

IV-E

Disrupted Legal Guardianship or Adoption

Title IV-E is established by “foster care episodes.” When a child is initially removed from their home and the agency takes placement and care this is considered a new “foster care episode.” The state is required to have judicial determination made in accordance with this removal (CTW and Reasonable Efforts to Prevent Removal) to claim title IV-E for the “foster care episode.” Once the child is adopted or legal guardianship occurs the foster care episode ends. If the placement disrupts, and the agency establishes placement and care of the child, this is considered a new “foster care episode.” Since this is a new “foster care episode” the state is required to establish judicial determinations (CTW and Reasonable efforts to Prevent Removal) for this new removal episode, the same as it would an initial removal to claim title IV-E. Also, once a placement disrupts the “removal home” will be considered the home from which the disrupted placement occurred.

Types:

- 1) LG or Adoptive parent returns child to DHHR custody
- 2) LG or Adoptive parent is abusing or neglecting child to constitute removal from the home
- 3) Child requests to be removed from the LG or Adoptive parent

While exact language is not required each disruption removal order must include: CTW, RE, and full (legal and physical) to the department. Please note that ACF does not require it to be a “removal order” but this must be used in the order written removing the child from the home.

Court Order Language Needed

There is no exact language that must be used in court orders to establish a Contrary to the Welfare Finding or Reasonable Efforts to prevent removal. However when a removal from an adopted home or guardianship is completed, the requirements for CTW/REPR are the same as a removal from a Bio home, in order for the Client to receive IV-E funding. CTW must be in order that removes client from the home. REPR is required in Removal order or within 60 days of removal. We recommend to put in REPR in removal order since there may not be another Court hearing within 60 days to obtain it.

Contrary to the Welfare (CTW) Examples

- It is contrary to the welfare of the child to remain in his/her home.
- It is in the best interest of the child to be removed from his/her home.
- The child is without proper care, custody, or support and immediate protective custody is necessary to prevent personal harm to the child.
- The removal from the home is/was necessary to protect the child.
- The child is being neglected and is without proper care and supervision.
- The child's condition (or the circumstances surrounding his/her care) requires that custody be immediately assumed to safeguard his/ her welfare.
- The child will commit or attempt to commit other offences injurious to him or herself.
- The child is in immediate danger of imminent serious physical injury or sexual abuse.

Reasonable Efforts to Prevent Removal (RE)

If the removal order does not contain a judicial finding of Reasonable Efforts to Prevent Removal (RE), there must be a court order **within 60 days of the child's removal** which contains a judicial finding that the Department either: had made, was making, or conditions were such that it was impossible to make, "Reasonable Efforts to Prevent Removal and/or return the child/juvenile safely home". Examples of language that satisfy the RE requirement:

- The court finds that the Department made reasonable efforts in trying to maintain the child in his/her own home by...
- The court finds that the Department is making reasonable efforts to safely return the child to his/her home by...
- Due to the emergency circumstances, efforts to prevent the removal of the child were not reasonable or possible.

Court Ordered Language Needed On-Going

Reasonable Efforts to Achieve Permanency (REAP)

If a child is initially determined IV-E eligible, the child may continue to be eligible while the Department has responsibility for the placement and care of the child. In order to remain eligible, a court finding that "Reasonable Efforts to Achieve Permanency" have been made must be documented within 12 months of the removal of the child and every 12 months thereafter. To insure continued eligibility we suggest including in every order after the removal that the finding is appropriate. If REAP lapses the client can become eligible again, once an order with REAP findings is made.

Examples of language that satisfy the REAP requirement:

- The court finds that the Department is making reasonable efforts to achieve the goals of the permanency plan by...
- The court finds that the Department is making reasonable efforts to achieve permanency for the child by...