

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P.O. BOX 88

JEFFERSON CITY, MISSOURI

MAY 19, 2006

MEMORANDUM**WHAT'S INSIDE?**Grounds/Triggering
Events for filing TPR
petitionCompelling Reasons for
not filing TPR petitions

Supervisory Case

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS AND
CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, INTERIM DIRECTOR

SUBJECT: SUPERVISORS AND STAFF RESPONSIBILITIES IN FILING
FOR TERMINATION OF PARENTAL RIGHTS (TPR),
INCLUDING DOCUMENTATION OF COMPELLING REASON
FOR NOT FILING TPR

The purpose of this memorandum is to clarify and enhance policy requiring staff to file Termination of Paternal Rights (TPR) in a timely manner, except when compelling reasons are determined and documented. These enhancements follow the requirements of the Adoption and Safe Families Act (ASFA) and the [Program Improvement Plan, P1.9.1](#), and include suggestions for how supervisors, Children's Service Workers and agency attorneys can collaborate in making these sensitive decisions. Such information includes:

- Documentation of the reasons for TPR, including guidelines within Section 4, Chapter 9 to assist in determining Grounds or Triggering Events for the filing for TPR;
- Documentation of the reasons for the exception of filing a TPR petition (Compelling Reasons), including guidelines in determining when it would not be the child's best interest to file for TPR;
- Supervisory Case Reviews must occur when compelling reason(s) cease to exist, to evaluate the decision not to file;
- Each Circuit Office will meet with their Judiciary to establish a process for expeditious filing of TPR cases; and
- All permanency considerations are to be made on a case-by-case basis based on the best interest of the child. Staff should consider discussing difficult cases with Division of Legal Services (DLS). (See Director's Memo, [FMS05-31](#)).

SUPERVISORY CASE REVIEW

Please note the use of Administrative Review term has been used broadly, including the processes of Supervisory Case Reviews through the federally required Permanency Planning Review. For the purpose of this discussion, the term Supervisory Case Review will be used, but this does not preclude such discussions being made through Family Support Team and Permanency Planning Review Team, if certain criteria are met (See memorandums [CD06-39](#) and [CD06-50](#)) or the use of Administrative Review process in conjunction with these reviews.

Supervisory Case Review is a process utilized periodically for, but is not limited to, all children who are in an out-of-home setting and in the care and custody of the Division, or when CD is under court ordered supervision. This review will assist the Children's Service Worker in consultation with their supervisor in developing an initial and concurrent permanency plan, and in evaluating progress toward the permanent plan for that child. The Supervisory Case Review process is embodied in several formal activities which are utilized at various times while the child is in care.

New policy requires a Supervisory Case Review to occur where a compelling reason to not file TPR petition ceases to exist, to evaluate the current status of the case as it relates to the reasons to file for TPR, and to evaluate the permanency options available in the child's best interests.

COMPELLING REASONS

Compelling Reasons are rationales and reasonings explaining why terminating parental rights would not be in the best interest of a child placed in out of home care. Federal regulations state that a compelling reason must be based on the individual circumstances of the child and the family, on a case-by-case basis, with an emphasis on what is in the best interest of the child.

A compelling reason has to be documented in the case plan to ensure continued eligibility for the receipt of Title IV-E funds. The case plan documentation by Children's Division staff is necessary because there is no federal requirement for the juvenile court to make a judicial finding that a compelling reason exists.

Federal regulations provide that compelling reasons for not filing a petition to terminate parental rights include but are not limited to:

- Adoption is not the appropriate permanency goal for the child;
- No grounds to file a petition to terminate rights exist;
- The child is an unaccompanied refugee minor as defined in 45 Code of Federal Regulations 400:111, or
- There are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights.

CHANGES TO THE ORDER OF PERMANENCY OPTIONS IN MANUAL

Please note that revisions to Section 4, Chapter 9 modify the order of the permanency options based on the best interest of the child. The previous order of this section was listed in sequence of most legally binding permanency option to least legally binding. In

2004, within House Bill 1453, the Missouri legislation made it clear that if reunification is determined not to be a viable permanency goal, placement with suitable relatives should be considered as the preferred alternative permanency plan, which may include guardianship or adoption.

NECESSARY ACTIONS:

1. Review this memorandum with all Children's Division staff.
2. Review revised Child Welfare Manual Chapters as indicated below.
3. All questions should be cleared through normal supervisory channels and directed to:

PDS CONTACT:

Veronica Stovall
573-522-5060
Veronica.E.Stovall@dss.mo.gov

PROGRAM MANAGER:

Kathryn Sapp
573-522-5062
Kathryn.Sapp@dss.mo.gov

CHILD WELFARE MANUAL REVISIONS

[Section 4, Chapter 9](#)
[Section 4, Chapter 26](#)

RELATED STATUTES:

Public Law 105.89
Section 207.020 RSMO
Section 210.720 RSMO
Section 211.444 RSMO
Section 211.447 RSMO
Section 211.487 RSMO

COUNCIL ON ACCREDITATION (COA) STANDARDS:

N/A

PROGRAM IMPROVEMENT PLAN (PIP) ITEMS:

[P1.9.1](#) TPR will be filed in a timely manner, except when compelling reasons are documented.

SACWIS REQUIREMENTS:

N/A

PN/KS/VES

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P.O. BOX 88

JEFFERSON CITY, MISSOURI

May 13, 2005

M E M O R A N D U M**WHAT'S INSIDE:**

- Educational neglect reports learned or found to be home schooling

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS AND CHILDREN'S DIVISION STAFF

FROM: FREDERIC M. SIMMENS, DIRECTOR

SUBJECTS: EDUCATIONAL NEGLECT REPORTS LEARNED OR FOUND TO BE HOME SCHOOLING

REVISED *CHILD WELFARE MANUAL*:
[SECTION 2, CHAPTER 8, SCHOOL RELATED ISSUES](#)

DISCUSSION:

The purpose of this memorandum is to introduce clarifying policy and procedure for addressing educational neglect reports where it is learned or confirmed during the investigation/family assessment process that the child's educational needs are being met in the home by a parent(s) or other responsible caretaker(s). When a CA/N report is received with allegations of educational neglect and there are indications that the child is being home schooled, the Division shall rule out educational neglect and verify with the parent or other responsible caretaker that the child is being educated at home. *Home schooling is not an allegation of abuse or neglect.*

Educational Neglect reports are conducted according to investigation or family assessment response procedures including initiating victim contact within 72 hours if educational neglect is the only allegation. Once the worker has been advised by the parent(s) or other responsible caretaker(s) that the child is being educated in the home and there are no other allegations of abuse or neglect reported, the worker's response will depend on the family's prior history of educational neglect.

If there are no prior substantiated educational neglect reports, the investigation/family assessment shall:

- Cease further investigation into the matter.
- Notify the superintendent or designee of school district of child's residence and inform parent(s) of this action.

- Forward written report to the school within (3) working days of being advised by parent(s). (see *Guidelines for Letter to School District on Reports Concluded as Home Schooling*)
- Conclude the report using CA/N-1 Conclusion Code "I" for Home Schooling. The category of CA/N should be coded "7" for None – Home Schooling. Worker's specific findings and severity should be left blank.

If there is a history of prior substantiated educational neglect the worker will:

- Refer the family to the juvenile office.
- If the juvenile office opts to pursue the case in order to rule out educational neglect, the *worker will assist the juvenile office and conduct the report as an educational neglect investigation/family assessment until home schooling is verified.*
- If home schooling is verified by the juvenile office:
 - a) Cease further investigation into the matter.
 - b) Notify the superintendent or designee of school district of child's residence and inform parent(s) of this action.
 - c) Forward written report to the school within (3) working days of being advised by parent(s). (see *Guidelines for Letter to School District on Reports Concluded as Home Schooling*)
 - d) Conclude the report using CA/N-1 Conclusion Code "I" for Home Schooling. The category of CA/N should be coded "7" for None – Home Schooling. Worker's specific findings and severity should be left blank.

RELATED LINKS:

Missouri Department of Elementary and Secondary Education—Home Schooling Information
<http://dese.mo.gov/schoollaw/HomeSch/homeschool.htm>

Missouri Department of Elementary and Secondary Education – Compulsory Attendance and Part-Time Public School Enrollment:
<http://dese.mo.gov/schoollaw/freqaskques/CompAttend.htm#1>

NECESSARY ACTION:

1. Review this memorandum with all Children's Division staff.
2. Review revised *Child Welfare Manual* sections: [Section 2, Chapter 8, School Related Issues](#).
3. All questions regarding specific case situations, as related to these procedures, should be cleared through normal supervisory channels.

FMS/RDM