for 4 ½ months SWHHS and the CAO should meet to discuss the parents' progress in the matter and recommendations at the permanency progress review hearing.
3. At least one month before the Permanency Progress Review Hearing SWHHS should complete the Notice of Relatives who Responded to the Agency's Notice Under Section 260C.221 and forward the document to the CAO for review and filing. (See Appendix D).
4. Court Administration should ensure notice of the hearing is sent to all the individuals listed on the Notice of Relatives who Responded to the Agency's Notice Under Section 260C.221 filed by SWHHS or the CAO.
5. SWHHS should file a report at least five (5) business days prior to the permanency progress review hearing. The report should address (a) whether the parents have maintained contact with the child; (b) whether the parents are complying with the court-ordered out-of-home placement plan; and (c) whether the child would benefit from reunification with the parent. This report must also include the concurrent permanency plan.

Appendix D:

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT

In the Matter of the Welfare of the Child of:

Parent.

**Notice of Relatives who Responded
to the Agency's Notice Under
Section 260C.221**

Court File No. 42-JV-

To: Court Administrator, Attorneys, GAL and unrepresented parties.

You are hereby notified the following individuals responded to the Relative Search Letters sent by Southwest Health and Human Services and are entitled to notice of the Permanency Progress Review Hearing:

No Individuals Responded

1. Name
Address

2. Name
Address

3. Name
Address

Notice Required:

- Minnesota Statute §260C.204(c) requires notice of the Permanency Progress Review Hearing be provided to relatives who responded to the agency's notice provided under section 260C.221, indicating an interest in participating in planning for the child or being a permanency resource for the child and who has kept the court apprised of the relative's address or asked to be notified of court proceedings regarding the child as is permitted in Minnesota Statute §260C.152, subdivision 5.

Dated: _____

Child Protection Social Worker
607 West Main St. Suite 100
Marshall, MN 56258

BEST PRACTICES GUIDELINES

TERMINATION OF PARENTAL RIGHTS

1. Any party may file a Petition to Terminate Parental Right at any point in the placement.
2. A permanency petition must be filed no later than 335 days of a court-ordered out-of-home placement.
3. At or before the tenth month of out-of-home placement Southwest Health and Human Services (SWHHS) must meet with the County Attorney's Office (CAO) to discuss permanency options.
4. Once a Termination of Parental Rights petition is filed, Court Administration should promptly schedule an Admit/Deny Hearing on or before the 365th day of court-ordered out-of-home placement of the child. Court Administration must also confirm the continued appointment of the Guardian ad Litem and counsel for the parents and serve all parties in accordance with the Rules of Juvenile Procedure.
5. When a denial is entered, a trial will be scheduled no later than sixty (60) days from the date of the first admit/deny hearing.
6. All Pre-Trial motions must be served and filed at least five (5) days before the Pre-Trial Hearing.
7. If the termination of parental rights is ordered, the child should be placed under the guardianship of the Commissioner of Human Services for adoptive placement. The order terminating parental rights will also discharge counsel appointed for the parents thirty (30) days after the Order has been issued. Counsel, during this 30-day period, shall advise their client(s) of the order, of their right to appeal, and shall file a notice of appeal if applicable. Trial counsel shall not have any other obligation relative to appeal unless appointed as appellate counsel. Parents must reapply for court-appointed counsel for purposes of appeal and the application for court-appointed counsel must accompany any Notice of Appeal that is filed.
8. A review hearing shall be held every ninety (90) days until adoption is finalized.
9. If a termination of parental rights is not ordered, the Court must enter an order in accordance with the alternatives provided in Minnesota Statutes §260C.312. The judge may request and all parties should immediately offer their recommendations for return of the child to the parents or legal custodian for a trial home visits, with protective supervision,

or pursuant to other authority of Minnesota Statutes §260C.201; or a party may identify compelling reasons not to return the child to the parents or legal custodian.

10. SWHHS and the CAO shall immediately discuss the filing of a termination of parental rights petition if the following occurs: (a) a child has been subjected to egregious harm; (b) a child is a sibling of another child of the parent who was subjected to egregious harm; (c) the parents has lost parental rights to another child through an order involuntarily terminating the parent's rights; (d) the parent has committed sexual abuse against the child or another child of the parent; (e) the parents has committed an offense that requires registration as a predatory offender; (f) another child of the parent is the subject of an order involuntarily transferring permanency legal and physical custody of the child to a relative.
11. If the parties agree to a voluntary termination, written consent must be filed with the Court and distributed to all parties prior to an admission.
12. If parental rights are terminated, Court Administration shall distribute to the parents_a Notice To Parent Following Termination of Parental Rights documents, along with an Affidavit of Disclosure or Non-Disclosure Regarding an Original Birth Certificate of an Adopted Child.

BEST PRACTICES GUIDELINES

VOLUNTARY FOSTER CARE PLACEMENT PER MN STATUTE §260C

1. SWHHS and parents may sign a Voluntary Placement Agreement if both find it is in the child's best interests. If it is believed a Qualified Residential Treatment Program (QRTP) facility is needed, SWHHS should arrange for a QRTP assessment to be completed by a qualified individual. The steps outlined in this manual for Qualified Residential Treatment Programs should be followed in addition to the items set forth below.
2. When a child has been in voluntary placement for sixty (60) days, and the placement is not because of an emotional disturbance or development disability, SWHHS must contact the CAO to discuss filing a petition alleging a child to be in need of protection or services.
3. If the child is not returned home within ninety (90) days, a petition must be filed by the CAO. This petition must address the reasons for the child's placement, progress on the case plan and number of days the child has been in placement in the past five years.
4. Once the petition is filed, court administration will schedule an Admit/Deny hearing within twenty (20) days of service of the petition.
5. If all parties agree and the Court find it is in the best interest of the child, the Court may find the petition states a prima facie case that: (a) the child's needs are being met; (b) the placement of the child in foster care is in the best interests of the child; (c) reasonable efforts to reunify the child and parent or legal custodian are being made and (d) the child will be returned home in the next ninety (90) days. If all of these findings are made the Court may approve the voluntary placement and continue the admit/deny hearing.
6. If the child returns home within this extended ninety (90) day period, SWHHS will submit a report to the Court advising all parties of the progress made. After receipt of this report the CAO will file a Notice of Case Closure and a proposed Order.
7. If the child does not return home within this extended ninety (90) day period, SWHHS will submit a report to the Court and parties advising all of the reasons why the child has not returned home. This report shall be filed within ten (10) days of the continued Admit/Deny Hearing.
8. If all parties do not agree to the matter being continued for ninety (90) days, the case shall be treated as a traditional CHIPS matter and the parents are required to admit or deny the petition.

BEST PRACTICES GUIDELINES

VOLUNTARY PLACEMENT PER MN STATUTE §260D

1. When a child is in need of placement due to an emotional disturbance or developmental disability or a related condition a voluntary placement should be sought under Minn. Stat. §260D.
2. A voluntary placement is initiated by SWHHS. A placement meeting is held with members of SWHHS to determine if placement is warranted based on the circumstances. If it is believed a Qualified Residential Treatment Program (QRTP) facility is needed, SWHHS should arrange for a QRTP assessment to be completed by a qualified individual. The steps outlined in this manual for Qualified Residential Treatment Programs should be followed in addition to the items set forth below.
3. A voluntary placement agreement is signed by the parents and case manager at SWHHS.
4. SWHHS will give notice to the parent(s), child (12 or over) and facility administrator/foster parent, informing them of the right to a court hearing if requested. This notice should be sent by the time the child has been in placement for 125 days and sent by certified or registered mail.
5. SWHHS will provide a letter to the CAO when the child has been in placement 145 days outlining identifying information, diagnoses, progress and prognosis. Applicable attachments, including the case plan, facility treatment plan and voluntary placement agreement should also be included.
6. The CAO will submit a letter, along with a proposed order prior to the 165th day of placement.
7. The Court must approve the voluntary placement or set a hearing within 10 days of the documents being filed.
8. Court Administration will close the file following the judge's signature so permanency is not calculated for 260D cases by court administration.
9. If the child remains in voluntary foster care for 13 months from the date of the voluntary foster care agreement, or 15 of the last 22 months SWHHS must terminate the voluntary foster care agreement and return the child home or determine whether there are compelling reasons to continue the voluntary foster care arrangement or file a petition for the termination of parental rights.

10. If SWHHS determines compelling reasons exist to continue the voluntary foster care arrangement the worker must send a report, along with case plan, to the CAO when the child has been placed out of the home for 12 months.
11. If the CAO agrees with the compelling reasons, a Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment will be filed with court administration by 13 months of out-of-home placement.
12. Court Administration or the Judge must set the date of the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of filing the petition when the child has been in placement 15 of the last 22 months.
13. If the Court finds continued voluntary placement is in the child's best interests the matter must be reviewed annually.
14. A voluntary placement agreement may be terminated by a parent upon written notice to SWHHS of the termination of the agreement.
15. If SWHHS receives a letter terminating the agreement a Notice of Case Closure and proposed Order must be prepared and filed with the Court.
16. SWHHS may terminate a voluntary placement agreement upon written notice to the parent.
17. During the review hearings all stakeholders must address the parents' involvement in case planning and their continued contact with the child.
18. If the child's placement changes the CAO must file a Notice of Change of Placement.
19. If the child is 12 years of age or older and disagrees with the placement, the Court should consider appointing a Guardian ad Litem or attorney for the child. If SWHHS is aware the child disagrees with the placement, the Agency should notify the Court within 10 days of gaining that knowledge to allow the Court an opportunity to consider appointing counsel for the child. If the child, due to their disability, is unable to express an informed opinion regarding the placement, SWHHS shall inform the Court in writing and a GAL or attorney shall be appointed for the child.

BEST PRACTICES GUIDELINES

QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP)

1. A Qualified Residential Treatment Program (QRTP) is defined as a residential placement to meet the therapeutic needs of children and youth with serious emotional or behavioral disorders or disturbances. This program was designed to provide extra protection to ensure children are placed in an appropriate level of care and a family setting first.
2. It is preferred that a QRTP assessment be completed prior to the child being placed in a QRTP facility. If this cannot occur, an assessment must be completed within 30 days of placement by a qualified individual. Once this assessment is completed it must be filed with the Court within 35 days of placement and distributed to all parties in the case.
3. Once the QRTP assessment is filed, and within 60 days of the placement, the CAO will request administrative review of the QRTP placement if there is not an open CHIPS case. If there is an open CHIPS case, the CAO will request a hearing be scheduled within 60 days of the placement at the QRTP.
4. Prior to judicial review of the QRTP, SWHHS will complete or update any existing Out of Home Placement Plan.
5. An Order should be issued within 60 days of the initial QRTP placement. The Order must address: (a) can the child's needs be met by family or through placement in foster family home with in-home services or outpatient services; (b) if the answer is no, will the QRTP provide the most effective and appropriate level of care in the least restrictive environment, and be consistent with the child's short- and long-term goals in the permanency plan.
6. If the QRTP placement is approved by the Court, regular reviews must occur to ensure the children are consistently placed in the most appropriate setting. At these ongoing reviews of the QRTP placement the county must submit evidence addressing the following: (a) ongoing assessment confirms the need for residential treatment; (b) specific treatment or service needs that will be met by the placement; (c) length of time child is expected to need additional treatment; and (d) efforts made to prepare the child to transition to a family.
7. If a child was in a QRTP prior to September 30, 2021, they do not need a QRTP assessment because they are considered legacies and fall under the requirements of the prior statute.

BEST PRACTICES GUIDELINES

TEMPORARY AND PERMANENT CUSTODY TO THE AGENCY

1. Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt are preferred permanency options. Temporary and Permanent Custody to the Agency should only be explored after all other avenues have been unsuccessful.
2. Permanent Custody to the Agency may only be ordered if the Court approves SWHHS' compelling reasons that no other permanency disposition order is in the child's best interests, and (a) the child has reached age 16 and has been asked about the child's desired permanency outcome; (b) SWHHS has made reasonable efforts to locate and place the child with an adoptive family or a fit and willing relative who would either agree to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful; and (c) the parent will continue to have visitation or contact with the child and will remain involved in planning for the child.
3. If Permanent Custody to the Agency is granted, a review hearing shall be held every 12 months.
4. SWHHS must continue to attempt to return the child home or secure placement with a fit and willing relative.
5. SWHHS must assist the child in building connections with the child's family and community and plan for the future by participating in independent living skills or SELF programming.
6. Temporary legal custody to SWHHS can only be ordered if: (a) the sole basis for an adjudication is the child's behavior; (b) the court finds foster care for a specified period of time is in the child's best interests and (c) the court approves SWHHS' compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests. A child cannot remain in foster care longer than one year after SWHHS has been granted temporary custody under this petition.
7. A review hearing shall be held prior to the child being in the temporary legal custody of SWHHS for twelve (12) months.
8. Temporary legal custody to SWHHS should only be used if there is a reasonable likelihood the placement will be complete within one year.

BEST PRACTICES GUIDELINES

PERMANENCY

1. Whenever possible SWHHS will place a child in a concurrent planning home.
2. SWHHS will provide the birth parents with Birth Parent Social and Medical History and the Child's Background and Health History packets at the time of initial placement and ask the parents to complete them as soon as possible and return them to SWHHS. The Judge should encourage the parents to complete and return these documents at each intermediate disposition hearing.
3. At each review hearing, the Judge will make specific findings regarding the progress of the parents in completing the case plan and the efforts made by SWHHS for reunification.
4. All Orders will include the dates of the Permanency Progress Review Hearing and the date by which a permanency petition must be filed. The Permanency Progress Review Hearing shall not be held prior to the child being in placement for 150 days. The deadline for filing a permanency petition shall be no more than 30 days after the scheduled Permanency Progress Review Hearing.
5. Each court report from SWHHS should list the number of days the child has been in court ordered out-of-home placement.
6. When a child is placed out-of-home SWHHS and the GAL will continually evaluate the availability of relatives to provide permanent care for the child.
7. SWHHS will make all possible efforts to place siblings together in an adoptive home. If it is not possible to place siblings together, a motion must be made to the Court to approve separate placements.
8. All stakeholders should encourage the parents to provide names and addresses of relatives and individuals with close relationships to the children as soon as possible.

BEST PRACTICES GUIDELINES

CHILDREN IN COURT

1. Children of sufficient age and understanding should be informed prior to the Admit/Deny Hearing by the social worker and, if possible, the guardian ad litem that they can attend the hearing and future hearings if they wish.
2. No later than the Admit/Deny Hearing, if the child is not present, the social worker and the guardian ad litem shall inform the court of the reasons why the child is not present. If there is a request that a child be excused or excluded from subsequent hearings, the party may make that request at the Admit/Deny Hearing. Provided, however, that if the request to excuse or exclude is made by a social worker or the guardian ad litem, the social worker and the guardian ad litem will meet with the child in advance of the hearing to ensure that the child's wishes and concerns regarding attendance are known and communicated to the court, as appropriate.
3. The judge, in his or her order following the Admit/Deny Hearing, will address the child's attendance at future hearings.
4. When a child who is in placement attends a court hearing, the foster parent should be encouraged and allowed to accompany the child to the court hearing. If the child is not in placement, a parent must accompany the child.
5. If a child expresses a desire to attend a hearing and if the social worker or guardian ad litem have concerns regarding the child's attendance, the social worker or guardian ad litem shall file a motion at least five days prior to the hearing along with an affidavit setting forth the concerns. The court may direct that the motion be heard outside the presence of the child. If the court decides that the child will be excluded from the hearing, the court will call the child into the courtroom (if the child is not already present) and explain its ruling to the child.
6. If a younger child is brought to a hearing, the party bringing the child is responsible for arranging for an alternative care provider who can supervise the child if the child is excused from the courtroom during the hearing.
7. If the child is represented by counsel, the child may attend hearings or may waive appearance through counsel either in writing or verbally on the record.
8. The custodian of the child is responsible for transporting the child to court.
9. The social worker and the guardian ad litem should have continuing discussions with the child as the case progresses regarding their desire to attend hearings (e.g., review hearings) and summarize those discussions in their court reports.

10. If the petition is brought due to the child's behaviors (e.g., truancy), the child must attend all hearings unless excused by the court prior to the hearing. If a child's attendance at a hearing is required, efforts will be made to schedule the hearing at the end of the day to lessen the impact of the hearing on the child's attendance at school.

11. Refer to **Legal Representation for Children 10 and Older** for additional guidelines.

BEST PRACTICES GUIDELINES

EMERGENCY PLACEMENT

1. Law enforcement officer and SWHHS social worker should confer and cooperate prior to removal of a child. The County Attorney (CAO) must be consulted if an ex parte Order for Emergency Protective Care is needed.
2. Relative placement should be considered and information for a relative search obtained.
3. If the child is placed in foster care, a Foster Child Fact Sheet should be completed within 72 hours of the placement by the social worker and all necessary information and documents should be provided to the foster parent. (See Appendix E).
4. The responsible law enforcement officer or supervisor should complete the Notice of 72 Hour Police Health and Welfare Hold Form. The form must be signed by a social worker. (See Appendix F).
5. The Hold form should be delivered or faxed to the District Court and CAO by the responsible law enforcement agency immediately or at the start of the next business day.
6. Upon receipt of the Hold form, the CAO shall immediately (or on the next business day if the form is received after 4:30 PM, on a weekend or holiday) contact the District Court to obtain a date and time for an Emergency Protective Care Hearing. Notice of the hearing must be provided to all parties and participants, a Guardian Ad Litem (GAL) appointed and notice of rights forms prepared and provided promptly. SWHHS must prepare the EPC Hearing contact list for the Court's file. If the child is returned to the custody of the custodial parent(s), the CAO shall immediately advise the District Court that the hearing is not required.
7. Return of Child—SWHHS and the CAO must confer to determine whether the child should be released from emergency protective care to the custody of a parent, legal custodial or other suitable person, as authorized by the Minnesota Rules of Juvenile Protection Procedure.
8. A GAL should be appointed immediately upon the filing of a Petition and must make reasonable efforts to contact the child and other parties prior to a hearing.
9. SWHHS must research the background of the family, including contacts with county agencies or law enforcement, to determine the status of biological parents and other significant adults in the child's life, and request relative information from the parent or custodian of the child.

10. If SWHHS is making an ex parte request for immediate custody of a child (no police hold) where there are no pending CHIPS or permanency proceedings involving the child, the CAO will prepare a petition and an ex parte motion and affidavit, contact Court Administration to advise them of the application, ask for expedited acceptance, and efile the motion and affidavit. The original Order for immediate custody will be maintained by the Court Administrator.
11. If SWHHS is making an ex parte request for immediate custody of a child (no police hold) where there are pending CHIPS or permanency proceedings, the CAO will notify the parents' attorneys (if represented), the parents (if self-represented), the Guardian Ad Litem, and any other party of the request. If the CAO reasonably believes that such notice will place the child in immediate harm, the CAO must include a statement of facts supporting this belief in an affidavit accompanying the ex parte motion. The CAO will prepare an ex parte motion and affidavit, contact Court Administration to advise them of the application, ask for expedited acceptance, and efile the motion and affidavit. If the request is granted, a hearing on the motion will be scheduled within 72 hours of the date of the Order.
12. If an ex parte order for immediate custody is granted, SWHHS should contact law enforcement to provide assistance in taking custody of the child. A copy of the order should be provided to the parents at the time the child is taken into custody.
13. When a child is taken into immediate custody pursuant to an order for immediate custody, the peace officer executing the order must inform the child and the child's parent or legal custodian of the following: (a) the existence of the order for emergency protective care; (b) the reasons why the child is being taken into emergency protective care; (c) the time and place of the emergency protective care hearing; (d) the name, address and telephone number of the responsible social services agency; (e) that the parent, legal custodial or child may request that the court place the child with a relative or a designated caregiver rather than in a shelter care facility or foster care. This notice must be delivered in writing and, if possible, the contents of the notice will also be orally summarized and explained. If the parent or legal custodian is not present when the child is removed from the premises, the notice must be left with an adult on the premises or, if there is no adult present, left in a conspicuous place on the premises.
14. If the child is enrolled in or eligible for membership in an American Indian tribe, then the Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA) apply and the appropriate tribe must be notified by registered mail, return receipt requested. Proof of mailing of the notice and a copy of the receipt and notice must be filed with the Court. An effort should be made to identify a qualified expert witness for the child's tribe regarding the out-of-home placement.
15. The social worker and GAL should assure that the child receives age-appropriate information regarding the procedures to be followed and decisions to be made.

16. The Petitioner shall provide notice of the EPC, complete the EPC Notice Statement, and file the Statement with the Court (See Appendix G) at or prior to the EPC Hearing.

Appendix E:

Foster Child Facts Sheet

1. Name: _____ DOB: _____ Male ___ Female ___

2. Child's placement history (circle all that apply): Respite Care Foster Care Group Home
Residential Treatment CD Placement Relative Placement No Placements
Other: _____

3. Parents/Guardians: Name: _____
Address: _____
Phone #: _____

4. Race Cultural Heritage of child (circle): Hispanic, African American, Caucasian, Asian, Hmong, American
Indian (Affiliation: _____) Other: _____

5. Description of child's issues:
Medical issues: _____
Mental Health issues: _____

Safety Concerns (circle): Run Risk Assaultive Behavior Sexual Issues Victimization Issues
Other: _____

Causes of Placement: _____

Criminal record(s) of youth, level of offense: _____

6. Strengths of Child: _____

7. School last attended: Name: _____

Contact person: _____

8. Spiritual or Religious Affiliation (circle): Catholic Lutheran Presbyterian Methodist Jehovah Witness
Baptist Assembly of God Other: _____

9. Child's Medication: _____

10. Special Diet? Yes or No If Yes, explain: _____

11. Child's most recent health care provider: Doctor: _____
Dentist: _____
Insurance: _____

Foster children must have a physical exam within the first 30 days of placement.

Keep information about the foster child and the child's family confidential and discuss it only with appropriate agency staff members. When the information is no longer needed, please shred. Thank you.

Appendix F:

NOTICE OF 72 HOUR POLICE HEALTH AND WELFARE HOLD

Date taken into custody: _____ Time taken into custody: _____

Initiating Agency: _____ Case File No. _____

I, Officer's Name, a duly authorized peace officer in the State of Minnesota, by reason of the authority vested in me by Minn. Stat. §260C.175, Subd. 1(2), have taken custody of the following child(ren):

Name: _____ DOB: _____
Name: _____ DOB: _____

Having taken this/these child(ren) into custody, I am requesting that Southwest Health and Human Services assume custody on my behalf until such time as further action can be taken to safeguard the health or welfare of the child(ren).

Social Worker: _____ Date: _____
Peace Officer: _____ Date: _____

Parent(s) Information:

Name: _____ DOB: _____
Address: _____ Phone: _____

Name: _____ DOB: _____
Address: _____ Phone: _____

Reason why child(ren) taken into custody: _____
Reason why child(ren) should not immediately go home: _____

There is reason to believe that the child(ren)'s health and welfare would be immediately endangered if the location of the foster home was released to the parent(s). Please check boxes below when completed.

Time left at placement: _____

Per Minn. Stat. §260C.175, Subd. 2, the child(ren), and as soon as possible, the child(ren)'s parents must be advised of the following:

1. _____ The parent or custodian may request the child be placed with a relative or a designated caregiver;
2. _____ The reason why the child was taken into custody;
3. _____ The names, addresses, and telephone numbers of social services are listed below (Item #4) and have been provided to the parent;
4. _____ Visitation between the child(ren) and parent(s) can be arranged through Southwest Health and Human Services, child protection. The address is 607 West Main St, Suite 100, Marshall, MN 56258. Their phone number is (507) 537-6747;
5. _____ The child(ren) may phone his/her parents and an attorney from the facility immediately after being admitted and thereafter on a reasonable basis;
6. _____ The child(ren) may not be detained longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed and the judge determines the child(ren) shall remain in custody;
7. _____ An Emergency Protective Care Hearing will be held at the Lyon County Government Center at 607 West Main St., Marshall, MN 56258. You may contact Court Administration at (507) 706-7050 or

Southwest Health and Human Services, child protection, at (507) 537-6747 to be informed of the time and date of the hearing;

8. _____ The parents have the right to be present at any hearing, the right to an attorney, and if eligible to be appointed and attorney at public expense.

_____ A copy of this form was provided to the parent/custodian. If not, why not? _____

Appendix G:

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT

In the Matter of the Welfare of the Child(ren) of:

_____,
Parent(s), Guardian(s) or Legal Custodian(s)

EPC NOTICE STATEMENT
File No. 42-JV-

The following is a list of individuals given notice of the Emergency Protective Care Hearing:

Mother: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Father: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Child: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Indian Tribe: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Guardian ad Litem: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

School District (if required): _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Custodian: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Parent's Attorney: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Foster Parent: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Other: _____

Date contacted: _____

Time contacted: _____

Method (phone, in person, etc): _____

Dated: _____

SWHHS Social Worker

BEST PRACTICES GUIDELINES

EPC HEARING

1. The social worker shall inform parent(s) of the date and time of the hearing and provide the parents with Zoom information and applications for a court-appointed attorney. The social worker shall make arrangements for parents to view the video *In the Best Interests of Your Children*. The application for counsel shall be completed and the video shall be viewed before the hearing.
2. The CAO, counsel (if appointed), Guardian Ad Litem (GAL), the parent(s) and social worker should meet and confer prior to the hearing.
3. EPC hearings are to begin promptly as scheduled.
4. Counsel and the parties must be prepared to provide the Court with information required by the statutes and Rules of Procedure; to request specific findings required by statutes, rules and federal IV-E requirements; to identify specific agreements and request corresponding orders; to identify issues remaining; and present all necessary arguments.
5. Judges must follow applicable rules and statutes. The judge must confirm the accuracy of the Petition and make a finding as to whether a *prima facie* case that the child is in need of protection or services exists; confirm notice to parties and participants; determine temporary custody and parenting time of the child; determine whether there exists less restrictive alternatives to protective care that are in the best interests of the child; find whether reasonable efforts have been made to avoid placement; address examinations or services to begin immediately; discuss case plan development; confirm relative search; address child attendance at hearings; and direct parental cooperation in establishing fees. The judge must make clear statements of the Court's findings and order on the record.
6. Judges and attorneys should develop a complete record and request all necessary findings, taking the time necessary to be thorough. An EPC hearing should be scheduled for at least 30 minutes. The EPC and Admit/Deny Hearing may be combined if the parties have sufficient information available to make a meaningful decision with the advice of counsel, if applicable.
7. If the Court orders the child to remain in out-of-home protective care, the judge must order the custodial parent to promptly complete the Child Social and Medical History packet provided by SWHHS and direct that the parent(s) schedule a time to meet with the social worker to complete the packet or establish a deadline for completion. In any event, the packet should be completed within 30 days of the hearing. Any physical and dental examination and mental health screening (if required) shall be scheduled within 30 days of the hearing.
8. The judge will issue a written Order within 48 hours of the EPC hearing.

9. The judge will include the date and time of the Admit/Deny Hearing in the written Order. The judge should announce the date and time of the next hearing in court and assure that personal service of the notice or summons is completed. All stakeholders must be prepared with their calendars to immediately identify any conflicts.
10. At the hearing, the judge will order the parents to provide the names of relatives and to complete a relative list (See Appendix H). The judge will explain the purpose of providing the names of relatives to the parents at the hearing.
11. If the child is a Native American child, the CAO will identify the efforts made to contact the tribe, the name of the tribal representative (if known) and notify the tribal representative of the date and time of the hearing. If the tribal representative is not available at the hearing, the CAO will make active efforts to obtain tribal approval of the placement at or prior to the Admit/Deny Hearing.
12. If personal service has not been made, the CAO must address at the hearing whether or not the Petitioner intends to pursue service by publication and, if so, when the motion will be filed.

Appendix H:

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT

In the Matter of the Welfare of the Child(ren) of:

_____,
Parent(s), Guardian(s) or Legal Custodian(s)

RELATIVE LIST
File No. 42-JV-

The following is a list of relatives or close friends of _____
that may be able to provide support for me and my child(ren) or be a placement option:

Mother(s) of the Child(ren):

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Father(s) of the Child(ren):

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Grandparents to the Child(ren):

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Siblings of the Parents:

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Additional relatives:

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Close Family Friends:

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Other:

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

NAME
ADDRESS
TOWN, STATE, ZIP CODE
PHONE

Dated: _____

Completed by: _____

Title: _____

BEST PRACTICES GUIDELINES

CONCURRENT PLANNING BEST PRACTICES

1. When a child is placed out of the home, SWHHS will conduct a comprehensive relative search, working with the parents or guardians to complete the relative search as soon as possible.
2. When relatives are identified, SWHHS will work with the relatives to determine their willingness to be a resource family for the children.
3. If a relative is willing to be a placement option for the child, the social worker will communicate with the licensing agency to ensure the home study licensing process is started in a timely manner.
4. When appropriate, SWHHS will work with the family on arranging a family group decision making conference to engage the parents and family in permanency planning.
5. Should there not be any relatives or kin who are able or willing to be a placement option for the child, SWHHS will discuss with the current foster provider the possibility of being a permanent option for the child.
6. If the child's current foster provider is not willing to be a permanency option, the social worker will discuss with the licensing unit other possible licensed foster providers who may be possible permanency options.
7. Should reunification efforts not be successful and the Court terminates the parental rights of the birth parents, SWHHS will work with the concurrent planning family on finalizing the adoption. In non-TPR cases, SWHHS will work with the concurrent planning family on implementing the permanency plan.

BEST PRACTICES GUIDELINES

REPORTS TO COURT BEST PRACTICES

1. It is best practices for the reports of guardian ad litem, social workers, and others to be served and e-filed at least seven calendar days prior to the hearing.
2. Copies of reports must be provided to each attorney, or party if not represented by an attorney. If a party is not represented and has not signed up for e-service, an affidavit of service must be efiled.
3. GAL reports should follow the format approved by the State Guardian Ad Litem Program. SWHHS reports should follow the format approved by the County Attorney's Office and SWHHS.
4. In drafting or updating reports, the author must follow Minnesota Rules of Juvenile Protection Procedure in regards to confidential information.
5. Form 11.4 will be e-filed in conjunction with the report if necessary.
6. Updates of reports may be provided orally at the time of the hearing.
7. If possible, objections to recommendations in reports should be filed either by motion or in letter form prior to the hearing.

BEST PRACTICES GUIDELINES

COSTS OF CARE BEST PRACTICES

1. Petitions and Social Worker reports to the court should include a request that for any out of home placement of a child, the Court order the parents to comply with SWHHS to determine a parental fee for the costs of the child's care.
2. Any initial out-of-home placement order shall include a provision directing the parents to cooperate with SWHHS or DHS to determine a parental fee.
3. Petitions and Social Worker reports to the court should include a request that there be a judicial determination that SWHHS has made efforts to use appropriate and available services to meet the needs of the child and the child's family in order to prevent the removal of the child from the child's family or, upon removal, services to eliminate the need for removal and to reunite the family.
4. Petitions and Social Worker reports to the court should include a request that the disposition in the child's best interests.
5. At each hearing, the court shall determine if SWHHS has made reasonable efforts and if the disposition is in the child's best interest, and if so, shall include this wording in the court order.
6. The parent's attorney or the Guardian Ad Litem shall caution the parents not to discuss their fee with the child as it is not in the best interests of a child to be concerned with the cost of care.
7. If there are questions regarding fees, the parents will be directed by the Social Worker to contact the financial worker.

BEST PRACTICES GUIDELINES

EXTENDED FOSTER CARE

1. Youth ages 18-21 years are **qualified** for extended foster care services if:
 - a. The youth is in care on or after their 18th birthday.
 - b. The youth has left foster care and wishes to re-enter foster care.
2. Six months prior to the qualified youth's 18th birthday, SWHHS will provide a Notice of Foster Care Benefits Up to age 21 letter to the youth in care and others as outlined in the notice.
3. The extended foster care social worker will begin attending monthly visits in coordination with the youth's current worker 6 months prior to the youth's 18th birthday if the youth is interested in participating in extended foster care.
4. Youth ages 18-21 years are **eligible** for extended foster care services if:
 - a. Completing a secondary education or program leading to an equivalent credential
 - b. Enrolled in postsecondary or vocational education institution;
 - c. Participating in a program or activity designed to promote or remove barriers to employment;
 - d. Employed for at least 80 hours per month; or
 - e. Due to a medical condition is unable to do any of the above listed services.
5. Upon turning 18 years old, the youth and extended foster care worker will sign a voluntary placement agreement. The extended foster care worker will develop an independent living plan and out of home placement plan within 30 days of their 18th birthday.
6. A review hearing shall be held prior to the youth's 18th birthday to address the legal responsibility for the youth continuing in foster care and approve the case plan.
7. The CHIPS case shall remain open so the court can maintain jurisdiction and there can be an annual review of the youth's eligibility.
8. The child's attorney and GAL shall remain on the case until the Court dismisses the appointment or the file is dismissed. The Court shall ask the parents, if represented, if they want continued representation or if they are requesting that counsel be discharged.
9. Review hearings will continue every 12 months until the youth is 21 years of age. At each hearing, the Court will review and make best interest and reasonable or active efforts to implement the case plan or independent living plan findings. The court will also review the out of home placement plan and the independent living plan and make a ruling as to whether or not the plans can be approved.

10. Social worker and GAL court reports shall be e-filed with the Court 10 business days prior to the review hearing. Along with the social worker's court report, an out of home placement plan and independent living plan shall also be e-filed 10 business days prior to the review hearing.

Youth who want to return to foster care:

1. Youth ages 18-21 years who were under state guardianship of the commissioner of human services (state wards) have the right to come back into foster care. Other Youth (those in placement 6 consecutive months prior to their 18th birthday or who were on runaway status after age 15) may return to foster care to the extent funds are available.
2. The youth and social worker can enter into a voluntary placement agreement if foster care services are needed in order to increase the individual's ability to live safely and meet eligibility criteria. SWHHS could also look at using Successful Transition to Adulthood for Youth (STAY) funds to help the youth meet their needs.
3. The social worker will consult with the County Attorney to discuss filing a motion to re-open the previous court file and review the youth's placement in foster care and find that the placement is in the best interest of the child.
4. Court Administration will schedule and send notices of the hearing to parties and participants as identified by the county attorney.
5. During the court hearing, if the Court finds placement is in the best interest of the child, at least every 12 months thereafter, a court review hearing shall be conducted as long as the child continues in foster care in order to address that the placement is in the best interests of the child, and to address SWHHS reasonable efforts to finalize the permanency plan.
6. GAL and child attorney, if appropriate, will be appointed to represent the youth in Court.

Youth leaving foster care:

1. For youth leaving foster care at age 18 years or older, a 180-day transition plan will be completed.
2. When a youth no longer meets one of the criteria listed for eligibility of extended foster care after age 18 (see page 1, paragraph 4), the youth may be discharged from foster care. The social worker will send a notice to the youth that foster care services will terminate in 30 days from the date the notice is sent along with a Request for Hearing Form (See Appendix I). A copy of the notice will be sent to the County Attorney, youth's attorney,

foster care provider, the GAL, and the Court. A motion can be filed by the youth, the youth's attorney, or GAL within 15 days of receiving the notice asking the court to review the social worker's decision. Should this happen, the youth will not be discharged from foster care until the motion is heard.

3. If the youth timely files a Request for Hearing, the Court Administrator shall schedule a hearing and provide the youth's Request for Hearing to the parties along with the hearing notice.
4. If the youth does not change his or her circumstances to meet eligibility criteria by the end of the 30 days, the social worker will consult with the County Attorney about filing a notice to terminate the CHIPS case.
5. The youth shall be given notice of any intent to terminate extended foster care benefits and jurisdiction and be given an opportunity to be heard on the appropriateness of the termination. When the youth asks to leave foster care or actually leaves foster care, the social worker will attempt to obtain a written statement from the youth as to their intent to dissolve the voluntary placement agreement. The worker will then consult with the County Attorney and provide the written statement (if it has been obtained). The County Attorney will then e-file a motion with the Court to terminate the CHIPS case. The Court may then terminate its jurisdiction.

Appendix I:

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT

In the Matter of the Welfare of the Child of:

_____ and _____,

**EXTENDED FOSTER CARE
REQUEST FOR HEARING**

Parents.

Court File: 42-JV-

I am (check one):

_____ Child's Name (youth)

_____ Guardian ad Litem

_____ Other: _____

I request a hearing because: _____

Signature: _____

Date: _____

**You must file this form with the Lyon County Court Administrator to request a hearing.
The address is:**

**Lyon County Court Administration
607 West Main St.
Marshall, MN 56258**

BEST PRACTICES GUIDELINES

TRANSFER OF CUSTODY

1. Southwest Health and Human Services (SWHHS) or another party to a permanency proceeding may file a petition to transfer legal and physical custody to a relative.
2. The Petition must contain facts which the court can make a determination that the requirements under 260C.515 Subd. 4(6-7) as well as the requirements for a Petition under the Minnesota Rules of Juvenile Protection Procedure.
3. A party filing a permanency placement petition in response to SWHHS petition should serve and file the petition as soon as possible, but no later than 15 days prior to the date of trial.
4. The application process for Northstar kinship assistance should begin as soon as possible if applicable.
5. If it is determined there is a voluntary transfer of custody, it should be arranged to have the proposed custodian present at the time that parties are admitting.
6. If necessary, the Court may defer the finalization of the Order when needed to determine eligibility for Northstar kinship assistance. The Court should make findings at the hearing where it is determined deferment is needed on the factual basis of the transfer.
7. The Court Order shall address all information necessary for receipt of Northstar kinship assistance, if applicable.
8. The issues of visitation must be addressed and may be reserved if the parties agree.
9. Jurisdiction should be terminated unless it is needed to ensure services are delivered for ensuring conditions ordered by the Court related to care and custody are met.
10. Any modification of the Order except motions to modify child support must be filed in the Juvenile Court (unless the Order was filed prior to August 1, 2012) and a Notice of Motion and Motion to Modify must be provided to SWHHS as they are a party in the action.

BEST PRACTICES GUIDELINES

DISCOVERY/DISCLOSURE

1. During the pendency of a Child Protection or Permanency action, any party can request a copy of the Southwest Health and Human Services (SWHHS) file. SWHHS shall make copies of the file and forward to the County Attorney (CAO) to review for restricted information and the CAO will provide the information to the parties.
2. Upon request, any party shall disclose all information required by the Minnesota Rules of Juvenile Protection Procedure, without a court order.
3. Any motion for discovery upon order of the Court, pursuant to the Minnesota Rules of Juvenile Protection Procedure, must be filed as soon as possible and at least five days prior to the Pretrial Hearing, except in extraordinary circumstances. An order of the court granting discovery shall specify the time, place, and manner of discovery and inspection permitted and may prescribe such terms and conditions as are just.
4. Copies of reports of examinations and test results of the parties or a child, must be provided to other parties as required by the Minnesota Rules of Juvenile Protection Procedure. Reports should only be provided to the subject of the data or their attorney and a copy of the report shall not be provided to someone who is not the subject of the data without a court order. For example, if the mother and father both complete a parental capacity evaluation, both evaluations should be provided to the parents' attorneys, but mother's attorney should not provide a copy of father's parental capacity to mother unless there is a court order.
5. Following a party's denial of a CHIPS, permanency or termination of parental rights petition, the agency will provide the contents of the file relating to the children and family to the CAO. The CAO office will provide the file, in digital or paper format, to the parties entitled to disclosure.
6. All parties will provide an exhibit list indicating all evidence that they might introduce at any hearing or trial at least five days prior to the relevant hearing or trial. There is a continuing duty of disclosure regarding additional material, information, or witnesses and prompt notification of this information is requested.
7. Any party may request a protective Order of the Court to limit the use of documents, reports or information discovered, if appropriate to protect the child or family and how the written documents are to be handled by the parties.

BEST PRACTICES GUIDELINES

LEGAL REPRESENTATION FOR PARTIES/PARTICIPANTS

1. Parties and participants have the right to be represented by an attorney in all CHIPS cases initiated by SWHHS. (See **Legal Representation for Children (Age 10 and Over)**) for guidelines for those children).
2. Parents should be told by the social worker during their initial contact of their right to be represented by an attorney. The social worker should use their best efforts to contact the parents at least 24 hours prior to the Emergency Protective Care Hearing or five days before an Admit/Deny Hearing if the children are not in custody.
3. If the parents would like to apply for an attorney they should be directed to the social worker or Court Administration prior to the Emergency Protective Care Hearing or Admit/Deny Hearing, whichever is sooner. (See Appendix J).
4. In cases where the first court hearing is an Emergency Protective Care Hearing, an attorney should be provisionally appointed for the parents. The parents must complete an application for a court-appointed attorney as soon as possible. If the parents fail to timely complete an application, a \$1,000 fee will be assessed.
5. Court Administration shall forward these applications to the Judge immediately for review.
6. Court Administration should immediately, even prior to the Judge determining whether or not the parent qualifies for an attorney, start contacting attorneys to determine if they are available to take the case. If an attorney is willing to take the appointment during this initial contact, they shall not take any action on the file until they receive the official appointment from Court Administration.
7. Court Administration should make efforts to transmit all filed documents to court appointed counsel as soon as possible. At the time of appointment, Court Administration or the social worker shall provide the parent/client's address and telephone number to court-appointed counsel, if known.
8. Attorneys should meet with their clients, either in person or by phone, prior to the day of the hearing in order to allow all concerns, if any, to be addressed at the hearing.

Appendix J:

CONFIDENTIAL

State of Minnesota

County

District Court

Judicial District:	_____
Court File Number:	_____
Case Type:	_____

In the Matter of the Welfare of the Child(ren) of:

 Parent Legal Custodian

and

 Parent Legal Custodian

**Affidavit for Court-Appointed
Attorney**

Minn. Stat. § 260C.163, subd. 3

Section 1 – Personal Information

1. I am a parent, guardian, or legal custodian in this action. I want the court to appoint an attorney to represent me.
2. I am receiving public assistance or a legal dependent in my household is receiving public assistance. Yes No

(Examples of public assistance include means-tested government benefits like Minnesota Supplemental Assistance (MSA) Programs; Minnesota Family Investment Program (MFIP); Food Stamps (EBT Card); General Assistance; MinnesotaCare, Medical Assistance; Energy Assistance; and Supplemental Security Income (SSI).)

3. I live in Section 8 Housing or other publicly funded housing. Yes No
4. I am represented by a public defender in another Minnesota court case, based on my financial circumstances. Yes No

Section 2 – Financial Information

5. I am represented by an attorney from a legal aid organization in another Minnesota court case. Yes No

6. My family size is _____. (Include yourself, your spouse, your minor children, and other dependents in your household.)

7. I pay or receive court ordered child support in the amount of \$ _____ each week / month / year.

If I am supposed to receive child support, I am receiving the payments **as ordered?** Yes No

8. I pay or receive court ordered spousal maintenance (alimony) in the amount of \$ _____ each week / month / year.

If I am supposed to receive spousal maintenance, I am receiving the payments **as ordered?** Yes No

The spousal maintenance payments will end _____.

9. I am currently working. Yes No I work multiple jobs. Yes No (please include income from all jobs)

If working, I started _____.

I work a total of _____ hours per week.

Before taxes are taken out, I am paid a total of \$ _____ per hour / week / month / year

I work seasonally. Yes No

If yes, my income from seasonal work is \$ _____ per year.

10. I have the following other sources of income (such as, tribal payments, unemployment compensation, other household income available to me, etc.):

_____.

11. I own: Cash \$ _____
Checking, savings and credit union accts \$ _____

Cars, other vehicles (list make, year and equity value [market value minus unpaid loans])

_____ \$ _____
_____ \$ _____

Real Estate (market value minus unpaid mortgage/loans)

Homestead: \$ _____

Other Real Estate: \$ _____

Other personal property (jewelry, stocks, bonds, etc. - list separately)

_____ \$ _____

_____ \$ _____

12. I am presently \$ _____ in debt, excluding car loans and real estate mortgage/loans.

13. I pay \$ _____ per month for rent mortgage payment.

14. I have the following other extraordinary expenses that I want the court to know about (explain unusual medical expenses, emergencies, reasons that the family money is not available to you, or other circumstances to help the court understand your situation):

Section 3 – Agreement

By signing this Affidavit, I am certifying that these statements are true under penalty of perjury. I understand that if I provide false information on the form it may lead to criminal charges. I understand that failure to execute the form or failure to provide information or requested records may result in denial of my request. I am authorizing that the facts contained in this Affidavit may be verified by the court. I understand that if I am appointed an attorney, I have a continuing duty to notify the court of any changes to my financial circumstances.

Dated

Signature

County and state where signed

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____

Other contact
info: _____

BEST PRACTICES GUIDELINES

LEGAL REPRESENTATION FOR CHILDREN (AGE 10 AND OVER)

1. This Guideline applies only to legal representation for children 10 and over.
2. Except in proceedings where the sole basis for the petition is habitual truancy, the child has the right to be represented by an attorney in all (CHIPS) cases initiated by SWHHS.
3. If out-of-home placement is being recommended in a habitual truancy cases a public defender must be appointed to represent the child prior to any placement.
4. If an Emergency Protective Care Hearing is held it is not expected the child will be at the hearing. If the child advises the social worker he/she would like to be present the County Attorney's Office should advise Court Administration to determine if a public defender/attorney is available to meet with the child.
5. A child and the appointed public defender/attorney shall be present at the Admit/Deny Hearing. The public defender/attorney shall advise the child of his/her rights at or prior to the Admit/Deny Hearing.
6. The social worker must advise the child of his/her right to an attorney and file the Social Services Notice to Child Age 10 and Older of Right to Lawyer and Right to Go to Court prior to the Admit/Deny Hearing. (See Appendix K).
7. The Judge will advise the child of her/his right to an attorney at or before the Admit/Deny Hearing.
8. After permanency has been established, the Judge will ask the child at the first Post Permanency Review Hearing whether or not he/she would like to continue to be represented by an attorney.
9. If a child turns 10 years of age during the pendency of a CHIPS case, the child must be present at the next hearing following turning 10 years of age and will be advised of his/her right to counsel at that hearing.
10. If a child remains in foster care and is intending to enter into the Extended Foster Care Program, the Court will ask the child whether he/she would like to continue to be represented by an attorney at the last hearing prior to a child's eighteen (18th) birthday.

11. Attorneys for the child should meet with the child, either in person or by phone, prior to the day of the hearing in order to allow all concerns, if any, to be addressed at the hearing. The attorney for the child, at the first hearing where the attorney appears, shall be advised on the record, or immediately after the hearing, by the CAO or SWHHS of the child's address and the phone number where the child can be reached.
12. See the **Children in Court** Guideline for additional best practices.

**APPENDIX K:
STATE OF MINNESOTA**

COUNTY OF

**DISTRICT COURT
JUDICIAL DISTRICT
CASE TYPE: JUVENILE PROTECTION
COURT FILE NUMBER:**

**In the Matter of the Welfare of the Child(ren)
of:**

_____, Mother, and,
_____, [Father]
[Adjudicated Father]

**SOCIAL SERVICES NOTICE TO CHILD
AGE 10 OR OLDER
OF RIGHT TO LAWYER AND RIGHT TO
GO TO COURT**

This form is accessible to the public, unless it contains the signature of a child that is confidential under [Juv. Prot. Rule 8.04, subd. 2\(n\)](#). If a confidential signature is included, then this form is confidential and must be accompanied by a [Confidential Document Cover Sheet Form 11.3](#). The Confidential Coversheet shall be accessible to the public, but the document referenced in the Cover Sheet shall not be accessible to the public except by court order.

Child's Name _____ and Date of Birth _____

You are getting this notice because you are a child age 10 or older who has special rights because your family is involved in a child protection case.

Child's Right to a Lawyer

1. You can have a lawyer if you want one. A lawyer is someone who works only for you and tells the judge what you want the judge to know.
2. You won't have to pay for the lawyer.
3. Anything you say or write in private to your lawyer will stay private. This means the lawyer cannot tell the judge or anyone else about what you said or wrote, unless you tell your lawyer it's okay to tell the judge or others or unless the lawyer is required by law to tell the judge.
4. If you tell me you want a lawyer, I will tell the judge so the judge can get a lawyer for you.
5. If you are not sure about whether or not you want a lawyer, you will get to talk with a lawyer to find out more. After you meet with the lawyer, you can decide if you want a lawyer or not.

Child's Right to go to Court

- 6. There will be meetings in court where the judge, lawyers, social worker, guardian ad litem and others will talk about what is happening in your case and what is happening with you and your family.
- 7. You can go to court to tell the judge what you want to happen.
- 8. If you don't want to go to court, you can let the judge know what you want to happen by writing a letter to the judge or by telling your social worker, guardian ad litem, or lawyer (if you have one), so they can tell the judge for you.

Child's Signature

By signing this form I am telling the judge either that I have read this form or the social worker has been read to me.

Signature of child: _____ Date: _____

Social Worker's Signature

By signing this form, I am telling the judge that I have informed the child of the child's rights under McKenna's Law, Minn. Stat. 260C.163, subd. 3, as contained in this form.

- The child wants a lawyer.
- The child is not sure if the child wants a lawyer at this time and the child should consult with a lawyer to learn more.
- The child does not want a lawyer at this time.
- The child is not able to sign this form because _____

- The child does not want to sign this form.
- Other _____

Name of social worker providing notice (print): _____

Signature of social worker: _____

BEST PRACTICES GUIDELINES

TRIAL HOME VISITS (THV)

Statutory Provisions:

All statutory provisions shall be abided by, including, but not limited to, the following:

1. A THV must be approved by the court and shall not exceed six months in duration.
2. If the child is on a THV at the time the court is required to commence permanency placement proceedings the court must hold a hearing to determine the continued status of the child. If the court finds the agency's efforts to finalize the child's return home is in the best interests of the child, the court may continue the THV for a period of time not to exceed a total of six months.
3. SWHHS shall continue to have legal custody of the child.
4. SWHHS shall prepare a report for the court when the THV is terminated whether by the agency or court order which describes the child's circumstances during the trial home visit and recommends for appropriate orders, if any, for the court to enter to provide for the child's safety and stability.
5. SWHHS and the GAL should have frequent contact with the child(ren), providers and family to assess how the THV is progressing and to ensure the child(ren)'s needs are being met and the family is cooperating with the case plan.

Best Practices:

1. At least prior to every review hearing SWHHS will consider and discuss with GAL and CAO whether a THV is appropriate. Some of the factors to consider are:
 - a. Is the parent cooperating with unsupervised visitation?
 - b. Have overnight visits been approved? If so, how are the visits going?
 - c. Has there been substantial compliance with the case plan?
 - d. There have not been concerns regarding the child's safety while in the parent's care.
2. If the answer to most of these questions is yes, but there is still concern, parties should consider asking for an earlier review hearing in approximately 30 days from the current intermediate disposition hearing and readdress the progress and determine if a THV is appropriate at that time.
3. Before a THV is commenced there should be a transition period, including overnight visitation.
4. When a THV is commenced all appropriate providers should be advised by SWHHS.
5. Except in cases where there is an immediate concern for health or safety, the social worker shall notify the GAL and CAO of concerns regarding appropriateness and compliance with the requirements of the THV. CAO will advise the parent's attorney of the concerns in an effort to correct the conditions in lieu of terminating the THV. If the conditions are not corrected or if the child(ren)'s health, safety or welfare is jeopardized SWHHS will terminate the THV.

BEST PRACTICES GUIDELINES

ENGAGING FATHERS

Definitions:

1. **Putative father** means a man who may be a child's father, but who:
 - (a) is not married to the child's mother on or before the date that the child was or is to be born; and
 - (b) has not established paternity of the child according to section 257.57 in court proceedings before the filing of a petition for the adoption of the child.
2. **Custodial parent** is the parent (a) given physical and/or legal custody of his/her child by court order or (b) a mother of a child who was not married to the child's father at the time the child was born and no order addressing custody has been issued.
3. **Non-Custodial Parent** is a parent who does not have legal and/or physical custody of his/her child by court order.
4. **Adjudicated father** means an individual determined by a court, or pursuant to a recognition of parentage, to be the biological father of the child.
5. **Alleged father** means an individual claimed by a party or participant to be the biological father of the child.
6. **Legal custodian** means a person, including a legal guardian, who by court order or statute has sole or joint legal or physical custody of the child.
7. **Nonresident parent** means a parent who was not residing with the child at the time the child was removed from the home.
8. **Presumed father** means an individual who is presumed to be the biological father of the child because:
 - (a) He and the child's biological mother are or have been married to each other and the child is born during the marriage or within 280 days after the marriage is terminated;
 - (b) While the child is under 18, he receives the child into his home and openly holds out the child as his biological child;
 - (c) See Minn. Stat. §257.55 for less common occurrences in child protection cases.

Best Practices:

1. A father-child relationship will be established or maintained whenever possible and safe for the child. If more than one presumed father exists all parties and the child will submit to paternity testing.
2. Diligent efforts will be made to identify and locate both parents of any child in foster care or care outside of the home.
3. The mother will be asked who she believes to be the father, his address and what his relationship is with the child.
4. DHS records and the MN Father's Adoption Registry and other reasonable means will be searched to assist in locating fathers.

5. Identified fathers will receive notice of the hearings.
6. A case plan will be established for the father.
7. An alleged father will be encouraged to apply for paternity services.
8. An informal background check on the father will be completed to determine the best option for placement of the child.
9. The CAO should take reasonable steps to initiate a separate paternity action in cases involving alleged fathers.

BEST PRACTICES GUIDELINES

INVOLVED THIRD PARTIES

1. CHIPS matters are open and if bystanders are present in the court room, they should be identified for the purpose of determining if they can be a benefit to the case.
2. Interested Third Parties may be involved in the case if it is deemed helpful and if the court authorizes this.
3. The court will ask the parties if they have produced a list of relatives and other interested parties to assist in finding an appropriate permanency option for the children or support to the family.
4. Releases will be obtained as necessary to keep the case moving forward towards reunification and permanency.

BEST PRACTICES GUIDELINES

GUARDIAN AD LITEM (GAL)

Appointment of GAL:

1. Except in Truancy cases where appointment is discretionary, a GAL is to be appointed in every child in need of protection or services matter (CHIPS), termination of parental rights (TPR) matter and permanent placement matter of a child in the custody of the Commission of Human Services to advocate for the best interests of the child.
2. The appointment of GAL should occur prior to Emergency Protective Care Hearing (EPC) or the Admit/Deny Hearing if no EPC.

Roles and Responsibilities of GAL:

1. The GAL is to conduct an independent investigation to determine the facts relevant to the situation of the child and the family which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case.
2. The GAL is to advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary.
3. The GAL is to monitor the child's best interests throughout the judicial proceeding.
4. The GAL is to present written reports in a timely manner on the child's best interests that include conclusions and recommendations and the facts upon which they are based.
5. A GAL can be appointed to advocate for multiple children in one proceeding.
6. The court shall not appoint GAL if they are the filing party.
7. The GAL should have knowledge and understanding of the child's heritage, culture, and race.
8. The GAL will meet with the children a minimum of monthly.
9. The GAL will communicate with the Social Worker on a regular basis regarding best interests of the children.
10. The GAL should promptly communicate with parent attorneys any concerns regarding parental compliance with case plans or other general cooperation with the GAL.

BEST PRACTICES GUIDELINES

TRUANCY (CHILDREN 12 AND OLDER)

1. A social worker may work with children ages 12 to 18 who have truancy issues. The truancy worker will work directly with all schools in Lincoln and Lyon counties to assess, identify, and implement strategies to eliminate truancy concerns.
2. When SWHHS is made aware of a truancy issue, the social worker will offer voluntary services to families in an attempt to eliminate the issues surrounding truancy. If the family is uncooperative, or progress is not made, the worker will consult with the county attorney to determine if a CHIPS petition should be filed.
3. If a case plan has been developed, it will be e-filed with the court prior to the first hearing. See case plan best practice article for details.
4. In cases involving children over 16 years of age where there is reason to believe concerns other than truancy exist in the family SWHHS should explore a petition under additional or alternative grounds.
5. In cases where the sole issue is truancy, school officials will be encouraged to attend the hearing.
6. In cases where the sole issue is truancy, SWHHS will advise court administration if the juvenile has changed schools and will provide an address and individual to add as a participant in the case at the new school.
7. If any party feels scheduling a truancy case outside of school hours is in the best interests of the child, this should be brought to the attention of the judge at the hearing.

BEST PRACTICES GUIDELINES

EXAMINATIONS, ASSESSMENTS AND SERVICE PROVIDER REFERRALS

1. SWHHS and the CAO should identify the need for assessments or evaluations and request voluntary cooperation whenever possible, prior to the first hearing.
2. If no agreement is reached, the CAO should request an assessment or evaluation at the earliest opportunity. The CAO should articulate the need for such assessments or evaluations.
3. If the court orders the client to complete the assessment or services, the order must direct payment for the examination or services.
4. Parents' attorneys should encourage their clients to cooperate with any court-ordered assessments and sign any necessary releases immediately. The CAO should promptly communicate with parent attorneys any concerns regarding parental compliance with case plans or cooperation with this provision.
5. SWHHS should bring a copy of a release to Court if they are seeking an assessment or evaluation be Ordered.
6. SWHHS shall provide the parents with all contact information and assess whether or not the parents will need assistance in arranging the assessment or evaluation. If SWHHS believes the parent requires assistance SWHHS should set up the assessment and/or evaluation for the parent(s). If the parent(s) have not made an appointment within a week of the information being given to a parent SWHHS should make the appointment for the parent(s).
7. The parent(s) must sign necessary releases when requested.
8. SWHHS will attempt to obtain reports within forty-five (45) days of the completion of the assessment or evaluation and promptly e-file and e-serve the reports to the appropriate parties.

BEST PRACTICES GUIDELINES

INDIAN CHILD WELFARE ACT (ICWA)

1. In the investigation or assessment of any report of maltreatment, the SWHHS worker shall make reasonable efforts to identify whether any child is an American Indian Child.
2. As soon as SWHHS discovers a child may be an Indian Child the Child's Tribe must be notified in writing (email or fax) and by phone. SWHHS must comply with all other requirements of ICWA and the Minnesota Indian Family Preservation Act (MIFPA).
3. At each hearing involving an American Indian Child, the court will inquire if the intent of the tribe is to move the case to tribal court.
4. If SWHHS initiates a child placement proceeding for an Indian child by emergency petition, SWHHS shall serve an ICWA Notice of Placement Proceeding upon the Indian child's parent or Indian custodian and the Indian child's Tribe. The notice shall be sent by certified mail with return receipt requested. A copy of proof of service on the child's Tribe and/or the Secretary of Interior, if the child's Tribe is unknown, shall be filed with Court Administration.
5. The Admit/Deny hearing may not be held sooner than 10 days after SWHHS receives all of the signed certified mail return receipts.
6. If the tribe or location is unknown, the notice must be served on the United States Secretary of the Interior. Any admit/deny hearing in this instance must be at least twenty-five days after receipt of the notice by the Secretary.
7. If SWHHS, initiates an Indian child placement, the agency shall make an immediate effort to identify and contact a qualified expert witness for the child's tribe.
8. A qualified expert witness is required for a continuance of an emergency placement for more than ninety days (unless there are extraordinary circumstances), foster care placement, and termination of parental rights.
9. At the start of an ICWA proceeding, the Court shall determine whether the child is a resident of or domiciled on the tribe's reservation, or is a ward of the Tribal Court.
10. If there is a chance that ICWA applies, the Court and all the stakeholders shall comply with ICWA, until and unless the identified tribe informs the Court that ICWA does not apply or the Court determines that ICWA does not apply.

BEST PRACTICES GUIDELINES

RECORDS

1. All stakeholders need to be mindful that, with the exception of the records that are subject to restricted access by rule, their reports are open to the public.
2. If a confidential or limited access record is to be offered at trial or filed the party submitting the record should consider submitting a request and proposed order to restrict access. This should include the specific reason why access should be restricted and what information is entitled to protection including where that information is located in the document.
3. If a person wishes access to a Juvenile Protection file created prior to August 2015 the Court Administration office will create a redacted copy within a reasonable period of time and provide access to that document without the approval of the Court.
4. All filers must use 11.3 and 11.4 forms when required. Only one Confidential Information Form 11.4 is needed per file unless information contained in the form changes. Filers shall use one Confidential Document Cover Sheet Form 11.3 for multiple confidential documents if they are being filed at the same time.
5. All stakeholders are encouraged to regularly review the rules to determine that they are complying with the Rules of Public Access and the Rules of Juvenile Protection Procedure.
6. After the initial filing, parties should not add parties or participants to the file without notifying court administration.
7. Once a parent's parental rights have been terminated and the time for filing a post-trial motion has passed, the parent and their attorney will be removed as parties from the file. The attorney representing the parent will not be added back onto the case for purposes of appeal unless court administration has been notified. Even if a parent's attorney is added back on the file for purposes of appeal, the parent shall not be added back onto the file as a party without approval of court administration. Parents whose parental rights have been terminated and their attorneys, if added back as parties for purposes of appeal, will not receive copies of notices or orders not related to the appeal.
8. Court administration should review parties and participants listed in the file after all orders are issued to ensure the case is properly updated.

BEST PRACTICES GUIDELINES

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

1. When a child is placed out of the home, Southwest Health and Human Services (SWHHS) will conduct a relative search.
2. If parents are not cooperating with SWHHS to provide a list of relatives and kin, the social worker will inform the county attorney so that the county attorney can reach out to the parents' attorney regarding the noncooperation. The parents' attorney shall then encourage the parents to cooperate.
3. The Judge may order parents to cooperate in creating a list of all relatives or kin.
4. Relative Search letters will be sent by SWHHS to all relatives and kin the parents provide. Prior to the Permanency Progress Review Hearing, SWHHS shall provide Court Administration with the names of relatives that responded to relative search letters.
5. If a response is received from a family member who is interested in providing foster care for the child, but lives out of state, the social worker will call the relative to ensure they understand the responsibilities that go along with foster care placement. The social worker will speak with the relative about basic family information, possible background concerns, size of the home, and the family's financial means to ensure they could care for an additional child(ren).
6. SWHHS will work with the parents to gather the child's birth certificate, social security card, and create a social medical history as required by the ICPC process.
7. If the parents are unwilling to participate in this process, their attorneys shall encourage them to cooperate and the Judge may need to order them to do so.
8. The social worker will then submit the required paperwork to the MN ICPC Unit at the Department of Human Services (DHS). The type of placement requested will dictate which forms will be used. The following is a list of the types of ICPC requests:
 - a. Regulation 1: Conversion of Intrastate Placement into Interstate Placement: Relocation of Family Units.
 - b. Regulation 2 (most commonly requested): Placement with Parents, Relatives, Non-Agency Guardians, and Non-Family Settings.
 - c. Regulation 4 Residential Placement
 - d. Regulation 7: Expedited Placement Decision
9. Per ICPC regulations, SWHHS must wait for the receiving state to complete a home study and approve the relative for placement prior to the child being placed in the home.
10. If the relative home is approved for placement and the child is placed in the home, SWHHS must complete the 100B form and send to DHS notifying them of the placement. This form must be completed immediately after the child has been placed.

11. SWHHS shall notify the Court of the child's new placement.

12. If the relative is willing to adopt the child, SWHHS must send a request to DHS for an adoptive home study to be completed. The time at which this can be requested will differ from state to state.

13. If an adoptive home study is completed and approved and the adoption is finalized in court, SWHHS must submit the 100B form to DHS informing them of the completed adoption.

14. If a relative home study is completed, but SWHHS decides not to place the child in the relative's home, SWHHS must fill out the 100B form and submit it to DHS informing of the choice to not place so that the receiving state can close their licensing file.

*It should be noted that each individual state sets their own timelines and approval conditions which may affect the overall timeframe of completion.