

West Virginia Department of Human Services

# Youth Services Policy

Bureau for Social Services

Revised May 2024

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## **SECTION 1 – INTRODUCTION AND OVERVIEW**

### **1.1 Mission, Vision, and Values**

The mission of the West Virginia Bureau for Social Services is promoting the safety, permanency, and well-being of children and vulnerable adults, supporting individuals to succeed and strengthening families. Our vision is for all West Virginia families to experience safe, stable, healthy lives and thrive in the care of a loving family and community. Our values include professionalism, integrity, excellence, relationships, and staff contributions.

### **1.2 Introduction**

The primary purpose of Youth Services interventions is to provide services which alter the conditions contributing to unacceptable behavior by youth involved with the BSS Department system; and to protect the community by controlling the behavior of youth involved with the Department. Through this purpose the BSS believes it will effectuate its mission to develop a proactive system which preserves safe and healthy families.

This policy sets forth the philosophical, legal, practice, and procedural issues which currently apply to Youth Services in West Virginia. This material is based upon a combination of requirements from various sources including but not limited to: social work standards of practice; accepted theories and principles of practice relating to services for troubled children; Chapter 49 of the Code of West Virginia; case decisions made by the Supreme Court of Appeals of West Virginia; and, the Adoption and Safe Families Act. Youth Services is a specialized program which is part of a broader public system of services to children and families.

### **1.3 Philosophical Principles**

Philosophical beliefs about children and families involved with the Juvenile Justice System are the single most important variable in the provision of quality Youth Services. Thoughts about families, our interactions with them, the decisions made independently and with families and children, and how the community is involved to assist them are determined in advance by what is believed.

The most basic and powerful influence of helping in Youth Services is expressed by consistently applying professional beliefs and values. The following philosophical principles represent the social work orientation to Youth Services.

- Youth Services is child centered, and family focused. The aim is to strengthen the functioning of the family unit, while assuring adequate protection for the child, family, and community.
- All Youth Services interventions should be directed by helpfulness.
- Juvenile offenses are multifaceted problems which affect the entire community. A coordinated, multi-disciplinary effort which involves a broad range of community agencies and resources is essential for an effective Youth Services program.
- It is best to keep children with their parents when safety can be controlled.

- The public has a right to a safe and secure community.
- Whenever an offense occurs then an obligation by the juvenile offender occurs.
- Families have a right to be involved in the casework process.

Effective intervention requires that Youth Services respond in a non-punitive, noncritical manner and offer help in the least intrusive way possible. Children and families shall be treated with dignity and respect by the child welfare staff and all providers of service working with them. It is the Child Welfare System's responsibility to ensure the rights of children and families being served are protected. In doing so, child welfare workers shall not assume all children in care are heterosexual, cis-gender or gender-conforming and will treat Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex (LGBTQI) Youth with respect and competence. They will also adhere to state and federal laws related to LGBTQI Youth.

All professionals in state and local child welfare systems have an obligation to understand and adhere to the federal laws that protect the families and children in the communities they serve. Decisions made by child welfare workers should be made without intentional or unintentional discrimination. This includes discriminating on the basis of age, race, color, sex, mental or physical disability, religious creed, national origin, sexual orientation, political beliefs and limited proficiency in speaking, reading, writing or understanding the English language.

## **1.4 Legal Basis**

Youth Services stems from both a social concern for the care of children and from a legal concern for the rights of children. Although Chapter 49 of the West Virginia Code does not contain the term Youth Services it is clear from the statutes that the BSS has a legal obligation to provide assistance to children and families involved with the Juvenile Justice System. The BSS has chosen the term Youth Services as the designation for the services provided to meet our obligations under the Juvenile Justice Statutes. These obligations are set out in Chapter 49 of the West Virginia Code. Excerpts from Chapter 49 regarding these obligations are included here. However, reference should be made to the entire Chapter and to Chapters 27, 48 and 61 which contain the statutes for Mentally Ill persons, Domestic Relations and Crimes and Their Punishments. The statutes may be found within the CCWIS or on the internet at <https://code.wvlegislature.gov>



## 1.5 General Definitions

<b>Term</b>	<b>Definition</b>
<b>Adjudication</b>	In juvenile proceedings, adjudication is when a Judge makes an official decision on if a juvenile has broken West Virginia Statute. See, <a href="#">W. Va. Code § 49-4-711</a>
<b>Adjudicatory hearing</b>	A judicial process designed to make a judgment on the existence or nonexistence of any conditions alleged in the juvenile petition. At all adjudicatory hearings held under this article, all procedural rights afforded to adults in criminal proceedings shall be afforded the juvenile unless specifically provided otherwise in Chapter 49 of the Code of West Virginia. At all adjudicatory hearings held under this article, the rules of evidence applicable in criminal cases apply, including the rule against written reports based upon hearsay. See, <a href="#">W. Va. Code §49-4-701(j) and (k)</a>
<b>Adult</b>	A person who is at least 18 years of age. See, <a href="#">W. Va. Code § 49-1-202</a>
<b>Bureau for Social Services (BSS)</b>	The bureau within the Department of Health and Human Resources responsible for the welfare of West Virginia children, families, and vulnerable adults.
<b>Bureau of Juvenile Services (BJS)</b>	A bureau within the Division of Corrections and Rehabilitation, Department of Homeland Security. See, <a href="#">W. Va. Code § 49-1-208</a>
<b>Case plan</b>	A comprehensive document which directs the provision of all casework services including the services provided to the child and the family.
<b>Court</b>	The circuit court of the county with jurisdiction of the case unless otherwise specifically provided.
<b>Crime Victim's Compensation Fund</b>	A special revenue fund within the state Treasury established by the Crime Victims Compensation Act, created by the West Virginia Legislature, which can be utilized for victims of crimes (including minors in civil abuse and neglect cases) for payment of expenses attributed to or caused by their victimization. See, <a href="#">W. Va. Code §14-2A-11a</a> , and Foster Care Policy 7.1

<b>Term</b>	<b>Definition</b>
<b>Custody</b>	The care, control and maintenance of a child which can be legally awarded by the court to an agency. Refers to the legal right to make decisions about children, including where they live. Parents have legal custody of their children unless they voluntarily give custody to someone else, or a court takes this right away and gives it to someone else such as a relative or a child welfare agency. Whoever has legal custody can enroll the children in school, give permission for medical care, and give other legal consents.
<b>Comprehensive Child Welfare Information System (CCWIS)</b>	A large customized statewide computerized Case Management System for all Child Welfare and Adult Service Programs. This system is in compliance with Federal requirements for a Statewide Automated Child Welfare Information System.
<b>Department or DoHS</b>	The West Virginia Department of Human Services and its five Bureaus; Bureau for Social Services (BSS), Bureau for Family Assistance (BFA), Bureau for Child Support Enforcement (BCSE), , Bureau for Medical Services (BMS), and Bureau for Behavioral Health (BBH). See, <a href="#">W. Va. Code § 49-1-208</a>
<b>Developmental disability</b>	A severe and chronic disability that is attributable to a mental or physical impairment, including, but not limited to, neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Family Advocacy Support Tool (FAST)</b>	An assessment tool used to understand the complex needs of families and to identify safety threats.
<b>Foster Care Candidate</b>	A child, under the age of 21, who is at imminent risk of foster care entry or re-entry and who: <ul style="list-style-type: none"> <li>● has not been removed from their home and placed in foster care; or</li> <li>● is not under the placement and care of the title IV-E agency and is residing with a relative or an individual with whom the child has an emotionally significant relationship characteristic of a family relationship (fictive kin); or</li> <li>● has returned home on a trial home visit; or</li> <li>● has returned from a foster care placement and is residing with their parent or a non-paid kinship relative caregiver; or</li> <li>● has been adopted or is in a legal guardianship arrangement.</li> </ul>

<b>Term</b>	<b>Definition</b>
<b>Incorrigible</b>	A term associated with “status offender,” used to describe a juvenile who habitually and continually refuses to respond to the lawful supervision by his or her parents, guardian, or legal custodian such that the juvenile's behavior substantially endangers the health, safety or welfare of the juvenile or any other person.
<b>Juvenile</b>	Any person who has not attained the age of 18 years of age or is a transitioning adult. Once a juvenile is transferred to a court with criminal jurisdiction (W.Va. Code §49-4-710) he or she shall remain a juvenile for the purposes of the applicability of chapter 49 of the Code of West Virginia. See, <a href="#">W. Va. Code § 49-1-202</a>
<b>Juvenile Delinquent</b>	A juvenile who has been adjudicated as one who commits an act which would be a crime under state law or a municipal ordinance if it were committed by an adult. See, <a href="#">W. Va. Code § 49-1-202</a>
<b>Legal Guardian</b>	The person who exercises legal physical control, care, or custody of a child. See, <a href="#">W. Va. Code § 49-1-204</a>
<b>Mental illness</b>	A manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion, and physical well-being. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Multidisciplinary Treatment Team (MDT)</b>	The juvenile, the juvenile’s case manager (BJS and/or the Department), juvenile’s parent or parents, guardian or guardians or custodial relatives, juvenile’s attorney, prosecuting attorney, school official, domestic violence advocate, probation officer, or any other person or agency who may assist in providing recommendations for the particular needs of the juvenile and family. See, <a href="#">W. Va. Code § 49-4-406</a>
<b>Needs assessment</b>	An evidenced-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of recurring. The Bureau has chosen the FAST as its needs assessment. See, <a href="#">W. Va. Code § 49-1-206</a>

<b>Term</b>	<b>Definition</b>
<b>Non-secure facility</b>	Any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides access to the surrounding community with supervision for juveniles. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Quarterly Review</b>	For each child who remains in foster care as a result of a juvenile proceeding or as a result of a child abuse and neglect proceeding, the circuit court with the assistance of the multidisciplinary treatment team shall conduct quarterly status reviews in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safety maintained in the home or placed for adoption or legal guardianship. Quarterly status reviews shall commence three months after the entry of the placement order. The permanency hearing may be considered a quarterly status review. See, <a href="#">W. Va. Code § 49-4-110</a>
<b>Reasonable and Prudent Parent standard</b>	The standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. See, <a href="#">W. Va. Code § 49-2-128</a>
<b>Residential services</b>	Childcare which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians or other persons or entities on a continuing or temporary basis. It may include care and/or treatment for transitioning adults. Residential services do not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Bureau of Juvenile Services, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Runaway</b>	A term associated with “status offender,” used to describe a juvenile who has left the care of his or her parents, guardian, or custodian without the consent of that person or without good cause. See, <a href="#">W. Va. Code § 49-1-202</a>

<b>Term</b>	<b>Definition</b>
<b>Safety plans</b>	Temporary plans put in place to control or mitigate immediate and impending safety threats.
<b>Secure facility</b>	Any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of children or other individuals held in lawful custody in that facility. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Staff-secure Facility</b>	Any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in that facility and which limits its residents' access to the surrounding community but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Status offender</b>	<p>A juvenile who has been adjudicated as one:</p> <ul style="list-style-type: none"> <li>(A) Who habitually and continually refuses to respond to the lawful supervision by his or her parents, guardian or legal custodian such that the juvenile's behavior substantially endangers the health, safety or welfare of the juvenile or any other person (see also incorrigible);</li> <li>(B) Who has left the care of his or her parents, guardian, or custodian without the consent of such person or without good cause (see also runaway); or</li> <li>(C) Who is habitually absent from school without good cause (see also truant).</li> </ul> <p>See, <a href="#">W. Va. Code § 49-1-202</a></p>
<b>Standardized screener</b>	<p>A brief validated non-diagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.</p> <ul style="list-style-type: none"> <li>● Within the Division of Juvenile Justice including the Youth Report Centers, the Standardized Screener is the MAYSI-2.</li> <li>● Within the Bureau for Children and Families the Standardized Screener is the FAST.</li> </ul> <p>See, <a href="#">W. Va. Code § 49-1-206</a></p>

<b>Term</b>	<b>Definition</b>
<b>Truancy diversion specialist</b>	A school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Truancy</b>	In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant shall make a complaint against the parent, guardian, or custodian before a magistrate of the county. See, <a href="#">W. Va. Code § 49-1-202</a> and <a href="#">W. Va. Code § 18-8-4</a>
<b>Youth</b>	A person who has not attained the age of 18 years. Youth may also be referred to as juveniles, teens, young people, or young adults.

**1.6 Target Population**

The target population for Youth Services includes youths under 18 years of age or between the ages of 18 and 21 if under the jurisdiction of the court, and one of the following apply:

- The youth is experiencing problems in the home, school, and/or the community to such an extent that the resulting behavior has the potential to become the basis for status offense or delinquency proceedings and intervention has been requested by the parent(s), guardian(s), custodian(s) or by the court to resolve the problem(s) without formal involvement in the juvenile justice system;
- The youth is under the auspices of the juvenile justice system and has been referred to the BSS for services;
- The youth is an alleged delinquent who has been referred for services or placed in the temporary legal and/or physical custody of the Department as an alternative to detention; and,
- The youth has been adjudicated as a status offender for a truancy offense prior to turning eighteen and the court case has not been resolved and dismissed from the court’s docket.

When a Youth Services case is opened, the child welfare worker may focus on the youth of primary concern. However, the child welfare worker must engage the entire family in the process related to the youth’s rehabilitation, including assessing the safety of all the children in the home on a regular basis. The child welfare worker must interview the youth’s siblings, parents, and other household members to ensure the well-being and safety needs of the household are being met and documented appropriately. Include appropriate family members in case planning, which will assist in meeting the youth’s needs and reducing the risk the youth pose to themselves, their family, or their community.

## **1.7 Foster Care Candidacy**

A foster care candidate is a child, under the age of 21, who is at imminent risk of foster care entry or re-entry, and who:

- has not been removed from their home and placed in foster care; or
- is not under the placement and care of the title IV-E agency and is residing with a relative or an individual with whom the child has an emotionally significant relationship characteristic of a family relationship (fictive kin); or
- has returned home on a trial home visit; or
- has returned from a foster care placement and is residing with their parent or a non-paid kinship relative caregiver; or
- has been adopted or is in a legal guardianship arrangement.

These children are considered at imminent risk of foster care entry, or re-entry, if at least one of the following conditions exist:

- The child has been abused or neglected or has been identified as unsafe and without intervention is likely to be removed.
- The child suffers a serious emotional, behavioral, or mental disturbance and without intervention will be unable to reside in their home.
- The child has committed a prosecutable offense in which the state has filed, or is considering filing, a juvenile petition and the planned out of home living arrangement is a foster care setting.
- The child is a runaway or homeless youth.
- The child is, or will be born, to a youth residing in foster care.
- The child is an adopted child(ren) or in a legal guardianship arrangement which is at risk of disruption.

When a child welfare worker is working with a Foster Care Candidate, workers must develop a case plan and utilize preventative services designed to mitigate the problems identified through the assessment to prevent removal from the home or re-entry into foster care. The BSS has chosen to use the Youth Service Case Plan, described in Section 6, as the case plan for all children who have not been removed from their home and children who have returned from a foster care placement to their home or the home of an appropriate kin/relative.

The parent(s) and caregiver(s) in the home will sign the case plan, acknowledging that they understand that should the family not be able to comply with the case plan and meet the goals laid out in it, their child(ren) may be removed from the home.

## **1.8 Youth Services Casework Process**

The Youth Services casework process is based on an analytical model for problem solving. This includes an assessment of youth, family, and community safety throughout the life of the case, choosing among alternative treatment strategies and continuously evaluating the effectiveness of selected strategies. The process is based on several principles:

- It is sequential, activities are ordered and continuous.
- The process is logical, based on reason and inference.
- It uses a unified, reflective coherence.
- The process is progressive, based on step-by-step procedures.
- Flexibility is critical due to the dynamic nature of worker-client interaction.

The casework process consists of several basic steps. The steps can vary depending on whether or not there is involvement of the court. In general, the process will proceed as follows:

- Intake
- Referral acceptance, screen out and refer the family to appropriate resources if necessary
- Completion of the Family Advocacy Support Tool (FAST) on all accepted referrals
- Development of a case plan
- Service provision
- Case evaluation
- Case closure

## SECTION 2 - INTAKE

### 2.1 Intake Definitions

The definitions used below are specific to this section and are a supplement to the general definition section.

<b>Intake</b>	The intake process consists of the documentation of information about the family, the reporter and the situation, and the supervisory steps to determine appropriate action with the family.
<b>Duplicate Referral</b>	More than one report has been received involving the same youth and incident.

### 2.2 Introduction

Intake is the process by which reports about youth who may require the attention of the Bureau for Social Services (BSS) are made and the BSS determines whether the case will be opened for further assessment or “Screened Out” due to not meeting the requirements for intervention.

Youth Services intakes may come in many forms, the most common forms will be telephone referrals, prosecutor “diversion” referrals, or juvenile petitions alleging a youth is a status offender or juvenile delinquent. Each referral will be taken and entered, referrals from prosecutors for diversion and juvenile petitions must be accepted and assessed regardless of referral narrative.

During the intake process if there is any indication of abuse and neglect a referral must be made to Centralized Intake at 1-800-352-6513.



## 2.3 Statutory Requirements

[W. Va. Code § 49-4-704\(e\)](#) requires the circuit clerk or the Juvenile Probation Officer to notify the BSS, within two judicial days, whenever a petition alleging that a youth is a status offender, or a juvenile delinquent is filed in circuit court. [W. Va. Code § 49-4-702](#) requires the BSS to assess and case plan for any youth referred by the prosecutor for informal resolution through the “pre-petition diversion” process.

Another form of petition may result from a domestic violence petition filed pursuant to [W. Va. Code § 48-27-403](#) by or on behalf of the youth's parent, legal guardian, or other person with whom the youth reside that results in the issuance of an emergency protective order naming the youth as the respondent shall be treated as a petition arising under [W. Va. Code § 49-4-701, et seq.](#), alleging the youth is a juvenile delinquent. The statutes do not specify the form that the notification must take. It is assumed that practice may vary from circuit to circuit.

## 2.4 Information Gathering

When gathering information from the referent the child welfare worker, in general, will:

- Interview the reporter, probing for information in all areas and clarifying information and attitude conveyed by the reporter and whenever possible, recording exactly what the reporter says.
- Ask the referent questions in a non-leading and open-ended manner.

When interviewing the referent, the child welfare worker will attempt to specifically gather information identified in the Comprehensive Child Welfare Information System (CCWIS.) This information includes:

- Reporter’s demographic and contact information, unless they choose to remain anonymous, and reasons for making a referral.
- Demographic information about the youth, the family, all members of the household and any absent parent; the caregiver’s last name will be identified as the case name.
- Determine other individuals, or collateral contacts, who may be able to contribute further information.
- Determine whether the referent is aware of previous involvement with Youth Services or Child Protective Services.

If the source of the referral is a petition from a Juvenile Probation Officer, the notification date and hearing screens become mandatory. Referrals from Juvenile Probation Officers must be assigned immediately for assessment.

The child welfare worker must conduct a CCWIS records search for prior or current social service cases the youth and/or family may have been in or are currently involved. This will provide more information to support the child welfare worker’s recommendation to accept the case for Youth Services or to screen out the referral.

## 2.5 Screening Decision and Response Time

Screening is the term used to describe the process by which the child welfare supervisor reviews the information gathered at intake and decides what actions should be taken regarding the referral. The actions to be taken may depend in part on who made the referral; for example, a prosecutor making a pre-petition diversion referral or a Juvenile Probation Officer referring a juvenile petition (See Section 2.5 Mandatory Cases).

The first step in the screening process is to determine if the information gathered at intake is enough to support the need for Youth Service involvement. If it is not, then the child welfare supervisor may contact the referent personally or direct the child welfare worker to do so. Reasons for screening out a referral may include:

- Blatantly false report;
- The youth in question is 18 or older;
- Insufficient information to locate the family;
- The family does not live in West Virginia;
- The referral is not appropriate for Youth Services but appears to require Child Protective Services involvement only. These referrals must be made to Centralized Intake at 1-800-352-6513;
- The youth is not within the target population.

If in the opinion of the worker the youth is not presenting a risk to themselves, their family, or the community, then the worker may recommend to screen-out the referral and refer for services. Referrals may be made to a non-paid community service provider. An appropriate referral may also be made to a provider who accepts Medicaid or private insurance for behavioral/mental health needs.

If the report is a duplicate referral and the case is already being, or has been, appropriately addressed, then the child welfare worker must find and associate the referral to the current or closed case. A referral which contains new allegations or is similar to a previously assigned referral and meets the eligibility criteria for Youth Services, must be accepted and associated to the assigned referral.

If the child welfare worker recommends accepting the referral, the child welfare worker will need to find and associate any previous referrals or cases and determine how to dispose of the current referral. The child welfare worker may recommend to:

- Open a new case if the youth meet criteria for Youth Service involvement and there is no prior involvement with the BSS;
- Connect to an open case.
  - Youth Service cases will be assigned secondary to a CPS case.
- Connect to a closed case and reopen.
  - Reopening a closed CPS case requires the case type to be changed to Youth Services.
- Connect to a Screened-Out referral and open a case.

Finally, the child welfare worker will submit to the appropriate supervisor for approval. If the child welfare supervisor agrees with the recommendation the child welfare supervisor will approve and the case will be assigned for Initial Assessment with the appropriate response time.

Response time is the time a child welfare worker is given to make face-to-face contact with the youth and their family from the time the referral is received. Assigned Youth Service Initial Assessments require face-to-face contact with the family to be made within 14 days of assignment for the completion of the Initial Assessment. However, when referrals are received in the form of a juvenile petition, the worker must immediately begin attempting to see the youth and family. This will enable the worker to complete the required assessments and the proposed individualized case plan prior to the court hearing.

## **2.6 Mandatory Cases**

Certain situations require the BSS to accept a referral and open a case. These situations include:

- Notification of petitions alleging a youth is a status or delinquency offender and will be assigned to circuit court.
- Pre-Petition Diversion referrals consistent with [W. Va. Code §49-4-702](#); and,
- Referrals from law enforcement requesting placement of the youth.

### ***Referral from Juvenile Probation Officers***

Juvenile Probation Officers (JPO) are required by statute to notify the Department when a petition alleging that a youth is a status offender, or a delinquent is filed, and it appears that the Department will become involved in providing services to the youth and the youth's family, which may include a program of treatment or therapy.

All referrals from Juvenile Probation Officers which meet these criteria will be accepted and assigned to a worker without exception.

A JPO or other court official may call and request that a child welfare worker be present for a hearing in front of a magistrate or circuit court judge, including detention hearings. In these instances, the supervisor will direct the child welfare worker to attend the hearing even if no advance notice is given.

If a youth charged with delinquency is transferred to adult jurisdiction, the court order should be documented, and the Youth Services intake reviewed for closure.

All situations are unique, however according to [W. Va. Code § 49-4-714\(b\)](#) following the adjudication of a delinquent youth, during the mandated dispositional proceeding, there are six disposition options. . The child welfare worker, agency representatives or any other person who may assist in providing recommendations for the needs of the family and the youth shall consider the best interests of the juvenile and the welfare of the public. If a youth is placed in the custody of the Department as a result of a hearing, then a case will be opened and assigned.

### ***Pre-Petition Diversion Referrals***

Before a juvenile petition is formally filed with the court, the court may refer the matter to a child welfare worker, probation officer or truancy diversion specialist for preliminary inquiry to determine whether the matter can be resolved informally without the formal filing of a petition with the court.

Referrals received from prosecutors requesting a case be opened for Pre-Petition Diversion must be accepted and assigned.

### ***Referrals from Law Enforcement***

[W. Va. Code § 49-4-705\(b\)](#) allows a law-enforcement officer to take a youth into custody absent a court order under certain limited circumstances:

- grounds exist for the arrest of an adult in identical circumstances;
- emergency conditions exist which pose imminent danger to the health, safety and welfare of the youth;
- the youth is a runaway;
- the youth is a fugitive;
- the youth has been driving under the influence of any amount of alcohol; or
- the youth is a named respondent in an emergency domestic violence petition.

If one of these circumstances exist and it is believed that the circumstances present an immediate threat of serious bodily harm to the youth if released or no responsible adult can be found into whose custody the youth can be delivered, then the Department must assist law enforcement with obtaining a temporary, emergency placement of the youth.

Any such notification should be considered a referral for Youth Services unless there is already an open case involving the youth. All such referrals should be sent to the child welfare supervisor as soon as possible after the information has been entered into the CCWIS.

## **2.7 Duplicate Referrals**

The term “duplicate referrals” means that more than one report has been received involving the same youth and incident. Duplicate referrals may come from the same source as the original, adding more information to the first contact, or from a different source. If the child welfare supervisor receives more than one referral from a concerned individual, or individuals, related to the same youth then the child welfare supervisor should consider the new information and decide whether it meets the eligibility criteria. The child welfare supervisor will decide whether to assign the case to a child welfare worker for follow up.

## SECTION 3 – INITIAL ASSESSMENT

### 3.1 Initial Assessment Definitions

The definitions used below are specific to this section and are a supplement to the general definition section.

<b>Community-based</b>	A facility, program or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism/substance abuse treatment, and any other treatment or rehabilitation services. See, <a href="#">W. Va. Code § 49-1-206</a>
<b>Emergency Shelter Care/Residential Crisis Support</b>	A form of short-term residential care for children which temporarily provides food, shelter, clothing and other necessary crisis intervention and stabilization services for children experiencing emotional, familial, or behavioral crises. See, <a href="#">Legislative Rule 78 C.S.R. 3-3.70</a> and <a href="#">W. Va. Code §49-2-121</a>
<b>Immediate Safety Threat</b>	An instance or situation in which the safety of a youth, their family, or their community is at immediate risk of severe harm. Immediate safety threats are observable and presently occurring.
<b>Impending Safety Threat</b>	An instance or situation where the safety of a youth, their family, or their community is in jeopardy of harm in the near future.

### 3.2 Introduction

The Initial Assessment process occurs once a Youth Service referral has been accepted. The response time indicated at intake will inform the child welfare worker of the maximum amount of time the child welfare worker has to make face-to-face contact with the referred family. When a youth is exhibiting unsafe or illegal youth behaviors, a child welfare worker will be dispatched for prompt assessment within 14 days or sooner, depending on the nature of the allegations within the referral and/or any required court hearing timeframes.

Initial Assessment begins with the preparation phase and continues through the completion of the FAST assessment tool. The phases of Initial Assessment are:

- Preparation

- Initial Family Contact
- Information Collection
- Immediate Safety Threat Assessment
- Safety planning, if applicable; and,
- Completion of the Family Advocacy and Support Tool (FAST) within 15 days.

The purpose of the Initial Assessment is to:

- inform caregivers of the allegation received regarding the youth's unsafe or illegal behaviors.
- conduct a structured, thorough information collection process that includes relevant family members.
- determine if illegal behavior has occurred, consistent with state statute; and,
- determine the necessary next steps to ensure youth, family, and community safety.

Anytime it is decided that a youth service referral for behavior must result in an initial assessment, the worker must ensure that they properly prepare for the visit. This will require information review and taking precautions to ensure the child welfare worker's safety.

### **3.3 Preparation**

Initial contact with a family requires adequate preparation. The child welfare worker should review as much information as is available and reasonable given the required response time. Information may include past CPS/YS reports or known criminal history which can be obtained from the magistrate and circuit courts. Child welfare workers or designee should contact the schools to check on school records for attendance and behaviors of youth. Child welfare workers should bring copies of the FAST interview guide and a blank safety plan. Workers should also develop a plan for initial family contact, which considers the youth's and family's privacy, safety, and the response times indicated. Child welfare workers should also:

- Identify whether any potential hazards to the worker's safety have been reported and develop a personal plan of safety.
- Determine if any immediate serious hazards reported could endanger the child(ren)'s life.
- Determine an appropriate place to interview the child(ren) and family which ensures privacy and considers the response time.

### **3.4 Importance of Family Engagement in Youth Services**

The importance of engaging the entire family to understand and solve the problems which have brought the youth to the attention of Youth Services cannot be understated. Truancy, incorrigibility, breaking curfew, and running behaviors are all symptoms of problems the youth is experiencing. Those problems affect the family unit and must be addressed by the entire family. Additionally, diligent efforts of the child welfare worker to identify and locate all relatives and fictive kin at the earliest contact with the family will be extremely helpful if the youth's behaviors are not controllable by the parent(s) or

guardian(s). Utilizing a fit and willing relative or other supportive adult for short respite out-of-home interventions are preferred to placement of the youth in a foster care setting.

The child welfare worker should use tools such as booklets, videos, and brochures, to educate the family on court and child welfare processes. Great care must be taken to ensure family members understand the traumatic and financial impact foster care placement will have on everyone involved.

### **3.5 Initial Family Contact**

The child welfare worker must make face-to-face contact with youth within the response times indicated at intake. A thorough interview requires the youth and family to feel comfortable enough to provide the necessary information. All contacts with the family need to be entered by the child welfare worker in the CCWIS system within 3 business days.

Also important to the process is the order in which individuals are interviewed and timeliness of subsequent interviews. Child welfare workers should make every effort to interview all family members the same day and collateral contacts as soon thereafter as is possible. The preferred order of interview is:

1. Parents and absent parents
2. Identified youth
3. Siblings
4. Other adults in the home
5. Collaterals

Child welfare workers must always ensure to properly identify themselves as child welfare workers to all individuals to be interviewed and show a valid West Virginia State employment identification.

Child welfare workers must also:

- Provide caregivers a verbal summary of the youth's reported behavior and briefly explain the Initial Assessment process.
- Request caregiver's permission to proceed with the interview.
- Ensure that parents/caregivers and youth are notified of their rights and the notification is documented in the official case record.
- Ensure that each individual interviewed is afforded the ability to have their interviews private and without fear of reprisal from other individuals.
- Assess for Immediate Safety Threats at first contact with the family. This will also be required for every child at every visit during the life of a case. See section 4.6 for information on Immediate Safety Threats.

All families should be provided with the *A Parent's Guide to Working with Youth Services* booklet and an explanation of the booklet and its contents. The book contains two perforated cards which are to be filled out, signed by the parents, and documented in the official record.

### ***Notification of Parent and Child Rights***

Child welfare workers must ensure that parents and youths who become involved with Youth Services are afforded rights and protections, which includes the right to be informed about their case. This right to be informed must be balanced with the need to ensure information provided will not comprise a potential juvenile proceeding.

Rights that families must be informed of include:

- The right to be free from warrantless search and seizure.
- The right to be free from intrusion into one's home except upon lawful consent.
- The right to have information collected and maintained during a case held in confidence consistent with [W. Va. Code §49-5-101\(a\)](#).
- The right to be allowed access to one's personal file ([W. Va. Code §49-5-101\(b\)](#)).
- The right to appeal the exclusion or inclusion of a parent or youth from any service program and the right to request a grievance hearing about either the manner in which the parents and the youth are treated by agency personnel, or any other concern related to the service programs of the agency.
- The right to refuse youth services intervention as well as the right to be advised of the consequences when individuals refuse said services.
- The right to be free from discrimination for reasons of age, race, color, sex, sexual orientation, mental or physical disability, religious creed, national origin, or political belief.
- The right to auxiliary aids to individuals with disabilities, at no additional cost, where necessary to ensure effective communication with individuals with hearing, vision, or speech impairments.
- The right to have language and translation services available.
- The right to be informed of complaints or allegations made against an individual.
- The right to be informed of the findings of the Youth Services' Initial Assessment
- The right to be made aware of all actions taken regarding the family throughout the life of the case and the reasons for such action.

### **3.6 Information Gathering**

The BSS utilizes a myriad of information to determine the needs of the family. The child welfare worker must review available records such as school records, Bureau records history, and other completed assessments which the family has participated. When gathering information, the child welfare worker should engage the entire family to better understand and solve the problems which have brought them to the attention of Youth Services. Once all interviews, observations, and information reviews are complete, the child welfare worker will complete the FAST assessment and document the results on the FAST score sheet. It's important to record all demographic information including Date of Birth and Social Security Number (when pertinent) on each family member.

### ***The Family Together***

When gathering information on a youth and their family, it is critical to examine aspects of where the family lives, the resources available to them, and the relationship dynamics of those who reside or have



contact with those who reside in the household. Financial stressors, concerns with the home environment, and interpersonal relationship dynamics can be root problems to the issues which have brought the family into contact with the Department. Addressing these concerns can help the family achieve the goal of no longer requiring the intervention of Youth Services. For example, a family struggling with finances may benefit from a referral to Family Assistance for TANF or a family residing in a dilapidated home may benefit from a referral to HUD. See section 3.2 for more information on Family Assistance.

### ***The Caregivers***

Information gathered regarding the household caregivers can be essential to determining the root causes of a youth's behavior or reason for youth services intervention. It is also important when monitoring for abuse and neglect or other safety threats. When assessing the caregivers in the household, child welfare workers should be mindful of the level of supervision they provide, their knowledge of a youth's needs, and their ability/skills to provide proper parenting. A referral to counseling, or other services may help remove the needs of a family or alleviate strains that are contributing to the problem. If a child welfare worker believes they have identified abuse and neglect the worker must follow the protocols outlined in section 4.6.

### ***The Youth***

There are several important areas that must be assessed when gathering information on the youth(s) residing in a household. How a youth is doing in school, the relationship with their family and peers/partners, their mental and physical health, and their personal history are all factors that can contribute to the actions or behaviors that have led to Youth Services involvement. If during the assessment, it is determined that the youth or any child in the home has been identified as a victim in a civil abuse and neglect case, they may be entitled to monetary benefits from the Crime Victim's Compensation Fund. For additional information, see Foster Care Policy 7.1 and [W. Va. Code §14-2A-11a](#).

### ***Reports of Sexual Abuse***

Disclosure of sexual abuse can be particularly difficult for a youth. This is due to the fear that their abuser may harm them, they will not be believed, or they will be separated from their family. If during the course of assessment or interviews, a youth reveals to the child welfare worker an instance of previously undocumented or ongoing sexual abuse, then the worker will allow the youth to continue to speak and gather the information. A child welfare worker's reaction influences how the youth deals with the trauma of being abused so it's critical that a worker remain calm and present an appearance of understanding. Once the interview is completed and prior to the worker leaving the home or scene of the interview, they must notify their supervisor and make a referral to Centralized Intake. See Reporting in Section 4.6 for more information.

### **3.7 The Family Advocacy and Support Tool (FAST)**

The Family Advocacy and Support Tool (FAST) is a communications tool designed to understand the complex needs of families. The FAST focuses on the entire family and identifies each member's unique needs and potential strengths. The purpose of the FAST is to identify safety threats and treatment needs which may exist within families, and support families in meeting needs and reducing safety threats and support effective interventions. The FAST tool is designed to be continuously modified based on new information learned throughout the life of the case. The FAST should be revisited and updated regularly as other assessments are completed and to reflect the current status of the case. The FAST tool will be utilized to assess youth and their families who are referred to the BSS.

The FAST must be used in all cases involving Youth Services, including the assessment requirements of juvenile Multidisciplinary Treatment Team meetings, and in the case planning process. The FAST must be completed within 15 days of initial contact. The FAST Assessment guide is essential to this process and will help ensure all required areas of assessment have been thoroughly completed.

### **3.8 Safety Threats**

#### ***Assessing Safety***

Monitoring for the safety of not only the youth service client, but all the children in a home is a primary function of Youth Services. This is done through the identification of Immediate and Impending Safety Threats. A child welfare worker must understand the difference between safety threats which are extremely dangerous and happening now, known as Immediate Safety Threats, and safety threats that are not happening now but have potential to be harmful in the future, known as Impending Safety Threats. Safety Threats must be monitored during the entire life of a case and can become evident at any time. If a child welfare worker encounters a safety threat perpetrated by a parent or caregiver, the child welfare worker must contact their supervisor for assistance from a child welfare worker in Child Protective Services.

#### ***Immediate Safety Threats***

Immediate Safety Threats are instances where the safety of a child or children in the home is at immediate risk of severe harm. These safety threats are significant, clearly observable, presently occurring, and require no guesswork as its status of being a dangerous situation. Immediate Safety Threats may be caused by the actions or inactions of a parent or guardian, or the living environment. When a child welfare worker encounters these situations, action must be taken immediately, and appropriate steps must be taken to remove or prevent the threat prior to the worker leaving the situation.

If it is determined that Immediate Safety Threat(s) exist, then the child welfare worker shall promptly contact their supervisor for guidance and the possible assistance from a child welfare worker in Child Protective Services. The accurate identification of an Immediate Safety Threats will require a referral to Child Protective Services (CPS).

An Immediate Safety Threat tool is available to aid in the identification of these threats and can provide guidance on which instances arise to the level of an Immediate Safety Threat.

### ***Reporting***

The child welfare worker will be required to report all allegations of potential abuse and neglect, to the Centralized Intake Unit. The completed FAST, along with any other assessment tools, pertinent information and documents which may have been attained during the assessment process, shall be provided to the child welfare worker. In situations when it has been determined that both Child Protective and Youth Service interventions are warranted, the child protective case will take primary responsibility for case management and youth services shall be assigned secondary responsibility but will continue to complete the FAST. CPS and YS will work in tandem to ensure the needs of the family are met. In no circumstances should it be considered acceptable to maintain two open cases, within the WV CCWIS system, on the same family. If this inadvertently occurs, the worker must notify their supervisor.

### ***Impending Safety Threats***

Instances where the safety of a youth, their family or a community is in jeopardy of harm or is likely to be a threat in the future, but this threat is not occurring now is known as an Impending Safety Threat. Impending Safety Threats will require action, intervention, and a safety plan, but there is often time for the worker to return to their office and discuss with their supervisor. Impending Safety Threats may be perpetrated by a caregiver, the living environment, or a youth in the home. The FAST tool indicates areas of possible safety threats through a "Safety Item" indication next to the item in the FAST manual. Safety Threats in the living environment or that are perpetrated by a caregiver which rate as a "2" will require the child welfare worker to discuss with their supervisor whether a referral to CPS should be made and appropriate next steps, which includes the necessity of a Safety Plan. Those which rate a "3" will require a referral to CPS and staffing with their supervisor for an appropriate response.

Any safety threats identified will require a brief justification on the FAST score sheet indicating the supporting evidence that the threat exists.

## **3.9 Safety Planning**

### ***Safety Analysis***

Safety Analysis and Planning must be completed on all cases where safety threats have been identified. The Safety Analysis determines the level of Youth Services intrusiveness with families in order to manage safety threats and assure safety. Safety Analysis results in the development and implementation of sufficient Safety Plans to manage the identified safety threats. The appropriate Safety Plan must be deployed the same day the safety threats were identified.

If the answer is "No" to any of the Safety Analysis questions listed below, then the determination is that an in-home Safety Plan cannot sufficiently control safety threats and assure safety. Any "No" response indicates the need to temporarily remove the youth from the home. This may be achieved using an FC-4, or Voluntary Placement Agreement (VPA), if the safety threats are not caused by a caregiver's

actions or failure to act to protect the youth, and the caregivers agree to the placement; or through a removal petition sought through the court system.

A child can be safely maintained in the home if the following questions can be answered “Yes”:

1. Are the caregivers and youth willing to have a Safety Plan developed and implemented, and have they demonstrated that they will cooperate with all identified safety resources?
2. Is the home environment calm and consistent enough for a Safety Plan to be implemented and for safety resources to be in the home safely?
3. Are safety resources available at a sufficient level and to the degree necessary to manage the way in which safety threats are manifested in the home?
4. Do the caregivers have a residence in which to implement a safety plan?

During the Safety Analysis and Safety Planning process, it is necessary for the child welfare worker to meet with the family. This meeting should occur the same day safety threats are identified unless there are extenuating circumstances. The following must occur during the meeting:

- The child welfare worker must thoroughly explain the safety decision and safety threat(s) which must be addressed to appropriately plan for safety.
- Discuss with the caregiver and youth, separately and privately, their concerns, answer their questions, and allow them to be an intricate part of the Safety Planning process.
- Engage the family in exploring safety resources and Safety Planning options.
- Identify absent parents and their locations/contact information.
- Meet with both formal and informal safety resources (extended family, friends, etc.) if appropriate to assist in safety planning.
- Complete the Safety Analysis and Safety Planning process and deploy the appropriate safety plan; and,
- Explain the purpose of ongoing Youth Services.

### ***The Safety Plan***

A Safety Plan is a plan developed to address the issues and situations that pose a threat to a youth, their family, or the community. It is important to note the distinction between a Safety Plan in a Youth Services Case and a Safety Plan in a Child Protective Services Case. For Youth Services, the plan is used to control an identified safety threat created by the youth and/or the youth’s behaviors. If the identified threat can be attributed to the caretakers in the home, a referral to Child Protective Services is warranted. The Safety Plan in a Youth Services Case must consider each threat that has been identified and specifically address how these threats will be controlled. This process should involve the family as this will help them understand why a situation is threatening and dangerous. While there is a Safety Plan form that must be completed and signed by the child welfare worker, a supervisor, and the caregiver (if a caregiver is available), there is no ‘cookie cutter’ approach for a Safety Plan. Each plan should be individualized and meet the specific circumstance and/or behavior that is posing a risk.

Appropriate Safety Plans are designed to neutralize the identified safety threat(s) using safety resources such as service providers and extended family. Safety Plans are not designed to treat the underlying conditions which cause the safety threats to exist so services should be limited to those which ensure safety, not provide treatment. Safety Resources must be given concrete tasks to deliver which assist in or provide safety. Generally speaking, Safety Plans created by a child welfare worker in a Youth Services case will be to control the behaviors of a youth(s) that are causing safety threats to themselves, their family, or the community. If the Immediate or Impending Safety Threat is caused by the actions or inactions of a caregiver, or are environmental, then CPS intervention may be required. If CPS intervention is required, the Safety Plan will be created by CPS with assistance and input from the child welfare worker assigned to the youth services case. If CPS intervention is not required, then the child welfare worker will work with their supervisor to develop an appropriate Safety Plan.

### ***Temporary Out-of-Home Living Arrangements***

To provide the parents and youth with time apart so that they can calm down and tensions can be deescalated the child welfare worker can explore a temporary alternate caretaking arrangement. If there are relatives or friends of the family who will provide temporary lodging and care for the youth, then the family may wish to choose this option.

The child welfare worker will need to discuss the arrangements with the family, the youth, and the alternate caretakers so that everyone is clear about their responsibilities and the conditions surrounding these arrangements including time frames and the circumstances under which the arrangement will be terminated.

This placement option is voluntary on the part of the parents and does not involve a transfer of custody to the Department. This placement and the reasoning behind it must be indicated on the Safety Plan and a contact schedule for the youth and family established. Despite establishing a schedule for contact, it is important to reiterate this arrangement is voluntary and to note that the parents retain the ability to have unlimited access to the youth(s). Parents also have the discretion to end the safety plan at any time without further child welfare involvement.

In some instances, it may be advisable to place the youth in Emergency Shelter Care for a period until the home situation is calm enough for the implementation of a safety plan. If such a placement becomes necessary, then the family can enter into a Voluntary Placement Agreement (VPA). In completing the VPA, the child welfare worker and the family must carefully consider the responsibilities of the caretakers during the time the agreement is in place including the time limits for the agreement and the conditions under which it can be ended. Within 90 days of signing a Voluntary Placement Agreement and receipt of physical custody of the youth, the Department shall file with the court a petition for review of the placement, stating the youth's situation and the circumstance that gives rise to the voluntary placement. Refer to Foster Care Policy for more information on VPAs.

It may be helpful to use a Voluntary Placement Agreement until a FAST assessment can be completed, and a Safety Plan implemented, if applicable.

### ***Filing a Petition***

Depending on the needs, behaviors, and offense of the youth, the child welfare worker may choose to discuss with the parents the filing of a petition. The parents can choose this option and include a request in the petition that their youth be detained or placed outside of the home prior to adjudication.

### ***Court Ordered Placements***

Depending upon the circumstances of the petition the court may place the youth in temporary foster care with the Department. In this instance, the child welfare supervisor and child welfare worker must refer to, and follow, [Foster Care Policy](#) regarding placement procedures. Additionally, the child welfare worker will notify the Office of Child Support Enforcement and the Office of Family Support of the youth's placement in foster care. The Bureau for Child Support Enforcement is required, by law, to help obtain child support if a youth has been placed in Foster Care. Application information and other details on obtaining child support may be found at the [Bureau for Child Support Enforcement web site](#).

When a youth is ordered into the custody of the Department for temporary placement in a residential treatment facility, the child welfare worker must consider other applicable statutory requirements, in addition to those which are found in Foster Care Policy, while the youth is in this placement setting. Please refer to policy section(s) 9 and 10 for more information.

## **3.10 Reporting Missing Youth in Open Cases**

Missing youth who are in a foster care placement setting, the care of the department, or involved in an open case must be reported to:

- Law enforcement;
- Centralized Intake; and
- National Center for Missing and Exploited Children (NCMEC).

Reporting to these entities is required immediately upon identification of the youth's status as missing.

1. Contact law enforcement and ensure the youth's information has been entered into the National Crime Information Center (NCIC) database, and obtain the missing persons case.
2. Contact Centralized Intake (CI) to determine if a report was made if the child welfare worker did not previously receive a runaway report from CI.
3. Contact the National Center for Missing and Exploited Children (NCMEC) and request the creation and distribution of a missing child poster (see more information concerning NCMEC below).

The following information should be provided to law enforcement and NCMEC:

- a recent photograph of the youth;
- physical description (race/ethnicity, hair color and style, eye color, etc.);
- the last known clothing the youth was wearing;
- the last known place the youth was seen;

- age or date of birth;
- any existing runaway history; and
- known risks of sex trafficking victimization.

### ***Reporting to Law Enforcement***

When making a missing person's report to law enforcement the child welfare worker must ensure the youth is entered into the National Crime Information Center (NCIC) database. Once a report is made to law enforcement a missing person's case ID number or report ID will be generated. The child welfare worker must ensure to document the missing person ID number along with the assigned law enforcement officer's name and agency. The NCIC database is also able to receive pictures of missing children. The child welfare worker must inquire with law enforcement about providing the photograph of the youth to the law enforcement agency. Once a youth's photograph and demographic information is included in the NCIC database, law enforcement officers nationwide will have access to view the report, increasing the chances the youth will be returned quickly and safely.

### ***Reporting to the National Center for Missing and Exploited Children (NCMEC)***

**Youth** may be reported to NCMEC in one of two ways, through the organization's web service or by calling the hotline. The child welfare worker can make a report by creating an account on the website. The web service is specifically for the use of social services agency staff. Staff may also report through NCMEC's hotline at 1-800-THE-LOST (1-800-843-5678). Reporting missing youth through the hotline ensures an expeditious NCMEC case manager assignment. This option must be used anytime a youth has been abducted, kidnapped, or has runaway and has an endangerment status (see more on endangerments below).

### **Centralized Intake**

All youth who are considered missing and are involved in an open case must be reported to centralized intake (CI). Centralized intake collects and tracks information on the number of children who run and all efforts to locate missing children. When a youth is reported missing, centralized intake will complete a reporting form and provide it to the child welfare worker, supervisor, and Social Services Manager via email. If the child welfare worker learns that their youth has gone missing and they did not receive a report from centralized intake, the child welfare worker must immediately contact CI to make the report.

### ***Endangerment Criteria***

Certain conditions place youth at a heightened risk of serious negative consequences while missing. These conditions may be continuous or situational and require prompt action to ensure the youth is located. The identification and verification of an endangerment status increases the criticality of search and therefore requires prompt reporting via NCEMC's hotline and assignment of a Child Locator to assist in location efforts. Endangerment criteria may include:

- **Serious Substance Use Disorder** – A disease that affects a person's brain and behavior and leads to an inability to control the use of a legal or illegal substance or medication. A missing youth becomes endangered when there is a reasonable cause to believe that the youth will attempt to obtain legal or illegal substances by any means necessary or the use of such substances substantially endangers the child's safety.

- **Actively Homicidal** – A youth who is currently capable of or tending toward murder. A missing youth becomes endangered when there is reasonable cause to believe the youth will, or will attempt to, commit murder.
- **Actively Suicidal** – A youth who is currently expressing thoughts or actions indicating their desire to take their own life. A missing youth becomes endangered when there is reasonable cause to believe the youth will, or will attempt to, commit suicide.
- **Self-Harming** – A youth who is currently engaged in behaviors with the express intent to physically harm themselves but not commit suicide. A missing youth becomes endangered when there is reasonable cause to believe that the youth’s self-harming behaviors may substantially endanger the child’s safety.
- **Chronic Medical Condition Requiring Medication** – A youth who is currently prescribed medication for a medical condition and the prescribed medication is necessary to sustain life or reasonable health. A missing youth becomes endangered when the absence of necessary medications places the child at significant risk of harm or death.
- **Pregnant** – A youth who is pregnant requires regular examination and care to support the health and wellbeing of themselves and their unborn child.
- **Intellectual or Developmental Disability/Special Needs** – A youth with significant physical limitations or significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills.
- **Violent Behavior** – A youth who demonstrates behavior that threatens or harms or injures the individual or others or destroys property. A missing youth becomes endangered when the violent behavior is severe and actively threatens community safety.
- **History of or At Risk of Trafficking** – A youth who has a documented history of sexual exploitation or discloses current or historical exploitation.
- **Age 13 or under** – A missing youth who is 13 years or under.

Other situational factors indicating a youth may be endangered include:

- **The youth leaves in a motorized vehicle.**
- **Weather conditions that are likely to pose a risk** - The weather can easily pose significant risk to a youth who has gone missing. Additionally, a combination of factors including health status, mental cognition, and clothing may increase the risk the weather poses and should be considered.
- **A recent change in the youth’s medication** - Changes in behavior can indicate underlying issues which may be attributed to their status as missing.
- **The youth is party to a protection order or party to a no contact order** - A youth that is party to such an order may be at elevated risk due to a likely history of violence, stalking, or harassment.
- **The youth has acquired tattoos, burns, or significant cuts they are reluctant to explain** - Tattoos which show ownership, like names, dollar signs, symbols, and acronyms, or other branding methods such as burns, and cuts can indicate the child is involved in trafficking.
- **The youth has recently obtained unaccounted for money or goods** - New expensive clothes, mobile devices, legal or illegal substances or alcohol, hotel keys, and money from unexplained persons or obtained by suspicious means may indicate the child is being groomed and at-risk of trafficking or is a victim of trafficking or to be a “drug-mule”.
- **The child recently acquired new friends, communicated with persons known to be dangerous, increased their online activity, or became protective or defensive of their**



**online activity** - New friends, either personal or online, may indicate the child is being groomed and at-risk of trafficking or is a victim of trafficking. Some individuals, such as a maltreating parent, may be dangerous or place the child's safety in jeopardy.

### **3.11 Identifying Treatment Needs**

The goal of Youth Services is to ensure that a youth and their family is safe and able to function without the assistance of Youth Services or Child Protective Services. For this to occur, the child welfare worker must identify the treatment that best meets the needs of the family in the least restrictive way possible. Information gathered during interviews, observations, and through the completion of the FAST assessment will help identify these needs.

The FAST assessment will identify treatment needs the family requires. Items where the youth(s) and family score a '2' or a '3' indicate that action or immediate action is needed and show the need for treatment or intervention while scores of '0' or '1' may require monitoring, no action, or potentially indicate a strength. Each item provides "anchors" or descriptions which will aid in identifying the most appropriate score to assign the item being rated. (Refer to the FAST manual for more on scoring the FAST).

Families may present with many needs which can seem overwhelming to the family and child welfare workers alike when thinking about addressing them on a case plan. Evaluating the impact needs have on each other and being able to cluster or prioritize needs is an important step in the process and will be discussed further in Section 6 Case Planning.

Any needs identified will require a brief justification on the FAST score sheet indicating the supporting evidence that the need exists.

#### ***Services Through Bureau for Family Assistance***

Some identified needs may arise from stressors on families which come from many sources. Alleviation of some of those stressors may be achieved through addressing the financial, medical, and legal needs of the family through referrals for family assistance (TANF, SNAP, etc.), linkage to Affordable Care Act medical insurance or Medicaid, and referral to legal aid or public defenders. Providing this information to families demonstrates compassionate understanding of the larger issues which impact relationships and communication dynamics in the family unit.

#### ***Non-paid community resources***

Some identified needs in which the youth is not presenting a risk to themselves or others can be met through a referral to non-paid community providers. These resources, as well as providers who accept Medicaid or private insurance for behavioral and mental health needs, can be used at no financial burden to the family in need of treatment.

A review to determine whether community agencies may best serve the family should be made often. The ability of community resources to meet the needs of the family and youth will directly impact involvement of Youth Service staff. In the instance when a court-involved Youth has a referral made to a

community agency at the dispositional court proceeding, and the judge deems these resources sufficient to meet the needs of the family and Youth, the court may dismiss the proceeding.

The family may refuse to cooperate with the community-based resources. The Department cannot require participation. If no Child Protective Services concerns have been reported or discovered, then the case may be closed. However, if it is felt that a youth or child under the age of 18 is subject to conditions where abuse or neglect is likely to occur or safety threats are documented, a Child Protective Services referral must be made to Centralized Intake.

### ***Uncooperative Caregivers and Youth***

A child welfare worker may encounter a family or youth that are uncooperative with a safety plan or case plan. Situations in which child safety is at risk, or situations which statutorily require the family's involvement with the Department, will require the child welfare worker to take the necessary steps to resolve the issue. In situations where this occurs, a worker may require additional support from CPS, Law Enforcement, or they may seek court intervention through a petition or valid court order requiring participation with the case plan. This includes uncooperative caregivers whose needs have been assessed and determined to be a contributing factor to the youth's behavior.

## **SECTION 4 – PRE-PETITION DIVERSION**

### **4.1 Introduction**

Diversion is the process by which youth who are in immediate risk of contact with the judicial system for nonviolent low-level offenses are referred by the Prosecutor to the Department, Probation, or a Truancy Diversion Specialist to receive intervention planning and services to prevent the filing of a petition.

It is anticipated that each judicial circuit will implement diversion programming in its own unique way. Though diversion processes may be different, the basic requirements, as outlined below, and codified in [W. Va. Code § 49-4-702](#), must be adhered to.

### **4.2 Statutory Requirements**

The [W. Va. Code § 49-4-702](#) provides a basic framework for mandatory diversion cases. While it does not require the prosecutor to divert all youth, it does require the prosecutor to refer any youth who are first time status offenders and requests the prosecutor refer low-level, non-violent misdemeanants who are able to be maintained safely in their home and communities. All referrals from the prosecutor's offices are considered mandatory referrals for diversion and must be opened and planned for according to the provisions of the code and as provided for below.

### **4.3 Diversion Worker Procedures**

Referrals from county prosecutors for a youth to be referred to a diversion program may not be screened out and must be accepted for assessment. County offices which receive referrals for diversion from the prosecutor's office shall send to Centralized Intake for input. If a prosecutor submits a referral to the

local office, the local office will be required to record the information and either call or email the referral to Centralized Intake at WVCI@wv.gov.

A local child welfare supervisor or child welfare worker must complete a record check for past or current open cases and link cases as appropriate. The local child welfare supervisor will assign the case to a child welfare worker or child welfare worker must then proceed to recommend that the case be opened and submit to the child welfare supervisor for approval. Once the case is opened the child welfare worker must make initial contact with the family as soon as possible to schedule interviews with the family members. The child welfare worker will be expected to make face-to-face contact with the family within 14 days. Within 30 days of receipt of the referral, the child welfare worker must:

- Interview all relevant family members, probing for information related to the reasons the youth is at-risk for involvement with the judicial system.
  - Relevant family members may include family members who do not live in the youth's primary residence but play a significant role in the youth's life.
  - Biological parents, stepparents (if applicable), and siblings of appropriate developmental age that have a relationship with the referred youth must be interviewed.
- Interview relevant collateral(s) such as Probation Officers, school personal or other individuals who are purview to the youth's situation.
- Complete the FAST assessment. (The FAST must be completed within 15 days of the initial contact with the family.)
- Return to the family to discuss the results of the FAST and discuss case planning. The worker should engage the family to address any of their concerns.
- Develop the diversion plan using the Case Planning process described in Section 7.
  - Case planning should include services for the youth, and family (as appropriate).
    - The child welfare worker may request an order from the court to enforce involvement by the youth or family with the case plan\*

*\*Note: how these orders are obtained may vary throughout circuit court districts. It is recommended the child welfare worker discuss the need for such an order with the county prosecutor's office for the county's process.*

Once the plan is complete the child welfare worker will need to obtain the signatures of the parents, the youth, the child welfare worker, and the child welfare worker's supervisor. These signatures acknowledge that the identified youth, and their family, have been referred for preventative services and have agreed to the outlined goals. The child welfare worker must obtain the signatures of the family on the case plan indicating they understand that their child is a foster care candidate and is at risk of placement into foster care. The child welfare worker must provide a copy of the completed case plan to the family and any providers which are referred to for services. Additionally, the child welfare worker will need to:

- Obtain consent from the family for participation in the diversion plan
  - Have the "Diversion Participation Consent Form" signed by authorized parties and have documented appropriately in the CCWIS system and paper record.

- o If the youth or family refuses to participate the worker should attempt to mediate the disagreements and make any changes that are reasonable and necessary to obtain consent.
- o If the youth's family still refuses the youth and/or family should be informed that a refusal to participate will require notification to the county prosecutor and may result in court action

Finally, the child welfare worker or another designee will need to upload the completed FAST assessment and signed case plan to the CCWIS filing cabinet.

Once necessary services have been identified the child welfare worker must begin the process of referring for the needed services. Service providers utilized during the diversion process are required to respond within 72 hours of the referral from the child welfare worker. It is the child welfare worker's responsibility to notify the service provider of the need to respond timely and ensure this occurs. If a service provider is unwilling or unable to respond within the codified timeframes, the child welfare worker should determine if another service provider may be referred to. If no other service provider is available to meet the identified needs of the youth or family, the child welfare worker must thoroughly document in the "contacts" screen the reasons the provider was unable to meet the mandatory timeframes and efforts to locate other providers. The child welfare worker will need to make frequent contact with the family until the service provider is able to respond.

#### **4.4 Progress Review**

The child welfare worker must review the progress of the youth and family progress monthly. The child welfare worker will be required to make required face-to-face visits with the youth and family. These visits should focus on:

- Ensuring the safety of all members of the household
- engaging the family, obtaining their opinions on the progress of services;
- determining if additional services may be needed;
- determine if there are problems with existing services; or
- any other discussions that may help the child welfare worker determine case progress.

Additionally, the child welfare worker should receive monthly summaries from all formal providers and should speak with all informal resources to obtain needed feedback. Contacts with providers are not required to be face-to-face and may occur through electronic correspondence or telephone communications. All conversations completed, or attempted, should be documented in the CCWIS.

#### **4.5 Case Review**

Every 90 days the child welfare worker will be required to complete a case plan review, consistent with already established policies and procedures. This will allow for the child welfare worker to review the completed FAST assessment to further determine progress and make score adjustments as needed. There is no predetermined case length for diversion cases but should not be closed prior to a formal case

review being completed, and cases lasting longer than 6 months should be considered the exception. Case plan reviews will help the child welfare worker to determine when sufficient progress has been made that a family's case may be closed. (Please refer to sections 7 and 8 of this policy for information on how to complete a case plan review.)

If a youth and family have shown enough progress that services are no longer needed, or the family has made considerable progress and is able to obtain needed services through resources other than the BSS, it may be appropriate to close the case. The child welfare worker should review the case prior to closure with the child welfare worker's supervisor for approval. If referrals to community resources appear warranted and may be accessed without BSS intervention, the child welfare worker should ensure they provide the assistance and guidance needed to the family to make the referrals prior to case closure. The referring prosecutor should be notified of the successful completion of a youth's diversion, by submitting the referral Diversion Disposition Notification form.

If a youth and/or family are struggling to make progress or are refusing to cooperate, the child welfare worker must implement a series of steps to address the issue. The child welfare worker must:

- Attempt to determine what issues exist and why;
- Determine if steps can be taken to remedy the issues without court involvement; and,
- Determine if an order from the court will be necessary to enforce parental participation.

If attempts have been made to address the lack of cooperation or the youth or family is not making significant progress, the child welfare worker must request a "pre-petition review team", or Child and Family Team, to meet and discuss case progress.

#### **4.6 Child and Family Review Team (Pre-petition Review Team)**

The Child and Family Team, or "pre-petition review team" shall consist of, at minimum, the youth, the family, relevant service provider(s), the Juvenile Probation Officer, the child welfare worker and any other individual the youth or family would like to participate. Appropriate school personnel should also be invited if the school is the primary area the youth is having difficulties or if it appears they may have valuable information to contribute. The location and time of the meeting should be one in which is of convenience for the family. The child welfare worker should utilize the *MDT Notification* form to provide notification of the location and time the meeting is to occur. The date and time of the meeting must be within 14 days of the referral. The child welfare worker will document the notification, participants and meeting outcome in "contact" screens in CCWIS.

The Child and Family Team should evaluate the case and current case plan and determine an appropriate course of action. The Child and Family Team may:

- Renegotiate a new case plan;
- Refer the matter to Child Protective Services; or,

*Note: The child welfare worker must discuss the case and problems in the case with a child welfare supervisor, or social services coordinator, prior to the meeting time to determine if this would be an appropriate action.*

- File a petition.

The recommendation to file a petition should be the last resort. This recommendation should only be made when a resolution cannot be achieved, or the youth or family continues to refuse to cooperate with any plan.

If the recommendation is to file a petition, the child welfare worker will need to complete a court report which will include a description of the issues which lead to involvement with the BSS, needs and any strengths that have been identified through the FAST, services the family has received, and the date and outcomes of the Child and Family team(s), or “pre-petition review team”.

## SECTION 5 – JUVENILE COMPETENCY

### 5.1 Juvenile Competency Definitions

The definitions used below are specific to this section and are a supplement to the general definition section.

<b>Competent and competency</b>	Refers to whether a juvenile has sufficient present ability to consult with their attorney with a reasonable degree of rational and factual understanding of the proceedings against them during a court proceeding. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Competency attainment services</b>	Services provided to a juvenile to assist the juveniles in attaining competency. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Incompetent</b>	Due to developmental disability, intellectual disability, or mental illness, the juvenile is presently incapable of understanding the nature and objective of proceedings against him or her or of assisting in his or her defense. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Intellectual disability</b>	A disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical domains. See, <a href="#">W. Va. Code §49-4-727</a>
<b>Qualified forensic evaluator</b>	A licensed psychologist or psychiatrist with the necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render opinions for the court. See, <a href="#">W. Va. Code §49-4-727</a>

### 5.2 Introduction

Juvenile competency is a juvenile’s rational ability to factually understand the proceedings against them during the court process. It is important to understand there is a distinction between competency and

capacity. There are several factors that can cause incompetency such as: developmental disability, intellectual disability, or mental illness. Juvenile incompetency refers to a juvenile's present inability to understand the nature and objective of proceedings against them or to assist in their defense.

### 5.3 Statutory Requirements

The [W. Va. Code §49-4-727](#) dictates the conditions in which competency issues may be raised. Once the issue of competency is raised, all adjudication or disposition proceedings shall be stayed until the issue of competency is resolved: Provided, That the juvenile's attorney, guardian ad litem, or prosecuting attorney may seek, or the court may order, any pre-adjudicatory procedures or case specific alternatives permitted by the Rules of Juvenile Procedure while the issue of competency is pending

### 5.4 Motion for Competency Evaluation

At any time during a juvenile delinquency proceeding, the prosecuting attorney, the youth's attorney, or guardian ad litem may file a motion with the court to have the competency of the juvenile determined.

A motion may be filed when:

- A juvenile aged 13 or over, who is naturally presumed competent, is believed to be incompetent due to an intellectual or developmental disability or mental health condition; or,
- A juvenile under the age of 13, who is naturally presumed incompetent, is believed to have competency to proceed in their delinquency proceedings.

Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem (when applicable), agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings. However, the court may not order remediation services authorized by [W. Va. Code §49-4-733](#) without a competency evaluation.

Once a motion has been made regarding the juvenile's competency, the court must determine within 10 judicial days whether to order an evaluation, dismiss the case, or schedule a hearing to determine if a reasonable basis exists to order an evaluation to occur. If the court decides to hold a hearing to determine if a competency evaluation should be ordered, the hearing must occur within 30 days and a decision rendered within three days after the hearing. Once the issue of competency has been raised, adjudication and dispositional proceedings must be stayed until the issue of competency can be resolved..

### 5.5 Appointing a Competency Evaluator

Once a motion has been made regarding a juvenile's competency, and the court determines there is a reasonable basis to order a competency evaluation, the court will select a qualified forensic evaluator. The Office of Health Facilities, within the Department of Health and Human Resources, maintains a list of qualified evaluators for selection and renders payment for the completion of competency evaluations. The list of juvenile competency evaluators can be found [here](#). For the purpose of billing, the evaluator

must be indicated in the court order. A specific evaluator must be determined collectively by the members of the MDT in the court hearing and reflected in the order.

- If a specific evaluator is not immediately identified, the child welfare worker must ask the court for clarification of the named evaluator before the hearing adjourns.
- The child welfare worker must obtain a copy of the order and forward it to [juvenilecompetency@wv.gov](mailto:juvenilecompetency@wv.gov) for tracking purposes.

The qualified forensic evaluator must file with the court a written competency evaluation report within 30 days of the court ordering the evaluation.

- In order to meet this deadline, the child welfare worker should immediately make the referral and submit records to the appointed evaluator.
  - The interview and further evaluation cannot be completed without the order being received by the evaluator.
  - The court may, for good cause, extend the timeline up to an additional 30 days.
- The evaluation must occur in the juvenile's home whenever possible and must always occur in the least restrictive environment available which considers both the juvenile's and the public's safety.
- The evaluator must include in the report their opinion as to whether the juvenile is competent or not. If the evaluator is of the opinion the juvenile is incompetent, the report must include the evaluator's opinion as to whether the juvenile could gain competency with remediation services.
- The child welfare worker will also obtain a copy of the completed competency evaluation and forward it to [juvenilecompetency@wv.gov](mailto:juvenilecompetency@wv.gov) for tracking purposes.

## 5.6 Competency Determination

Within 15 days of receiving the competency evaluation, the court will conduct a hearing to determine whether the juvenile is competent to continue in the delinquency proceedings and will file a written determination within 10 days of the hearing.

### ***Competent***

If the court determines the juvenile is competent, the matter will be considered resolved and the delinquency proceedings may resume. If the juvenile is determined incompetent, then the court must consider the evaluator's opinion as to the likelihood the juvenile could gain competency with services and which services would benefit the juvenile.

### ***Incompetent to proceed and cannot attain competency.***

If a juvenile is determined to be incompetent and unlikely to gain competency through the provision of remediation services, the juvenile is considered not restorable. When a juvenile is not restorable the court may order any of the following dispositions:

- Refer the juvenile to the Department for an investigation of abuse and neglect.



- Refer the juvenile to the Department for services consistent with [W. Va. §49-4-712](#). Services may include, but are not limited to, referral of the juvenile and their parents, guardians, or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, education, or other social services, as appropriate to the needs of the juvenile and their family.
- Place the juvenile in the custody of their parent, other suitable person, or other public or private agency or institution under terms and conditions determined to be in the juvenile’s best interest.

The prosecuting attorney may also initiate civil commitment proceedings consistent with [W. Va. §27-5-1](#) et seq. if the juvenile is age 18 or over. Any party, including the child welfare worker, may motion the court to order a dangerousness assessment be completed prior to ordering any of the above dispositions.

***Incompetent to proceed but likely to attain competency.***

If the court determines the juvenile is incompetent but is likely to gain competency, then the court shall:

- Order the juvenile’s parent or legal guardian to contact and refer the juvenile to a competency attainment services provider within 10 days of the order being issued.
  - The list of and contact information for each competency attainment provider can be found in Appendix B.
- Order that a subsequent competency evaluation be completed within 90 days with the evaluator (as selected by the MDT members present at the hearing) being indicated in the order.
  - The court may order the same or a different evaluator to conduct the subsequent competency evaluation.
  - Based on certification requirements, the competency attainment provider cannot make the determination of whether or not competency has been obtained.
- Order that the services are to take place in the least restrictive environment available, which should be the juvenile’s home whenever possible.

**5.7 Competency Attainment Services**

Competency attainment is multi-faceted. One aspect entails services designed to educate the juvenile about the court proceedings so that they may come to have a rational and factual understanding of the proceedings against them and assist in their own defense during their delinquency proceeding. Other aspects could include medication management, therapy to address mental health concerns, social skills training, or other therapeutic interventions.

Competency attainment services must be provided by trained individuals (identified in Appendix B) and may only be provided for the length of time necessary to gain or restore the juvenile’s competency. A juvenile may not be considered competent solely due to them receiving in-patient treatment or being placed on medications.

If the court determines the juvenile is incompetent but is likely to attain competency and orders competency attainment services, then the child welfare worker must:

- Ensure that the referral for competency attainment services has been made.
  - The referral must be made within 10 days of the order.
- Provide all relevant documentation to the competency attainment provider within 10 days of the referral being made, per [W. Va. Code §49-4-733](#).
- Maintain compliance with the timelines set forth in [W. Va. Code §49-4-733](#).
  - A juvenile shall not be required to participate in competency attainment services for longer than is necessary to attain competency or after the court determines that there is no reasonable likelihood that competency can be attained. The following maximum time limits apply to the participation of a juvenile:
    - A juvenile charged with an act which would constitute a misdemeanor or nonviolent felony if committed by an adult shall not be required to participate in competency attainment services beyond their 19th birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 90 days of services.
    - A juvenile charged with an act which would constitute a felony crime of violence if committed by an adult shall not be required to participate in competency attainment services beyond their 21st birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 180 days of services.
- Request the competency attainment provider submit monthly summaries.
- Hold an MDT prior to the next court hearing allowing ample time for a subsequent competency evaluation to be conducted afterwards.
  - Code requires that this hearing will take place within 90 days; it is recommended that the MDT meet within the first 60 days.
  - Invite the competency attainment provider to the MDT.
    - It is the responsibility of the child welfare worker to ensure the evaluation occurs before the next hearing.
    - It is the responsibility of the child welfare worker to supply the necessary documentation and records to the competency evaluator. This will include the monthly summaries submitted by the competency attainment provider.
- Following the MDT and prior to the hearing, submit a status report to the court which details progress made in competency attainment services and/or (when applicable) contains the recommendation of the subsequent competency evaluation if completed.
  - Note: Per [W. Va. Code §49-4-733](#), the competency attainment provider may also be the requesting party of the subsequent competency evaluation prior to the 90 day timeline if either of the following conditions exist:
    - The juvenile has achieved the goals of the plan, indicative of attaining competency.

- The juvenile will not achieve the goals of the plan, indicative of a failure to attain competency.
- It is the responsibility of the child welfare worker to submit copies of the evaluations and court orders to [juvenilecompetency@wv.gov](mailto:juvenilecompetency@wv.gov) for tracking purposes.
- It is the responsibility of the evaluator to submit completed evaluations to the court.

If the juvenile obtains competency, the juvenile delinquency proceedings may resume.

If the juvenile does not obtain competency, refer to the aforementioned options under “Incompetent to proceed and cannot attain competency”.

## 5.8 Placement of Juveniles for Competency Services

Per [W. Va. Code §49-4-733](#), a juvenile presumed incompetent under [W. Va. Code §49-4-727\(c\)](#) of this code shall not be placed in a Bureau for Juvenile Service facility, nor should the juvenile be placed for the sole purpose of receiving competency attainment services.

Competency services should be provided in the least restrictive environment while still ensuring safety. When possible, the services should be provided within the youth’s home. When a removal is necessary, competency attainment services may still be provided when the youth is in placement. For further direction on foster care placement options, reference Foster Care Policy.

If the juvenile is uncooperative in services, the court may determine that a modification of placement setting is appropriate and may order such change to occur.

## 5.9 Competency Evaluation Reimbursement

The Office of Health Facilities reimburses qualified forensic evaluators for administered evaluations and transportation costs. Child welfare workers are not required to enter payments for completed evaluations. Qualified forensic evaluators may be referred to the Office of Health Facilities, Forensic Services [webpage](#).

# SECTION 6 – CASE PLANNING FOR FOSTER CARE CANDIDATES

## 6.1 Introduction

The case planning process in Youth Services should be purposeful and planned. Case planning assures purposeful, logical intervention. Case planning is a deliberate, reasonable, mutually agreed upon strategy to reduce or eliminate needs and contributing influences which require Youth Services intervention. Case planning involves planned action to support a family and its members toward a desired and prescribed outcome. The outcome, if achieved, will reduce the needs which required Youth Services intervention. The likelihood of achieving outcomes is directly related to the appropriateness of case planning. The most critical and difficult aspect of case planning is agreement and the second is goal setting. Case plans must be client plans, rather than child welfare worker plans. Plans will not work if clients are not invested in them. Clients must be involved if change is to occur.

### ***Purpose***

The primary purposes of the case plan are:

- To provide accountability for the worker, the family and the Department.
- To provide structure for the worker and family to follow.
- To serve as the framework for decision making.
- To provide a benchmark for measuring client progress.
- To provide a format for communication with the family; and,
- To assure a professional approach to helping.

### ***Decisions***

The decisions that must be made during case planning are:

- Is the plan realistic, specific, and manageable?
- Does the plan consider client capacity and willingness?
- Is the plan founded on information gathered from interviews, collateral contacts, and record reviews?
- Does the plan consider family change and progress?
- Does the plan benefit the family in the most efficient and expeditious manner?

## **6.2 The Case Plan**

The information to complete the case plan is based on the information gathered and prioritized needs which were determined during the completion of the FAST. The case plan should be completed and signed by the family within 30 days from the case being opened for services.

The case plan consists of the following items:

- The names and Dates of Birth and Social Security number of the household members.
- The reason or reasons that the Department is involved with the family.
- A description of each family member's needs.
- A listing of the goals in priority for the members of the family.
- Progress made in addressing the goals; and,
- Information about the services to be provided including the provider type, the specific service, or services that the provider will deliver, the start date of the services, and the estimated completion date.

### ***Developing the Case Plan***

In completing the case plan the child welfare worker will meet with all family members as a group to discuss the information to be entered into the plan. Items scored as 2s or 3s on the completed FAST assessment, must be organized and prioritized to be addressed within the plan.

### ***Organizing and Prioritizing Identified Needs***

Families may present with a myriad of needs. Often these needs are interrelated and addressing one need may effectuate positive change among other needs. Needs may be organized into three categories of needs: Considerations, Target Needs, and Anticipated Outcomes.

#### **Considerations**

These needs are items scored 2 or 3 that should inform or guide your service delivery. These needs can often be thought of as things that cannot change, such as a developmental disability or being a witness to school, family or community violence. Considerations, also known as background needs, should guide the intervention strategy.

#### **Target Needs**

Target Needs are items scored 2 or 3 which should be the focus of treatment. Effective intervention in these areas create change. Items such as mental health and substance use, if treated will likely result in improvements in other areas.

#### **Anticipated Outcome**

These are needs that likely do not need treatment because they will change once a target need has been met.

Organizing needs into these three categories will help focus treatment in the most appropriate areas and help families understand where the priority of treatment lies. This should be done prior to visiting the family to develop the case plan.

In facilitating a discussion to develop the plan the child welfare worker should assist the family to address the following:

1. **Reason the Department Is Involved with Your Family**

The reason that the Department is involved with the family should be directly related to the referral, and resolving the factors resulting in any Safety Threats that may have been identified and the results of any referred assessments.

The statement(s) should not be used to identify one person as the guilty party or to place blame on one family member for the involvement of Youth Services.

2. **Family Needs and Potential Strengths**

Identifying family needs on the FAST and properly justifying the scores helps to engage families in meaningful discussion about what must change. It provides a holistic view of the family and enables families to address underlying problems before they reach an unmanageable level.

While individual or family strengths are not identified on the FAST assessment, scores of zero may indicate a potential strength. Each family member should be encouraged to identify their strengths. This is helpful in building self-esteem. It is also recognition that each family

member has positive qualities and attributes while also being used to meet the needs of the family.

3. Prioritized Goals

The child welfare worker should assist the family to develop a list of goals to be achieved. The goals must be related to the conditions which are the basis for Youth Services involvement and the family's needs. The goals should be in order of priority with the most important first, then the second most important, and so forth.

The goals should be as specific as possible and written in behavioral terms which will facilitate evaluating whether they are being achieved. The goals should be realistic and limited in number. Realistic goals are ones which the family can achieve on their own or with the provision of appropriate services. In addition, the goals should be limited so that the family is not overwhelmed by attempting to meet too many expectations.

4. Services and Prevention

The child welfare worker will assist the family to consider which services are most suitable for helping them to achieve their goals. Services can be provided by community agencies or organizations that do not charge a fee; agencies or individuals approved to deliver Socially Necessary Services; informal resources such as extended family members or friends; other formal providers such as therapists, psychiatrists, or medical doctors; and by the worker who will periodically meet with them to help as necessary.

The child welfare worker and the family will discuss and decide who will make the arrangements for service provision. In some instances, it may be beneficial for the family to initiate the provision of certain services. Each formal service identified must be indicated on the case plan prior to initiating the referral. Informal resources may begin at any time but must be identified on the case plan once developed.

5. Child Welfare Worker Contact

The child welfare worker must meet with the family and the youth at least once every 30 days from the initiation of the case plan until the time for review of that plan. Contacts may be more frequent and should be mutually agreed upon by the family and the worker.

Contact with the family should be meaningful. To achieve meaningful contact, the child welfare worker must review case or other available family information prior to the contact. At each contact the child welfare worker must ensure that each youth or youth in the home is safe and that their needs are being met. The child welfare worker will also ensure that discussions and exchanges with the family focus on pertinent issues and that the family is involved in case decisions.

6. Foster Care Candidacy

The child welfare worker will thoroughly explain that if the family is unable to comply with the case plan and meet the goals laid out in it, their youth may be at risk of removal from the home.

The parent(s) and caregiver(s) in the home must sign the case plan, acknowledging that they understand that should the family not be able to comply with the case plan and meet the

goals laid out in it, their child(ren) may be at risk of removal from the home. See section 3.3 for more details about Foster Care Candidates.

### ***Completing the Case Plan***

After the terms of the case plan have been agreed upon, the child welfare worker or other designee will:

- Enter the plan details onto the case plan.
- Indicate which child is the primary Youth Service client and whether the youth is a pregnant or parenting youth in the appropriate area.
- Make referrals for the formal services listed on the case plan and enter into the service log in the CCWIS system.
- Obtain the family's signature on the plan and provide them a copy of the plan; and,
- Upload the signed case plan to the CCWIS.

When obtaining the signatures of the family it is important the child welfare worker read the statements to the parents and youth. If a family chooses to disagree or not sign with either statement, the child welfare worker must indicate that on the plan and enter a contact into the CCWIS system thoroughly explaining the family's refusal to sign and efforts the child welfare worker undertook to address the family's concerns.

The child welfare worker must present the copy of the plan to the family in person. This provides one more opportunity to be sure that each family member understands the plan and what is expected of them during the life of the plan. It also provides an opportunity to clarify any questions the family may have.

## **SECTION 7 – CASE PLAN EVALUATION**

### **7.1 Introduction**

Case plan evaluation is a continuing part of the casework process. The dynamic nature of Youth Services necessitates ongoing review. The case plan review is the point at which the child welfare worker, in conjunction with the family, measures observable results against stated goals, in relation to services. It is a specific activity designed to assess risk reduction and it is the point at which the child welfare worker and family step away from the casework to see if things are working. The case plan review is a decision-making point in the casework process. It is not simply a time set for updating CCWIS or summarizing contacts. The decision to close a case and disengage Youth Services is reached during the case plan review. The FAST assessment must be revisited and score adjustments made to reflect areas of need which have either escalated or deescalated.

Throughout the life of the case the child welfare supervisor will conduct regular supervisor meetings with the worker to provide support, guidance, and case consultation and to regulate the quality of casework practice.

Special consideration and guidance will be given by the child welfare supervisor so as to be in compliance with the Adoption and Safe Families Act, a petition must be filed or joined by the state as defined in [W. Va. Code §49-4-605](#) to terminate the parental rights of a youth who has been in foster care or the custody of the Department for 15 of the most recent 22 months or document compelling reasons not to terminate parental rights. [W. Va. Code §49-4-605](#) also requires the pursuit of termination of parental rights if a parent, whose youth has been removed from the parent's care, custody, and control by an order of removal, voluntarily fails to have contact with or fails to attempt to have contact with the youth for a period of 18 consecutive months. Termination of parental rights is not required to be sought if a parent's failure to contact the youth is due to being incarcerated, being in a medical or drug treatment or recovery facility, being on active military duty, or other compelling reasons. Additional instructions on Termination of Parental Rights for youth may be found in *Foster Care Policy* and the *West Virginia Rules of Juvenile Procedure, Rule 44*. Child welfare workers must consult with their supervisors and continuously monitor timeframes when a case meets the above criteria. Child welfare workers and their supervisors may need to seek the assistance of a Child Protective Services supervisor regarding the appropriate method of pursuing termination with the court and ensuring that parents who may potentially have their rights terminated will receive due process.

### **Purposes**

The primary purposes of the case plan review are:

- To identify progress and a reduction in needs.
- To provide feedback to the family and others involved in the case.
- To determine the need for revision of the case plan.
- To examine service provider performance on the cases.
- To measure change in relation to the reasons why Youth Services became involved with the family; and,
- To disengage Youth Services from family involvement.

### **Decisions**

The decisions that must be made during the case plan review are:

- Is the plan adequate, or do changes need to be made?
- Are services being provided as planned and effectively addressing the family's needs?
- Is progress being made toward the achievement of the goals established in the case plan?
- Is the functioning of the family members changing?
- Should the case be closed?

## **7.2 Case Plan Evaluation Review Protocol**

The case plan should be reviewed every 90 days from the initiation of the Case Plan. If circumstances warrant, the case plan can be reviewed in less than 90 days. However, regular reviews should occur no later than every 90 days.

In completing the case plan review the child welfare worker will:



- Obtain written or verbal input from service providers regarding progress on goals and client involvement in services.
- Meet with all family members to formally review the case plan and evaluate progress towards goal achievement. The FAST should be revisited to determine if score adjustments can be made. This can also help to illustrate progress to the family.
- The child welfare worker will thoroughly explain that should the family not be able to comply with the case plan and meet the goals laid out in it, their child(ren) may be removed from the home.
- Review each goal which was scheduled to be worked on during the period and review the Progress Evaluation tool in order to determine progress.
- Review the safety plan, if one is present for the case, to ensure that the family's safety is still being met and safety resources are still available and committed to the plan.
- Document the evaluation of the case activity relative to the case plan for the previous 90-day period.
- Discuss with the family and decide whether the case plan should continue as is, be modified or the case should be closed.
- Obtain the signatures of the family and the child welfare worker's supervisor. Document the summary of case activity for the previous 90-day period in the CCWIS system and upload the new case plan.

## **SECTION 8 – MULTIDISCIPLINARY TREATMENT TEAM**

### **8.1 Introduction and Purpose**

A Multidisciplinary Treatment Team (MDT) is a group of individuals, from different disciplines, who work together with the youth and family to develop a case plan and coordinate services. An MDT becomes the central point for decision making during the life of a case. The case plan is developed by the MDT; therefore, the youth and family's participation are vital throughout the process. Any person or professional who may contribute to the team's efforts to assist the family and youth must be notified and invited to participate in the MDT, but extra attention must be placed on encouraging the youth and family to participate in the MDT process.

The [W. Va. Code §49-4-401](#), requires the department to establish a multidisciplinary screening, advisory and planning system.

The purpose of the multidisciplinary system is to:

- Provide “a system for evaluation of and coordinated service delivery for children who may be victims of abuse or neglect and children undergoing certain status offense and delinquency proceedings”
- “Assist courts in facilitating permanency planning, following the initiation of judicial proceedings, to recommend alternatives and to coordinate evaluations and in-community services”; and

- Ensure “children are safe from abuse and neglect and to coordinate investigations of alleged child abuse offenses and competent criminal prosecution of offenders to ensure that safety, as deemed appropriate by the prosecuting attorney.”

## 9.2 When an MDT is Required

The [W. Va. Code § 49-4-406\(a\)](#) requires that a multidisciplinary treatment team must be convened whenever: A youth has been adjudicated as a status offender in accordance with [W. Va. Code § 49-4-711](#); or, when a youth has been adjudicated as a delinquent or has received a pre-adjudicatory period of improvement in accordance with [W. Va. Code § 49-4-708](#) and the court or other party moves the Department to convene such meeting; or, when it is likely that an adjudicated delinquent will be placed in the Department’s custody or placed in an out-of-home placement or commitment to a mental health facility for examination and diagnosis at the Department’s expense in accordance with [W. Va. Code § 49-4-714](#).

The [W. Va. Code §49-4-403\(a\)\(2\)](#) does not require a multidisciplinary team meeting to be held prior to temporarily placing a child or youth out-of-home under conditions requiring immediate or emergency action or when court order places a youth in a facility operated by the Bureau of Juvenile Services.

Multidisciplinary Treatment Teams must meet on a continuous basis, at least every 90 days, until permanency has been achieved for the youth and the case has been removed from the docket of the court.

## 9.3 Treatment Team Membership

The statute identifies those persons who are to be included in the multidisciplinary treatment team. In addition to the persons named in the statute other important individuals in the lives of the family and youth should be considered as participants in the MDT meetings.

As provided for in [W. Va. Code §49-4-406](#) the members shall include:

- The juvenile;
- The juvenile’s case manager with the Department of Health and Human Resources and/or with the Bureau of Juvenile Services;
- The juvenile’s parent(s)/guardian(s), or custodial relatives;
- The juvenile’s attorney;
- Any attorney representing any member of the treatment team;
- The prosecuting attorney or his or her designee;
- An appropriate school official;
- A treatment or service provider with training and clinical experience coordinating behavior or mental health treatment;
- In delinquency proceedings, the probation officer shall be a member of a treatment team.
- The managed care (MCO) case coordinator; and,

- Any other person or agency representative who may assist in providing recommendations for the particular needs of the youth and family, including domestic violence service providers. ([W. Va. Code §49-4-406\(d\)\(2\)\(I\)](#))
  - This may also include juvenile competency attainment service providers when applicable.

It is also necessary to notify and invite:

- Adult Service staff for all youth age 17 years or older, who meet the eligibility criteria for Substitute Decision Maker services, as defined in Substitute Decision Maker policy section 2, to plan for continued adult support if necessary.
- Home finding staff when placement options for the youth are being discussed.

#### **8.4 Initiating and Notifying of an MDT**

The members of the MDT must be properly notified at least 15 days prior to the MDT meeting by printing the Notification of MDT letters from CCWIS. If this is a status offender/delinquency case and only 5 days or fewer of notice are given to the child welfare worker, the child welfare worker must phone each member of the MDT to advise that an MDT will be held and provide the date, time, and location. The child welfare worker or other designee must also send out written notice by printing the Notification of MDT letters from CCWIS after they have phoned or faxed the members with the information.

#### **8.5 Prior to the MDT**

Because the MDT's role in case planning is so important, it is vital the child welfare worker has as much information about the youth and their family as possible before the first MDT, and should include:

- The information gathered through the interview process for the FAST
- The recommendations made in any assessments completed; and
- Collateral contacts with doctors, school, counselors, or any person that may have useful information to convey (some of which will require consents to receive this information).

Due to emergent circumstances, it will not always be possible to obtain all this information. The goal of the child welfare worker should always be to obtain this information for the MDT, to be provided at subsequent meetings when necessary.

#### **8.6 Conducting the Initial MDT**

In conducting the MDT, the child welfare worker will be responsible for:

- Chairing the MDT and facilitating the discussion of the case.
- Reminding the members that if a juvenile respondent admits the underlying allegations of the case during the multidisciplinary treatment planning process, their statements shall not be used in any juvenile or criminal proceedings against the youth, except for perjury or false swearing.
- Distributing records and collecting and destroying copies after the meeting.
- Assuring all members understand the rules of confidentiality and sign the confidentiality statement.

- Preparing recommendations of the team for presentation to the court including the Youth Case Plan, or Initial Case Plan.  
Recommendations should be guided by input from the family, information obtained through the completion of the FAST assessment, and recommendations which may come from the results of other assessments.

## **8.7 Recommendations to the Court**

The [W. Va. Code §49-4-406\(d\)\(3\)](#) requires that an MDT report be made to the court prior to the disposition. As part of this report, [W. Va. Code §49-4-724](#) requires it to include the results of a standardized assessment. The FAST will serve the purpose for this assessment. The results of the FAST should be discussed with the MDT, as well as the results from any other completed assessment. The MDT report advises the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the youth. The results of the standardized needs assessment should aid in guiding these decisions and recommendations. The court must also review the individualized case plan for the youth and family, developed by the MDT, to determine if implementation of the plan is in the youth 's best interest.

If the MDT cannot agree on a plan or the court determines not to adopt the MDT's recommendations the court is required to schedule or hold within ten days of such determination, and prior to the entry of an order placing the youth in the custody of the Department or in an out-of-home setting, a hearing to consider evidence from the MDT as to its rationale for the proposed case plan.

If the MDT is not in agreement on a plan for the youth or if the court does not adopt the MDT's recommended case plan, then the court can hold a hearing to consider evidence from the MDT about their plan. The Regional Attorney General must be contacted to file a motion for the hearing to be held.

At the conclusion of the hearing, the court should make specific findings as to why the MDT's recommended case plan was not adopted.

## **8.8 On-going MDTs and Court Submission**

### ***Ongoing MDTs***

Each completed MDT should be immediately documented in CCWIS in the "Team Meetings" tab under "Case Services & Plans"

MDTs that occur after 15 months, and continuing for each meeting after that, for a youth who is in foster care or who has been removed from their parent's care, then the child welfare worker will review the time frames of foster placement and frequency of contact with the parents to determine if the Department needs to file a petition of terminate parental rights per requirements of [W. Va. Code §49-4-605](#). More information on the requirements and exemptions can be found in section 7.1 of this policy.

For each transitioning adult (see Youth Services policy Section 1 for definition) who remains in foster care, the court shall conduct status review hearings once every 90 days until permanency is achieved. For each youth or transitioning adult who continues to remain in foster care, the circuit court shall conduct a permanency hearing no later than 12 months after the date the youth or transitioning adult is considered to have entered foster care, and at least once every 12 months thereafter until permanency is achieved. For purposes of permanency planning for transitioning adults, the circuit court shall make factual findings and conclusions of law as to whether the Department made reasonable efforts to finalize a permanency plan to prepare a transitioning adult for emancipation or independence or another approved permanency option such as, but not limited to, adoption or legal guardianship pursuant to the West Virginia Guardianship and Conservatorship Act. Additional direction on permanency planning can be found in Foster Care Policy.

Any person authorized to convene a multidisciplinary team meeting may seek and receive an order of the circuit court setting such meeting and directing attendance. Members of the multidisciplinary team may participate in team meetings by telephone or video conferencing.

### ***Court Submission and Case Planning***

The development of the initial case plan should proceed as follows:

- The Department will be notified that a court proceeding has been initiated and it will be necessary to convene an MDT.
- The child welfare worker assigned to the case will schedule the initial meeting of the MDT and complete the FAST prior to the MDT. If the child welfare worker is not already actively working the case prior to adjudication, the child welfare worker will need to complete a thorough interview of the youth and the family prior to the completion of the assessments.
- After the MDT meeting the child welfare worker will be responsible for documenting the results in CCWIS and developing the case plan.

After the case plan has been completed the child welfare worker will distribute copies to the MDT members and submit the case plan to the court.

## **8.9 Combining the MDT with Other Review Requirements**

There are requirements both in state statute and in federal regulations requiring the regular review of youths who are the subject of an MDT and may or may not be in an out-of-home placement. These statutes and requirements are similar but not identical. The requirements include:

[W. Va. Code §49-4-110](#) requires a regular review of every case in which a youth has been placed outside the home. The statute allows the court to review the case as often as necessary and, at a minimum, must conduct a review once every 90 days.

It is possible and it is recommended that MDT meetings and court hearings be combined to meet the various review requirements. By using MDT meetings and court hearings for more than one review process child welfare workers should be better able to manage the casework process.

Some examples of combined meetings include inviting a third-party reviewer to a scheduled quarterly MDT every six months. Another example would be to hold the court hearing on the quarterly review of the MDT and then immediately follow that hearing with a Judicial Review or, if all provisions of the requirements can be met, combine the two hearings. In combining meetings, the child welfare worker must be careful to be sure that all the requirements of the different review processes are met.

(The child welfare worker must always apply the Multidisciplinary Team Policy in conjunction with other applicable Foster Care, and Youth Services Policies.).

## **8.10 Concluding the MDT Meeting**

Concluding the MDT properly is a critical part of the process. During this phase of the meeting the child welfare worker will need to ensure that the results of the meeting are properly documented, the next meeting has been scheduled, and all issues have been resolved or a plan to resolve them has been developed.

In concluding the MDT, the following actions will be completed:

- The child welfare worker will document the results of the MDT on the MDT report. This report will also include a place for all individuals to sign that they participated in the MDT and that they agree with the MDT report. The child welfare worker will attempt to settle all disagreements prior to the MDT conclusion. The MDT report may contain different opinions. The child welfare worker is responsible for documenting the different opinions in the report as they were stated at the MDT and representing these to the court.
- The child welfare worker is responsible for collecting all copies of assessments or other documents concerning the youth and family that were shared with the members of the MDT. These copies must be properly destroyed to ensure the confidentiality of the youth and family.
- The child welfare worker will schedule the next MDT meeting prior to the conclusion of the meeting. (The meeting must be held within 90 days.)
- The child welfare worker will develop the revised Youth Services Case Plan utilizing the information presented at the MDT.

## **8.11 MDTs and Case Evaluation**

The child welfare worker will continuously evaluate the status of the case and present their findings at MDTs and by notifying MDT members of updates or changes to the case. This will include any new information obtained in the previous 90 days or since the last MDT meeting.

If considering case closure, then revisit the scores of the FAST to determine if scores have reduced to the degree that services are no longer warranted, or community resources can continue to meet the youth and family's needs. If the youth and youth's family have made significant progress and social service involvement no longer appears necessary, then the child welfare worker will need to present to the MDT how the revisited FAST scores justify this recommendation. Furthermore, if the youth is receiving residential services and is within 60 days of discharge, then the child welfare worker will provide the

MDT with a plan for after-care services. See *Foster Care Policy* for more information on after-care planning.

## **SECTION 9 – YOUTH SERVICES COURT CASE PLAN**

### **9.1 Youth Services Court Case Plan Definitions**

The definitions used below are specific to this section and are a supplement to the general definition section.

<b>Individualized Educational Plan (IEP)</b>	A federally mandated plan for educational support services and outcomes developed for students enrolled in special education programs.
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### **9.2 Introduction**

Case planning when there is no court involvement is limited, in general, to interactions between the Department, the family, and service providers. The processes and procedures for this type of case planning are left to the discretion of the Department.

Case planning for youths and their family when there is a court proceeding is a much broader and more structured process. It involves fulfilling a combination of requirements from different sources and the management of a series of meetings, reports, casework processes and legal proceedings.

### **9.3 Statutory Requirements**

To be sure that all applicable provisions of the state statutes and federal regulations are met, the Department has adopted a case planning process which includes all the possible requirements. This process, however, does not require the child welfare worker to address all the requirements in every case. Instead, the design allows the child welfare worker to address the requirements on a case-by-case basis selecting only those which apply.

### **9.4 Information Used in Developing the Case Plan**

In developing the case plan the child welfare worker and the members of the MDT should consider using, as appropriate and available, information from the following sources:

- The Safety Plan if one has been implemented.
- The results of the FAST assessment, or other completed assessments, if completed.
- Department case records if the youth and/or the youth’s family have previously been involved with the Department.
- Information from other agencies or providers such as an IEP (Individual Education Plan) developed by education staff; and
- The information discussed during the MDT.

## **9.5 Developing the Case Plan**

After the MDT meeting, the child welfare worker will complete the case plan. For cases in which the youth has not been removed from the home, the child welfare worker will utilize the case planning process described in Section 6 and will propose the case plan to the MDT for consideration and approval. For youth removed from the home, the child welfare worker will utilize the Youth Service Family and Child Case Plan located in the CCWIS system to meet all applicable federal and state requirements for foster children. Once a youth returns from out of home placement the worker must return to utilizing the case plan found in Section 6. The categories and the information which should be considered for the case plan include the following:

- Client Information;
- Family Needs and Services;
- Removal, Placement and Planning, if necessary; and
- If the youth has been removed from his home, then the child welfare worker and the MDT must address the circumstance surrounding the removal and whether reasonable efforts were made to prevent removal.

### ***Placement***

If the youth has been removed from their home prior to the MDT or the MDT is considering recommending removal, then the child welfare worker and team members must review and utilize the results of the FAST to determine if the youth's needs can be met in the community. If the team finds that the youth's needs cannot be addressed in the community, then the team must:

- Consider if a foster home will be able to meet the needs of the youth.
- Consider the type of facility where the youth is placed or the type of facility the MDT is recommending.
- Consider whether the placement is in close proximity to the youth's community.
- Consider whether the placement is least restrictive considering the youth's needs and behaviors.
- Consider why the placement is in the best interest of the youth.
- Consider whether the recommended visitation plan is appropriate.
- Consider how the placement will assure the safety of the youth.
- Consider whether the parents/caregiver can contribute to the cost of placement.

After these discussions, the child welfare worker and team members should determine an agreed upon recommendation.

### ***Planning***

In addressing this item, the child welfare worker and the MDT members should discuss the:

- Goals of the individual family members related to their identified needs;
- Specific services that will be provided to the youth and the family as determined needed by information obtained through the completion of the FAST;



- Frequency and duration of services for the youth and the youth's family;
- Tasks that the child welfare worker or the family will be expected to perform as a part of the case plan;
- Permanency plan if the youth is out-of-home or the MDT is recommending placement; and,
- Concurrent plan for the youth.

After these discussions, the child welfare worker and team members should determine an agreed upon recommendation. Preference of the youth must be taken into consideration when placement is necessary. Additionally, any relatives and fictive kin who have been identified through diligent search must be notified of the need for a youth's placement and should be used as a placement resource if willing and appropriate. For more information on placement preferences and diligent relative searches see *Section 2.4.2 'Kinship/Relative Placement and Relative Foster/Adoptive Family' of Foster Care Policy*.

### ***Education and Medical***

In developing this part of the plan, the worker and the MDT must discuss the:

- Youth's educational progress to date including whether or not the youth is achieving satisfactory progress in school.
- Need for additional education services such as the completion of an IEP;
- Results of any medical assessments of the youth including a Health Check assessment;
- Results of any behavioral health assessments of the youth including a psychological or psychiatric evaluation;
- Results of any medical assessments of the parents; and,
- Results of any behavioral health evaluations of the parents/caregivers including a psychological or psychiatric evaluation.

After these discussions, the child welfare worker and team members should determine an agreed upon recommendation.

### ***Worker Contact***

At a minimum the child welfare worker must have monthly contact with the family and the youth. Any contacts made with the youth, family or other collaterals whether it be face to face or phone contact, need to be entered into the CCWIS system within three business days. The frequency could be greater depending on the needs of the family and the youth and the services they will be receiving. Regardless of placement, the youth must be afforded the opportunity to speak privately with their child welfare worker during monthly contacts. If a court order or treatment plan requires the youth to be accompanied or monitored at all times, the child welfare worker must staff the situation with their supervisor to determine appropriate action.

During the child welfare worker's monthly contact with youths placed in a residential treatment facility, the child welfare worker must ensure that the youth's treatment plan includes a plan to transition the youth back into the community and evaluate its progress. The transition process is to begin immediately upon entry into the facility and conclude no more than 90 days from the time of placement.

Should the child welfare worker determine further time in a residential facility is the only means to attain the continued treatment needs of the youth; the child welfare worker must present evidence to support this conclusion to the MDT for consideration of an extension of placement. The court will then review all relevant information and determine whether the extension shall be granted. The child welfare worker must continue to revisit the youths continued need for placement during monthly contacts.

## **9.6 Completing the Case Plan for Court Submission**

In order to complete the case plan, the child welfare worker will need to enter/describe certain components of the case plan such as the goals for the youth and the family and the recommended services.

After completing the case plan the child welfare worker or other designee should send a copy of the plan to each member of the MDT along with a cover letter. In the letter the child welfare worker should include the date the plan was submitted to the court, the date of the next hearing and any other information that the child welfare worker believes is relevant to this case.

### ***Submission of the Case Plan to the Court***

After the case plan has been completed the child welfare worker or other designee should send a copy of the plan and a copy of the FAST assessment report to the court which has jurisdiction over the case.

If the recommendations of the MDT contained in the case plan are not unanimous, or if the court determines not to adopt the recommendations of the Team, then the court is required to schedule and hold within 10 days of such determination, and prior to the entry of an order placing the youth in the custody of the Department or in an out-of-home setting, a hearing to consider evidence from the MDT as to its rationale for the proposed plan.

### ***Requesting a Hearing***

In those instances when the court does not adopt the recommendation of the team the child welfare worker will be responsible for contacting the Regional Attorney General to file a motion requesting a hearing; and notifying the members of the MDT of the date of the hearing.

## **SECTION 10 – YOUTH SERVICES COURT CASE PLAN REVIEW**

### **10.1 Introduction**

Case plan review is a continuing part of the Youth Services casework process as outlined in Section 7. It is a specific activity in which the child welfare worker and the family and MDT members, when youth are court involved, step away from the casework process to see if things are working. Case plan review is a decision-making point in the casework process. It is not simply a time set aside for updating CCWIS or summarizing contacts. The decision to recommend case closure and disengage Youth Services is reached during case plan review.

Throughout the life of the case the child welfare supervisor will conduct regular supervisor meetings with the child welfare worker to provide support, guidance, and case consultation and to regulate the quality of casework practice.

## 10.2 Statutory Requirements

State statute includes the expectation of regular case plan reviews for youths who have been involved in a court proceeding and remain under the continuing jurisdiction of the court.

[W. Va. Code §49-4-711\(4\)](#) explains, if the allegations within a status offense petition are admitted or proven, the court shall refer the juvenile to the Department for services requiring reports be returned to the court at least every ninety days or until the case is dismissed from the docket. In a judicial circuit operating its own truancy program, a circuit judge may, in lieu of referring truant juveniles to the Department, order that the juveniles be supervised by his or her probation office.

[W. Va. Code §49-2-1002](#) discusses the requirement for all youth in out-of-home placement to be transitioned back into the community within 30-90 days of initial placement. This requirement has an exception to allow for the continuation in out-of-home placement if clear and convincing evidence is presented to necessitate the continuation in out-of-home care. All 90-day reviews should consider whether the youth's needs can be met in the community and if transition may occur.

[W. Va. Code §49-4-605](#) requires that 90-day reviews that occur on the 15<sup>th</sup> month, and continuing each review hearing after that, for youth who are in foster care or have been removed from their parent's care will require the child welfare worker to evaluate time frames associated with the duration that youth has been in foster care and/or frequency of contact with the parents from whose care they have been removed. See section 7.1 for further details regarding the need for review at these time frames.

## 10.3 Purposes

The primary purposes of the case review are:

- To identify progress;
- To provide feedback to the family and others involved in the case;
- To determine the need for revision of the case plan;
- To examine provider performance on the case;
- To measure change in relation to the conditions which warranted Youth Services intervention; and
- To disengage Youth Services from family involvement.

## 10.4 Decisions

The decisions that must be made during case review are:

- Is the case plan appropriate?
- Does anything need adjusting in the case plan?
- Are services being delivered as planned?

- Are both the youth and the youth’s family participating in the case plan?
- Does the Safety Plan, if one exists, need revision?
- Is communication among various persons participating in the treatment plan up to date?
- Has the family situation stabilized?
- What recommendations should be made to the court?

## 10.5 Submission of the Revised Case Plan to the Court

After the revised case plan has been completed the child welfare worker or other designee should send a copy of the plan to the court which has jurisdiction over the case. The child welfare worker should send a letter with the plan informing the court that the MDT has met, and the case plan has been revised. In addition, the child welfare worker should request that the court notify the child welfare worker of the next scheduled judicial review on the case.

When the child welfare worker receives the notice from the court as to the hearing date then the child welfare worker or other designee can notify the other members of the MDT.

*Note: Because procedures may vary from court to court it is recommended that the child welfare worker consult with the prosecuting attorney about the method for notifying the court of the results of the MDT meeting and requesting a quarterly judicial review. If the court decides to adopt a procedure other than those described above the child welfare worker will follow the court’s preference.*

The important points are that the MDT meets at least every 90 days, and the court reviews the results of the meetings at least quarterly. When cases are recommended for closure, the child welfare worker must submit the FAST assessment with the case plan for the courts review.

## SECTION 11 – CASE RECORD CONFIDENTIALITY

### 11.1 Confidentiality

The confidential nature of child welfare records is governed by [W. Va. Code §49-5-101](#). In Youth Services cases, [W. Va. Code §49-5-103](#) and [W. Va. Code §49-5-104](#) provide further clarification and restrictions of confidentiality for those records generated by the court in juvenile justice proceedings. In general, the child welfare records of the Department must be maintained in a confidential manner. The information generated within the Department pertaining to a child belongs to the child, and therefore, the child, and specified others have the right to access to the record, except for:

- adoption records;
- records disclosing the identity of a person making a complaint of child abuse or neglect; and
- juvenile court records; except as governed by [W. Va. Code §49-5-103](#) and [W. Va. Code §49-5-104](#)

Generally, records may be released to the following persons:

- The child or juvenile;
- A parent who's parental rights have not been terminated;
- The attorney of the parent or child; and
- Multidisciplinary investigative and treatment teams.

All other records requests from third party entities must be made through the Department of Human Services' Office of General Counsel; provided that, juvenile's who may also be involved in a child protective services or other abuse and neglect case, including investigations involving human trafficking may have their records released to certain federal, state, or local government authorities if the records may aid in the protection of the child.

## **SECTION 12 – NONDISCRIMINATION, GRIEVANCE PROCEDURE & DUE PROCESS STANDARDS, REASONABLE MODIFICATION POLICIES, AND CONFIDENTIALITY**

### **12.1 Nondiscrimination**

As a recipient of Federal financial assistance, the Bureau for Social Service (BSS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by BSS directly or through a contractor or any other entity with which BSS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin) ("Title VI"), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability) ("Section 504"), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age) ("Age Act"), regulations of the U.S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

The Bureau for Social Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

In addition, BSS will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all BSS programs, services, and activities. For example, individuals with service animals are welcomed in the Department of Health and Human Resources, BSS, offices even where pets are generally prohibited.

In case of questions, or to request an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a BSS program, service, or activity, please contact:

Children and Adult Services  
Section 504/ADA Coordinator  
350 Capitol St. Rm 691  
Charleston, WV 25301  
(304) 558-7980

## **12.2 Non-Discriminatory Placement Protocol**

The Department ensures that all parties involved in child welfare programs have equal opportunities. All potential placement providers for children and youth, are afforded equal opportunities, free from discrimination and protected under the [Americans with Disabilities Act](#) (ADA). The Department will not deny a potential placement provider the benefit of its services, programs, or activities due to a disability.

Under the Americans with Disabilities Act it defines a person with a disability as:

“An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”

The ADA does not specifically name all the impairments that are covered. The ADA does not allow a person to be discriminated against due to a disability in employment, state and local government activities, public transportation accommodations, telecommunication relay services, fair housing, air carrier access, voting accessibility or education. Examples of disabilities include physical disabilities which require auxiliary aides and mental health issues. Those persons with substance use disorders, including opioid use disorder, currently participating in a treatment option such as Medication Assisted Treatment (MAT), are also covered by the ADA. Participation in a MAT program is not considered the illegal use of drugs. Qualifying MAT programs are defined in [W. Va. Code §16-5Y-1, et seq.](#) The ADA also addresses the civil rights of institutionalized people and architectural barriers that impact people with disabilities.

When making diligent efforts to locate and secure appropriate placement for foster children and youths, a worker cannot discriminate against a potential placement based upon a person with a disability according to the Americans with Disabilities Act (ADA) Title II. The Department shall determine if the potential placement for the child represents a direct threat to the safety of the child. Safety threat decisions will be based on assessment of the individual and the needs of the child, as the safety of the child always remains at the forefront of the determination of the best interest of a child, when placing a child in anyone’s home. This determination cannot be based on generalizations or stereotypes of individuals.

If a provider protected under the ADA is identified as an appropriate and best interest placement for a foster child they may, at some point, require services specific to their disability in order to preserve the placement. In such situations, consideration for services must be given if it is in the best interest of the child to preserve the placement. Any specific auxiliary aids or services should be determined by the child welfare worker at no cost to the provider and should be considered on a case by case basis.

## **12.3 Complaint Procedure and Due Process Standards**

### ***A: Complaints Based on Disability or other Forms of Discrimination***

It is the policy of the West Virginia Department of Health and Human Resources (DHHR or the Department), not to discriminate on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed. The Department has adopted an internal complaint procedure providing for prompt, equitable resolution of complaints alleging discrimination. Laws and Regulations, 28 C.F.R. Part 35 and 45 C.F.R. Part 84, may be examined by visiting <https://www.ada.gov/reg3a.html>. Additional laws and regulations protecting individuals from discrimination in child welfare programs and activities may be examined by visiting the U.S Department of Health and Human Services website at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/adoption/index.html>

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion, or creed may file a complaint under this procedure. It is against the law for the Bureau for Children and Families, including employees, contracted providers or other BSS representatives, to retaliate in any way against anyone who files a complaint or cooperates in the investigation of a complaint.

#### ***Procedure***

Complaints due to alleged discriminatory actions must be submitted to the Department of Health and Human Resources, Equal Employment Opportunity (EEO)/Civil Rights Officer within sixty (60) calendar days of the date the person filing the complaint becomes aware of the alleged discriminatory action.

The complainant may make a complaint in person, by telephone, by mail, or by email. To file the complaint, by mail or email ,a Civil Rights Discrimination Complaint Form, IG-CR-3 (See Appendix A) must be completed and mailed or emailed to the West Virginia Office of Shared Administration, Office of Human Resources, EEO/Civil Rights Officer, One Davis Square, Suite 400, Charleston, WV 25301 or email at [OSACivilRights@WV.gov](mailto:OSACivilRights@WV.gov) If the complainant requires assistance completing the IG-CR-3 form, they may request assistance from the Department. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought. The complainant may also contact the WV DHHR, EEO/Civil Rights Officer, for more information.

West Virginia Office Of Shared Administration  
Office of Human Resources Management

EEO/Civil Rights Officer  
One Davis Square, Suite 400, Charleston, WV 25301  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[OSACivilRights@WV.Gov](mailto:OSACivilRights@WV.Gov) (email)

The EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The EEO/Civil Rights Officer will maintain the files and records of Bureau for Social Services relating to such complaints. To the extent possible, and in accordance with applicable law, the EEO/Civil Rights Officer will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

The EEO/Civil Rights Officer shall issue a written decision on the complaint, based on the preponderance of the evidence, no later than thirty (30) calendar days after its filing, including a notice to complainant of his or her right to pursue further administrative or legal remedies. If the EEO/Civil Rights Officer documents exigent circumstances requiring additional time to issue a decision, the EEO/Civil Rights Officer will notify the complainant and advise them of his or her right to pursue further administrative or legal remedies at that time while the decision is pending. The person filing the complaint may appeal the decision of the EEO/Civil Rights Officer by writing to the Director of Human Resources within fifteen (15) calendar days of receiving the EEO/Civil Rights Officer's decision. The Director of Human Resources shall issue a written decision in response to the appeal no later than thirty (30) calendar days after its filing.

The person filing the complaint retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources.

The availability and use of this procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, gender identity, religion or creed in court or with the US Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint portal at: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> or by mail or by phone at:

U.S. Department of Health & Human Services  
Office for Civil Rights  
200 Independence Ave., S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201



800-368-1019 (voice) 800-537-7697 (TDD)  
OCRComplaint@hhs.gov

For complaints to the Office for Civil Rights, complaint forms are available at: <https://www.hhs.gov/ocr/complaints/index.html>. Complaints shall be filed within one hundred and eighty (180) calendar days of the date of the alleged discrimination.

The Bureau for Social Services will make appropriate arrangements to ensure that individuals with disabilities and individuals with Limited English Proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed, to participate in this process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing recorded material for individuals with low vision, or assuring a barrier-free location for the proceedings. The EEO/Civil Rights Officer will be responsible for such arrangements.

***B: Grievances Regarding the Youth Services Worker or Casework Process***

At any time that the Bureau for Social Services is involved with a client, the client (adult or child), or the counsel for the child has a right to express a concern about the manner in which they are treated, including the services they are or are not permitted to receive.

Whenever a parent, child or counsel for the parent or child has a complaint about Youth Services or expresses dissatisfaction with Youth Services the child welfare worker will:

- Explain to the client the reasons for the action taken or the position of the BSS which may have resulted in the dissatisfaction of the client.
- If the situation cannot be resolved, explain to the client his/her right to a meeting with the supervisor.
- Assist in arranging for a meeting with the supervisor.

The supervisor will:

- Review all reports, records and documentation relevant to the situation.
- Determine whether all actions taken were within the boundaries of the law, policies and guidelines for practice.
- Meet with the client.
- If the problem cannot be resolved, provide the client with the form “Client and Provider Hearing Request”, SS-28.
- Assist the client with completing the SS-28, if requested.
- Submit the form immediately to the Chairman, state board of Review, DHHR, Building 6, Capitol Complex, Charleston, WV 25305.

For more information on Grievance Procedures for Social Services please see Common Chapters Manual, Chapter 700, and Subpart B or see [W. Va. Code §29A-5-1](#).

Note: Some issues such as the decisions of the circuit court cannot be addressed through the Grievance Process. Concerns about or dissatisfactions with the decisions of the court including any approved case plan must be addressed through the appropriate legal channels.

### **13.4 Reasonable Modification Policy**

#### ***A: Purpose***

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), the Bureau for Social Services shall not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The BSS shall make reasonable modifications in Youth Services program policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

#### ***B: Policy***

The Department is prohibited from establishing policies and practices that categorically limit or exclude qualified individuals with disabilities from participating in the BSS Youth Services program.

The Bureau for Social Services will not exclude any individual with a disability from the full and equal enjoyment of its services, programs, or activities, unless the individual poses a direct threat to the health or safety of themselves or others, that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services.

The Bureau for Social Services is prohibited from making Youth Services program application and retention decisions based on unfounded stereotypes about what individuals with disabilities can do, or how much assistance they may require. The BSS will conduct individualized assessments of qualified individuals with disabilities before making Youth Services application and retention decisions.

The Bureau for Social Services may ask for information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability and need for the modification are not readily apparent or known. BSS will confidentially maintain the medical records or other health information of Youth Services program applicants and participants.

The Bureau for Social Services upon request, will make reasonable modifications for qualified Youth Service, program applicants or participants with disabilities unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. Individuals do not need to reference Section 504 or Title II or use terms of art such as “reasonable modification” in order to make a request. Further, BSS staff are obligated to offer such reasonable accommodations upon the identification of a qualifying disability or to an individual with Limited English Proficiency.

BSS must consider, on a case-by-case basis, individual requests for reasonable modifications in its Youth Services program, including, but not limited to, requests for substitute caregivers, respite caregivers, more frequent support from a case worker, additional classroom and/or online training, mentorship with an experienced foster/adoptive parent, note takers, and other auxiliary aids and services. When auxiliary aids or language interpretation services to ensure effective communication for individuals with hearing, vision, speech impairments, or Limited English Proficiency (LEP) are needed, they shall be provided to the participant at no additional costs. The Department evaluates individuals on a case by case basis to provide auxiliary aids and services as necessary to obtain effective communication. This would include but not be limited to:

- Services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments.
- And qualified readers, taped texts, and Brailed or large print materials for individuals with vision impairments.
- Access to language and interpretation services.

For more information on obtaining auxiliary aids, contact:

Center for Excellence in Disabilities (CED)  
959 Hartman Run Road  
Morgantown, WV 26505  
Phone: 304-293-4692.  
Toll Free: (888) 829-9426  
TTY: (800) 518- 1448

For language translation and interpretation services Youth Services may Contact 911 Interpreters or the Section 504/ADA Coordinator (see also section 11.5 Limited English Proficiency). To contact 911 Interpreters, utilize the information below:

911 Interpreters Inc.  
1-855-670-2500  
BSS Code: 16233

When requesting language translation services directly through 911 Interpreters, staff must report the accommodation to the Section 504/ADA Coordinator by completing the *Reasonable Accommodation Reporting Form*.

The Bureau for Social Services will not place a surcharge on a particular qualified individual with a disability or any group of qualified individuals with disabilities to cover the cost of measures, such as the provision of auxiliary aids and services or program accessibility, that are necessary to provide nondiscriminatory treatment required by Title II of the ADA and Section 504.

To address any violations of this Reasonable Modification Policy, consult the Bureau for Social Services Grievance Procedure. To request reasonable modifications, or if you have questions, please contact:

Children and Adult Services  
Section 504/ADA Coordinator  
350 Capitol St. Rm 691  
Charleston, WV 25301  
(304) 352-4429  
[DHRCivilRights@WV.Gov](mailto:DHRCivilRights@WV.Gov) (email)

Staff who make reasonable accommodations for an individual must be reported to the Section 504/ADA Coordinator utilizing the *Reasonable Accommodation Reporting Form*.

### **13.5 Limited English Proficiency**

The Bureau for Social Services (BSS) will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of BSS is to ensure meaningful communication with LEP clients and their authorized representatives involving their case. The policy also provides for communication of information contained in vital documents, including but not limited to, information release consents, service plans, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of contracted vendors, technology, or telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in the effective use of an interpreter and the effective use of technology including telephonic interpretation services. The Bureau for Social Services will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

#### ***PROCEDURES:***

##### **1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE**

The Bureau for Social Services will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or “I speak cards,” available online at [www.lep.gov](http://www.lep.gov)) or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

##### **2. OBTAINING A QUALIFIED INTERPRETER**

911 Interpreters Inc. has agreed to provide qualified interpreter services. The agency’s telephone number is 1-855-670-2500 (BSS Code: 16233). Interpretation services are available 24 hours a day. Some

LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, BSS will provide qualified interpreter services to the LEP person free of charge. Children and other clients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

### 3. PROVIDING WRITTEN TRANSLATIONS

When translation of vital documents is needed, BSS will submit documents for translation to 911 Translators Inc. or the Section 504/ADA Coordinator. BSS will generally provide language services in accordance with the following guidelines:

- (a) BSS will provide written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- (b) If there are fewer than 50 persons in a language group that reaches the five percent threshold in (a), BSS will not translate vital written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Additionally, when making a determination as to what languages services will provided, BSS may consider the following factors: (1) the number and or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

### 4. PROVIDING NOTICE TO LEP PERSONS

The Bureau for Social Services will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and

signs will be posted and provided in the Department office lobbies and waiting areas. Notification will also be provided through one or more of the following: outreach documents and program brochures.

**5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION**

On an ongoing basis, BSS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, BSS will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

**Appendix A**  
**DHHR Civil Rights Complaint Form**



West Virginia Department of Health and Human Resources  
**Civil Rights Discrimination Complaint Form**

<b>Complainant First Name</b>		<b>Complainant Last Name</b>	
<b>Home Phone</b> <i>(include area code)</i>		<b>Work Phone</b> <i>(include area code)</i>	
<b>Street Address</b>		<b>City</b>	
<b>State</b>	<b>Zip Code</b>	<b>Email</b> <i>(if available)</i>	

Is this complaint being completed by someone other than the complainant?  Yes  No

If yes, please provide your information below:

<b>First Name</b>	<b>Last Name</b>	<b>Telephone Number</b> <i>(include area code)</i>
-------------------	------------------	--

The complainant feels they have been discriminated against on the basis of:

- Race/Color/National Origin    
  Religion/Creed    
  Sexual Orientation/Gender Identity  
 Disability    
  Age    
  Sex

Other *(please specify):*

Who or what bureau within the West Virginia Department of Health and Human Resources is believed to have been discriminatory?

<b>Name/Bureau/Office</b>		
<b>Street Address</b>	<b>City</b>	<b>County</b>
<b>Zip Code</b>	<b>Telephone</b>	

Date(s) discriminatory action is believed to have occurred:

Which program(s) is the complainant alleging the discriminatory action took place in?

- Child Welfare *(includes CPS, Youth Services, Foster Care, Adoption, Homefinding, and Legal Guardianship)*    
  Adult Welfare *(includes APS, Guardianship, Health Care Surrogate, Residential Services Request to Receive and Request to Provide)*    
  Low Income Energy Assistance Program (LIEAP)  
 Temporary Assistance for Needy Families (TANF)    
  School Clothing Voucher    
  Indigent Burial

*Complaints involving the Supplemental Nutrition Assistance Program (SNAP) must be sent directly to the U.S. Department of Agriculture. See below for more information.*



**Describe briefly what happened. How and why does the complainant believe they have been discriminated against? What is the relief or remedy sought by the complainant?**

*(Attach additional pages as needed.)*

Please sign and date this form. If submitting by email, you may type your name and date. Your email will represent your signature.

Signature	Date (mm/dd/yyyy)
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The West Virginia Department of Health and Human Resources shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. EEO/Civil Rights Officer will maintain the files and records of DHHR relating to such grievances. The EEO/Civil Rights Officer shall issue a written decision on the complaint no later than thirty (30) calendar days after its filing, unless the Coordinator documents exigent circumstances requiring additional time to issue a decision. To submit this complaint or request additional information, please contact:

West Virginia Office of Shared Administration  
Office of Human Resource Management  
EEO/Civil Rights Officer  
(304) 558-3313 (voice)  
(304) 558-6051 (fax)  
[OSACivilRights@WV.Gov](mailto:OSACivilRights@WV.Gov) (email)

The person filing the grievance retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Health and Human Resources. The availability and use of this grievance procedure does not prevent a person from filing a private lawsuit in Federal court or a complaint of discrimination on the basis of being a member of a protected class, with the:

U.S. Department of Health & Human Services  
200 Independence Ave., S.W.  
Room 509F HHS Bldg.  
Washington, D.C. 20201  
800-368-1019 (voice)  
202-619-3818 (fax)  
800-537-7697 (TDD)  
[OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov) (email)

The complaint form may be found at <https://www.hhs.gov/ocr/complaints/index.html>

*For SNAP complaints, please contact the U.S. Department of Agriculture.  
The USDA Program Discrimination Complaint Form, can be found online at: <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form by mail, email, or fax to:*

*U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW Washington, D.C. 20250-9410  
(202) 690-7442 (fax)  
(866) 632-9992 (telephone)  
[program.intake@usda.gov](mailto:program.intake@usda.gov) (email)*

**Appendix B**  
**Juvenile Competency Attainment Providers**

Name of Contact	Agency	Email	Counties Served – <i>Service areas may be altered as contracts change. Reach out to the contact of each agency to verify county/district coverage.</i>
Derika Bowyer	Genesis Youth Crisis Center 192 Safe Haven Drive Clarksburg, WV 26301 304-622-1907	derika@genesiswv.org	Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Ritchie, Wood, Wirt, Jackson, Roane, Calhoun, Monongalia, Marion, Taylor, Harrison, Doddridge, Lewis, Upshur, Gilmer
Joanna Kuhn, Director	Eastern Regional Family Resource Network 108 South Fork Road, Moorefield, WV 26836(304) 530-5480 Ext. 101	director@erfrn.info	Randolph, Tucker, Grant, Mineral, Pendleton, Hardy, Hampshire, Morgan, Berkeley, Jefferson Counties and Circuit Court Districts 20, 21, 22, 23
Lisa Price	United Summit Center 6 Hospital Plaza Clarksburg, WV 26301	Lisa.price@wvumedicine.org	Braxton, Doddridge, Gilmer, Harrison, Lewis, Upshur, Barbour, Taylor, Randolph, Tucker, Preston, Marion, and Monongalia Counties
Lisa Zappia	Prestera Center for Mental Health Services, Inc. 5600 US Rt. 60 East Huntington, WV 25705 Office: 304-525-7851 Ext. 1210	Lisa.zappia@prestera.org	Boone, Cabell, Clay, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, and Wayne Counties