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UTAH'S CORE PRINCIPLES & GUIDING PRACTICES

for Fully Integrated
Child-Welfare System

UTAH CIP

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A Fully Integrated Child-Welfare System

As Utah's child welfare and legal communities work toward a fully-integrated child welfare system that is focused on best practices, we are united in our commitment of protecting children and strengthening families. As such, we have come together to develop the following core principles that reflect our overarching goals of child safety, well-being, and permanency.

THESE CORE PRINCIPLES EMBODY A COLLABORATIVE, CROSS-SYSTEM, STATEWIDE CHILD WELFARE TRANSFORMATION, SUPPORTED BY THE FOLLOWING UTAH CHILD WELFARE PROFESSIONALS:

- *Board of Juvenile Court Judges
- *Juvenile Court Improvement Program
- *Office of Guardian ad Litem and Court Appointed Special Advocates
- *Department of Human Services
- *Utah Attorney General's Office, Child Protection Division
- *Utah Defender's Association
- *Division of Child and Family Services
- *Lokken & Putnam, P.C.

WE RECOGNIZE THAT IT IS OUR RESPONSIBILITY TO ENSURE THE FOLLOWING:

Our interventions preserve and create a safe family and community connections in ways that minimize loss, harm and disruption.

Children and families receive early, intensive family engagement, advocacy, and access to services and supports.

All participants are empowered and valued within a trauma-informed environment that amplifies family voice.

Children and families are served by highly-skilled professionals, including the judiciary, attorneys, child welfare staff, foster parents, and other community partners.

All participants experience hearings and judicial orders that are consistent, of high quality, embody best practices, and afford participants due process of law.

All participants are committed to providing families with an experience that is safety-driven, compassionate, transparent, and forward-moving.

Our interventions in the lives of children and families will be effective and individualized regardless of race, religion, cultural heritage, country of origin, gender, sexual orientation, or socioeconomic status.

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These guiding practices represent how to implement the established core principles for Utah's child-welfare system. As we developed the core principles, it became apparent that in order for these principles to transform and be reflected in our child-welfare system, they require practical, action-based steps and implementation strategies to ensure that our daily child-welfare practices promote and reflect these principles.

They should guide the overall operation of our child-welfare system and be reflected in the delivery of all services and interventions to children and families. They are centered on the belief that child safety, well-being, and timely permanency are shared responsibilities of those within our child-welfare system. The goal is to strengthen families and increase child safety and well-being while reducing the number of children in foster care and the length of time any family has contact with the child-welfare system.

It is intended that these guiding practices will be updated to ensure its content reflects current best practices and supports our work towards a fully integrated child-welfare system. The Court Improvement Program (CIP) Steering Committee comprised of representatives from the Juvenile Court, the Division of Child and Family Services, Utah Family Defenders Association, Utah Attorney General's Office Child Protection Division, and the Office of Guardian ad Litem and CASA will have a process for reviewing and updating these guiding practices at least once a year. If you have any comments or feedback to these guiding practices, please email Annie ValDez, CIP Director, at cip@utcourts.gov, so that the CIP Steering Committee can consider it during their review process.

EQUITY & CULTURAL HUMILITY

The clients and professionals within our child-welfare system are a diverse group of people, each with their own set of values and expectations (1). It is well-documented that certain racial and ethnic minorities are overrepresented in the child-welfare system, and that racial disparities occur at various decision points throughout the child-welfare process (2).

Regardless of your role in the child-welfare system, whether attorney, judge, social worker, or other professional it is important to address your own and others' biases to ensure they do not drive decisions in child-welfare cases (3). The first step to reducing or preventing implicit bias in our decision-making process is to acknowledge and explore it (4). When we learn about our own biases, we can develop strategies, skills, and tools for dealing with them when they emerge (5). The practice of cultural humility can help address biases because it is a process of self-reflection and discovery that challenges individuals to not only learn about other people's culture, but to critically examine our own beliefs and cultural identities (6). It is important to avoid imposing our own personal values upon families, and take into account how racial, cultural, social, economic, or any other differences may affect our relationships with children and families (7).

The Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care Initiative was a partnership between the National Council of Juvenile and Family Court Judges and Casey Family Programs to reduce racial disproportionality and disparities in the child-welfare court system. A bench card was created for judges to use at shelter hearings. The bench card includes reflection questions that encourage the judge to pause and think about his or her own decision-making process (8). Here are the reflection questions — though they are written for judges to consider, everyone in the child-welfare system can use them to reflect upon any conclusions about or decisions made with regards to a family:

EQUITY & CULTURAL HUMILITY (CONT.)

- What is my understanding of this family's unique culture and circumstances?
- How is my decision specific to this child and this family?
- How has the court's past contact and involvement with this family influenced (or how might it influence) my decision-making process and findings?
- What evidence has supported every conclusion I have drawn, and how have I challenged unsupported assumptions?
- Am I convinced that reasonable efforts (or active efforts in ICWA cases) have been made in an individualized way to match the needs of the family?
- Am I considering relatives as preferred placement options as long as they can protect the child and support the permanency plan?
- Have I placed the child in foster care as a last resort?
- How have I integrated the parents, children, and family members into the hearing process in a way that ensures they have had the opportunity to be heard, respected, and valued? Have I offered the family and children the chance to respond to each of the questions from their perspective?
- Is this family receiving the same level and tailoring of services as other families?
- Is the parents' uncooperative or negative behavior rationally related to the involvement of the Agency and/or the Court?

Even before involvement with the child-welfare system, many parents and children have experienced toxic stress (or trauma) (9). Addressing trauma while avoiding the infliction of further trauma must be the primary focus of our efforts to help the families we serve (10).

Experiencing maltreatment and being removed from their homes are traumatic experiences for children (11). These experiences can cause children to develop feelings of worry and confusion as well as a loss of identity, self-esteem, and a sense of belonging (12). This can also lead to body dysregulation, difficulty managing emotions, cognitive impairment, and multiple long-term health consequences (13). These experiences do not have to dictate a child's future. When negative early experiences occur concurrently with protective factors, there is an opportunity to promote resilience (14). The following are protective factors:

- Support from family, friends, people at school, and members of the community;
- A sense of safety at home, at school, and in the community;
- High self-esteem and positive sense of self-worth;
- Self-efficacy;
- Spiritual or cultural beliefs, goals, or dreams for the future that provide a sense of meaning to a child's life;
- A talent or skill in a particular area (e.g., excelling in school or in a sport); and
- Coping skills that can be applied to varying situations (15).

Also, the children who end up doing well are most often those who have at least one stable and responsive relationship with a parent, caregiver, or other adult (16). These relationships provide the support and protection to children's lives that both buffer them from developmental disruptions and help build key skills (17). These include the ability to plan, regulate behavior, and adapt to changing circumstances (18). This enables children to respond to adversity and thrive (19).

Also, a parent's own trauma history — either past or present experiences — can affect not only their ability to care for their children but also their ability to work effectively with their caseworker and respond to the requirements of the court (20). We need to be aware of potential trauma 'icebergs' that may be hidden beneath the surface of parents' behavior (21). Knowing how trauma can manifest in difficult behaviors can help us strategize about how best to engage parents in case planning and meeting case goals (22). See Attachment C for a chart on how trauma can affect a parent's thinking and behavior.

It is also important to be aware of historical trauma (sometimes referred to as multigenerational trauma), a form of intergenerational trauma (23). Historical trauma has been described as the "cumulative emotional and psychological wounding over the lifespan and across generations, emanating from massive group trauma experience". Some individuals who are descendants, who have not directly experienced a traumatic event, can still exhibit the signs and symptoms of trauma, such as depression, low self-esteem, anger, and self-destructive behavior (25).

As attorneys, it's important to understand how trauma may affect a client's behavior so you can modify your approach with them, prepare them for court hearings in ways that reduces the likelihood of a traumatic response, and advocate for them in ways that empowers them and helps build a sense of safety and resiliency (26).

For judges, courtrooms should be safe spaces that are used to promote healing for children and families through positive interactions. Specific ways to engage parents and children in their hearings to reduce stress and help them feel safe include:

- Speaking directly to the party;
- Addressing the party by name;
- Treating everyone in the courtroom with respect;
- Giving parties an opportunity to be heard; and
- Allowing parties to make choices, which could be as simple as asking children and parents what time of day they would prefer to come to court (27).

Also, there are two critical judicial determinations that can be tools to prevent further trauma to children and families: reasonable efforts to prevent removal and reasonable efforts to finalize the permanency plan (28).

How children and youth are affected when they are removed from their families and communities needs our attention (29). Uncertainty overwhelms the removal process: children are faced with unpredictability, unfamiliarity, and a lack of clarity about:

1. why they are in foster care (i.e., placement reason ambiguity) (30)
2. the meaning of foster care (i.e., structural ambiguity); (31)
3. how long they will be in foster care (i.e., temporal ambiguity); (32)
4. where they will be living (i.e., placement context ambiguity); (33)
5. the people with whom they will be living (i.e., relationship ambiguity); (34)
6. their roles in familial environments (i.e., role ambiguity); (35) and
7. lack of clarity about the psychological and/or physical presence of their psychological family members (i.e. ambiguous loss)(36).

These questions are often left unanswered. Children and youth will experience the difficulties inherent in ambiguity when they have no information, too little information, or too much conflicting information to make sense of how removal will affect them(37). Children and youth need to be informed about the reason(s) for their placement and what is currently happening with their families (38). Withholding this information may elicit, maintain, or exacerbate ambiguous loss (39).

We are committed to providing a space where someone will communicate with children and youth, recognize and acknowledge their needs, and ensure these needs are met because children and youth have many questions when they are removed from their families and enter foster care (40). All children and youth who enter foster care will experience ambiguity and loss on some level, no matter where they are placed (41). If we don't acknowledge their loss and answer their questions about their removal, it will create another traumatic experience for these children and youth.⁴² It is important to prevent further trauma, not promote it (43).

Parents are also affected by their children being removed. They can experience role ambiguity because of their inability to assert their rights, responsibilities, and identity as a parent (44). In addition, parents can experience ambiguous loss because they do not know when they will get their children back (45). In one study, mothers whose children have been placed into foster care were found to have increased rates of anxiety and substance use disorder diagnoses within two years of being separated from their children(46).

When children and youth are removed from their families, the removal process needs to not only be trauma-informed, but also grief-informed (47). There is overlap between being trauma-informed, where we have an understanding of trauma and its far-reaching implications, and being grief-informed. When we are grief-informed we are both acknowledging the losses that have occurred, as well as understanding that grief is a normal response to loss (48). Being grief-informed involves:

- Acknowledging that grief is a normal and natural response to loss. There are healthy ways to address loss that do not require pathologizing or medicating children (49).
- Establishing psychological, physical, and emotional safety for children and families (50).
- Recognizing that individuals who are grieving need supportive relationships and environments (i.e., systems, structures, policies, etc.) to facilitate personal agency, control, and empowerment (51).
- People have an innate capacity to adapt to loss, especially when they have the relational and sociocultural support they need (52).

One of the most helpful and healing things we can do for a child or youth who is grieving is to listen to his or her experiences without jumping in to judge, evaluate, or fix (53). This is just one way we can validate their experiences and emotions, which will help them regain a sense of safety, balance, and control (54).

We can also be grief-informed by reconceptualizing permanency so it is not the end goal but an ongoing goal where it can be achieved while in and after foster care (55). This includes having a broad definition of permanency that includes maintaining relationships with siblings, healthy placements with the same care providers, and enrollment in school systems with the same peers (56).

Also, an important protective factor for children in foster care and for children who are grieving is to have at least one supportive adult in their lives. An essential first step in becoming grief-informed in the child-welfare system is to recognize and acknowledge the losses and grief that children and families experience. We have the capacity to ensure that children maintain their connection with family and friends, while also ensuring that their support network is equipped with the needed resources and supports for safe and healthy connections.

When a family becomes involved in our child-welfare system, it can be difficult for a parent to fully trust the caseworker, a problem further compounded depending on the parent's understanding of how the child-welfare system works (57). A lack of trust and familiarity can create significant barriers to engagement and impede elements of case planning, including the identification of a family's strengths, needs, and resources (58).

We must ensure the decision-making and planning process is family-driven with children and families as an integral part. Effective family engagement is at the heart of child welfare (59). The voices of parents, children, and other caregivers will be centered and elevated at each stage of the child-welfare process and proceedings. We will actively engage families early and with a sense of urgency so they are supported and empowered to meet their children's safety and well-being needs, and their own, through empathetic listening, compassion, and respect (60).

Positive parental, child, and family engagement are critical to successful outcomes (61). When families are included in the decision-making and planning process, we enhance the fit between needs and services, and increase the likelihood of family participation in services and case plan completion (62). We succeed when families are encouraged and empowered to be their own champions, and work towards family-driven case goals based on their specific strengths, resources, and needs (63).

One strategy to promote family engagement is to provide parents with the ability to choose from a defined set of options rather than imposing a single option(64). We also need to provide timelines to help them understand what is likely to happen and what they need to do (65). These both help to engage families by conveying respect (66). Another strategy is to ensure that case-planning meetings are arranged around the family's availability and are utilized to engage the family in case-planning discussions (67).

We will take a family-centered approach when providing services and support. Each family is both unique and diverse. We must tailor services to their strengths and needs by respecting their economic circumstances, beliefs, culture, values, practices, and traditions. This sends a clear message about the family's value by reassuring them that they know their own challenges and needs best. Providing tailored services improves our child-welfare system's ability to respond to the actual conditions that contributed to the family coming to the system's attention.

Service receipt can affect reunification (if it is the permanency goal), so it is important that we all ensure that families' needs are correctly identified and addressed (68). In one study, more than one-third of parents seeking to reunify were ordered to receive services for problems they were not identified as having (69). This can overburden parents already dealing with complex issues and diminish their ability to improve family functioning, which could lead to extended time in care for children (70).

We also seek to enhance the family's support network so there are enough resources in place to deal with the underlying causes of the maltreatment that brought the family to the attention of the child-welfare system (71). We can do this by seeking and strengthening informal and formal community supports and resources so that we build community around vulnerable families and increase their safety capacity.

Because the law does not give parents a long time to complete services required for reunification, parents need to get involved in services as soon as possible (72). The longer children remain in out-of-home care, the less likely it is that they will be reunified with one or both parents (73). Early and intensive permanency and service planning and implementation are critical to promoting expeditious reunification (74). This “front-loading” approach is also aimed at generating early momentum in a case (75). When we focus on the first 60 days post-removal, it creates an appropriate sense of urgency, capitalizes on parties’ optimism at the beginning of the case, and sets the direction towards reunification from the outset (76).

The use of early family engagement and assessments is associated with many positive family outcomes, including higher levels of reunification, reduced re-abuse, increased kinship placements, and increased placement stability (77). Also, parents’ early cooperation and involvement in the development of a service plan is predictive of better outcomes because it emphasizes developing a positive relationship with the parent, it focuses on strengths and needs that are most relevant to the case, and it involves the parents in selecting the targets for service plans (78).

“Front-loading” for the courts includes establishing a process that encourages cooperation and problem-solving from the outset of the court proceeding (79). Research shows that front-loading procedures help to increase the quality of safety and case planning, reduce the length of time children remain in temporary placements, and ensure hearings themselves are more substantive and meaningful (80).

For attorneys, using the Cornerstone Advocacy model (in conjunction with preparing for trial) during the first 60 days of a case can help promote reunification (81). Cornerstone Advocacy is a practice approach, created by the Center for Family Representation (CFR) in 2004, that devotes intense advocacy, when children are in foster care, around the following:

- Placement - options that support a child's connection to family and community;
- Family time - arrangements where families spend as much time as possible with as little supervision as is necessary, out of the agency whenever possible, and doing activities that mimic family life;
- Service planning - creating plans that are not duplicative or burdensome and that truly build a family's strengths; and
- Teaming - working together at Child and Family Team Meetings (CFTM) to keep the case progressing (82).

The CFR wrote an article detailing the small adjustments an attorney can make, even with a busy caseload, to incorporate the Cornerstone Advocacy model into his or her practice along with specific advocacy strategies and timeframes for pursuing them (83). Families whose attorneys used the Cornerstone Advocacy model reunited more frequently and had fewer instances of re-entry than attorneys who did not (84).

SEQUENCED SERVICE DELIVERY

One way to help parents and children is to change how we develop case plans so that we focus on incremental steps and sequenced service delivery (85). The capacity to make plans, follow them, evaluate progress, and make necessary modifications requires self-regulation and executive function (86). Parents and children involved in the child-welfare system may need help developing and practicing these skills due to experienced adversity and trauma (87). We need to ensure that service plans are broken down into steps and supported by reminders and feedback, especially positive feedback to reinforce progress. This can both encourage short-term success and help to develop skills over the long term (88).

We should also limit the number of services and activities families are expected to participate in at one time (89). A family's needs may require a sequence of services over time, rather than participation in numerous programs simultaneously (90). When we simplify and streamline processes, we reduce the demands on a parent and child's limited and easily-depleted attention resources (91). During the planning process, it is also important to reduce any environmental stressors (such as dangerous housing conditions, urgent unpaid bills, or insufficient food) by addressing those basic needs (92). When we reduce the immediate burden of stress upon parents it allows them to focus on long-term priorities, such as building the skills needed to care effectively for their children (93).

While we recognize that removal may be necessary in some cases, it carries significant risks to the child and family in all cases (94). Removing children from the custody of their parents harms them emotionally, developmentally, and socially (95). Even when removed from dangerous environments, children suffer from loss and ambiguity (96). It is a life-altering event for all those involved (97). Studies have found better outcomes for similarly situated children living at home than those entering foster care (98). It is the child-welfare system's responsibility to keep children in the home whenever safely possible, and remove only when absolutely necessary (99).

Reasonable efforts require first focusing on preserving and strengthening families and on preventing the need to place children outside of their homes (100). To that end, when we assess safety, we need to avoid confusing it with risk (101). This involves asking whether the danger can be removed, rather than the child (102). Because determining whether a child is safe and whether they should be removed from the situation are two separate questions (103). An out-of-home safety plan — i.e. a placement with a relative, foster home, or other court-ordered placement — becomes necessary when an in-home safety plan is not sufficient, feasible, or sustainable (104). Judges often are in the best position to provide immediate feedback on removal decisions on a case-by-case basis through careful vetting of removal petition (105).

SAFETY-DRIVEN DECISION MAKING

Once a family becomes involved in our child-welfare system, safety should drive our decision-making. The most important question in many child-welfare cases is not whether a parent “neglected” his or her child, it is whether and when the child can safely live at home with their parents (106). Because at the end of the day, parents do not need to be perfect, but they must be safe (107).

Safety planning is a shared responsibility, but ultimately the court must make critical safety decisions, such as when to remove a child and when to return a child home (108) The American Bar Association’s Child Safety Guide for Judges and Attorneys provides clear standards for judicial decision-making regarding child safety (109).

Safety is fundamentally a function of identifying threats, determining the child’s vulnerability to those threats, and then balancing the threats to which the child is vulnerable against the available protective measures (110). Good decisions about safety require extensive information about the family, including: the extent of maltreatment; circumstances contributing to the maltreatment; the child’s vulnerabilities and strengths; the attitudes, behavior, and condition of parents; and how parents care for and discipline the child (111).

SAFETY-DRIVEN DECISION MAKING (CONT.)

Safety-driven decision-making demands that, at every stage of the child-welfare process, we are continually asking and answering the following questions:

- If the child is maintained in their own home — “What would it take for the family to be safely independent of formal child-welfare services?”
- If the child is out of the home and the permanency plan is reunification — “What would it take to safely return the child home today?”
 - Also, ask “Would you remove the child today?” If you wouldn’t then, it is likely that the child can return home with services.
 - We ask these questions because children should not remain in foster care until the case plan is completed (112). Once it is safe, they should return home (113).
 - Also, assessing child safety is relevant not only at the point of initial removal, but also when developing and approving an effective case plan and when determining whether a child can be reunified with parents or should achieve a different form of permanency (e.g. adoption or guardianship) (114).
- If a child has a permanency plan other than reunification — “What would it take to safely place this child in a stable and permanent home?”

Answering these questions requires us to regularly assess the safety of the family and home where the child would return, and have frequent, quality family time between parents and children to gather information to inform safety assessments (115). We also need to utilize appropriate safety plans and safety-related services that allow for timely reunification (116).

REUNIFICATION- FOCUSED

If a child has been removed from the care of his or her parents, reunification with the parents is the preferred initial permanency goal, except in cases where aggravated circumstances exist (117). Most parents want to be good parents and have the strength and capacity, when adequately supported by family or other social supports, to care for their children and to keep them safe (118). When children cannot be reunified with their parents, permanency with extended family rather than strangers should be prioritized (119).

FOSTER CARE IS A SUPPORT FOR THE ENTIRE FAMILY

We want to change the foster-care experience for children and parents so it strengthens families, supports healing, and promotes timely reunification where appropriate (120). Our child-welfare system is a family-support system where foster care is a champion for the entire family; it is not a substitute for parents or an expedited conduit for adoption (121). It is a tool to improve parent engagement, enhance parental capacity to meet their children's needs, and achieve safe, timely reunification (122).

Achieving the best feasible partnership between parents and resource families promotes the stable and consistent caregiving needed to help children manage short-term transitions, such as family time with parents, as well as changes in caregiving brought about by reunification or adoption (123). Assistant Attorneys General (AAGs), Guardians ad Litem (GALs), and parental defense attorneys all play an important role in supporting and strengthening a collaborative, mentoring relationship between parents and resource families (124).

We can create a reunification-focused relationship between parents and resource families by creating opportunities for them to meet around the time of placement based on the families' circumstances and ensuring safety for all (125). We can also work with them to develop a co-parenting relationship where they define roles, safety boundaries, communication with each other, and shared parenting activities specifically for the child (126). It is also important we support kin resource families in navigating their relationship with parents due to foster-care placement. We know that kin placement can provide an opportunity for more parent-child involvement, but it may also present challenges, depending on family dynamics (127).

We believe in a kin-first culture that prioritizes placement with relatives or close family friends, and supports an ongoing and diligent search for relatives.¹²⁸ Placement with non-kin is a last resort when ongoing efforts have failed to locate, engage, and support safe relative placements. We broadly define “family” to include parents, relatives, and those who are not related by blood but who have a close and meaningful relationship with the child. By placing children with relatives or someone familiar to them, we can reduce the overall trauma of removal and placement by keeping them connected to their family, their community, and their culture (129).

Decades of research confirms that children who cannot remain with their parents thrive when raised by relatives and close family friends (130). Children placed with kin have better outcomes in terms of: greater placement stability; fewer emotional and behavioral problems during placement; and more connections to their biological family, culture, and communities (131).

The early identification of relatives is important. When courts and agencies have not conducted thorough relative searches and reunification is ruled out, they can be faced with the difficult choice of deciding between permanency with the resource parent and a relative who is appropriate but did not previously know of the child’s need for a permanent home (132). See *Attachment A* for a list of actions that can be used to build a kin-first courtroom.

The search for relatives should include:

- Engaging the legal mother and father and the child (if the child is of the maturity and age to verbalize their wishes) regarding available kin, preferences, etc.;
- A full genogram of parental and maternal family members;
- A check of SAFE system, ORS, Vital Records, E-share, Facebook, and CLEAR; and
- Ongoing CFTM involvement of parents and extended family that allows the family to influence all placement decisions to the greatest extent allowable (133).

This process should also be ongoing, as appropriate.

Relatives and other friends can also be utilized as a support for the family throughout the entirety of the case. It is important we work to build, support, and strengthen these existing relationships (134). This type of support is essential for adults who need to make substantial changes in their own lives, as is typical in many child welfare cases (135).

Given the importance of sibling relationships and the positive outcomes (136) they can generate, it is crucial for siblings to be placed together or, if that is not possible, seek ways for them to remain connected while they are in foster care, post-permanency, or after they have aged out of care(137).

When children are removed from their home, it separates them from their parents, siblings, extended family, friends, community, and school. Thus, it is important for children to have some sense of normalcy and be connected with familiar things. Our child-welfare system prioritizes maintaining as many social, communal, and cultural connections as possible, when they do not compromise a child's safety and well being (138). These relationships allow a child to develop resiliency and to work through and overcome the trauma they have experienced (139).

The default is that children will remain in their school, when removed from their home or change placements, unless it is not in their best interest (140). If a school change is in a child's best interest, then the child should be immediately enrolled in a new school even if they do not have the required school records to enroll (141). It is the responsibility of the new school to obtain the child's school records from their previous school (142). We should also make every effort to maintain any social connections the child had through their old school, as appropriate. This may include, but is not limited to: sports, clubs, dance, art, drama, music, and volunteer work.

FAMILY TIME (OR VISTATION 143)

Research on parent-child contact consistently shows that family time is fundamental to timely reunification (144) and permanency. Family time is essential for a child's well-being and helps mitigate the trauma of an out-of-home placement (145).

Family time should be liberal and presumed unsupervised unless there is a demonstrated safety risk to the child (146). To promote meaningful family time, it should be conducted in the least-restrictive environment available that supports the child's safety, with the level of supervision a family requires determined on a case-by-case basis (147). Family time should be conducted in child-friendly places conducive to parent-child interaction and engagement, organized around activities that reflect the routine activities of the family, and progress through reduced supervision and increased frequency (148).

Child and Family Teams should use creative problem-solving to increase family time so that one hour, once a week is not the default. We should consider individuals outside of DCFS staff, including kin or other community members, who may be available and appropriate, to facilitate more frequent family time. While in-person family time is preferred, additional forms of family time should be utilized to maintain and enhance ongoing connection with parents and children. For example, parents should be encouraged to participate in the child's normal day-to-day activities (149) The parent should be told about all doctor and school appointments as well as extracurricular activities so that they can go even if the parent and child do not get to interact at these events (150).

RECRUITING, TRAINING & RETAINING HIGH-QUALITY PROFESSIONALS

When families come into contact with the child-welfare system, nothing has the power to impact them more than the professionals who serve and work with them every day (151). A competent, stable, and high-quality workforce is important to providing children and families with the supports they need to stabilize, reunify, and thrive (152). We are committed to recruiting, training, and retaining high-quality professionals and using multi-disciplinary trainings as an effective tool in sharing best practices and child-welfare expertise.

DCFS is committed to providing qualified, trained, and skilled staff, supported by an effectively structured organization that helps ensure positive outcomes for children and families. We understand that children and families need a relationship with an accepting, concerned, and empathetic worker who can confront difficult issues and effectively assist them in their process toward positive change. DCFS' practice model creates this environment. It is based on the seven principles of protection, partnership, permanency, cultural responsiveness, organizational and professional competence, and development (153). The practice model training emphasizes the importance of maintaining the parent-child relationship whenever possible, the preference for providing in-home services over taking a child into protective custody, and the importance and priority of kinship placement in the event a child must be taken into protective custody (154).

High-quality legal representation for parents, children, and child welfare agencies is one of the most important systemic safeguards to avoid unnecessary removals, overly long stays in foster care, and trauma to parents and children.¹⁵⁵ AAGs, GALs, and parental defense attorneys need to be well-trained because the child-welfare court system works best when all parties are represented by high-quality, well-trained lawyers. For local practice standards, Utah Code specifies the duties and responsibilities of GALs (156) and the Indigent Defense Commission adopted Core Principles for Appointed Attorneys Representing Indigent Parents in Child Welfare Proceedings (157). Further, the American Bar Association has published practice standards for agency representation, child representation, and parent representation that promote uniformity, increase the quality of representation, and discuss the requisite training content that attorneys should receive (158). The Family Justice Initiative also has published the attributes for high-quality legal representation of children and parents in child-welfare proceedings (159).

For judges, the National Council for Juvenile and Family Court Judges' Enhanced Resource Guidelines sets forth principles and best practices that should guide juvenile court judges and provides tools to achieve key principles of permanency planning for all children and families. The American Bar Association also published Judicial Excellence in Child Abuse and Neglect Proceedings (160) which provides principles and standards to promote judicial excellence in child-welfare proceedings.

Court decisions in child-welfare proceedings are serious and life changing.¹⁶¹ Essential to the court's decision-making is having quality hearings where there is:

- Judicial engagement of parents and children,
- A hearing process that is experienced as fair,
- The presence of parents, age-appropriate children/youth, and other participants,
- Active legal representation,
- Appropriate and clear verbal judicial orders and findings, and
- A sufficiently thorough on the record discussion of a variety of topics related to children's safety, permanency, and well-being as well as parents' needs and progress (162).

• Pro forma hearings fall short of the judicial oversight required and may contribute to child safety concerns; prolonged foster care stays; delays in reunification, adoption, and other permanency outcomes; poor child and youth well-being outcomes; and unnecessary financial costs to the government (163).

The courtroom should be a place where all who appear are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process (164). When a party experiences a sense of fairness, they will be more likely to comply with court orders, return for further hearings, and trust the system.¹⁶⁵ In assessing what procedures are “fair,” there are four key factors:

- 1 Voice - having one’s viewpoint heard,
- 2 Neutrality - unbiased decision-makers and transparency of the process,
- 3 Respectful treatment - individuals are treated with dignity, and
- 4 Trustworthy decision-makers - the view that the decision-maker is compassionate and invested in helping.¹⁶⁶

See *Attachment B* for a list of actions that can be used to build a court process that embodies these four key factors of procedural justice.

Children and parents must have the opportunity to be present in court and meaningfully participate in the court process (167). This requires that courtrooms be culturally responsive (168). Judges and all professionals must ensure that families are appropriately engaged in and understand the judicial process, the timelines that apply to cases, and the court’s orders and expectations (169). Judicial engagement of parents in hearings is associated with positive case processing and child-welfare case outcomes, such as better placements (e.g., less stranger foster care),⁽¹⁷⁰⁾ predicted attendance at subsequent hearings,⁽¹⁷¹⁾ likelihood of placement with parents at the review hearing if there was judicial engagement at shelter hearings,⁽¹⁶⁴⁾ higher levels of reunification,⁽¹⁷²⁾ decreased time to adoption,¹⁷³ and overall, decreased time to permanency (174).

REASONABLE EFFORTS TO PREVENT REMOVAL, REUNIFY FAMILIES, & ACHIEVE TIMELY PERMANENCY

It is the responsibility of all parties and judges to ensure reasonable efforts (and active efforts in ICWA cases) are made by the DCFS to prevent removal, reunify families, and achieve permanency for children. The judicial determination that reasonable efforts were made to prevent removals provides an incredibly powerful tool to keep families together and prevent trauma to children (175). Where out-of-home placement is necessary, the reasonable efforts determination to finalize the permanency plan is the second critical tool for expediting reunification or other safe permanency options and minimizing trauma to parents and children (176). These tools provide all participants with the opportunity to change the outcomes for the families and children that experience our child-welfare system.

The reasonable efforts to prevent removal finding is the judge's opportunity to fully assess the efforts that have been made to engage the family in services and supports that would have either eliminated the safety threat prior to foster-care placement or allowed the child to return home immediately (177). These findings powerfully communicate whether the court is satisfied that foster care is used only as a last resort and not simply as the most expeditious intervention and provides guidance about the court's expectations for immediate service delivery, whenever possible (178). A judicial finding that it was reasonable to make no efforts to prevent the placement should only be made if there are no other reasonable means to protect the child from an imminent safety threat (179).

REASONABLE EFFORTS TO PREVENT REMOVAL, REUNIFY FAMILIES, & ACHIEVE TIMELY PERMANENCY (CONT.)

Attorneys and judges should use the reasonable (or active) efforts mandate to ensure the parents have a fair opportunity to reunite with their children (if reunification is the permanency goal) and that children reach permanency in a timely fashion (180). Reasonable (or active) efforts should be discussed at every hearing (181). Reasonable (or active) efforts does not mean cookie-cutter case plans with the same referrals for the same services being provided to every parent regardless of their individual needs (182). Attorneys and judges need to raise the reasonable (or active) efforts issue when either services are unavailable or have long waiting lines (183). Attorneys should let judges know that the service must be provided in a timely fashion and that failure to do so is a violation of the reasonable (or active) efforts to reunify mandate (184).

ATTACHMENT A BUILDING A KIN-FIRST COURTROOM

Judges can ask the following question to create an expectation for a kin-first culture (185):

- What is preventing a kinship placement now?
- What reasonable efforts were made to place siblings together?
- Ask the agency at each and every hearing: What efforts has the agency made to identify and locate kin? What efforts have been made to engage kin beyond a notice letter so that they may be part of a child's life?
- Ask the parents and child(ren) at first and all subsequent hearings to give the court information about their important family connections.
- Has the agency explained all possible placement options to kin (i.e., guardianship, adoption, foster care, etc.)?
- Order a family time plan not only for parents, but for siblings and relatives so children can maintain family connections.
- Ask whether the Indian Child Welfare Act applies and ensure the agency makes efforts to identify appropriate placements.

ATTACHMENT B PARENTAL ENGAGEMENT STRATEGIES FOR THE COURTROOM

A list of actions that is used to build a court process that seeks to connect with parents by giving them a voice, ensuring their understanding of decisions, reaffirming their confidence in the process and preserving their dignity (186).

- Allow litigants to bring phones into the courthouse or provide free storage areas.
- Create a welcoming courthouse/courtroom environment (e.g., family-friendly waiting room).
- Clearly state the court's rules in a respectful and transparent manner.
- Display artwork to make courtroom more family-friendly.
- Start court hearings on time. Provide an estimate of wait times.
- Apologize for lengthy delays.
- Introduce yourself by name.
- Address parents by name (not "mom," "mother," or "respondent").
- Personalize interactions - make eye contact.
- Use open-ended questions and listen to answers.
- Ask parents and youth to repeat back their understanding of key decisions.
- Write information, such as the requirements of a treatment plan, on visible dry erase boards in addition to stating them out loud.
- Provide an opportunity for parents and youth to address the court directly.
- Consider allowing parents and youth to speak first at hearings, before the professionals report on the family's progress.
- Explain how and why decisions are made (e.g., why can't a child return home).
- Avoid the appearance of favoritism.

ATTACHMENT B (CONT.) PARENTAL ENGAGEMENT STRATEGIES FOR THE COURTROOM

- Acknowledge unfairness.
- Situate the judge's bench at eye level.
- Create courtrooms where the parties, judge, and professionals are seated in a circle.
- Seek regular feedback from families about the court processes.
- Schedule court hearings at times convenient for families.
- Provide parents with a written copy of the court order after each hearing. Ensure orders are written in a manner that conveys the key pieces of information to the parent, including the requirements of the treatment plan.
- Minimize ex parte removal orders.
- Conduct robust removal hearings before a child's removal.
- Forge relationships between foster and birth parents.
- Involve birth parents when children are in foster care.
- Preserve positive relationships between children and their parents whenever possible and terminate parental rights only when absolutely necessary.

ATTACHMENT C HOW TRAUMA CAN AFFECT PARENTS THINKING & BEHAVIOR

WHAT BEHAVIORS DO YOU SEE?	HOW IS IT RELATED TO TRAUMA?
<p>Puts themselves or their children in risky situations; misses visits, court dates, and appointments; and has difficulty completing the case plan</p>	<p>Difficulty with Decision-Making and Judgement: Trauma negatively affects the parts of the brain involved with planning, evaluating solutions, thoughtful decision-making and problem-solving.</p>
<p>Misses visits, court dates, case conferences, appointments with the child.</p>	<p>Re-Experiencing Trauma - Avoidance: People with trauma histories may re-experience past traumas when "triggered" by memories. They may avoid places and people who remind them of traumatic experiences and places that feel unsafe.</p>
<p>Appears disinterested in reunification efforts, seems "checked out," is uncooperative, relapses</p>	<p>Re-Experiencing Trauma - Disconnecting: Trauma can cause people to disconnect from strong negative emotions and to disengage from triggering experiences.</p>
<p>Appears "on guard" and on edge, agitated, or impulsive; overreacts, displays angry outbursts, confronts others</p>	<p>Hyperarousal: Trauma can impair the body's stress system so it is on constant high alert. This causes people to overreact to even ordinary stress and to be overly focused on threats in the present.</p>

ATTACHMENT C (CONT.) HOW TRAUMA CAN AFFECT PARENTS THINKING & BEHAVIOR

WHAT BEHAVIORS DO YOU SEE?	HOW IS IT RELATED TO TRAUMA?
<p>Has difficulty in relationships with attorney, service providers, foster parent; is uncooperative; pushes helpers away</p>	<p>Negative Self-Concept and Difficulty with Trust: People who experienced abuse and neglect in childhood commonly internalize the way they have been treated by others, experiencing strong feelings of shame and viewing themselves as "damaged goods."</p>
<p>Displays resistant behavior, emotionally disengages, takes a helpless stance, appears overwhelmed and paralyzed</p>	<p>Feelings of Powerlessness: Childhood experiences of victimization cause profound feelings of helplessness and hopelessness. The court setting, hearings, legal process, interacting with authority figures, case conferences -these can all trigger profound feelings of lack of control.</p>

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- (3) Ellis, *supra* note 2.
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- (5) Children's Bureau's Capacity Building Center for States, *Coaching to Improve Family Engagement*, 21(2) Children's Bureau Express (2020).
- (6) Family Justice Initiative, *Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings - Attribute 3: Diversity and Inclusion/Cultural Humility* (2019), accessible at <https://15ucklg5c821brpl4dycpk15-wpengine.netdna-ssl.com/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute3-1.pdf> (last accessed 5/11/2020).
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- (14) American Academy of Pediatrics, *Adverse Childhood Experiences and the Lifelong Consequences of Trauma* (2014), accessible at https://www.aap.org/en-us/Documents/ttb_aces_consequences.pdf (last accessed 5/11/2020).
- (15) The National Child Traumatic Stress Network, *Resilience and child traumatic stress*, accessible at https://www.nctsn.org/sites/default/files/resources/resilience_and_child_traumatic_stress.pdf (last accessed 5/11/2020).
- (16) Jack P. Shonkoff, *Capitalizing on Advances in Science to Reduce the Health Consequences of Early Childhood Adversity*, 170 *JAMA Pediatrics* 1003 (2016).
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- (18) Center on the Developing Child, *supra* note 9, at 7.
- (19) Center on the Developing Child, *supra* note 9, at 7.
- (20) National Childhood Traumatic Stress Network, *Birth parents with trauma histories and the child welfare system: A guide for child welfare staff 1* (2011), accessible at http://nctsn.org/sites/default/files/assets/pdfs/birth_parents_trauma_history_fact_sheet_final.pdf (last accessed 5/11/2020).
- (21) National Childhood Traumatic Stress Network, *supra* note 20.
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- (33) Monique B. Mitchell, *The Neglected Transition*, supra note 30.
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- (44) Christopher Church, Monique Mitchell & Vivek Sankaran, A Cure Worse than the Disease? Impact of Removal on Children and Their Families, 102 *Marq. L. Rev.* 1161, 1169 (2019) (citing Kendra L. Nixon et al., "Every Day It Takes a Piece of You Away": Experiences of Grief and Loss Among Abused Mothers Involved with Child Protective Services, 7 *J. Pub. Child Welfare* 172, 176 (2013)).
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- (63) U.S. Department of Health and Human Services, *supra* note 62.
- (64) Center on the Developing Child, *supra* note 9, at 11.
- (65) Center on the Developing Child, *supra* note 9.
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- (67) U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-IM-20-06, Information Memorandum: Foster Care as a Support to Families 7 (2020).
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(101) National Quality Improvement Center on the Representation of Children in Child Welfare, Six Core Skills of QIC Best Practice Model, accessible at <http://www.improvechildrep.org/QICModelSixCoreSkills/SixCoreSkills.aspx> (last accessed 5/11/2020). Finally, safety should not be confused with risk. For a child to be unsafe, the consequences must be severe and imminent. A conclusion about safety means considering:

- How soon something may occur;
- How severe the consequences will be to a child; and
- How out-of-control conditions are.

A conclusion about risk assesses the likelihood of maltreatment and has an open-ended timeframe and consequences may be mild or serious. Risk may be managed through in-home and/or community based services. Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorney*, American Bar Association, 2 (2009) (hereinafter ABA Child Safety Guide).

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- (114) ABA Child Safety Guide, 1.
- (115) U.S. Department of Health and Human Services, *supra* note 67, at 6.
- (116) U.S. Department of Health and Human Services, *supra* note 67, at 6.
- (117) 42 U.S.C. § 671(a)(15) (2019).
- (118) Capacity Building Center for State, Child Protective Services: A Guide for Caseworkers, 16 (2018), accessible at <https://www.childwelfare.gov/pubPDFs/cps2018.pdf> (last accessed 5/11/2020).
- (119) One study found that youth who obtained legal permanency and did not spend time placed with family while in out-of-home care were significantly more likely to be adopted, whereas reunification and guardianship were significantly more likely if the youth had spent any time placed with family. Yvonne Humenay Roberts, Stephen Shimshock, Kirk O'Brien, Matt Claps, Jorge Cabrera, and Toni Rozanski, *From Data to Practice: The Impact of Placement with Family on Safety, Permanency, and Well-Being*, Casey Family Programs (2018), accessible at <https://caseyfamilypro-wpengine.netdna-ssl.com/media/1896-CS-From-Data-to-Practice-2018.pdf> (last accessed 5/11/2020).
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- (121) David Kelly & Jerry Milner, *High-Quality Legal Representation is Critical to Creating a Better Child Welfare System*, Am. Bar Ass'n Child Law Practice Today 1 (2019).
- (122) U.S. Department of Health and Human Services, *supra* note 67, at 5.
- (123) Center on the Developing Child, *supra* note 9, at 13.
- (124) Jenifer Goldman Fraser & Eva J. Klain, *Advocacy for Infants and Toddlers: The Urgency of a Trauma- and Developmentally-Informed Approach*, 42(1) NACC: The Guardian 7 (2020).
- (125) U.S. Department of Health and Human Services, *supra* note 67, at 10.
- (126) U.S. Department of Health and Human Services, *supra* note 67, at 10.
- (127) U.S. Department of Health and Human Services, *supra* note 67, at 12-13.
- (128) Diane Moore, DCFS Kinship Memo, May/June 2019. In order for DCFS to receive federal payments for foster care and adoption assistance, federal law requires that they "consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant state child protection standards." 42 U.S.C. § 671(a)(19) (2019).
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- (137) U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *ACYF-CB-IM-20-02, Family time and visitation for children and youth in out-of-home care; Trauma; Well-Being; Best Practices 4* (2020).

(138) "In fact, a child can remain emotionally attached to a dysfunctional family and may be further traumatized by complete loss of contact with relatives. Family members can offer the best source of long-term support for a traumatized child. It is essential that a child stay connected with siblings, relatives and extended family (as defined by the client), and friends. In cases in which ongoing family contact is not feasible or is contraindicated for safety reasons, you can look for ways to involve other people trusted by your client, such as a family friend, coach, teacher, or pastor." National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Subcommittee, *The Impact of Trauma on the Attorney-Client Relationship*, Am. Bar Ass'n Child Law Practice Today (2017).

(139) Rose Marie Wentz & Kelly Lynn Beck, *Maintaining Family Relationships for Children in the Child Welfare System*, 31 Am. Bar Ass'n Child Law Practice Today (2012); Bruce D. Perry & Maia Szalavitz, *The Boy Who Was Raised as a Dog and Other Stories from a Child Psychiatrist's Notebook: What Traumatized Children Can Teach Us About Loss, Love, and Healing* 80 (2006). In addition to maintaining relationships, the traumatized child's ability to connect and socially communicate with adults and peers, generally, is important. Henry, Sloan & Vandervort, *supra* note 129, at 11.

(140) 20 U.S.C. § 6311(g)(1)(E) (2019). Joint Federal Guidance suggests considering the following factors in a best interest determination: child's preference; views of the parents or the person with educational decision-making rights; child's attachment to school and staff; placement of the child's siblings; availability and quality of services in the current and potential schools to meet the child's educational and social/emotional needs; school climate/safety; impact of a school transfer, including the commute; and child's special needs. U.S. Department of Education & U.S. Department of Health & Human Services, *Nonregulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (2016). See also Utah State Board of Education, *Ensuring Educational Stability for Children in Foster Care*, available at <https://www.schools.utah.gov/File/ca689ec2-4161-4dc4-a196-ee1b0d0f22ec> (last accessed 5/12/2020)/

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(142) 20 U.S.C. § 6311(g)(1)(E).

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