

To: DCF/DMCPS Administrators  
DCF Area Administrators  
Child Placing Agency Directors  
Child Welfare Agency Directors  
County Departments of Community Programs Directors  
County Departments of Developmental Disabilities Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
Group Home Providers  
Tribal Social Service/Indian Child Welfare Directors  
Private Child Placing Agencies  
Residential Care Center Providers  
Shelter Care Providers  
Tribal Chairpersons

From: Fredi-Ellen Bove   
Administrator

Re: 2015 WI Act 373: Change of Placement

## PURPOSE

The purpose of this memo is to provide notice of modifications to Chs. 48 and 938 Wis. Stats., primarily related to changes of placement as required under 2015 WI Act 373, effective October 1, 2016.

## BACKGROUND

Recent legislation, 2015 WI Act 373, includes new provisions related to:

- procedures for changing the placement of a child who is subject to a temporary physical custody order or termination of parental rights order of the juvenile court;
- emergency change-in-placement procedures for a child who is placed in his or her own home under a dispositional order of the juvenile court;
- procedures for requesting and objecting to a proposed change in placement of a child and for changing the placement of a child when no objection is filed;
- procedures for amending a consent decree, including changing a placement or revising other terms;
- venue in post-dispositional proceedings under Ch. 48, Stats. and Ch. 938, Stats.;
- case closure orders with respect to a child whose dispositional order is terminated; and
- the effective period of a temporary physical custody and termination of parental rights orders.

## POLICY AND PROCEDURE REQUIREMENTS

Agencies should discuss requirements and procedures with their legal counsel.

The change of placement, consent decree, and case closure citations amended or created by the Act are outlined below. The Ongoing Services Standards have been updated to include modifications related to changes of placement and case closure orders. An updated version of the full Ongoing Services

Standards is attached. In addition, an “in brief” version of the Standards has been included, which highlights the sections affected by the new legislation.

The change of placement requirements can be found under the following citations:

- Emergency Change of Placement:
  - § 48.217(2)
  - § 48.357(2)
  - § 48.437(2)
  - § 938.217(2)
  - § 938.357(2)
- Non-Emergency Change of Placement:
  - § 48.217
  - § 48.357
  - § 48.437
  - § 938.217
  - § 938.357
- Consent Decree Change of Placement
  - § 48.132
  - § 938.132
- Case Closure
  - § 48.355(4g)
  - § 938.355(4g)

The Children’s Court Improvement Project has created an on-line learning activity on Case Closure Orders that can be viewed here: <http://wicciptraining.com/Modules/All>.

#### **ACTION SUMMARY**

All county agencies, DMCPs, and all contracted agencies are required to comply with all of the requirements set forth in this memo and the attached policy.

Effective October 1, 2016, the application of the statutory change first applies to any new change of placement, whether an emergency change of placement or non-emergency change of placement.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Out-of-Home Care Specialist  
Bureau of Permanency and Out-of-Home Care  
(608) 422-6937

MEMO WEB SITE: <http://dcf.wisconsin.gov/cwportal/policy>

Attachments Ongoing Services Standards – modified sections only

[Ongoing Services Standards – full policy](#)

# Ongoing Services Standards



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2015 WI Act 373  
Change of Placement  
Policy Changes

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### **Case Closure for Child Protective Services Cases**

Safety intervention responsibilities are not complete until all required assessments and conclusions are completed. No case will be recommended for closure if a child is not safe.

Prior to case closure, the agency must facilitate a process to engage family members, service providers, and informal supports in developing a plan for identifying and meeting child and family needs after agency involvement has ended.

The first safety intervention responsibility at case closure is the safety assessment. The assessment must include information concerning the absence or presence of impending danger threats.

The second responsibility assesses caregiver protective capacities, which must be sufficient to protect against threats that continue to exist or might emerge. The caregiver must understand his/her role and act effectively in his/her protective capacity.

The final safety intervention includes reviewing the need for a “safety net” followed by establishing one as appropriate. A safety net refers to arrangements, connections, and supports within the family network or community that can be created, facilitated, and reinforced to reassure the caregiver and provide resources and assistance.

To assist a family in achieving sustainable change, and ultimately safe case closure, the caseworker must have the ability to apply safety and permanency related concepts and criteria as part of the intervention responsibilities. This includes:

- Continually reassessing impending danger; evaluating and confirming the sufficiency, feasibility, and sustainability of safety plans and when necessary, making immediate adjustments to assure that safety interventions are the most appropriate and least intrusive for the family.
- Engaging parents/caregivers and children in the assessment and planning process in order to:
  - Identify behavioral change strategies that address impending danger by enhancing caregiver protective capacities.
  - Identify lasting and permanent connections for the child and family.
- Evaluating progress related to the parent/caregiver establishing and maintaining a safe and permanent home for their children.

## **Planning for Safe Case Closure**

The agency caseworker must ensure that the transition to case closure is communicated to others involved with the case.

A stable home and safe case closure is achieved by:

- Preparing the child and family throughout the case process.
- Assessing any current or ongoing needs.
- Developing a process for the transition that is in the best interests of the child considering the child's emotional, behavioral, and psychological needs.

The caseworker uses the following criteria to determine if a safe home exists and stability has been achieved:

- Parents/caregivers have made sufficient progress in addressing case goals (enhanced protective capacities).
- Formal or informal supports are available and accessible to the family, as needed, after the case is closed with the agency.

Prior to case closure, the caseworker must have face-to-face contact with family members and the family team, if involved, to:

- Support the family in determining how the family's needs will be met after agency involvement ends.
- Inform the family of the date that ongoing child protective services will end.

There are other reasons that a case may close including when a child reaches the age of majority or a court refuses to extend an order. Please see page 93 and page 152, Independent Living Planning, regarding the requirements when a child reaches the age of majority

## **Safety at Case Closure**

Safety intervention at case closure relates to confirming that there is no impending danger threats or that sufficient parent/caregiver protective capacities exist to protect the child from impending danger threats.

The CPS responsibilities in making a determination that a safe home exists include

- A formal safety assessment concerning the absence or presence of impending danger threats.
- Reassess parent/caregiver protective capacities.

The caseworker should work with the family to ensure informal or formal supports are in place prior to case closure, including arrangements and connections within the family network or community that can be created, facilitated, or reinforced to provide the parent/caregiver resources and assistance once CPS involvement ends.

### **Documentation**

Case closure and the termination of all plans must be documented in the family eWiSACWIS case record and approved by a supervisor or his/her designee within 30 days from the date the case closure decision was made by the supervisor and caseworker.

Documentation at planned case closure must include:

- A reassessment of child safety.
- The rationale for the decision to close the case.
- A description of the closure process with the family and service providers, including the family's plan for meeting future service needs.

Additional requirements when a family will no longer accept services:

- A reassessment of child safety.
- Any agency efforts to continue to provide services. If the safety assessment indicates a child in the family is not safe, this must include efforts to request a petition to the court to order services.
- The reason for closure.
- A copy of a letter to the family indicating what actions the agency has taken or will take and other resources available to the family.

A case may not be closed if there is an active CHIPS order.

In all cases when a child is an Indian child, a letter must be sent to the tribe indicating the case has been closed and a copy of the letter must be maintained in the family's case record.

### **Early Dismissal of Dispositional Order**

One responsibility of the CPS caseworker is to initiate additional court actions throughout the case process. When a determination is made a family is no longer in need of court ordered CPS services, a request must be submitted to the court for early dismissal of dispositional order and signed by the judge before a case with court jurisdiction can be closed by the agency.

### **Case Closure Orders under ss. 48.355(4g) & 938.355(4g)**

Case closure court orders can allow the juvenile court to enter or modify a family court order and terminate the juvenile court order. The juvenile court only has the authority to enter or modify the family court order after the dispositional order is entered and if the child is or will be placed with a parent via the orders. The juvenile court may determine paternity, legal custody, periods of physical placement, visitation rights, or child support and parental obligation for health care expenses. Subsequent modifications to the court order would occur in family court.

Any decision that is made shall be done in consultation with the agency's district attorney or cooperation counsel.

### **Case Closure for Child Protective Services Cases**

Safety intervention responsibilities are incomplete until certain assessments and conclusions are reached. It is important to emphasize that in no instance should a case be recommended for case closure if a child is not safe.

Prior to case closure, the agency should arrange and facilitate a process to engage family members, service providers, and informal supports in developing a plan for identifying and meeting child and family needs after agency involvement has ended.

The first safety intervention responsibility at case closure is safety assessment. The assessment must include information concerning the absence or presence of impending danger threats.

The second responsibility is concerned with assessing caregiver protective capacities. The caregiver's protective capacities should be sufficient to protect against threats that continue to exist or might emerge. The caregiver should fully embrace and act effectively in their protective role.

The final safety intervention responsibility is to review the need for a "safety net" followed by establishing one as appropriate. A safety net refers to arrangements, connections, and supports within the family network or community that can be created, facilitated, and reinforced that reassure the caregiver, provide resources, and assistance.

To assist a family in achieving sustainable change and, ultimately, safe case closure, the caseworker must apply safety and permanency related concepts and criteria as part of their intervention responsibilities. This includes:

- Continually reassessing impending danger; evaluating and confirming the sufficiency, feasibility, and sustainability of safety plans and when necessary, making immediate adjustments to ensure safety interventions are the most appropriate and least intrusive for the family.
- Engaging parents/caregivers and children in the assessment and planning process to:
  - Identify behavioral change strategies that address impending danger by enhancing caregiver protective capacities.
  - Identify lasting and permanent connections for the child and family.
- Evaluating progress related to the parent/caregiver establishing and maintaining a safe and permanent home for their children.

## **Planning for Safe Case Closure**

The agency caseworker must ensure the transition to case closure is communicated to others involved with the case.

Stability and safe case closure is achieved by:

- Preparing the child and family.
- Assessing any current or ongoing needs.
- Developing a process for the transition in the best interests of the child considering their emotional, behavioral, and psychological needs.

The caseworker uses the following criteria to determine if a safe home exists and permanence has been achieved:

- Parents/caregivers have made sufficient progress in addressing case goals (enhanced protective capacities).
- Formal or informal supports are available and accessible to the family, as needed, after the case is closed with the agency.

Prior to case closure, the caseworker must have face-to-face contact with family members and the family team, if involved, to:

- Support the family in determining how their needs will be met after agency involvement ends.
- Inform the family of the date that ongoing child protective services will end.

Other reasons a case may close include when a child reaches the age of majority or a court refuses to extend an order. Please see page 93 and page 152, Independent Living Planning, regarding the requirements when a child reaches the age of majority.

### **Safety at Case Closure**

Safety intervention at case closure relates to confirming there exist no impending danger threats and that sufficient parent/caregiver protective capacities exist to protect the child from impending danger threats.

The CPS responsibilities in making a determination that a safe home exists include both:

- A formal safety assessment confirms the absence of impending danger threats (Appendix II page 248).
- Parent/caregiver protective capacities are sufficient.

The caseworker must work with the family to ensure informal or formal supports are in place prior to case closure. These supports include arrangements and connections within the family network or community that can be created, facilitated, or reinforced to provide the parent/caregiver resources and assistance once CPS involvement ends.

### **Documentation**

Case closure information must be documented in the family eWiSACWIS case record and approved by a supervisor or designee within 30 days from the date the case closure decision was made by the supervisor and caseworker. Documentation at planned case closure must include:

- A reassessment of child safety.
- The rationale for the decision to close the case.
- A description of the closure process with the family and service providers, including the family's plan for meeting future service needs.

Additional requirements when a family no longer accepts services:

- A reassessment of child safety.
- Any agency efforts to continue to provide services. If the safety assessment indicates that a child in the family is not safe, this must include efforts to request a petition to the court to order services.
- The reason for closure.
- A copy of a letter to the family indicating what actions the agency has taken or will take and other resources available to the family.

A case may not be closed if there is an active CHIPS order.

In all cases when a child is an Indian child, a letter must be sent to the tribe indicating that the case has been closed and a copy of the letter must be maintained in the family's case record.

### **Early Dismissal of Dispositional Order**

One responsibility of the CPS caseworker is to initiate as appropriate, additional court actions.

When a determination is made that a family is no longer in need of court ordered CPS services, a request must be submitted to the court for early dismissal of the dispositional order and signed by the judge before a case with court jurisdiction can be closed by the agency.

### **Case Closure Orders under ss. 48.355(4g) & 938.355(4g)**

Case closure court orders can allow the juvenile court to enter or modify a family court order and terminate the juvenile court order. The juvenile court only has the authority to enter or modify the family court order after the dispositional order is entered and if the child is or will be placed with a parent via the orders. The juvenile court may determine paternity, legal custody, periods of physical placement, visitation rights, or child support and parental obligation for health care expenses. Subsequent modifications to the court order would occur in family court.

Any decision that is made shall be done in consultation with the agency's district attorney or cooperation counsel.

### Change of Placement

A change of placement may occur at any time for a variety of reasons after a TPC, CHIPS, JIPS delinquency or TPR court order is issued.

Changes of placement that occur after a temporary physical custody (TPC), CHIPS, JIPS, delinquency, or a termination of parental rights (TPR) order is issued must follow the procedures and notice requirements set forth in statutes. This permits case participants, if they are allowed by statute, to object to the change of placement in a timely manner and to request a hearing. It also minimizes disruption to the child if the court determines the proposed change is not in the child's/youth's or Indian child's best interests.

Note: If a request is being made to remove the child or youth from in-home while under a TPC order to out-of-home care, the change of placement is not done according to these procedures and must be done by amending the TPC order under § 48.21(6).

There are additional procedures that must be followed when a change of placement is done on an emergency basis as described below.

#### **Emergency Change of Placement § 48.217(2), 48.357(2), 48.437(2), 938.357(2), 938.217(2), 48.32(1)(am), or 938.32(1)(bm)**

An emergency change of placement may be done when the child/youth is no longer safe, as determined by any of the following:

- Confirming Safe Environments.
- If the out-of-home care provider is no longer willing or able to care for the child.
- If community safety requires immediate removal of the child from the placement.
- A safety assessment indicates that controls put into place on the safety plan are no longer keeping the child safe in the home.
- Other emergency conditions necessitate an immediate change in placement.

If emergency conditions necessitate an immediate change of placement, a child may be moved without first requesting a change of placement. But proper notice of the change of placement must be sent within 48 hours after the change of placement. A hearing may also be required if there is an objection by parties or in some cases if the court decides to hold a hearing.

If a placement is changed on an emergency basis from in-home to out-of-home under a CHIPS, JIPS, or delinquency order, the hearing must be held within 48 hours after the emergency placement is made, excluding Saturdays, Sundays, and legal holidays.

As required in statute, the court, specified participants, and the physical custodian of the child shall be provided notice of the change of placement and may have a right to object

within 10 days of receipt of the notice and to request a hearing. If a child/youth has been placed with a foster parent or relative caregiver for more than six months, the foster parent or relative caregiver also may have the ability to appeal the change of placement pursuant to § 48.64.

Note: If a request is being made to remove the child or youth from in-home while under a TPC order to out-of-home care, the change of placement is not done according to these procedures and must be done by amending the TPC order under § 48.21(6).

**Non-Emergency Change of Placement § 48.217, 48.357, 48.437, 938.357, 938.217, 48.32(1)(am), or 938.32(1)(bm)**

When emergency conditions do not exist, a child's/youth's or Indian child's placement may not be changed before following required procedures. Non-emergency situations include the following:

- A change from one out-of-home care placement to another.
- When the child is reunified with a parent.
- When the child and/or family are receiving services in-home, but the child can no longer be maintained in the home and, therefore, the child is placed in out-of-home care.
- Note: If a request is being made to remove the child or youth from in-home while under a TPC order to out-of-home care, the change of placement is not done according to these procedures and must be done by amending the TPC order under § 48.21(6).

A change of placement may not occur until either a hearing is held or ten days after the notice of change of placement is sent to the court, specified participants, and the physical custodian, except under the circumstances explained below. Individuals entitled to receive notice of the change of placement may have a right to object within ten days of receipt of the notice and request a hearing on the matter.

The child's placement can be changed immediately, without waiting the ten days, if written waivers of objection have been signed by all the necessary participants or the Dispositional Order authorizes the change of placement and the required notice is given. However, notice of the change of placement would still have to be provided to the court, specified participants, and the physical custodian.

If a child/youth has been placed with a foster parent or relative caregiver for more than six months, the foster parent or relative caregiver may also be able to appeal the change of placement pursuant to § 48.64.