

DSS Policy and Procedure Guide	
Division 03: Child Welfare	Chapter 08: Adoptions
Item 006: Notice of Intent to Remove a Foster Child	
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Preamble

Child Welfare Policy and Procedure Guides are meant to be used as tools to relay best practice and staff expectations. It is understood that specific case scenarios may not always align themselves with the stated practices and that at all times what is of paramount importance is the Safety and Well-being of the children we are charged to protect.

Policy

Department of Social Services Adoption social work staff shall follow the policies and procedures set forth in this policy and procedure guide whenever it is determined to be necessary to remove a foster child from the home of a care provider who has been designated as a Prospective Adoptive Parent (PAP) or who may meet the threshold criteria of a PAP. The case managing social worker (CM SW) shall be responsible to ensure that the care provider, the court and all other required parties receive prior notice of the DSS' intent to remove the minor from the care provider's home. The minor cannot be removed from the care provider's home without a Juvenile Court hearing.

Purpose

To advise DSS Adoption staff of the policies and procedures regarding the removal of foster children from the home of a care provider who has been designated as a Prospective Adoptive Parent (PAP) or who may meet the threshold criteria of a PAP.

Definitions

Prospective Adoptive Parent (PAP): The Juvenile Court may designate a current caretaker as a Prospective Adoptive Parent if **the minor has lived with the care provider for at least six months**, the care provider currently **expresses a commitment to adopt the minor**, and the care provider has **taken at least one step to facilitate the adoption process**. If the court grants the care provider PAP status, the foster child cannot be removed from the care provider's home without a Juvenile Court hearing.

- Steps to facilitate the adoption process, include, but are not limited to:

- Applying for an adoption home study
- Cooperating with an adoption home study
- Being designated by the court or the licensed adoption agency as the adoptive parent
- Requesting de facto parent status
- Signing an adoptive placement agreement
- Engaging in discussions regarding a post adoption contact agreement
- Working to overcome any impediments that have been identified by the State Department of Social Services and the licensed adoption agency
- Attending classes required of prospective adoptive parents
- Being identified by the Indian child's tribe as the prospective adoptive parent in a case in which tribal customary adoption is the permanent plan.

Procedure

Notice of Intent to Remove a Foster Child

Case Managing Social Worker Responsibilities

- Prior to non-emergency removal decision case managing social worker (CM SW) will:
 1. Consult with Social Work Supervisor to review the placement concerns.
 2. Schedule a team meeting with family and parties involved to discuss concerns and develop a plan to mitigate any issues that are risk factors and jeopardize placement.
 3. Identified any supportive services and make referrals as needed to help stabilize placement and reduce the risk to the child/children. CM SW will exhaust all resources in an effort to mitigate the issues of concern.
 4. Will complete a follow up team meeting (PTM or TDM as needed) to review the progress of the support plan. A decision regarding continued placement will be made at this meeting.
 5. Social worker will work with the team to develop a transition plan if a decision to remove the child/children from placement is made. Transition plan will include referral to counseling services as needed and possible visitation planning when appropriate.
- A [JV-323](#), *Notice of Intent to Remove Child* shall be provided to the care provider prior to a change in placement or **no later than 48 working hours** after a decision is made to remove a minor from the home of a designated prospective adoptive parent. If there is an emergency removal from the PAP, refer to [PPG 03-08-007](#) *Emergency Removals*.

Parties Requiring Notice

The CM SW shall ensure that the following parties receive notice of the DSS' intent to remove the child from the care provider:

- The court;
- The current care provider, if that care provider is either a designated prospective adoptive parent or, on the date of service of the notice, meets the criteria for designation of a PAP;
- The minor's attorney;
- The minor if the child is 10 years of age or older;
- The minor's identified Indian tribe if any;
- The minor's Indian custodian if any; and
- The minor's CASA, if any.

Required Form of Notice

- Notice must be provided to the care provider on the [JV-323, Notice of Intent to Remove Child](#). A blank copy of form [JV-325, Objection to Removal](#), [JV-321, Request for Prospective Adoptive Parent Designation](#), [JV-322, Confidential Information- Prospective Adoptive Parent](#) and instructions handout ([CWS 0032 PAP Objection Attachment](#)) must also be provided.
- Notice must be provided to the minor, if the minor is 10 years of age or older. The minor must be provided with copies of the [JV-323 Notice of Intent to Remove Child](#), [JV-321 Objection to Removal](#) [JV-321](#), and instructions handout ([CWS 0032 PAP Objection Attachment](#)).

Manner of Service

The CM SW shall ensure that notice of its intent to remove a foster child is served as follows:

- DSS must serve notice either by first-class mail, sent to the last known address of the person to be noticed, or by personal service.
 - If service is by first-class mail, service is completed and time to respond is extended by five calendar days.
- Notice to the minor's identified Indian tribe and Indian custodian must be given, per [California Rules of Court, Rule 5.664](#).
- Proof of service using form [JV-326](#), Proof of Notice must be filed with the court.

Filing JV Forms

- The CM SW is responsible for ensuring that the JV-323 and Proof of service form, JV-326, are filed with the court.
- The CM SW shall request four (4) copies of the filed JV-323 and provide one copy to the following parties:
 - The minor's attorney;
 - The designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice;
 - County Counsel;
 - DSS (to be filed in the minor's case)

Service of Objection to Removal

Each party that receives notice may object to the proposed removal of the minor and may request a hearing (including the court). The following forms are used to request a court hearing, request an address or phone number be kept confidential or to request designation as a PAP:

- **Form JV-325:** If the care provider does not agree with the removal, the care provider may request a court hearing by completing form JV-325, *Objection to Removal* and filing the form with the court clerk's office.

NOTE: A request for hearing on the proposed removal must be made within five court days or seven calendar days from date of notice by personal service, whichever is longer. If notice was served by mail, time to respond is extended by five calendar days.

- **Form JV-322:** If the care provider wants to keep an address or a phone number confidential, the care provider will complete form JV-322, *Confidential Information – Prospective Adoptive Parent* and file the form with the court clerk's office.
- **Form JV-321:** If the care provider is not in agreement with the removal and has not been designated a Prospective Adoptive Parent, the care provider may request to be designated a Prospective Adoptive Parent by completing form JV-321, *Request for Prospective Parent Designation*.
 - A care provider who would have met the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the child may file a JV-321 for an order designating the care provider as a prospective adoptive parent.

Hearing on Objection

The court must order a hearing as follows:

- The hearing must be set as soon as possible and not later than five court days after the objection is filed with the court. If the court, for good cause, is unable to set the matter for hearing five court days after the petition is filed, the court must set the matter for hearing as soon as possible.

Notice of Hearing on the Proposed Removal

The DSS is **not required** to send notice of the hearing.

- After the court has ordered a hearing on a proposed removal, notice of the hearing must be as follows:
 - The court clerk must provide notice of the hearing to the DSS and all required parties if the court, the caregiver, or the minor requested the hearing.
 - The minor's attorney must provide notice of the hearing to DSS and all required parties if the minor's attorney requested the hearing.

PAP Designation

- A care provider who would have met the threshold criteria to be designated as a prospective adoptive parent on the date of service of the notice of proposed removal of the minor may file a petition for an order designating the caretaker as a Prospective Adoptive Parent.
- A determination by the court that the care provider is a designated Prospective Adoptive Parent does not make the care provider a party to the dependency proceeding nor does it confer on the care provider any standing to object to any other action of the DSS or licensed adoption agency, unless the care provider has been declared a de facto parent by the court prior to the notice of removal service date.

Non-PAP Finding and Dismissal

If the court determines that the care provider did not meet the threshold criteria to be designated as a Prospective Adoptive Parent on the date of service of the notice of proposed removal of the minor, the petition objecting to the proposed removal filed by the care provider shall be dismissed.