

## Question and Answer Document for Candidacy for Foster Care Webinar

**Q: Up to this point, we have identified that certain children in ongoing (AR, voluntary or PSUP) would be candidates for foster care if the identified preventative services were absent. In the build, it was identified that the children had to be at imminent risk. We have a lot of children who are candidates for foster care without imminent risk, there obviously is a risk or we would not continue our case. Imminent risk to me implies that I would remove them now and not necessary put services in place. I am hoping that you can clarify. If it can only be imminent, it will greatly reduce the number of children we identify as candidates of foster care.**

A: Child Welfare Policy Manual 8.1D TITLE IV-E, Administrative Functions/Costs, Candidates

**Q: At what point may a child be considered a candidate for foster care?**

A: A candidate for foster care is a child **who is at serious risk of removal** from home as evidenced by the State agency either pursuing his/her removal from the home or making reasonable efforts to prevent such removal. The basis for determining when a child may be considered a candidate for foster care can be found in statute, Departmental policy, and Departmental Appeals Board (DAB) decisions:

STATUTE: Section 471(a)(15)(B)(i) of the Act provides the frame of reference for determining the point at which a child becomes a candidate for foster care by requiring a State to make reasonable efforts to prevent a child's removal from home. **A child may not be considered a candidate for foster care solely because the State agency is involved with the child and his/her family. In order for the child to be considered a candidate for foster care, the State agency's involvement with the child and family must be for the specific purpose of either removing the child from the home or satisfying the reasonable efforts requirement with regard to preventing removal.**

DEPARTMENTAL POLICY: stipulates the three acceptable methods for documenting a child's candidacy for title IV-E foster maintenance payments. The existence of these forms of documentation indicates that a child legitimately may be considered a candidate for foster care:

1) A defined case plan which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child.

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The decision to remove a child from home is a significant legal and practice issue that is not entered into lightly. Therefore, a case plan that sets foster care as the goal for the child absent effective preventive services is an indication that the child is at serious risk of removal from his/her home because the State agency believes that a plan of action is needed to prevent that removal.

2) An eligibility determination form which has been completed to establish the child's eligibility under title IV-E.

Completing the documentation to establish a child's title IV-E eligibility is an indication that the State is anticipating the child's entry into foster care and that s/he is at serious risk of removal from home. Eligibility forms used to document a child's candidacy for foster care should include evidence that the child is at serious risk of removal from home. Evidence of AFDC eligibility in and of itself is insufficient to establish a child's candidacy for foster care.

3) Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order or a transcript of the court proceedings.

Clearly, if the State agency has initiated court proceedings to effect the child's removal from home, s/he is at serious risk of removal from the home.

DAB DECISIONS: DAB Decision No. 1428 offers the following guidance for identifying the point at which a child may be considered a candidate:

**"...The methods of documenting candidacy [identified in the Department's policy guidance] involve activities which occur at a point when the state has initiated efforts to actually remove a child from his or her home or at the point the state has made a decision that the child should be placed in foster care unless preventive services are effective..."**

**The DAB also ruled in Decision No. 1428 that a report of child abuse or neglect is insufficient for establishing a child's candidacy for foster care:**

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**"...The fact that a child is the subject of [a child abuse/neglect report] falls far short of establishing that the child is at serious risk of placement in foster care and thus of becoming eligible for IV-E assistance..."**

**A candidate, in the opinion of the DAB, is a child who is at serious risk of removal from his/her home because the State is either pursuing that removal or attempting to prevent it. A child cannot be considered a candidate for foster care when the State agency has no formal involvement with the child or simply because s/he has been described as "at risk" due to circumstances such as social/interpersonal problems or a dysfunctional home environment.**

- **Source/Date:** ACYF-CB-PA-01-02 (7/3/01)
- **Legal and Related References:** Social Security Act - section 471 (a)(15); Departmental Appeals Board Decision No. 1428

**Q: In the majority of cases where a child cannot remain safely in their home and there is a safe and appropriate relative/kinship caregiver available, our court will give temporary custody to grandparents, aunt/uncle, etc. and issue a protective supervision order. The goal of our case plan is reunification and services are provided to the birth parent(s) and children, and, when needed, the temporary caregiver. How would you recommend we document candidacy for foster care in these situations? Prior to the webinar I instructed our staff to include the following statement in the case plan, "absent these services, the plan for [child's name] is foster care." This language was specific for each child, by name.**

**A: The process should not change, however now will be choosing case plan from the drop down as to how candidacy is documented in SACWIS and putting the statement in the text box that appears in SACWIS.**

**Q: I had previously reviewed the information when we first went to 770. We have the language in our case plans. The concern after the build was that the drop down box was going to say "imminent risk" and not "serious rick" or "absent effective preventive services, foster care is the planned arrangement for the child". Maybe my staff misunderstood.**

**A: SACWIS currently says imminent risk; however, the question will be changed to state serious risk. The dropdown value of "child not at serious risk" has been added to reference value selection.**

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**Q: For additional clarification, the drop down box will have 3 options: case plan, court and voluntary (removing IV-E). Does voluntary imply that the family /child does not meet criteria for 770?**

A: There are three available dropdown values; 1. Court Action 2. Case Plan 3. Child not at Serious Risk. Voluntary is not a selection that will be captured in the drop down.

**Q: We may have voluntary or AR ongoing cases that are at the serious risk level, the families are working and cooperative (if they stopped being cooperative we would have to file). For these families/children, we would choose case plan in drop down box (after the drop down box is changed) since they meet the serious risk criteria?**

A: The historical flag is a database indicator and will not be viewable in production. You will be able to tell if an appeal record is historical because the following fields will be blank: Appeal File Date, Appeal Outcome Date, and Appeal Outcome.

**Q: Is it supposed to print out on the document?**

A: The information for the Candidate for foster Care does not currently print on the case plan document. A change/enhancement request is being logged to add this information to the generated report.

**Q: What would be the correct way to indicate Candidate for Foster Care if a child is in kinship care already and working reunification?**

A: Assuming the child is not in agency custody, the process should not change. The user would select case plan from the drop down values and record the explanation in the narrative text box.

**Q: Does the Candidate for Foster Care change to the Case Plan replace the need to have the wording in the Concerns section or is the completion of the section in addition to documenting within the Concerns the wording we have been previously using?**

A: Yes, the Candidate for Foster Care topic will replace the need to record the information in the concerns section of the case plan.

**Q: Once the choice of 'imminent danger' is an option, could you please clarify when to choose that option? For example: Choose 'imminent danger' when there is an active safety plan, when a complaint has been filed requesting ETC or TC,**

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etc... Also, I was told that this section would only appear for PSUP and services cases and I wanted to verify that is still correct now that 'imminent danger' will be a choice.

A: "Imminent danger" is not an option in the drop down values. The drop down values are; Court Action, Child not at Serious Risk and Case Plan.

**Q: What are the implications/expectations regarding case plan amendments if the imminent risk of removal status changes.**

A: If the information regarding serious risk has changed, then a case plan amendment can be created to record the updated candidacy information.

**Q: Does documenting Candidacy for Foster Care in an active safety plan meet the federal requirements?**

A: No. There are three acceptable forms of documentation that establish a child's candidacy for title IV-E support that the State agency must make the determination with respect to candidacy:

1) A defined case plan which clearly indicates that, absent effective preventative services, foster care is the planned arrangement for the child.

The DAB, in Decision No. 844, ruled that the development of a case plan is a title IV-E administrative function that may be performed on behalf of candidates in accordance with section 471(a)(16) of the Act. The case plan identified above is thus the State agency's case plan developed in compliance with section 471(a)(16) of the Act.

2) An eligibility determination form which has been completed to establish the child's eligibility under title IV-E.

As stated earlier, only employees of the State agency can make the determination with respect to candidacy because it is a type of eligibility determination. The form referenced above is thus the State agency's documentation of the child's eligibility for title IV-E. (Ohio is opting not to use this method at this time)

3) Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order or a transcript of the court proceedings.

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A candidate is a child for whom the State agency is either seeking a removal or fulfilling the statutory requirement to attempt to prevent removal from the home. Among other things, the State agency is required to obtain a judicial determination sanctioning or approving such an attempt to prevent removal with respect to reasonable efforts to qualify the child for title IV-E foster care maintenance payments. The judicial proceedings referenced above are those proceedings the State agency initiates to obtain the judicial determinations related to the removal of a child from home.