

# 11

## ALTERNATIVE FOSTER CARE GOALS

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# 11

## ALTERNATIVE FOSTER CARE GOALS

### 11.1 Introduction

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When the LDSS, in collaboration with the Family Partnership Meeting (FPM) team, determines that all three permanency goals (i.e., Return Home, Adoption, or Placement and Transfer of Custody to Relative) are not in the child's best interest, the LDSS may select an alternative goal of Permanent Foster Care, or Another Planned Permanent Living Arrangement. However, these goals do not achieve permanency for the child since the child remains in foster care.

When one of these alternative goals is selected, the service worker shall continue throughout the child's involvement with the child welfare system to search for permanent family opportunities and lifelong permanent connections. This process involves continually evaluating the child's best interests and the changing circumstances of the child and extended family. As new opportunities arise that are consistent with the child's best interests, the service worker shall make diligent efforts to place the child with a permanent family and end placement in the foster care system.

### 11.2 Framework

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LDSS shall meet federal and state legal requirements, and should use sound practice principles to achieve desired outcomes and to guide decision making on selecting permanency goals for children in foster care.

#### 11.2.1 Practice principles

Two fundamental principles in Virginia's Children's Services System Practice Model provide the philosophical basis and guide practice for decision making in selecting permanency goals.

**First, we believe in family, child, and youth-driven practice.**

- Children and families will be treated with dignity and respect. The voices of children, youth, and parents are heard, valued, and considered in the decision making regarding safety, permanency, and well-being, as well as in service and educational planning and in placement decisions.
- Family members are the experts about their own families. It is our responsibility to understand children, youth, and families within the context of their own family rules, traditions, history, and culture.
- We engage families in a deliberate manner. Through collaboration with families, we develop and implement creative, individual solutions that build on their strengths to meet their needs. Engagement is the primary door through which we help youth and families make positive changes.

**Second, we believe that all children and youth need and deserve a permanent family.**

- Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care, or guardianship. Placement stability is not permanency.
- Planning for children is focused on the goal of preserving their family, reunifying their family, or achieving permanency with another family.

### 11.2.2 Legal citations

The legal framework and specific requirements for selecting alternative foster care goals for children are delineated in federal and state law. See the law for complete language by clicking on the citation.

- **Provide child welfare services to prevent separating children from families, restore them with families, place in adoptive homes, and assure adequate care**
  - § [63.2-319](#)
- **Permissible goals in foster care plan**
  - § [63.2-906](#)
- **Child's health and safety paramount concern; plan to return child to birth parents or prior custodians**
  - [The Adoption and Safe Families Act of 1997 \(PL 105-89\)](#)

- [§ 16.1-281](#)
- **If cannot return child to prior family, plan to place child with relative with subsequent transfer of custody or in adoptive home, or explain why permanent foster care is the plan**
  - [§ 16.1-281](#)
- **Permanency Planning hearing**
  - [§ 16.1-282.1](#)
- **Requirements for foster care goal of another planned living arrangement**
  - [§ 16.1-282.1](#)

### 11.3 Alternative foster care goals

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The LDSS shall select an alternative goal only when the three priority permanency goals are determined to be inconsistent with the child's best interest (See [Section 7.6](#) of this chapter) and if the youth is age 16 and older. The LDSS should convene a FPM prior to changing to an alternative foster care goal. While the alternative goals are allowable by law, they do not achieve permanency for the child. The child does not leave foster care to live permanently with a family.

Research shows that youth who age out of the foster care system without a permanent family are more likely to experience poverty, homelessness, incarceration, mental health, and medical problems. They often lack the necessary educational and life skills to be successful in life. These challenges result in significant economic, emotional, and social costs for the youth and society.

The alternative foster care goals are:

- Permanent Foster Care;
- Another Planned Permanent Living Arrangement;
- Independent Living.

If one of these three alternative goals is selected, the service worker shall continue to search for relatives and significant individuals as permanent families throughout the child's involvement with the child welfare system. The service worker shall also continually evaluate the child's best interests and the changing circumstances of the child and extended family.

As new opportunities arise that are consistent with the child's best interests for permanency, the service worker should request a FPM and shall pursue one of the three priority permanency goals. The LDSS shall make diligent efforts to place the child in a permanent home and end placement in the foster care system when appropriate. These ongoing attempts shall be documented in the OASIS.

### 11.3.1 Permanent Foster Care

This goal shall only be selected when the child is age 16 and over ([P.L. 113-183](#)) and has developed a clearly established and documented significant relationship with a foster parent. The intent is for the foster parent to choose to adopt the child, for the circumstances to change and reunification or placement and custody transfer to a relative are determined to be in the child's best interest, or the child to remain with the foster parent until age 21.

The child is placed in the residence of a person(s) who is determined to be appropriate in meeting the child's needs on a long-term basis ([§ 63.2-908](#)). Residential programs and group homes are not personal residences. The name of the individual foster parent(s) shall be provided for the court order.

There may be periods of time when a foster child is temporarily living outside of the home for education, training or treatment. In those situations, the Permanent Foster Care Agreement will remain in effect if the plan is for the youth to return to the family. A child shall not be removed from the physical custody of the foster parents in the permanent foster care placement except upon order of the court ([§ 63.2-908](#)). For young adults over the age of 18 who permanently leave the home, LDSS should consult with their attorney regarding dissolving the Permanent Foster Care Agreement.

### 11.3.2 Another Planned Permanent Living Arrangement

This goal shall only be selected when the child is age 16 and over ([P.L. 113-183](#)). The selection of "another planned permanent living arrangement" is appropriate only if the child has a severe chronic emotional, physical, or neurological disabling condition for which the child requires long-term residential treatment of six (6) months or longer ([§ 16.1-282.1 A](#)). Selection of this goal requires that all permanency and other alternative goals have been ruled out as not being in the best interest of the child. Opportunities to change the goal and facilitate reunification, adoption, or placement with and custody by a relative shall continue to be pursued.

### 11.3.3 Independent Living

The intent of the goal of independent living is to focus on assisting the youth in developing significant lifelong adult and/or family connections as well as the skills necessary to successfully transition to adulthood. This goal shall only be used if and only if the child is admitted to the United States as a refugee or asylee ([§ 63.2-906](#)),

or for a young adult age 18 or older. For information about the refugee program and additional services to these youth contact the VDSS Office of Newcomer Services.

See [Section 14](#) for more information regarding young adults over 18 with the goal of Independent Living.

See [Section 13](#) for more information regarding independent living services (for all youth age 14 and older).

#### 11.3.4 Using family partnership meetings prior to changes in goal

A FPM should be held prior to changing the permanency or alternative foster care goal for the child. This team approach involves partnering with family members in decision making throughout the family's involvement with the child welfare system. A facilitated team collaborates with the family on key decisions to ensure safety, a permanent family, and life-long connections for the child who is at high risk of being placed out of the home or who is in foster care, building upon the strengths of the child, family and community (see [Section 2.9](#) of this chapter).

All FPMs shall be documented in OASIS. For more guidance regarding FPMs, see:

- [DSS Fusion page](#)
- [DSS public website](#)

### 11.4 Services for goal of Permanent Foster Care

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This goal shall only be selected for children age 16 and over only if Reunification, Adoption, or Placement with Relative and/or Transfer of Custody has been determined to not be in the child's best interest.

#### 11.4.1 Legal requirements

Legal excerpts for the goal of Permanent Foster Care are taken from [§ 63.2-908](#) of the Code of Virginia. See the law for complete language by clicking on the citation.

- The LDSS shall petition the court to approve a Permanent Foster Care placement for a child. A residential facility is not a Permanent Foster Care placement.
- The court shall determine that diligent efforts have been made to return the child home, place the child with relatives, or place the child for adoption prior to approving the permanent foster home placement.

[P.L. 113-183](#) adds requirements to ensure the goal of Permanent Foster Care is being used appropriately. Certain requirements shall be followed at each permanency planning hearing:

- The LDSS shall document in the foster care plan:
  - The intensive, ongoing efforts made to achieve permanency through return home, placement with relatives, and adoption.
  - The steps taken to implement normalcy ([see section 6.8](#)) in the home and that the child has regular, ongoing opportunities to participate in activities that are appropriate to his age and development.
  - Compelling reasons why return home, adoption and placement with relatives continue to not be in the child's best interest.
- The court shall determine the appropriateness of the placement by:
  - Asking the child about his/her desired permanency outcome using age appropriate language.
  - Making a judicial determination that permanent foster care is the best permanency plan for the child and that it continues to not be in the best interest of the child to return home, be adopted, or placed with a legal guardian or with a willing relative.

#### 11.4.2 Focus of services

- Strengthen the legal bond between the child and foster family by providing greater rights and responsibilities to the permanent foster parents.
- Provide a full array of foster care services ([see section 12.13.1](#)).
- Provide supportive services that are needed by the child and family in order to enhance and strengthen the parent/child bond.
- Provide the child independent living skill development through direct services and/or support/education of foster parents.
- Include plans for continuing the child's relationships with family members including the possibility of placing siblings together in the same home.
- Continue to utilize family finding techniques to identify family connections that could potentially provide permanency for the youth through a permanent goal.
- Maintain the child in a foster home until the age of 21, where the child and family have a clear and long-term bond and the foster family is committed to providing a stable and ongoing adult connection for the child. The child shall concurrently enter the Fostering Futures Program upon turning 18 and continue until such time they no longer meet the eligibility criteria. See [section 14](#) for more information on the Fostering Futures Program.

- Utilize the [Permanency Pact](#) with youth to provide for supports when the permanent foster care agreement is ended to continue the relationship through adulthood.
- Discuss with the youth and permanent foster parents, adult adoption which would create a legal and binding connection if desired by the youth and permanent foster care parents.

### 11.4.3 Rights and responsibilities

The court approving the Permanent Foster Care placement shall:

- Specify the nature and frequency of visitation by the birth parents.
- Specify any modifications in rights and responsibilities of the foster parents that differ from those provided in § [63.2-908](#).
- Ensure that the child is asked about his/her desired permanency outcome and make a legal determination at each permanency hearing that Permanent Foster Care is in his/her best interest.

The roles and responsibilities of the LDSS, foster parents, birth parents or previous caretakers and, if appropriate, the child, are contained in a mutually developed and signed agreement. The agreement shall include at least any requirements contained in the court order approving the foster care placement. The following rights and responsibilities need to be taken into account when developing the agreement:

#### 11.4.3.1 Rights and responsibilities of birth parents and family members

- Birth parents should visit the child if visitation is not contrary to the best interest of the child. The frequency of visitation should be documented in the foster care plan.
- Birth parents should provide financial support for the child and a referral for collection of child support shall be made.
- A plan for regular and frequent sibling contact shall be developed and implemented if it is in the best interest of all the children. The possibility of placing siblings together shall be assessed and discussed with the foster parents, family, and the children if appropriate.

#### 11.4.3.2 Rights and responsibilities of foster parents

- Permanent foster parents have authority to give consent for activities that require parental consent unless this authority has been modified by the court order. This includes authority to consent to:

- Application to college or entrance into the military.
- Marriage.
- Driver's license.
- Surgery.
- The foster parents shall inform the LDSS of the decisions they make as they relate to the authority given them by law or the court ([§ 63.2-908 C](#)).
- If a child with a goal of Permanent Foster Care is staffed by the Family Assessment Planning Team (FAPT), the foster parents should sign the Individual Family Service Plan. The foster parents shall be notified in advance by the worker of all FAPT meetings related to the child. The foster parents have the right to either speak at the meetings or submit written recommendations and testimony. The FAPT shall consider the foster parents' opinions in developing the service plan ([§ 2.2-5208 3](#)).
- Permanent foster parents also have the right to request special education services and sign the IEP if the local school allows them to do so.
- Permanent foster parents are responsible for making normal parenting decisions regarding the youth's participation in extracurricular, enrichment, and social activities.

#### **11.4.3.3 Responsibilities of the LDSS**

- Face-to-face visit with the child shall occur monthly. Over half the visits shall occur in the youth's place of residence.
- Refer birth parents to the Division of Child Support Enforcement.
- Review the foster care plan and progress made through alternating administrative panel reviews (see [Section 16.6](#) of this chapter) and a court hearing every six months. Permanent foster care cases shall be reviewed in court at least annually ([§ 16.1-282.2](#)).
- Place siblings together in the home if it is in the best interest of all the children.
- Maintain involvement of the birth family, if possible.
- Document in OASIS and the foster care plan, intensive, ongoing and unsuccessful efforts for placement with family, including efforts to locate family members using person locator and other search methods.

- Continuously evaluate the changing circumstances of the child and family to determine if Reunification, Adoption, or Placement with Relative with Subsequent Transfer of Custody is in the best interest of the child.

#### **11.4.4 Permanency not achieved with goal of Permanent Foster Care**

The goal of Permanent Foster Care does not achieve permanency for the child since legal custody is not transferred from the LDSS to the permanent foster parents. Permanent Foster Care may be considered an acceptable goal for a child when no other permanent goal is appropriate and the child remains in the home and care of the permanent foster care parents.

#### **11.4.5 Termination of Permanent Foster Care placements**

Termination of Permanent Foster Care placements is covered in [§ 63.2-908](#) of the Code of Virginia.

- No child shall be removed from the physical custody of the foster parents in the Permanent Foster Care placement except by a court order or child abuse and neglect procedures pursuant to [§ 16.1-251](#) or [§ 63.2-1517](#) of the Code of Virginia.
- If the Permanent Foster Care placement disrupts, the LDSS shall file a foster care plan and petition for a foster care review hearing to change the permanent foster care status to another goal for the child. The foster parent may jointly file the petition with the LDSS. All attempts shall be made to maintain the child with the permanent foster family until the court hearing.
- In unplanned situations where the child shall be removed from the permanent foster care placement, the LDSS shall file the foster care plan and petition for review and dispositional hearing immediately upon the removal.
- The cycle for foster care hearings, panel reviews, and annual foster care review hearings starts with the court hearing date.
- A youth may remain in Permanent Foster Care until the age of 21. At age 18, the youth shall concurrently enter the Fostering Futures Program. See [section 14](#).
- If the youth over age 18, permanently leaves the home, the agency should consult with their attorney regarding dissolving the permanent foster care agreement.

#### 11.4.6 Placements outside Permanent Foster Care home without changing goal

There may be situations where a foster child **lives** temporarily outside of a permanent foster home for education or training. The Permanent Foster Care Agreement remains in effect if the plan is for the youth to return to the family and payments to the foster parents continue.

Youth that have unplanned absences from the home for brief periods of time (e.g., AWOL, hospitalization, detention) shall maintain the Permanent Foster Care goal. See [section 18.1.4](#) for information regarding payments to the foster parent during the temporary absence.

### 11.5 Services for goal of APPLA

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The goal of APPLA is unique in that it is designed solely to be used for children (age 16 and older) whose chronic disabling conditions clearly require placement in settings that can provide the services, monitoring, and treatment necessary to effectively address the disabilities of the child.

#### 11.5.1 Legal requirements

Legal excerpts for the goal of APPLA are taken from [§ 16.1-282.1](#) of the Code of Virginia.

- The court shall determine that the child has a severe and chronic emotional, physical or neurological disabling condition that the child requires long-term residential treatment for the disabling condition.
- The court shall determine that diligent efforts have been made to return the child home, place the child with relatives, or place the child for adoption prior to approving the goal of APPLA.
- LDSS shall document in the foster care plan:
  - Identity of a long-term residential treatment service provider.
  - Nature of the child's disability that currently prevents placement in a less restrictive setting and why this is the case.
  - Anticipated length of time required for the child's treatment.
  - Status of the child's eligibility for admission and long-term treatment.

[P.L. 113-183](#) adds requirements to ensure the goal of APPLA is being used appropriately. Certain requirements shall be followed at each permanency planning hearing:

- The LDSS shall document in the foster care plan:
  - The intensive, ongoing efforts made to achieve permanency through return home, placement with relatives, and adoption.
  - The steps taken to implement normalcy ([see section 6.8](#)) in the placement and that the child has regular, ongoing opportunities to participate in activities that are appropriate to his age and development.
  - Provide compelling reasons why return home, adoption and placement with relatives continue to not be in the child's best interest.
- The court shall determine the appropriateness of the placement by:
  - Asking the child about his/her desired permanency outcome using age appropriate language.
  - Making a judicial determination that APPLA is the best permanency plan for the child and that it continues to not be in the best interest of the child to return home, be adopted, or placed with a legal guardian or with a willing relative.

If the court approves the goal of APPLA for a child, the court shall schedule a foster care review hearing to be held within six months from the date of the permanency planning hearing to review the child's placement in APPLA. At the conclusion of the foster care hearing, if the goal of APPLA remains the plan, the court shall indicate on the order that reasonable efforts have been made to place the child in accordance with the permanency plan.

The LDSS shall file a petition for a foster care review **no later than 30 days** prior to the scheduled six-month hearing. If at any time during the six-month period, the treatment provider determines the child no longer needs long-term residential treatment, the LDSS shall begin to plan for post-discharge services and, **within 30 days**, petition the court for a permanency planning hearing. The court shall schedule the hearing to occur **within 30 days** of notification.

### 11.5.2 Focus of services

This goal provides long-term residential treatment for children with a severe and chronic emotional, physical, or neurological disabling condition. If the goal of APPLA is selected for a child, all other goals shall have been explored and ruled out consistent with the child's best interest (see [Section 7.6](#)). The foster care plan shall document that the feasibility of all other goals has been considered and contain a

statement that supports why none of the permanent or alternative goals are in the child's best interest (see [Section 15.5.2](#) of this chapter for additional information).

Services for these youth shall include planning for long-term care in the least restrictive environment possible that ensures the child's safety but affords the greatest opportunity for independence. For many of these youth, planning for long-term care involves exploring and applying for Social Security disability, DMAS waivers, an adult guardian, Adult Services, and other supportive services. (See [Section 13.14](#) of this chapter for information on referring and transitioning youth to Adult Services).

### **11.5.3 Permanency not achieved with goal of APPLA**

The goal of APPLA does not lead to permanency for the child. It should only be used for youth who require a safe living environment that is responsive to their need for care and treatment for their disabling conditions.

## **11.6 Services for goal of Independent Living**

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Information regarding independent living services can be found in [section 13](#).