



# CHILDREN'S LAW CENTER OF MINNESOTA

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## CLC PRACTICE POINT

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### **EFFECTIVE REPRESENTATION OF OLDER FOSTER CARE YOUTH TRANSITIONING OUT OF THE SYSTEM**

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Young people experience important life changes between the ages of 15 and 21. Adolescence and the transition to adulthood are traumatic and full of ups and downs for youth and their caregivers, even in the best of situations. Youth involved in the child protection system face unique challenges as they approach the transition to adulthood. Many young people who are raised in families remain in their parents' homes and draw upon parental support – financial and otherwise – well after reaching 18. By contrast, youth in the child protection system do not have this option and often are cut off from their sole support system on their 18<sup>th</sup> birthday.

In 2009, 46% of CLC's clients aged out of the child protection system without having been adopted or found a permanent home.<sup>1</sup> Attorneys for youth in foster care have the opportunity, and a special obligation, to use their legal expertise to ensure that their clients have the support they need to age out of care as self-sufficient, healthy, and productive adults.

### **ACTIVELY INVOLVE YOUR CLIENTS IN THEIR INDEPENDENT LIVING PLANS**

Minnesota law requires Independent Living Plans (ILP) be established for foster care children age 16 and older who either have been ordered into long term foster care or whose parents had their parental rights terminated and remain in foster care.<sup>2</sup> Exactly how these plans are implemented varies from county to county. For example, some counties have set individualized team progress meetings and others have monthly group youth meetings. Regardless of how the plans are implemented it is critical to ensure your client's input and participation in developing the goals of these plans.

There are several ways in which attorneys can ensure their client's involvement in their ILPs. At hearings prior to their client's 16<sup>th</sup> birthday, attorneys can request the commencement of developing an ILP for their client. If the child is not involved in that process, the child's attorney can inform the court and request that the court order the child's participation in the development of the plan. The attorney can also be part of any meetings held with the child to develop the child's ILP. Further, the attorney can request that his client be give the opportunity to review the plan with his or her attorney before the child signs the plan. Encouraging your clients' participation in their plans helps youth invest in themselves and their future success.

<sup>1</sup> Statewide, 43% of youth in the system age out without being adopted or finding a permanent home. The figures were 50% in Ramsey County and 49% in Hennepin County in 2008.

<sup>2</sup> See, Minn. Stat. Sec. 260C.212, Subd. 1 (c) (11) (2009).

Post secondary schooling is one component of an ILP.<sup>3</sup> How early in your own children's lives did you first talk about their post secondary education plans? Most likely, the first time you raised the issue with your children was much earlier than their 16<sup>th</sup> birthday. The same should be the case for your foster care clients. Asking your clients about their education goals and plans lets them know you are interested in their abilities and care about their success.

Make sure your clients' specific future education plans are detailed and clearly set forth in their ILP. Explaining school application steps, providing financial aid contacts and scholarships resources are additional ways attorneys can advocate for their clients' future success.

## **CONTINUALLY ASK YOUR CLIENTS ABOUT THEIR PROGRESS TOWARDS AND CONCERNS ABOUT INDEPENDENT LIVING**

At each court review for children age 16 and older, Minnesota courts are required to examine what independent living goals the child has achieved and what progress is being made toward the child's other independent living goals.<sup>4</sup> Specifically, the court is to review the ILP service provisions for the child as the child prepares to leave care, and must make specific findings regarding the child's accomplishment towards eleven transitional goals.<sup>5</sup> These particular transitional goals focus the court and those within the child protection system to carefully examine the child's circumstances and needs regarding education, ability to

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<sup>3</sup> A child's independent plan addresses the following:

- (a) education, vocational or employment planning;
  - (b) health care planning and medical coverage;
  - (c) transportation, such as, assisting the child in obtaining s driver's license;
  - (d) money management;
  - (e) planning for housing;
  - (f) social and recreational skills; and
  - (g) establishing and maintaining connections with the child's family and community.
- Minn. Stat. Sec. 260C.212, Subd. 1 (c) (11) (2009).

<sup>4</sup> Minn. Stat. Sec. 260C.212, Subd. 7 (d) (2009).

<sup>5</sup> Pursuant to Minn. Stat. Sec 260C. 212, Subd 7 (d) (2) "The court shall make findings regarding progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in post-secondary education;
- (iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;
- (v) the child has healthcare coverage and health care providers to meet child's physical and mental health needs;
- (vi) the child has applied for and obtained disability income assistance for which the child is eligible;
- (vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;
- (viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;
- (ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;
- (x) the child, if male, has registered for Selective Service; and
- (xi) the child has a permanent connection to a caring adult."

transport oneself, employment, housing, healthcare, money management and permanent connections to others. As the child's lawyer, you should review and examine with your client his or her specific progress in these areas. By repeatedly examining these goals with your client at meetings and monthly discussions, you will be able to readily identify any problems and roadblocks, and make sure they are addressed by the court and all parties before the child ages out of care. You will also be able to identify strengths your clients can build upon as they transition out of care.

## **ENSURE YOUR CLIENTS HAVE THEIR VITAL DOCUMENTS AND CONTINUED MEDICAL CARE**

Youth preparing to transition out of foster care need various vital documents.<sup>6</sup> First, they need their identification documents. These documents include their social security card, a certified copy of the birth certificate, and a driver's license or state identification card. If the youth has experienced immigration issues, he or she will need her green card and/or visa.

In addition, all foster care youth must be given their medical and dental records, a contact list for health care providers and an insurance card. Foster care youth are automatically eligible for MinnesotaCare insurance from their 18<sup>th</sup> birthday until age 21. Attorneys representing foster care youth must ensure that clients have worked with their case workers so that their continued coverage applications have been properly completed and submitted when they turn 18 years old.

Foster care youth also need their school records. Because many of these youth move from placement to placement, they often lose school credits and previous assessments. Minnesota requires that a child's case plan include the child's school record, a detailed list of school providers, and grade level performance.<sup>7</sup> Youth leaving foster care are entitled to have all this information as part of their school record. Requesting that a complete school record be provided to your client helps identify any missing credits so that the child does not fall behind and is on track to graduate with his or her peers.

## **OTHER CONSIDERATIONS**

If you represent a Native American child and the Indian Child Welfare Act (ICWA) applies to your case, you will have additional questions to ask your client and county worker. Specifically, you will want to know if your client has been enrolled for tribal membership and whether or not she has received her tribal identification card. Just because a child is eligible for enrollment as a tribal member, does not always mean the child has been enrolled as a tribal member. Ask the child and case worker whether the child is enrolled. Contact the tribe to ensure the enrollment process has occurred. Attorneys can help their ICWA clients make important permanent connections to their individual tribes by connecting children with their tribal representative. Attorneys can also ask tribal representatives about tribal mentors for their clients.

Sibling relationships tend to be the longest relationship an individual will experience in his or her lifetime. Unfortunately, children in foster care have often been separated from their siblings. Advocating to the

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<sup>6</sup> See Minn. Stat. Sec. 260C.212, Subd. 7 (d) (3)(2009).

<sup>7</sup> 260C. 212, Subd.1 (b) (8) (2009).

court that your client receives his or her sibling contact information as they leave foster care helps ensure they do not lose these significant connections.

Knowing your child client's strengths and needs makes a child attorney an effective advocate. Involving your child client in his or her life plan helps build self-knowledge, self-confidence and self-sufficiency. Ensuring early and repeated examination by the court and system workers of a youth's progress in the transition process helps identify problem areas and creates a concerted focus on addressing those problem areas before the youth leaves care.

CLC has prepared education, employment, healthcare and housing resource pamphlets for our clients. Those pamphlets are available on the CLC website at <http://www.clcmn.org/media/youth-in-transition/>.