



## BEST INTEREST STAFFING REPORT

September 2023

## Table of Contents

About the Kansas Division of the Child Advocate .....	3
Introduction .....	4
Brief overview of the adoptive resource selection process in Kansas.....	4
Collaborative review of BIS practices.....	4
Current snapshot, related documents, key roles .....	5
What we are hearing .....	8
What is working .....	8
What is not working.....	10
Is policy applied consistently across the state.....	13
Who is invited? .....	13
How is consensus applied .....	15
Comments from the workforce .....	16
How are sibling splits treated .....	16
How does the BIS process impact family relationships .....	20
Comments from the workforce regarding sibling splits .....	21
Family/Kin versus nonrelated adoptive placement.....	21
Other state selection process examples .....	22
Post adoption contact agreements.....	26
KDCA investigations/BIS related findings .....	27
Ideas from the workforce .....	29
KDCA Recommendations .....	31
Appendix A: Current Policy (July 1, 2023).....	36
Appendix B: DCF Best Interest Staffing Brochure .....	42
Appendix C: References .....	44

## About the Kansas Division of the Child Advocate

The Division of the Child Advocate (KDCA) is tasked with addressing concerns voiced about our Kansas child welfare system, completing an impartial, independent review of child welfare policies, procedures, and practices, including an independent investigation and evaluation of concerns voiced by children, families, and other concerned citizens.<sup>1</sup>

Office of Public Advocates | **Division of the Child Advocate**

Kansas Department of Administration

Landon State Office Building

900 SW Jackson St., Suite 1041 | Topeka, Kansas 66612

Office: 785-296-8642

[ChildAdvocate@ks.gov](mailto:ChildAdvocate@ks.gov)

**Contact Our Toll-Free Line at:**

1-844-KS-CHILD/1-844-572-4453

**Visit Our Website at:**

[www.childadvocate.ks.gov](http://www.childadvocate.ks.gov)

Report writing team:

Wendy Watson, LBSW, Case Investigative Analyst

Brook Town, LMSW, Case Investigative Analyst

Elizabeth Pfalzgraf, LMSW, Case Investigative Analyst

Kerrie Lonard, JD, MSW, Child Advocate

This report is intended to promote the best possible management of public resources, to highlight the complexity of our child welfare system and to build on system improvements that promote child and family wellbeing. Copies may be obtained from [www.childadvocate.ks.gov/reports](http://www.childadvocate.ks.gov/reports).

We sincerely appreciate the courtesies and cooperation extended by the Department for Children and Families, Children's Alliance, Court Appointed Special Advocates (CASA), Foster Adopt Connect, Cornerstones of Care, TFI Family Services, Saint Francis Ministries, KVC Health Systems, DCCCA, and Guardians ad Litem.



## Introduction

During its first year, 2022, and subsequently throughout 2023, KDCA received numerous concerns related to the Best Interest Staffing (BIS), the process for selecting the adoptive resource for a child. These concerns were voiced by foster families, relatives, and other prospective adoptive resources, as well as mental health providers, case workers, and legal professionals. Kansas children, families, and professionals experience delays, tension, and lengthy litigation as it pertains to the administrative policy and practices around the Best Interest Staffing process. Tensions include when a BIS should be convened, who should be invited, what information should be presented, how to address sibling connections, what weight to give factors such as relative connections versus attachment, interpretation of the term “consensus,” the right to appeal the decision, and the level of court authority and oversight.

---

## Brief overview of the adoptive resource selection process in Kansas

In Kansas, a BIS is convened by the child’s case team when all the conditions (parental rights terminated, child is in agreement if over the age of 14, and one or more adoptive resources identified) have been met and indicate it is time to select an adoptive home for that child. By policy, the child’s Case Management Provider (CMP) is responsible for invitations to be sent to required and other parties in the facilitation of the meeting.<sup>2</sup> BIS meetings often last hours while the details of the child’s life, and the prospective adoptive resources are reviewed by the BIS team. At the conclusion, an adoptive resource for the child may be selected by group consensus. If the BIS team is unable to decide by consensus, the decision then falls to a designated director.<sup>2</sup> For a detailed description of the steps, refer to [Appendix A: Current Policy \(July 1, 2023\)](#) within this report.

## Collaborative review of BIS practices

In late 2022 and early 2023, KDCA convened conversations to facilitate dialogue regarding the BIS process. Feedback and ideas were received through interactive virtual meetings, written correspondence, and surveys with groups of stakeholders including workers, supervisors, attorneys, and administrators from the following: Case Management Providers (CMP), Child Placing Agencies (CPA), Court Appointed Special Advocates (CASA), Department of Children and Families (DCF) Foster Care Liaisons, Foster Adopt Connect, and Guardian *ad Litem*s (GAL). The conversations served as a starting point and are not exhaustive. For example, one key stakeholder missing from this initial dialogue is the

Court through Judicial representation. The BIS process and decision, when contested, often leads to lengthy and complicated litigation and delay in permanency. Moving forward, it will be critical to include the Court's voice before any policy, practice, and/or statutory change is implemented.

In these initial conversations, KDCA heard from both administrators and boots-on-the-ground workers. Their energy and optimism were clear, insight was plentiful, and a desire to have a unified approach among all the agencies for the BIS was a common theme. It was encouraging to hear multiple agencies speak of desire for improved team collaboration, additional education on keeping siblings together, and increasing front end services to reduce the need for BIS. Contributors were familiar with current policies and procedures, and many were frequent participants in Best Interest Staffings. KDCA provided introductions and information to each group establishing an understanding of the purpose of the meetings. Meetings were spent in loosely guided and free flowing conversations of BIS discussion topics facilitated by the Child Advocate, including:

- What is working with the BIS process?
- What is not working about the BIS process?
- Is the process the same across Regions/CMPs'?
- Who is invited?
- How is consensus being applied in practice?
- How are sibling splits addressed?
- How can the BIS process be improved?

Details of the dialogue including concerns, comments, and ideas for improvement follow in this report.

---

## Current snapshot, related documents, key roles

The BIS process is defined in DCF policy and further incorporated in CMP policy and practices. There are also several documents and procedures that are intertwined with the BIS procedure, some of which are listed and described here. Adoption services are addressed in detail in section 5300 of the Department for Children and Families Policy and Procedural Manual (PPM). Elsewhere in the PPM, there are policies which talk about adoption of Indian children (PPM 0817) and details of concurrent planning (PPM 3232). Within the PPM, forms are referred to as Prevention and Protective Services (PPS) followed by the form number. KDCA has taken note that when a step is missed along the way, it can derail the entire process,

setting time frames back resulting in delays of permanency and causing turmoil for the children and families involved. Current policy, found in various sections that do not reference the corresponding policy and procedure, makes it challenging to ensure that all steps are taken in the correct order. Below, frequently utilized forms and critical roles are defined and referenced.

#### Forms

##### *Sibling Separation Staffing (PPS 5146)*

When siblings are not placed together, while in the custody of the Secretary, policy calls for a staffing and completion of the PPS 5146 every 90 days, unless and until a Sibling Split Request (PPS 5147) has been approved. PPS 5146 includes the siblings' names, dates of birth, current placement, reason for separation, and why it is currently in the best interest of the children, actions taken to place siblings together, impact of siblings staying together or being separated, recommendations for actions to take, staffing participants, signatures of case manager and supervisor. Participants in the staffing are to include the children (if appropriate), parents, relatives, and other significant persons. This document is to be sent to the foster care liaison within 5 days of the staffing. PPM 3237 states "When siblings are not placed together, a visitation plan shall be in place which allows for frequent and regular contact between the siblings not placed together. Sibling visits shall occur at least twice monthly."<sup>2 i</sup>

##### *Sibling Split Request (PPS 5147)*

When a request is made for siblings to be separated permanently for the purpose of achieving permanency apart, it is required that the PPS 5147 be completed and then approved. The form includes all siblings' names, dates of birth, and current placements, parents' names, and date of Termination of Parental Rights (TPR) or relinquishment, reason for and date of removal, placement history of each sibling including attempts at placement of the siblings together, explanation as to why a split is in the best interest, description of interventions to address the reasons for the sibling split consideration, impact on individual siblings remaining together or split, therapists' input, recruitment efforts for individuals and the group, identified resource for each sibling, and plans for continued contact. The document requires the signatures of case manager, supervisor, and the recommendations and signatures of CMP Sibling Split Request Review Team, which if approved, shall include the CMP Program Director's signature. Of note, sibling splits may not be requested prior to TPR or relinquishment of at least one child, but for limited exceptions rarely applied in practice.<sup>2</sup>

---

<sup>i</sup> Investigations by KDCA occurring in the past two years (2022 and 2023) have resulted in KDCA recommendations within those individual reports regarding sibling separation, and those are included in this report under KDCA Recommendations.

### *Social History (PPS 3114)*

The social history is a detailed document that provides narrative of the child's life. Per PPM 3112, the CMP is to gather information for the Social History starting at the time of the referral. A Social History is to be completed within 20 working days of the first permanency hearing once reintegration is found to be no longer viable. The document is to be updated semi-annually or more often. The social history includes a review of the child's case records including medical, educational, social and developmental reports. PPS 3114 is an outlined form with detailed questions to be considered and answered in each section. The Social History is to be provided to the County or District attorney at the time of requesting termination of parental rights. It is also to be provided to members of the BIS team and included in any Interstate Compact for Placement of Children (ICPC) submissions to other states.<sup>2</sup>

### *Family Assessment and Preparation Study (PPS 5318)*

This document, often referred to as the Home Study, is a comprehensive assessment of a family interested in adopting a child in the custody of the Secretary of DCF. The document must be updated annually or more often if there is a significant change. PPM 5330 states:

An adoptive family assessment shall address the adopting family's capacity to incorporate the child into their household in relation to their lifestyle, standard of living and future plans, as well as their overall capacity to meet the immediate and future needs of the child, including but not limited to: social, emotional/mental health, physical, educational.<sup>2</sup>

Further, there are many other items that are required to be completed as part of PPS 5318 which are described in PPM 5330. The study is completed and prepared by the Child Placing Agency (CPA).<sup>2</sup>

### Key Roles

The child welfare system of Kansas is comprised of multiple agencies and individuals, each with their own role. Within this system, certain parties have been identified by policy to be included in the BIS team. Per DCF Policy and Procedures Manual (PPM) the following are described:

#### *Court Appointed Special Advocate (CASA)*

A responsible adult, other than an attorney or Guardian *ad Litem*, appointed by the court to represent the best interests of a child.<sup>3</sup> A CASA may also be appointed under the Juvenile Offender Code or the Domestic Relations Code.

*Child Welfare Case Management Provider (CWCMP or CMP)*

Private organizations that contract with DCF to provide adoption, foster care, reintegration, and family preservation services using a philosophy which includes the community, immediate and extended families, and concerned kin in planning for the child's safety, permanency, and well-being. <sup>2</sup>

*Child Placement Agency (CPA)*

CPA role is to recruit and train foster parents. The CPA assesses foster parents post training to determine if the foster parents can meet the safety and well-being needs of children placed with them. <sup>2</sup>

*Department for Children and Family (DCF)*

Investigates child abuse and neglect allegations, then if children are placed in custody, their casework role is primarily to monitor services provided by the CMP. <sup>2</sup>

*DCF Foster Care Liaison*

Unlike other roles clearly delineated separately in policy, the Foster Care Liaison is not; however, tasks are assigned to this role in various policies. Once a child enters DCF custody and a referral is made to the CMP, the Foster Care Liaison takes on the responsibility of monitoring case progress and adherence to DCF policy.

*Guardian ad Litem (GAL)*

An attorney appointed by the court to represent the interests of a person to act on his or her behalf in a particular legal proceeding including, but not limited to, an attorney appointed by the court to represent the best interests of the child in Child in Need of Care proceedings. <sup>2</sup>

---

## What we are hearing

### What is working

Some things are working well with the current BIS process, and participants in the dialogues voiced opinions about processes that they like as follows:



### Waivers

Most participants reported that exceptions to holding a BIS, (commonly known as waivers) are of benefit to the adoption process. Waivers are permitted per DCF PPM 5340 which states such exceptions may be considered when: 1) child is legally free for adoption; 2) only one adoptive resource has been identified that is a relative or non-related kin (NRKIN); or 3) a foster parent with whom child has been placed at least 6 months without disruption. Further, if that placement is not a relative, then thorough efforts to identify, locate, and evaluate relatives have been made.<sup>2</sup> CMP must then consider any DCF intake reports that were accepted for investigation in which the resource was named as the alleged perpetrator. If CMP determines all criteria are met, the CMP will notify potential BIS participants of the intent to waive the staffing via a letter, along with all information that would be sent for a BIS. If even one participant objects to the waiver, a BIS will be immediately scheduled. If there are no objections, it will be considered unanimous approval, and the adoption will proceed.<sup>2</sup> According to participants in KDCA facilitated discussions, the waiver process can “reduce anxiety for families,” “speed up the process,” and “help with scheduling issues.”

### Face to Face BIS

Many participants reported a preference for BIS meetings to be held either in person, or at minimum, via video call where names, roles, and faces can be clearly identified.

### “Good” Facilitator

It was noted that meeting facilitators had varied skill levels, and that when a well-trained, “good” facilitator was at the helm, the BIS process worked “beautifully.”

### Change to Consensus

Prior to current policy, which requires consensus, participants reported it was necessary for BIS team to “vote” for the selected home. Most participants expressed preference for consensus format, rather than voting. It was further noted that a good facilitator understands and can convey to participants how to reach a consensus. Participants reported that consensus allows for discussion of areas of agreement or disagreement which enables others to consider positions they may not have pondered with a standard vote.

### Consistency in the Process

KDCA noted that various regions or areas appreciated the consistency in their local process, even with different CMPs. Participants found it to be particularly helpful when the facilitator, prior to the meeting,

explained what the BIS process is, what it includes, what the meeting may "look" like, and how decisions will be made.

#### Inclusion of Guardian ad Litem (GAL) and Placement/Adoptive Resources

All parties reported that the presence of the GAL was very important to the BIS process. Participants also voiced the benefit to having the child's current and past placement providers in attendance to discuss the child's needs, strengths, desires, and daily routine. Invitation of the proposed adoptive resources and/or their Child Placing Agency (CPA) to present their family's information directly to the BIS was viewed as helpful.

#### Inclusion of all Information in the Invite Email

Policy (Appendix 5S) requires that the invitation to attend the BIS include the following information:

Best Interest Staffing Brochure (see [Appendix B](#)), Family Assessment and Preparation Study (PPS 5318), child's current social history (PPS 3114), and Approved Sibling Split Request (PPS 5147) if applicable. <sup>2</sup>

Participants in KDCA facilitated conversations reported that having all information ahead of time was beneficial to participation in the meeting.

#### What is not working

Participants discussed portions of the policy that are not currently working well, add to confusion, or increase time spent during the BIS.

#### Inconsistent Invitations and "Room Stacking"

During the dialogue between KDCA and stakeholders, it was found that various areas of the state have a high rate of GAL attendance at BIS, while other areas, typically rural, rarely have GAL attendance. It was stated that in some areas, and in the circumstance in which CASA has been judicially assigned, CASA is routinely not invited. One participant suggested that frequent CMP worker turnover resulted in new team members not knowing of all the parties that should be invited. Reported inconsistency in attendees led to many concerns of what was referred to as "room stacking" (defined by participants as the purposeful invitation of individuals that will concur with the desired outcome of the BIS organizers, and/or failure to invite those who may not be of the same opinion). Concern was expressed that current policy allows for room stacking based on who is invited.

#### BIS Held via Conference Call

There was considerable discussion regarding format of BIS meetings, and that meetings held via

conference call, without video, led to significant concerns including:

- difficulty hearing,
- inability to verify who is present,
- lack of meaningful introductions (and when they did occur, it was often not possible to know who was speaking throughout the meeting),
- challenging to track the conversation, and concerns of confidentiality.

#### Unreasonable Delays and Scheduling Problems

Late cancellations, difficulty in scheduling, improper notice to participants, and failure to list child on Adopt Kansas Kids (AKK) for the required length of time were reported to occur regularly, thus delaying the selection of an adoptive resource for a child or children. By the time a child's case has reached the point of needing a BIS, it is not uncommon that the child has already been in state custody for at least two to three years, with some children lingering in care even longer. Three years may not be an eternity to adults, but to a child waiting for permanency, it can often be all that they know. For a 9-year-old child, 3 years is 1/3 of their life, equivalent to 13 years for a 40-year-old adult. At times, BIS are not scheduled until months after all home studies are collected. Delays in the process affect not only the child, but also the adoptive resources, for whom delays may seem to be intentional or without cause, raising the anxiety level, frustration, and tolerance of many families. Cancellations on the day of the scheduled BIS brought the most frustration for all parties that participated in KDCA-facilitated conversations, and often were said to be caused by inadvertently overlooking a certain document, or also detrimentally, expired documents resulting from the length of time the process was taking. Complaints include situations of delaying a BIS to wait for completion of an additional home study for a party who expressed interest at the last minute.

Additional delays in the process include tardiness in notifying families of the decision following the BIS, which makes it more difficult for families to submit a timely appeal. Also related to time, BIS meetings commonly last 4-5 hours. GALs and other professionals (i.e., therapist) often do not have that time to offer, especially when meetings last for hours, and leaving for even a short time during the meeting historically removes the option of having a voice in the final decision. This was updated in January 2023 to allow GALs the option to provide input regardless of attendance at the meeting. <sup>2</sup>

#### Variability by Region/Area/CMP

Policy interpretation and agency policy among CMPs, regions, and areas vary which creates confusion and disagreement. This concern underscores the importance of consistency in policy and interpretation, which was noted previously as something that is working well. Lack of agreement about consistency of policy interpretation by region or CMP indicates that CMP staff may not interpret policy in the same manner, demonstrating a need for DCF to clarify the BIS policy. Some stated that a step-by-step guidebook for case teams and families, including a decision-tree, would be helpful.

#### Inability to Reach Decision at BIS

At times, even after hours of presentation and discussion, a committee is unable to reach a consensus, at which point policy requires that the committee reconvene within three days of the BIS,<sup>2</sup> which can be a barrier for some parties. Concerns raised during a BIS about potential adoptive resources, that were known but had not been previously communicated to the team, contribute to a BIS committee's inability to decide the same day the BIS is held.

#### Facilitation

"Good" facilitators were identified previously as being an asset to the BIS process, and opposite that, it was reported that inconsistency in facilitation and structure of the meeting created confusion, lack of integrity to the process, and lengthened meetings.

#### Explanation to Families

Adoptive resources are not often provided with understandable information about the BIS process. They may be informed of partial information as the process moves along, but often are not provided with a comprehensive overview that details the steps and actions or expectations throughout. It was reported that not all case teams are adept at explaining the process well to families resulting in families not knowing what will happen next or how long it will take, thereby increasing unease. It was reported that families feel they must "sell themselves" to the committee to be selected.

#### Authorization of Best Interest Staffing Team Decision

Following the recommendation of the BIS team, the decision must be sent to the CMP director along with all the documents reviewed at the BIS within three working days; per PPM 5339.<sup>2</sup> The director has five days from receipt of the documents to approve or disapprove the decision. <sup>2</sup> Some feel it is an unnecessary step to have a person who did not attend the meeting authorize the selection reached by consensus of the BIS committee, whereas others voiced additional oversight is needed, particularly

oversight by DCF as the legal custodian. If the director does not approve the decision, the caseworker is to select the second ranking family as the approved home.

#### Review of Adoptive Resource Decision

When a family is not selected at the BIS as the resource, they are able to request a review of the decision within 5 days of the notification of non-selection. Within one working day, the request is submitted to an independent reviewer within the CMP. The purpose of the review is to identify presence of policy error or omission, or bias which influenced the decision. If the reviewer finds that one of the criteria was not followed, the BIS will be reconvened and facilitated.<sup>2</sup> This process is commonly referred to as an “appeal.” It was reported that families are not always informed of this option or that the process is not clearly explained, and that at times they are not notified timely of the BIS decision. This can result in it being too late to “appeal” due to adoption having already proceeded.

#### Children Need More Voice

Some individuals reported that there needs to be more input from children about their desires to be adopted, particularly those under age 14 where child’s consent for adoption is not required. Participants suggested children should also be consulted on whether they wish to be listed on the public website, “Adopt Kansas Kids,” or others.

#### Confidentiality

There were concerns reported regarding who should receive confidential documents such as the Social History. In addition, confidentiality cannot be assured during phone conferences due to inability to see the person(s) in attendance. Home studies for potential adoptive resources are extensive and contain extremely personal information regarding finances, backgrounds, and physical and mental health information. Additionally, confidential, and sensitive information is shared and discussed about the children and the families.

---

## Is policy applied consistently across the state

### Who is invited?

Current policy PPM 5339 names at least 10 specific parties, when applicable, as to who “shall” be invited to participate in the BIS.<sup>2</sup> In addition to the “shall be” invited list, is a supplemental list of “may be invited” which includes many of the same parties as in the “shall be” list.<sup>2</sup> Policy is very broad regarding

potential participants in BIS, and states that “all participants are BIS team Members” and does not define the decision-making parties. Participants in KDCA BIS discussions did not indicate that all required parties are being invited to every BIS. This raises questions as to the application of present policy, either unintentionally or by design, therefore giving potential for the previously described problem of “room stacking.”

KDCA recognizes that there is a lack of clarity and difference in interpretation and application as to policy around who is invited and who is provided what information in advance and during BIS. The U.S. Department of Health and Human Services states “protected health information should not be used or disclosed when it is not necessary to satisfy a particular purpose or carry out a function.”<sup>4</sup> Additionally, per National Association of Social Workers Code of Ethics, it may be considered ethically inappropriate for licensed social workers to share information that is contained in the home studies, sibling splits, and social history with all invitees to BIS. The Code of Ethics states, “In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose.”<sup>5</sup> DCF BIS policy recommends invitations to BIS for all those who have pertinent knowledge of the child. While a teacher, church leader, coach, or neighbor may have valuable knowledge to share about the child, it is not necessary to provide them with confidential information since they are there only to present information, and do not generally participate in the entire meeting.<sup>2</sup> The Health Insurance Portability and Accountability Act of 1996 (HIPAA)’s “minimum necessary” requires that as little information as needed is to be shared.<sup>4</sup>

Statewide and across agencies, it was agreed that DCF is a strong presence at all BIS meetings. Other parties that are reported by most agencies to “always” be invited include the CPA, CMP, GAL and sometimes CASA. CASA, however, felt that often they were not invited. This was attributed in part to changes in case teams and new workers being unaware of CASA involvement, especially during times of case transfers from the permanency team to the adoption team. Most agencies invite the home study writer for the potential adoptive resource. However, it was noted that in cases involving resources outside of Kansas, the practice of including the out-of-state home assessment writer and Interstate Compact for Placement of Children (ICPC) representatives was inconsistent at best. At times, other parties invited include previous foster placements, community members, therapists, and previous case managers.

In some areas of Kansas, particularly the rural areas, agencies reported that they believe GALs are often unable to attend due to time, distance, and/or lack of compensation for attendance at the BIS. As GALs are not state or county government employees, and KDCA found no public list of GALs, it was challenging for KDCA to identify and gather the opinions of this diverse statewide group. Ultimately, a survey was sent to many via a statewide email listserv; however, only a small number of those surveys were returned to KDCA. Although responses were limited, KDCA was concerned to note that a GAL who had been appointed for years, and a new GAL both separately reported never having been invited to a BIS. Further, GALs reported to their attendance included scheduling conflicts and that CMP did not reach out to inquire about a GAL's schedule before calendaring and sending the invites, or never sent them an invitation. It is not uncommon for a BIS to last 4-5 hours, particularly when several prospective adoptive resources are being considered, and many professionals are unable to donate this amount of time, in addition to travel time. KDCA encourages further outreach and survey of GALs in future conversations and collaboration regarding BIS procedure and practice.

## How is consensus applied

Consensus is the means of selecting the adoptive resource after hearing from all parties at the BIS. Merriam-Webster Dictionary defines consensus as “a general agreement: unanimity; the judgment arrived at by most of those concerned; group solidarity in sentiment and belief.”<sup>6</sup> Participants shared that in years past, this process was completed in BIS by a majority vote. While consensus is the current term used in policy, some areas of the state still refer to it as a “vote.” Of concern, consensus is not defined in the current policy, resulting in interpretations and processes being different throughout the state, or varying by agency. There is question if consensus is a unanimous decision or not, and questions of how many people from the same agency should participate in the decision. PPM 5339, until very recently, stated that to have a voice in the decision, a party must be present for the entire meeting, which is a barrier for many that have been identified as essential, resulting in some teams violating policy and taking that voice into consideration when determining whether consensus is reached. KDCA found that changes were made to the BIS policy after the start of this project, and those changes were noted as such in the January 2023 Summary of Prevention and Protection Services (PPS) Policy and Procedure Manual Changes Services. Of importance, a sentence stating, “A child’s GAL is able to weigh in and provide recommendation regardless of their participation in the BIS meeting”<sup>2</sup> was added, changing the prior requirement of GAL participation in the entire meeting to “weigh in.”<sup>7</sup>

Several spoke of the “weight” in decision making. For example, some described that an attorney or GAL position or sometimes a CASA voice has more “weight” than CMP if there is difference of opinion, and that because of the need to maintain ongoing working relationships in court, this is accepted. It was also asserted that DCF has weight equal to that of attorneys or GAL in decision making and reaching consensus. Counter feedback asserts that DCF position in all essence carries very little weight if in disagreement with CMP position and consensus is not reached. Questions also were raised about whether it was fair for one agency, such as the CMP, to have more than one person weighing in at consensus.

### Comments from the workforce

Discussion at the KDCA facilitated BIS meetings and follow-up comments after the meetings reflected confusion about the process of consensus and who was permitted to weigh in. Some parties reported that BIS team members were not provided with an explanation of what consensus means. They attempted to provide their own descriptions to KDCA of what it meant. Some expressed doubt as to whether the consensus process worked any better than the vote, and questioned if it requires a unanimous decision. There were concerns that policy was not always followed regarding who has a voice in the outcome even if not present for the meeting.

- “Sometimes we vote, other times we discuss it until everyone agrees.”
- “Consensus is more of a conversation, not really a vote, but still all have to be in agreement.”
- “In consensus, it feels like you have to convince someone.”
- “Even though it’s not a vote, it still is tracked like a vote, and it also seems that a unanimous vote is required.”
- “Does each agency have one voice, or do all people from the agency have a voice?”

---

### How are sibling splits treated

Separation of siblings in adoptive resources has been highlighted in the media, as well as through specific cases brought to KDCA. However, it is not a new debatable topic in dependency cases and child and family wellbeing. As a result of this longstanding and complicated issue, this topic has come up during conversations between KDCA staff and various agency staff and was a topic covered while



discussing BIS. Sibling relationship and separation of siblings is covered in DCF policy 5237 Sibling Placements and Connections.<sup>2</sup> This policy addresses the importance of sibling connections and that reasonable efforts to keep siblings together in the same home are required of the CMP. If siblings are separated, it is required that a “staffing which includes the children, parents, relatives/kin and other significant people”<sup>2</sup> shall be held every 90 days to review the actions taken to reunite the siblings, and the plan for further actions. This staffing is to be documented on PPS 5146 and sent to DCF within 5 days. This is required to happen every 90 days until the siblings are placed together, or until a Sibling Split Request (PPS 5147) has been approved. If the potential for siblings to achieve permanency separately exists, a request for a sibling split may be made, however, this should only happen after parental rights are terminated or relinquished for at least one of the children.<sup>2</sup> Further, it is considered and approved limited situations after all possible efforts have been made to place children together. Other DCF policy providing guidance on sibling splits includes Appendix 5I (contains additional considerations prior to requesting a split); and Appendix 5X (provides sibling relationship considerations).<sup>2</sup>

Information from the Child Welfare Gateway states, “As of January 2018, thirty-seven states and the District of Columbia... have statutes requiring... reasonable efforts to place siblings in the same home when they need out-of-home care except when there are documented reasons why a joint placement would not be in the best interests of any of the siblings.”<sup>8</sup> Reasonable efforts include giving placement preference to persons that are willing and able to provide appropriate care for all the children in the home. In addition, the agency may grant variances to one or more licensing standards regulating foster family homes, including exceptions to the number of children that may be placed in the home.<sup>8</sup> Kansas recently joined those states, following the 2023 passage of HB 2024 Representative Gail Finney Memorial Foster Care Bill of Rights, requiring “placement with siblings when possible.”<sup>9</sup> Practice may vary between states and their efforts for sibling placement and contact.

Missouri, for example, has a Sibling Separation Administrative Review that is conducted by a committee when the case team recommends separation of siblings for adoption.<sup>10</sup> In addition, many states have policy that provides for post-adoption or post-permanency agreements for lifelong contact, if siblings are not adopted together. In Utah, policy reads, “If siblings are not able to be adopted together or if being taken from a current family would create undue trauma to the children, DCFS will facilitate agreements to allow lifelong contact.”<sup>11</sup>

Currently, DCF PPM 5339 requires that sibling splits are approved or denied prior to a BIS.<sup>2</sup> The stance of most discussion participants was firm that sibling splits should be determined before the BIS. However, some individuals voiced being in favor of utilizing the BIS process as an option to consider these separations and what is in the best interest of each child when considering permanency through adoption. Some participants reported that currently they discuss potential splits at BIS despite policy and proceed with sibling split if recommended. Others shared that courts have intervened and ordered that BIS be utilized to consider several options prior to a formal sibling split determination. Even if not ordered, in other jurisdictions, courts will “strongly encourage” this to occur. One suggestion was to continue the current process of approving splits before the BIS but allowing this determination to be reconsidered at the BIS when appropriate for that child or family. This exception could be helpful in some instances as it would not automatically disqualify families prior to the BIS simply based on the sibling split question.

The American Bar Association (ABA) places high value on preservation of sibling relationships, and the Children’s Rights Litigation Committee of the ABA Section of Litigation stated, “sibling relationships are sacred.”<sup>12</sup> ABA created a tool specifically for lawyers, but applicable to social workers and others involved in child welfare. This 24-page document contains links and information about the benefits of keeping siblings together and the harm done by separating them. This compilation would be valuable for agencies to utilize for educational opportunities for both policymaking and training staff and foster parents. In the summary of the document, ABA reported that loss of sibling relationships causes harm, as documented:

Sibling relationships are sacred and must be prioritized in placement and other court decisions. (National Association of Counsel for Children. (2023). *NACC Draft Policy Framework*.) Research shows that the failure to maintain sibling relationships in foster care harms children’s ability to form their identities, deprives them of a vital source of support as they grow and develop, and causes lifelong grief and yearning. Further, direct accounts from youth with lived experience in foster care describe how critical sibling relationships are and the trauma of sibling separation. Roughly two-thirds of children in foster care in the United States have at least one sibling; many of them are separated – often forever – and courts rarely consider the damage such separation causes. Counsel for parents and children should advocate for the placement of siblings together and, when siblings cannot be placed together, for frequent visitation in order to maintain the sibling relationship. The

sibling bond is often the most enduring relationship in a person's life. Maintenance of sibling bonds increases the likelihood of both adoption and reunification, helps improve each child's mental health, reinforces feelings of stability, shapes identity, and ameliorates educational and adult life competence. Research and lived experience show that continuation of sibling relationships is imperative for children in the child welfare system. <sup>12</sup>

Below we provide various state policies highlighting the different ways states define sibling relationships and "enforce" the federal guidelines to provide reasonable efforts for placing siblings together.

#### Other States' Sibling Policies

- *Connecticut* has enacted a Sibling Bill of Rights. <sup>13</sup>
- *Idaho* has created a sibling matrix for their Permanent Placement Committee to use. Child and Family Services Reviews (CFSR) results indicate that Idaho has improved in maintaining sibling relationships since the matrix was introduced. <sup>13</sup>
- *Iowa* requires that the child's GAL or attorney explain to the children the efforts being made to place them together. <sup>14</sup>
- *Maryland* policy allows for any sibling who is separated to petition the court for reasonable visitation rights. Furthermore, Maryland policy allows families an exception to policies regarding the number of children placed in treatment foster care in order to keep siblings together. <sup>15</sup>
- *Nebraska* policy requires reasonable efforts to place siblings together, including siblings who were removed at different times and have no pre-existing relationship. <sup>16</sup>
- *New Jersey* requires that a detailed search process is completed within the first 45 days of separation, and every 6 months thereafter. New Jersey also offers the Siblings in Best settings program. This program provides a \$200/month retainer to families willing to hold open beds and accept placement of sibling groups of 4 or more. <sup>13</sup>
- *Pennsylvania* extends the definition of sibling to stepsiblings. Furthermore, Pennsylvania requires that separated siblings have visits at least twice a month. <sup>17</sup>
- Several states require the agency to provide the court with documentation regarding their continuing efforts to place siblings together. These states include:
  - California <sup>18</sup>
  - Georgia <sup>19</sup>
  - Idaho <sup>20</sup>

- Wisconsin.<sup>21</sup>
- Some states require the court to determine whether reasonable efforts have been made to place siblings together. These states include:
  - Hawaii (siblings include psychologically bonded children)<sup>22</sup>
  - Nebraska<sup>23</sup>
  - New Mexico<sup>24</sup>
  - Pennsylvania.<sup>17</sup>

### How does the BIS process impact family relationships

Decisions made at BIS affect siblings for their childhoods and perhaps lifetime, making sibling splits an integral part of BIS. Splitting siblings permanently for purpose of permanency is an area where adjustments could lead to impactful changes such as thinking outside the box, allowing for creative problem solving, or give and take within policy, lending itself to discovering not only best practice, but also the best interest of the child. Research shows that:

Preserving and promoting sibling relationships results in better outcomes for children, including greater placement stability, fewer days in placement, higher rates of reunification, increased likelihood of achieving permanency, fewer emotional and behavioral difficulties, increased mental well-being, improved school performance, and better adjustment to their new home.<sup>25</sup>

Other states have worked to ease the process in children being able to maintain their connections after adoption using post adoption contact agreements. These agreements allow contact of various means between a child and their adoptive family, with the child's birth family, or others with whom the child has developed close bonds, such as a foster family. Research shows that agreements for postadoption contact or communication have become more prevalent in recent years due to several factors:

- There is wider recognition of the rights of birth parents to make choices for their children.
- Many adopted children, especially older children, such as stepchildren and children adopted from foster care, have attachments to one or more birth relatives with whom ongoing contact may be desirable and beneficial.
- Birth parents who participate in selecting the adoptive family may have a wide range of adoptive parent choices and may base their selection on the willingness of the adoptive parent(s) to allow postadoption contact.

- Contact or communication with birth relatives can be a resource to adoptive parents and adopted children for information about the child’s medical, social, and cultural histories.<sup>26</sup>

Use of post adoption contracts or agreements could mitigate losses for a child who otherwise stands to lose all contact with important individuals to that child’s life, whether that be a relative or a foster parent that was not selected in the adoption process, or who otherwise would like to remain a part of child’s life. Use of mediation could be helpful in reaching the terms of the contract and providing provisions regarding arbitration if there are issues of enforcement so to avoid lengthy and/or costly litigation.

### Comments from the workforce regarding sibling splits

Workers, administrators, and GALs had various opinions about how sibling splits are currently being managed. Some were interested in a change in policy, which would allow splits to be considered at the BIS, rather than being required to be completed prior to the staffing. This would enable the team to consider all parties interested, such as when one family wanted to adopt the entire sibling group, and another wanted to adopt only one of them. Many felt that the current process of completing the split prior to BIS was the most beneficial, and that changing to a decision at the BIS would lead to sibling splits being permitted to allow for a quick resolution. They felt that the “current policy was fine, it just needed to be followed correctly instead of just checking off boxes” and further emphasized that the real work needs to be at the front end, well before TPR or BIS.

---

### Family/Kin versus nonrelated adoptive placement

Selecting an adoptive family for a child, like the issue of sibling splits, at times results in child’s loss of significant people in their lives. Blood versus bond is an argument that easily becomes debated, and especially so when it comes to adoption of children from foster care. The pendulum continues to swing, from kin to foster and back, often resulting in loss of some connection for all parties. The decision should not be determined by a sole individual to bear such responsibility. Discussions during the BIS dialogue meetings emphasized that the goal and best practice is to avoid the need for a BIS altogether. But this requires focused, intentional practices at the front-end and long-term planning throughout the case, which all needs to begin as soon as a child enters custody.

DCF PPM 2473 currently requires that Child Protection Specialists (CPS) complete a safety and risk assessment which includes information from the parents, identity of potential relatives or kinship resources, and requires that ICPCs are requested as soon as possible for out of state relatives.<sup>2</sup> Further, DCF has a responsibility to notify all relatives via official notification that the child has been removed, and to provide them with an information card on “Relatives as Caregivers” within 30 days of removal. This notification requirement also necessitates that adoptive parents of siblings be notified as well, when other siblings come into care.<sup>2</sup> A reoccurring complaint to KDCA has been that out of state relatives are not receiving notification, and that even when the relative requests an ICPC, agencies are not following through timely. Often it is said that reintegration has been ordered, therefore agencies decline pursuing ICPC due to concern that it would interfere with parent child interaction if there were a great distance. ICPC requests and approvals can take 4-6 months for completion following submission to the receiving state. Failure to start these requests “as soon as possible”<sup>2</sup> when a child comes into care, instead waiting until TPR is approaching, often results in the child and foster parent forming attachments. This can create concerns about removing a child from a stable living situation to move yet again with someone else.<sup>ii</sup> It is at times like this that hard questions and difficult decisions must be made, loss being an element involved in any decision.

---

## Other state selection process examples

Each state has policies that vary widely regarding how and when adoptive families are selected for children in the custody of the state, who are or may become legally free for adoption. The following state examples are not endorsed by KDCA but are provided here to highlight the range in policy and approach across the states in making such a critical, life altering decision.

### *Preference for adoption*

- *Illinois* gives preference and first consideration to any adult who has cared for a child for a continuous period of 1 year or more as a licensed foster parent.<sup>27</sup>
- *Louisiana* foster parents have the right for first consideration if relative placement is not available.<sup>28</sup>

---

<sup>ii</sup> Child and Family Services Review Kansas Final Report 2023 found that only 33% of cases reviewed achieved the federal measure for timely permanency. For more information see <https://www.cfsrportal.acf.hhs.gov/document/download/Ylyzyd>

- *Massachusetts* gives first consideration to kin for adoptive placement. If kin placement cannot be identified, then other individuals from the child's network of significant adults should be considered. <sup>29</sup>
- *Mississippi* policy provides preference to foster parents who have provided care for 6 months or more. <sup>30</sup>
- *Missouri* policy provides that any adult who has cared for a foster child continuously for a period of 9 months or more shall be given preference and first consideration for adoptive placement. <sup>31</sup>
- *Montana* gives preference and places children with approved or licensed relative or non-relative who meets the requirements for adoption and is agreeable to adoption if reintegration fails. <sup>32</sup>
- *North Carolina* gives priority to the child's current placement at the time the child becomes legally free for adoption. If this individual is not able/willing to adopt, the agency shall give priority to other relatives or kin. <sup>33</sup>
- *Oregon* policy identifies potential adoptive resources in the following order of preference:
  - A relative
  - The current caregiver and a relative
  - Current caregiver is someone currently caring for the child and has cared for the child for at least the past 12 consecutive months.
  - A general applicant. <sup>34</sup>
- *South Carolina* gives first consideration to foster parents who have cared for the child for a consecutive 6-month period. <sup>35</sup>
- *Tennessee* requires that foster parents be considered as the possible first choice for adoption after they've cared for the child for at least 12 months. <sup>36</sup>
- *West Virginia* gives first consideration to grandparents of the child. Policy also indicates that in the cases where children are placed separately from siblings, the caregivers of each sibling should be given consideration through a Multi-Disciplinary Committee selection process. Foster parents have the right to be considered along with other appropriate homes. <sup>37</sup>

*Selection process:*

- *Missouri* policy indicates that the Adoption Staffing Team is optional for selection of the current family, and mandatory to select a new family. The caseworker, adoption worker, and supervisor screen adoptive family assessments and choose 3-5 for consideration by the staffing committee. The Adoption Staffing Team has approximately thirteen or more mandatory members, and 80% must be in attendance. A consensus decision represents a

reasonable decision that all members of the group can accept, even if the choice is not the optimal for every individual. The decision is then final.<sup>10</sup>

- *Montana* places the responsibility of choosing the adoptive family solely with the caseworker. Montana uses concurrent planning from the time of removal, including diligent family searches. Two different permanency goals are pursued concurrently, both of which are discussed with the parents within ten days of removal. Initial permanency goal must be identified within 30 days, and if child is still in care within 90 days, a concurrent goal must be identified. Child is preferably placed either with approved or licensed relative or non-relative who meets the requirements for adoption and is agreeable to adoption if reintegration fails. If a relative is not available, a licensed foster family will be sought. It is made clear to all parties that adoption will only occur if the primary plan of reunification fails. KDCA notes that Montana policy states the following, “Just because family may not be a concurrent placement, it is imperative that diligent search continue to be made to engage relatives in being part of the concurrent plan for connection and relationship purposes.”<sup>32</sup>
- *North Carolina* directs staff to form an Adoption Committee which may confirm the adoptive placement with current caregivers or select an adoptive home from among families that have shown an interest in adopting the child. Adoption Committee must have a minimum of three members including an agency representative, the child’s worker, and an at-large member. The GAL will be invited but shall not vote.<sup>33</sup>
- *Tennessee* policy provides for a special adoption selection team to convene if an adoptive resource known to the child cannot be identified. Policy is clear that a known resource has preference. The selection team includes the permanency specialist, the child (by proxy), family service worker, resource parent worker and others. The team selects three families and ranks them A through C. After the families are selected members of the team complete a home visit with each family. During the visit, one professional is assigned the task of observing the family’s interactions, responses to questions, and nonverbal cues. After the home visits, the selection team reconvenes and discusses the observations from the home visits. The team then selects the most suitable family to meet the needs of the child.<sup>38</sup>
- *Texas* allows the caseworker to place a child with a “legal risk” placement prior to TPR and after specific adoption related preparation tasks are completed. A “legal risk” placement is a resource home dually licensed for foster and adoption. If a child is not in a legal risk placement following TPR, the child’s caseworker makes a concerted effort to find an



- adoptive family; if unsuccessful after 60 days, child must be registered on the Texas Adoption Exchange. Caseworkers are required to consider placement with siblings, continued contact with foster parents, child's preference, and other issues. To match a family with a child for a legal risk adoption, the caseworker selects up to the first five families in the central registry, reviews the families and chooses the family that is most qualified based on factors listed in Texas policy 6931. Caseworker then presents the child's information in an initial meeting, followed by second meeting about the families. Both meetings are held with the child's caseworker and supervisor, the adoption caseworker and supervisor, CPA, CASA volunteer and CASA supervisor. Child's caseworker, their supervisor, CPA caseworker and their supervisor must approve the family.<sup>39</sup>
- *Utah* policy states that current caregivers, if they are relatives, have first consideration for adoption. If the current caregivers are not relatives that want to adopt, the following options are considered in this order: ICWA; relative of child; caregiver or adoptive family who have biological siblings of the child; kinship or friend; non-relative couple or single adult. If no appropriate relatives or adults known to child are identified as adoptive placements, the adoptive family will be selected by Adoption Committee from currently licensed caregivers. Adoption committee of at least three voting members is appointed by the regional director and consensus of over 50% must be reached for a decision. This committee membership consists of senior level staff and one or more members from an outside agency with expertise in adoption and foster care. The child's caseworker presents information to the committee but is not a voting member.<sup>11</sup>

Some states actively simplified systems and procedures to reduce duplicative work, as in the next examples.

*Examples to expedite procedures:*

- *California* allows for an abbreviated home study assessment to be completed for foster parents with whom the child has lived for at least six months.<sup>40</sup>
- *Colorado* accepts the assessment completed for the foster family as the application for adoption.<sup>41</sup>
- *Ohio* policy states that foster parents cannot be required to provide any information already provided to the department for adoption application.<sup>42</sup>

- *Rhode Island's* policy states that the foster care and adoption license allows a licensed caregiver to transition between roles without requiring a new home study. <sup>43</sup>

## Post adoption contact agreements

According to The Child Welfare Gateway, as of August 2018, approximately 29 States (Alaska, Arizona, California, Connecticut, Florida, Georgia, Indiana, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin) and the District of Columbia currently permit enforceable contracts for contact after adoption. Some of the states limit the relation or the type of contact that is permitted by these written agreements which are signed prior to the finalization.<sup>44</sup> Kansas is one of the 14 states with no laws addressing post adoption contact. While it may not be in code for all states, none of the states explicitly prohibit such agreements. The Court's role in establishing and enforcing agreements typically depends first on all parties reaching terms prior to the adoption. "For the agreements to be enforceable, they must be approved by the court that has jurisdiction over the adoption."<sup>44</sup> Several states require the child's agreement as well, dependent on their age. In most states with enforceable agreements, courts will hear cases, modify, order compliance, or void the agreement. Multiple states require mediation prior to bringing a case to court. <sup>44</sup>

- *Alaska* law provides an option for "retained privileges" if birth parents voluntarily relinquish their child to the Department of Human Services (DHS). These retained privileges must be in writing and specific, and may be inclusive of future contact, communication, and visitation. Birth parents are permitted to request a review to enforce the provisions of such agreements. The Court can determine, based on evidence presented, if privileges should be granted upon termination, and can also modify orders based on the child's best interest. <sup>45</sup>
- *Missouri* Courts approve such arrangements only when all parties are in agreement, and it is in the best interests of the child. The agreements in Missouri are enforceable by the Court for birth parents, however, must not preclude a party seeking to enforce the agreement through mediation. <sup>46</sup>
- *Nebraska* utilizes a unique format for post adoptive agreements. In adoptions that involve exchange of information between birth and adoptive parents, the birth parent(s) contract with Department of Health and Human Services (DHS) for information about the child. These rely on

two-year agreements and can be renewed. DHS acts as the middleman in the exchange of information in cases where children have been adopted from foster care through DHS. Before approving post adoption agreements, the Court must appoint a GAL for the child. Private adoptions can utilize communication and contact agreements themselves after the adoption, as arranged and agreed upon by the birth and adoptive parents.<sup>47</sup>

- *Tennessee* statute has provided for legally enforceable Post Adoption Contact Agreements (PACA) since 2019. “Moral” contact agreements have been available since 1996 and are not enforceable. Both agreement types are available in 2023, and like other states, include language that regardless of any disagreement regarding the PACA, the adoption itself is final and not affected by any compliance or noncompliance with the terms. Contract terms in both types usually include format and frequency of contact, medical updates, photos, expectations for conduct, etc. and note the start and end dates (typically ending when the child turns 18). Children may cancel the agreement upon attainment of age 14. Prior to any in court action due to noncompliance, parties are required to take steps that include writing to the other party, obtaining a licensed psychologist’s opinion as to the child’s best interest, then two unsuccessful mediation sessions.<sup>48 49</sup>

---

## KDCA investigations/BIS related findings

KDCA has received multiple complaints for situations that involve sibling splits and the BIS selection process. Related to these complaints, KDCA has attended several BIS as a neutral and silent observer. Often when policy is referenced in these types of cases, confusion results, rather than clarification. In one such situation, lack of clarity in policy resulted in both CMP and DCF workers believing that there was no policy that applied to the “deselection” of a previously selected adoptive resource chosen in a BIS. Current policy 5339 does, in fact, cover situations such as this when new information is obtained that may affect the standing BIS decision. The policy states that if a situation that may impact the BIS decision arises, new information is to be provided to all BIS members that had been invited to BIS. After information is provided, a determination will be made to allow the decision to stand, or to reconvene to discuss the new information and potentially change the decision. This decision then goes to the CMP director for approval.<sup>2</sup> It is assumed the process is clear; however, there is no direction as to how the determination is made to let the decision stand or reconvene. Additionally, it does not clarify who the

BIS team should consist of for this “subsequent BIS” as identified on PPS 5341 (Best Interest Staffing (BIS) Report and Approval).<sup>2</sup> Per DCF policy, the original BIS team consisted of all parties that were invited to the BIS; but some of those parties may not have participated in the BIS at all.

KDCA has received similar but separate concerns, for example, that ultimately led to a subsequent BIS due to a different reason than the above-described scenario. Following the BIS, an “appeal” or request for review was filed based on concerns that all appropriate parties had not been invited. As a resolution, the BIS team reconvened, this time with the additional parties that were missing from the original review. The same outcome was determined, upholding the decision previously made.

Sibling splits are frequently identified in complaints to KDCA particularly in adoption matters. Current policy requires sibling splits to be determined prior to BIS.<sup>2</sup> Therefore, in situations where one family wants to adopt siblings and the other family wants to adopt only one child, current policy would cause one family to be ruled out prior to BIS. CMP thereby determines which family would be presented in the BIS based on whether the sibling split was approved in advance.

KDCA would highlight that in many situations DCF and CMP have a positive working relationship that aids in resolution. However, in some cases their working relationship is strained and resolution difficult. KDCA has received several concerns that involve a BIS where conflict exist between DCF and CMP, yet despite notable tensions, consensus was reached. However, following this decision, approval was not always granted by either CMP or DCF administration, requiring the process to begin anew. Other situations reflect disagreement between DCF and CMP, as to when internal searches suffice<sup>iii</sup> or when external recruiting is warranted or “required,” when at least one adoptive resource has been identified. Again, this difference in interpretation leads to unnecessary delays in permanency and to confusion, frustration, and lack of faith in the system.

Delays in permanency also occur following disputed BIS decisions, through litigation, when a party files a motion requesting the court find a lack of reasonable efforts by the agency and requests direct placement, removing DCF and the CMP from the equation.<sup>51</sup> Statutory provisions within the Kansas Code for Care of Children limit the right to appeal decisions at particular points in time as outlined in

---

<sup>iii</sup> Internal search refers to seeking adoptive resources within their agency.

KSA 38-2273.<sup>50 51</sup> Over the last several years, Kansas has considered changes to the code that extend the right to appeal to the appellate court in particular circumstances. This consideration of extension is a precarious balance between fairness in our judicial process and accountability considering child's time and importance of achieving timely permanency.

---

## Ideas from the workforce

Boots-on-the-ground workers, supervisors, and administrators were not short on ideas to improve the processes and policies surrounding the BIS. Top themes included:

- creative problem solving and increased and concerted efforts early in the case to prevent the need for a BIS altogether,
- more education regarding the importance of keeping siblings together,
- sensitivity in questions during BIS,
- clear explanations to families,
- strengthening policy and reducing waiting time for children by adding well defined deadlines for collection of home studies, cancellations, and scheduling when a family is identified.

Additional improvement ideas included clearly defining invitees to BIS, their roles, how to accept input for decisions, meeting time limits, in-person, or video meetings only, use of post adoption contracts/agreements, and specifying who receives confidential information. Discussion also encompassed the potential requirement for the facilitator to be a neutral party not employed by CMP or involved with any party and specialized training for that person. Further, suggestions included following existing policy as written, not selectively and not "just checking off boxes" or filling out forms.

Other important themes included that the BIS is a necessary process with general guidelines, that need enhancing to be more time sensitive, trauma-informed, child and family centered, efficient and minimizing opportunity for personal bias to guide or cloud, the best outcomes and best interest for the child. Discussion with participants in KDCA facilitated discussions brought forth ideas about what and how they would like to see things change. First and foremost, it was stated that CMPs would like to be represented and involved in DCF policy making decisions related to BIS, as CMPs are the ones that are

carrying out the procedures and can provide input that would be helpful and potentially allow for more consistency in practice. There was much emphasis on being:

- Intentional.
- Working harder with creative problem solving.
- Doing more at an earlier stage in every case.
- Partnering.
- Providing more education about the benefits of keeping siblings together and avoiding the need for a BIS altogether.

They would like to see specific procedures created and detail “how” to implement the policy. Several voiced the opinion that the facilitator of BIS should be a trained and completely neutral party, such as a facilitator from another CMP. Additionally, it was suggested that “when a [consensus] decision cannot be made at BIS, it should be sent to an outside, neutral [team (i.e. representatives from other CMP, CPA, different DCF Region, or providers)] that is not [Regional] DCF and not the CMP to decide.”

*Time* was an important feature in discussions. Time is impacted in many ways, particularly when it comes to policy versus practice. For example, discussions included the timeframes and expectations for recruitment efforts. How long should the recruitment phase be? Should recruitment only entail internal searches? If and when should external recruitment occur? How “many” potential adoptive resource families must be identified before proceeding to BIS? What KDCA hears often are inconsistent interpretations of present policy and therefore inconsistencies in practice statewide. These irregularities lead to unanticipated lengthy timelines, unnecessary delays, and breakdown of faith in the process. Conversation participants suggested that deadlines are needed in policy related to setting cutoff dates for collecting home studies, including guidelines on how long to wait for additional families before setting a cutoff date, and outline of acceptable reasons for cancellation or delays of BIS. It was also thought that if a family has expressed interest, the BIS should be scheduled immediately and not pushed back to try and include other families that have not yet been identified. As to the BIS itself, suggestions for consideration of time limits for the meeting were offered, as well as requiring BIS members to review the documents ahead of time, thus reserving the meeting itself for highlights, questions, and discussion.

*Invitees* to BIS were identified as imperative. Discussion included recommendations to distinctly identify the BIS team versus attendees, and KDCA recommends that access to confidential documents is explicitly defined in policy to limit access to the BIS team; not all invitees/attendees. Policy should make clear which parties are able to remain for the duration of the BIS, which parties are there simply to present, who is able to weigh in for a consensus, and how many team members per agency. It was suggested that prior placements of the child should write about the child for the BIS, or preferably present at the meeting.

*Decision Making* was an area where multiple parties suggested helpful changes could be made. First and foremost, they would like to see a concrete definition of consensus in policy, defining what it means, how to get to consensus, and if it is to be unanimous. Of equal importance, they would like the decision-making team defined as to who and how many. Some suggested that the decision-making team could be a special committee comprised of representatives from other CMP and CPA providers, or other stakeholders that would be brought together periodically for this sole purpose. Finally, to enhance decision making, it was suggested that facilitators improve upon bringing information from those unable to attend and sharing that with BIS members via email prior to the meeting.

*Education* did not go without notice among these groups of forward-thinking professionals. Not only did they recommend increased education of CMP staff regarding sibling relationships, but they also suggested that facilitators educate BIS members to be more delicate when questioning adoptive families, while not shying away from difficult conversations, and being mindful of the sensitive information that has been shared. They also discussed introducing mediation to improve relations and ongoing contacts between important people in a child's life, such as unselected relatives or foster families. It was also suggested that potential adoptive resources are provided explicit information about the Home Study/BIS/adoption processes even before sending a request for an adoption home study to the CPA.

---

## KDCA Recommendations

KDCA concludes this report with the recommendation that a taskforce or work group, which includes representation from all key stakeholders, be created to initiate further research on the BIS process to

vet any potential policy and practice model change. Additional KDCA recommendations serve as a starting point into the investigation, discussion, and development around program and policy additions, changes, or creations.

Upon review of information gathered, along with current policy, KDCA finds that a combination of issues often results in a less than ideal process of selecting the adoptive resource for legally free children in the custody of the Secretary. This includes well-intentioned policy that is viewed as confusing or unclear, failure to follow existing policy, variable interpretation of policy throughout state and agency, and other barriers. Despite this, administrators, supervisors, and frontline staff have maintained positive attitudes and a desire to work through a process that results in the best possible outcomes for children. Recognizing a need for change, they have expressed a multitude of thoughts and ideas to improve services and provide permanency for the children of Kansas using a strengths-based perspective.

KDCA has compiled the results of meetings with the child welfare professionals currently serving Kansas families and children, information gathered during KDCA complaint investigations, with review of how other states address similar barriers, and would make the following recommendations regarding Best Interest Staffings and related policy.

#### BIS Recommendations:

- ❖ KDCA recommends that prior to adoption of any policy or formal practice changes, a taskforce or workgroup be created, comprised of representatives of key stakeholders, including the judicial branch and legal community, to further investigate the process, best practices, and fully vet any proposed policy and procedural changes, including potential unintended consequences.
- ❖ KDCA recommends that CPA, CMP, DCF, Judicial Partners, and other key stakeholders consider creating a BIS Guide, including a decision-tree, to be shared with BIS Team, participants, and potential adoptive resources.
- ❖ KDCA recommends DCF consider amendment to current policy to state the BIS team consists of a single decision-making participant from each agency, and that person shall receive the confidential documentation listed previously. Current policy states all participants are BIS team members, and all participants shall receive social history, home studies, and sibling split if applicable.<sup>2</sup> Further, it specifies that all who attend the entire meeting shall have a voice in the decision. The BIS decision-making team members should be clearly identified in policy.



- ❖ KDCA recommends relative placements, even with ICPC, be reviewed as soon as child comes into care, and strongly recommends that when agencies place with foster parents rather than relatives, intensive efforts are made to encourage, facilitate, and mediate relationships between the parties. The intent is that in the event of TPR, it is more likely the parties will be able to work together to determine the child’s best interest, and at minimum, discuss adoption agreements for ongoing contact.
- ❖ KDCA recommends when “attachment” is considered that training, education, and practice reflect a “lens of cultural respect.”<sup>52</sup>
- ❖ KDCA recommends that as Kansas continues the discussion on consideration of attachment when selecting an adoptive resource and expanding the right to appeal decisions within the Code for Care of Children, that such discussion give great weight to the December 2, 2022 Kansas Judicial Council Report on the matter, including the impact on child’s time, both intended and unintended consequences, and the right to fair and just access within our judicial process.<sup>51</sup>

#### Sibling Separation and Sibling Split Recommendations:

- ❖ KDCA recommends DCF review policy regarding a Sibling Split Request and Approval, considering an amendment requiring the approved Sibling Splits also be reviewed every 180 days (similar to the 90-day staffing) and incorporated in case planning, until permanency is achieved to ensure that continued split remains in the best interest.
- ❖ KDCA recommends CMP review sibling placement and separation policies and practices with all staff, ensuring that at minimum a formal and documented Sibling Separation Staffing is held and the PPS 5146 documenting this 90-day staffing is thoroughly completed and saved in the case files.
- ❖ KDCA recommends that if a sibling split is approved, but the siblings are then placed together, the prior approved split would be void and a new sibling split request would be completed if necessary.
- ❖ KDCA recommends DCF, CMP, and CPA provide sibling split and separation training annually to all case management staff and foster parents ensuring that policies, forms, staffings, required parties, and Appendix 5X and 5I are reviewed. This training should include research that

indicates the following:

- \* Children’s best interests are served by placing them with siblings after removal from their parents.
  - \* If siblings cannot be placed together, children’s best interests are served by frequent visitation.
  - \* Placing siblings together reduces trauma caused by removal from parents.
  - \* Placing siblings together increases the chances of reunification with parents.
  - \* Placing siblings together increases the chances that children will be adopted.
  - \* Placing siblings together decreases the likelihood of placement disruptions.
  - \* Siblings in foster care may also look to each other as a unique source of support and help.
  - \* Placing siblings together reduces depression, self-blame, and anxiety.
  - \* Keeping siblings together improves each child’s educational competence and reduces behavioral issues in the classroom.
  - \* Keeping siblings together improves social skills in adulthood.
  - \* Maintaining sibling relationships requires regular contact when they are not placed together.
  - \* Children desire more contact with siblings after separation.
  - \* Frequent sibling visitation leads to better mental health, social competence, and sense of stability and belonging.
  - \* Frequent sibling contact leads to better financial stability later in life.<sup>12 7 10</sup>
- ❖ KDCA recommends that DCF consider a more refined definition of sibling relationships, relative to other states’ provisions, and consistent with Kansas Statute. Other state definitions have included psychological bonds, stepsiblings, and siblings that originate from the same home. CFSR review instrument instructions defines siblings as “children who have one or more parents in common either biologically, through adoption, or through the marriage of their parents, and with whom the child lived before his or her foster care placement, or with whom the child would be expected to live if the child were not in foster care,”<sup>53</sup> and DCF has adopted the same language in policy, PPM 3237.<sup>2</sup> However, the DCF definition of siblings is more narrow than that provided for in Kansas statute regarding a relative. KSA 38-2202 defines a Relative as “a person

related by blood, marriage or adoption,” and does not limit it to “living with” situation as in DCF policy.<sup>3</sup>

- ❖ KDCA recommends that DCF consider piloting new approaches to relationship maintenance for siblings to better meet overall child wellbeing as well as improve CFSR outcomes.<sup>iv</sup>
- ❖ Many states have policy that provides for post-adoption or post-permanency agreements for lifelong contact if siblings are not adopted together. KDCA recommends that Kansas explore the use, application, and enforceability of post-adoption agreements.

**KDCA views this report as a starting point to important analysis and collaboration between stakeholders in evaluating best practices in achieving permanency and lifelong connections and wellbeing for our Kansas children. KDCA welcomes participation in future conversations, task force, and work groups addressing these critical areas for consideration.**

---

---

<sup>iv</sup> The most recent CFSR results from September 2023 reflect that Kansas is not in substantial conformity with Permanency Objective 2 “The continuity of family relationships and connections is preserved for children”. Further, it indicates nearly 75% of children in Kansas were not placed with all their siblings that were also in foster care, and of those children, nearly 59% did not have a “valid” reason for separation. Both Idaho and New Jersey have implemented sibling specific policy that has substantially decreased sibling separation. New Jersey has successfully placed 80% of sibling groups together, in part through a program that pays \$200 per month retainer to families willing to accept sibling groups of 4 or more. Idaho utilizes a “sibling matrix” to guide the placement process, the implementation of which resulted in improved maintenance of sibling relationships, per CFSR.

## Appendix A: Current Policy (July 1, 2023)

### 5339 Best Interest Staffing

Adoption from foster care is a service for the child, and a Best Interest Staffing (BIS) is held to select an adoptive family that can best meet the needs of the child. BIS team members shall consider and discuss all information presented about the child and prospective adoptive families in accordance with what is in the best interest of the child. A Best Interest Staffing (BIS) shall be convened and facilitated by the Child Welfare Case Management Provider (CWCMP) unless waived by the BIS team members. (See PPM 5340.) Once an adoptive family is identified and deemed a viable option, a BIS shall be held without delay.

#### A. Prior to a BIS Team Meeting

1. If siblings are not being adopted together and have a permanency goal of adoption, the CWCMP shall document the reasons and complete a Sibling Split request, PPS 5147. (See also Appendix 5I). The request shall be approved by Sibling Split Request Review Team, which shall include the CWCMP Director or designee.
2. For children with no potential identified adoptive resource, the CWCMP shall seek to identify approved prospective adoptive families from the Kansas Adoption Exchange and AdoptUSKids to be considered in a best interest staffing for a specific child. When selecting families to be considered in the BIS, the CWCMP shall exclude families who do not have the capacity to meet the child's emotional and social needs, but they shall not exclude families based solely on their race, color or national origin. (See the Multi-Ethnic Placement Act in Section 5231).
3. The CWCMP shall be responsible to schedule and provide notification to all participants. Persons who shall be invited/notified to participate in the BIS meeting and/or to provide input include:
  - a. Child's Guardian ad litem (GAL);
  - b. Child's current and former Case Manager/Support Worker;
  - c. DCF Foster Care Liaison;
  - d. Court Appointed Special Advocate (CASA), if applicable;
  - e. Assigned supervisors;
  - f. Court Services Officer, if applicable;
  - g. Child's therapist;
  - h. Teacher or other adult (coach, scout leader, youth pastor etc.);
  - a. Current placement resource, unless there is a conflict of interest, e.g. they are one of the families being considered;
  - j. Indian Child Welfare Act (ICWA) tribal representative for the affiliated tribe, if applicable;
  - k. Any other relevant service providers;
  - ax. Worker for each family being considered.

Others may be invited as appropriate. If the youth is age 14 or older, he/she shall be encouraged to attend and/or provide input. If the child does not participate, the reason shall be documented, and the Child Welfare Case Management Provider shall be responsible to communicate the youth's perspective and input.

All participants are BIS Team members and shall receive the Appendix 5S, Best Interest Staffing Brochure. If BIS Team members are not able to attend in person, participants shall be included by conference call or video conference upon request. Input can also be submitted in writing prior to the staffing.

4. Prior to a BIS, the CWCMP shall submit to all members of the BIS Team a packet including the following:

- a. Family Assessment and Preparation Study (PPS 5318), for each family being considered in the BIS;
- b. Child's current social history (PPS 3114);
- c. Approved Sibling Split Request (PPS 5147), if applicable.

The BIS team members shall review the packet and let the CWCMP know in advance of the meeting if there are concerns or questions about a prospective family's capacity to meet the needs of the child.

#### B. BIS Meeting

1. The BIS Team shall include members of the child's case team who have working knowledge of the strengths and needs of the child(ren). BIS Team members shall review the PPS 5318 Adoptive Family Assessment for each potential adoptive resource being considered, as well as the PPS 3114 Child's Social History for each child. Members may include, but shall not be limited to the following:

- a. The child, if deemed appropriate based upon age and development. The child may choose to provide their input in an alternative method, such as in writing to the team or through the verbal representation of another identified, trusted, person on their case team.
- b. Relatives or positive adult connections to the child(ren)
- c. Potential adoptive resources shall be given an opportunity to present the strengths of their family and discuss their desire and intent to provide permanency through adoption. They shall be given an opportunity to answer any clarifying questions as presented by other members of the case team, in a family friendly and solution focused manner. Potential adoptive resources shall not participate in the entire BIS, rather only the portion in which their family is being presented. They are not required to attend, however may provide information about their family through alternative means such as a family photo album, or letter to the team. The professional completing the PPS 5318 may present information on their behalf. Potential adoptive resources shall be given an opportunity to review the child(ren)'s social history; they shall not review the PPS 5318 for other families being considered as a potential adoptive resource.
- d. Guardian Ad Litem (GAL)
- e. Court Appointed Special Advocate (CASA)
- f. County/District Attorney
- g. Professionals completing the PPS 5318 for potential adoptive resource. These individuals shall not participate in the entire process, rather the portion related to the presentation of the family in which they are representing.
- h. Child's providers: therapist, teacher, educational advocate, pediatrician, probation officer, mentor, or other identified providers.
- a. A participant identified to document the scope of the conversation throughout the BIS
- j. Reintegration workers, as previously assigned
- k. DCF staff
- ax. Court Service Officers

Participants who are in attendance for the entirety of the process are able to weigh in and provide recommendations as to the most appropriate adoptive resource. A child's GAL is able to weigh-in and provide recommendation regardless of their participation in the BIS meeting.

2. The meeting process shall include the following:

- a. The CWCMP shall first present information about the child which includes the reason the child came into care, the completed child social history, the strengths and needs of the child, and the child's/youth's input. Participants who know the child well may provide clarifying information as needed to ensure the team has adequate knowledge to make an informed decision regarding what is in the best interest of the child(ren).
- b. The worker for each family, in partnership with the writer of the PPS 5318, if not the same person, shall present an overview of the family information including their strengths, limitations, and needs. See PPS 5320, Family Match Form as well as the PPS 5318.
- c. All factors shall be considered in identifying which family(ies) can best meet the needs of the child. The BIS team shall consider and document each family's ability to:
  - i. meet the needs and temperament of the child currently and over time;
  - ii. understand the current and future impact on their family of adopting this child;
  - iii. recognize and advocate for the needs/interests of the child;
  - iv. understand and support the child through loss and grieving issues
  - v. recognize adoption is a life-long commitment with many unknown challenges;
  - vi. provide the child with a safe and secure environment;
  - vii. provide unconditional love and acceptance of the child;
  - viii. accept and incorporate the child's emotional, physical, social, educational, and developmental needs into the family;
  - ix. demonstrate application of knowledge of the effects of deprivation, abuse and neglect on a child and the potential impact on the child's behavior;
  - x. encourage the child(ren) to develop at his/her own rate to reach his/her maximum potential;
  - xi. accept and support the child's background, culture, ethnicity, heritage, race, medical and mental health needs, and genetic and social history;
  - xii. help the child to learn and accept his/her background;
  - xiii. understand the importance of planning and facilitating child/children's future contact with siblings and/or other family members as deemed appropriate;
  - xiv. manage their financial resources.
- d. Discussion shall include the impact of separation, loss, attachment, and subsequent reattachments for the child.
- e. Discussion shall include the impact of the child on the prospective adoptive family and their children.
- f. Upon conclusion of the BIS meeting, the CWCMP shall document the record of the meeting and the BIS team decision that is achieved through consensus regarding selection of adoptive family that can best meet the needs of the child. Refer to PPM 5341.

g. If additional information is needed for the Team to make a decision, the BIS shall be reconvened by phone or in person within 3 working days so a decision can be made. The new information gathered shall be documented on the PPS 5341 Best Interest Staffing Report and Approval. Materials shall be reviewed prior to the BIS.

h. If consensus is not achieved within 3 working days of the original BIS date, the CWCMP shall make the final decision regarding what is in the best interest of the child within 24 hours.

3. Documentation of the BIS Team's Decision:

a. The Child Welfare Case Management Provider shall document the decision of the BIS Team on the PPS 5341 Best Interest Staffing Report and Approval.

b. Within 3 working days of the BIS, the CWCMP shall send the child's complete packet as noted in PPM 5339.A.4, the PPS 5341 and the chosen prospective Adoptive Family Assessment to the CWCMP Program Director, or designee.

c. On occasion, new information may arise after the BIS is concluded and the decision has been approved. If new information arises that may impact the decision of the BIS Team, that information shall be provided by the CWCMP to all BIS members. C. determination shall be made as to allowing the BIS decision to stand or reconvening the BIS Team to discuss the new information and possibly change the BIS decision. If the BIS Team agrees the new information impacts the BIS decision and a different decision needs to be made, that decision shall be documented on the PPS 5341 and routed through to the CWCMP Program Director, or designee, for approval.

**5340 Exceptions to the Best Interest Staffing Meeting**

A. When the following criteria are met in a case situation, a formal Best Interest Staffing (BIS) Meeting may be waived:

1. The child is legally free for adoption, and;
2. There is one potential identified adoptive resource who is a relative, nonrelated kin or foster family, and;
3. If the child is not placed with a relative, concerted efforts to identify, locate and evaluate maternal and paternal relatives as adoptive resources and life-long connections are documented.
4. The child has been placed with the one identified resource for a minimum of 6 consecutive months with no disruptions.

The Child Welfare Case Management Provider (CWCMP) shall contact DCF to inquire if the identified adoptive resource has been listed as an alleged perpetrator on a DCF intake assigned for an investigation and consider the nature of the report(s) in making the decision to waive the BIS.

B. If all of the above criteria are met, the following process shall be followed:

1. The CWCMP shall provide notification to all participants (see PPM 5339A.3.), and;
2. All documentation in the packet identified in 5339B.3, and;
3. The following message shall be sent with each notification and packet: Enclosed please find all documentation related to a Best Interest Staffing (BIS) for \_\_\_\_\_ (child's name and DOB). There is one potential identified adoptive resource who is a relative, non-related kin or foster parent, \_\_\_\_\_ (name), and the child has been placed with them for 6 consecutive months. If you have any objections to the selection of the identified adoptive resource without holding a BIS, please email \_\_\_\_\_ within 7 working days of the date of

this letter. If one or more persons to whom the notifications have been sent emails an objection, a BIS meeting will immediately be scheduled. If there are no objections, received within 7 working days of the date of this letter, it will be understood you approve the adoptive resource and agree to a waiver of a formal BIS meeting. If all of the persons who received the BIS notifications in a case unanimously approve the potential identified adoptive resource (no invitee emails with objections) a formal BIS meeting will be waived and the adoption will proceed.

C. Documentation of the BIS Team's Decision:

1. The CWCMP shall document the waiver of the formal BIS meeting and the decision of the BIS Team on the PPS 5341 Best Interest Staffing Report and Approval.
2. Within 3 working days of the BIS, the CWCMP shall send the child's complete packet and the completed PPS 5341 to the CWCMP Program Director or designee.

**5341 Authorization of Best Interest Staffing Team Decision**

A. Child Welfare Case Management Provider (CWCMP) Program Director or designee Review

1. The CWCMP Program Director or designee shall, within 5 working days, review the documentation provided by the case manager and considered by the BIS Team and authorize or not authorize the selected family to adopt the child.
2. If the CWCMP Program Director or designee does not authorize the family selected in the BIS, they shall provide the rationale in writing to the case manager. The case manager shall choose the next family ranked in the BIS. If there are no additional families ranked, other families that are able to meet the needs of the child should be identified and the BIS Team shall reconvene to review those prospective families.

B. Informing Selected Prospective Adoptive Family

1. Once the CWCMP Program Director or designee authorizes the prospective adoptive family for the child, the case manager shall, within 1 working day, contact the family's adoption worker to inform them of the family's selection as the adoptive family. The CWCMP shall coordinate with the family's adoption worker to establish a time for the family to review the child's file. The review shall occur within 7 working days of the family being notified of their selection to determine the family's willingness to proceed with adoption of the child.
2. The family shall have a staff person with them to assist and answer questions during the file review.
3. If the child does not have an existing relationship with the prospective adoptive family, the family shall review the file with the assigned CWCMP before visits can begin. Refer to PPM 5350 on preparing a family for adoption and visitation.

C. Informing Non-Selected Prospective Adoptive Families

Within 1 working day of the authorization by the CWCMP Program Director or designee, the CWCMP shall contact the adoptive family's worker for the families who were considered and not chosen during the BIS. The worker for the family shall promptly inform the family of the authorization made by the CWCMP Program Director, or designee. The CWCMP sends a letter the next working day to the families who were not chosen, using the format in Appendix 5Y Notice to Parents Considered at a BIS.



#### D. Informing DCF

Within 1 working day of authorization by the CWCMP Program Director or designee, the CWCMP shall contact the assigned regional DCF staff member(s) and Foster Care Administrator, inform them of the results of the BIS, and provide a copy of the PPS 5341 Best Interest Staffing Recommendation and Selection.

#### E. Review of Adoptive Placement Decision

1. If families not chosen at a BIS or not authorized by the CWCMP Program Director or designee want a review of the decision, the request must be sent in writing within 5 days of the notification of the non-selection. When the CWCMP receives a request for review of the decision, within one working day the request shall be submitted to a designated independent reviewer with the CWCMP organization. The independent reviewer shall have no connection and no conflict of interest regarding the family or child and shall demonstrate competencies in adoption and BIS staffing policy. The purpose for the review is to identify the presence of policy error or omission during the process, or bias which unduly influenced the BIS decision.

The review shall be completed within 5 working days after the request is received and a written response sent to the prospective adoptive family by the next working day.

If the independent review concludes policy was not followed or bias unduly influenced the outcome of the BIS, the reviewer shall reconvene and facilitate another BIS staffing.

---

## Appendix B: DCF Best Interest Staffing Brochure

### HOW CAN PARTICIPANTS SUPPORT THE PROCESS?

Participants in the BIS process provide information and feedback about the child and families being considered. It is important to remember that different participants may have different opinions about what is in the best interest of the child.

It is helpful for participants to be aware of their own personal prejudices and biases and to make attempts to put those aside to make professional decisions based on the child's needs. Participants shall not share confidential information outside of the BIS.

### WHO ELSE MAY PARTICIPATE?

Other participants in the BIS may include the child's CASA, therapist, teacher, other service providers, the placement resource (if there is not a conflict of interest), adoptive family workers and appropriate supervisors.

If appropriate, the child may also be invited to attend. These members of the team share information, rank the families, and make a decision about the adoptive placement for the Child Welfare Case Management (CWCMP) Program Director or designee to authorize.

### CONSIDERATIONS IN THE BIS

There are many factors to consider in selecting an adoptive family for the child:

- The child's relationship to the prospective adoptive parents
- The age of the child
- The cognitive ability of the child to understand changes

- The degree to which the child has accepted the fact that they will not be returning to their birth parents
- The child's willingness to be adopted and the child's preferences all need to be taken into account.
- Children are often adopted as a part of a sibling group, so the adoptive family needs to commit to adopting all of the siblings for those who are to be adopted together.
- The child's contact with relatives or others who are important connections in their lives is also a consideration.

### WHAT HAPPENS AFTER THE BIS?

The family selected reviews the child's file and makes a decision to adopt the child. Visitation and planning for the adoptive placement begins. Once the family selected has committed to adopting the child, the other families considered (if any) are notified that they were not selected.

### WHO CAN I CONTACT FOR MORE INFORMATION?

#### DCF CONTACT INFORMATION

1-888-369-4777  
[www.dcf.ks.gov](http://www.dcf.ks.gov)

Appendix 55  
Best Interest Staffing  
REV-July 19

## BEST INTEREST STAFFING

### FOR CHILDREN IN FOSTER CARE

Adoption from Foster Care is a service to the child

Prevention and Protection Services

Strong Families Make a Strong Kansas

**WHAT IS A BEST INTEREST STAFFING?**

When children in the custody of the Secretary of the Kansas Department for Children and Families (DCF) are available for adoption, a meeting is held to make decisions about the family who will adopt them. This meeting is called a Best Interest Staffing (BIS), as the goal is to meet the best interest of the child by selecting the family who can best meet the child's needs.

Required participants are the child welfare case management provider, and another individual who knows the child well. All participants are the members of the BIS team.

**CRITERIA FOR SELECTION**

The criteria for selection is the adoptive family's understanding of and commitment to meeting the present and future safety, well-being and permanency needs of the child and the child's acceptance of this family as his/her family. Relatives are given preference per state and federal law.

**MEPA/ ICWA**

The Multi-Ethnic Placement Act (MEPA) as amended, and the Indian Child Welfare Act (ICWA) are federal laws that direct children to be placed as soon as possible with families who can meet their needs.

MEPA, as amended, indicate placements are not to be delayed or denied due to race, color or national origin, or because there is not suitable family in the geographic area.

The ICWA requires that Indian tribal membership be addressed when looking for adoptive placements.

**STEPS IN THE ADOPTIVE HOME SELECTION PROCESS**

If a family who has a connection to the child has expressed an interest in adopting the child, an adoptive family assessment and preparation study is completed (often a relative or foster family).

Families who already have an adoptive family assessment and are listed on the Adoption Exchange are considered for those children who do not have an adoptive resource.

Participants review the child's social history and the adoptive family assessments prior to the BIS. Any gaps in information are addressed.

The BIS is facilitated by the Child Welfare Case Management Provider and the child's best interests and the strengths and needs of the prospective families are discussed.

The BIS team selection, along with supporting documentation, is sent to the CWCMP Program Director or designee for authorization.



## Appendix C: References

- 
- <sup>1</sup> Office of the Governor. (2023). Exec. Order No. 23-01. Retrieved from <https://governor.kansas.gov/wp-content/uploads/2023/04/EO-23-01-Signed-Executed.pdf>
- <sup>2</sup> Kansas Department for Children and Families. (2023, July). Prevention and Protection Services. Policies. Retrieved from [https://content.dcf.ks.gov/PPS/robohelp/PPMGenerate/CFS\\_PPM2.htm#t=About\\_this\\_New\\_Format.htm](https://content.dcf.ks.gov/PPS/robohelp/PPMGenerate/CFS_PPM2.htm#t=About_this_New_Format.htm)
- <sup>3</sup> K.S.A. 38-2202( & K.S.A. 38-2206.
- <sup>4</sup> U.S. Health and Human Services . (2003, April). Minimum Necessary Requirement . Retrieved from <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/minimum-necessary-requirement/index.html>
- <sup>5</sup> National Association of Social Workers (NASW). (2021). National Association of Social Workers Code of Ethics. <https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English>
- <sup>6</sup> Merriam-Webster. (n.d.). Consensus. In Merriam-Webster.com dictionary. Retrieved August 21, 2023, from <https://www.merriam-webster.com/dictionary/consensus>
- <sup>7</sup> Kansas Department for Children and Families. (2023, January). Summary of Prevention and Protection Services (PPS) Policy and Procedure Manual Changes. Retrieved from <https://www.dcf.ks.gov/services/PPS/Documents/FY2023DataReports/PPM/Summary%20of%20Policy%20and%20Procedure%20Changes%20January%202023.pdf>
- <sup>8</sup> Child Welfare Information Gateway. (2019). Sibling issues in foster care and adoption. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau.
- <sup>9</sup> [https://www.kslegislature.org/li/b2023\\_24/measures/documents/hb2024\\_enrolled.pdf](https://www.kslegislature.org/li/b2023_24/measures/documents/hb2024_enrolled.pdf)
- <sup>10</sup> Missouri Department of Social Services. (2019). Child Welfare Manual Section 6 Chapter 2. Retrieved from dss.mo.gov: <https://dssmanuals.mo.gov/child-welfare-manual/section-6-chapter-2-resource-provider-training-stars-specialized-training-assessment-resources-and-support-subsection-5-in-service-training/>
- <sup>11</sup> Utah Division of Child and Family Services. (September 2022) Practice Guidelines. Retrieved June 1, 2023 from <https://public.powerdms.com/UTAHDHHS/documents/275055>
- <sup>12</sup> American Bar Association, 2023. Sibling Relationships are Sacred: Benefits of Sibling Placement and Contact. © 2023 American Bar Association. May be reproduced, displayed, and distributed with the following credit: © 2023 American Bar Association. Reproduced with permission.
- <sup>13</sup> Casey Family Programs. (2020, August). How Are Child Protection Agencies Promoting and Supporting Joint Sibling Placements and Adoptions. Retrieved from casey.org: <https://www.casey.org/media/20.07-QFF-SF-Sibling-placements.pd>
- <sup>14</sup> Iowa Code § x. 232.108
- <sup>15</sup> Md. Code Ann., Fam. Law § x. 5-525.2
- <sup>16</sup> Neb. Rev. Stat. § x. 43-1311.02
- <sup>17</sup> x Pa. Stat. Tit. 67, § 3102; Tit. 42, § 6351(b)
- <sup>18</sup> Cali. Welf. & Inst. Code §§ x. 306.5; 358.1
- <sup>19</sup> Ga. Code Ann. §§ x. 15-11-2; 15-11-135(e)
- <sup>20</sup> Idaho Code §§ 16-1615; 16-1619; 16-1622
- <sup>21</sup> Wis. Stat. § x. 48.33(4)(d)1
- <sup>22</sup> Haw. Rev. Stat. §§ x. 587A-26; 587A-31 (a)
- <sup>23</sup> Neb. Rev. Stat. § x. 43-1311.02
- <sup>24</sup> N.M. Stat. Ann. § x. 32A-4-22
- <sup>25</sup> Casey Family Programs (2020) *Strategy Brief Strong Families*, [www.casey.org](http://www.casey.org)
- <sup>26</sup> Child Welfare Information Gateway. (2019). Postadoption contact agreements between birth and adoptive families. Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau. [Postadoption Contact Agreements Between Birth and Adoptive Families - Child Welfare Information Gateway](https://www.childwelfare.gov/publications/postadoption-contact-agreements-between-birth-and-adoptive-families/)
- <sup>27</sup> X III. Comp. Stat. 750, § 50/15.1; Admin. Code Tit. 89, § 402.28
- <sup>28</sup> La. Stat. Ann.. § 46:286.13

- 
- <sup>29</sup> Commonwealth of Massachusetts Department of Children and Families . (2021). Permanency Planning Policy.
- <sup>30</sup> Mississippi Department of Child Protection Services. (2021). MDCPS Policies and Procedures: Adoption.
- <sup>31</sup> Mo. Rev. Stat. §§ 210.566; 453.070
- <sup>32</sup> Montana DPHHS. (2022, April). Child and Family Services Policy Manual. Retrieved from dphhs.mt.gov: <https://dphhs.mt.gov/assets/cfsd/cfsdmanual/CFSDPolicyandProcedureLinks.pdf>
- <sup>33</sup> North Carolina Department of Health and Human Services . (2022). NC Child Welfare Manual : Adoption Services, Policy, Protocol, and Guidance.
- <sup>34</sup> Or. Rev. Stat. §§ x. 413-120-0730; 413-120-0000(26)
- <sup>35</sup> S.C. Code Ann. § x. 114-550
- <sup>36</sup> Tenn. Code Ann. § x. 37-2-415
- <sup>37</sup> Bureau for Children and Families . (2021). Adoption Policy. West Virginia Department of Health and Human Resources
- <sup>38</sup> Tennessee Department of Children's Services. (2019). Child Permanency Adoption Best Practices Manual
- <sup>39</sup> Texas Department of Family and Protective Services. (2017-2023). Child Protective Services Handbook. Retrieved from 6900 Adoption Preparation and Support Services: [https://www.dfps.texas.gov/handbooks/CPS/Files/CPS\\_pg\\_6900.asp#CPS\\_6900](https://www.dfps.texas.gov/handbooks/CPS/Files/CPS_pg_6900.asp#CPS_6900)
- <sup>40</sup> Cali. Fam. Code § 8730
- <sup>41</sup> 12 Colo. Code Regs. 2509-6, § 7.500.351(1)
- <sup>42</sup> R.I. Gen. Laws § x. 3107.012
- <sup>43</sup> Gen. Laws § 42-72-5.1; Regs. for Licensure § 1
- <sup>44</sup> Child Welfare Gateway, 2018. Postadoption Contact Agreements between Birth and Adoptive Families. August 2018. Postadoption Contact Agreements Between Birth and Adoptive Families (childwelfare.gov)
- <sup>45</sup> Alaska Stat. §§ 25.23.130(c); 47.10.089(d)
- <sup>46</sup> Mo. Rev. Stat. § 453.080(4)
- <sup>47</sup> Neb. Rev. Stat. §§ x. 43-156; 43-162; 43-166
- <sup>48</sup> Tenn. Code § 36-1-145
- <sup>49</sup> Coppock, Dawn. Post Adoption Contact Agreements (PACAs) and Open Adoptions. PACAs: Post Adoption Contact Agreements, Dawn Coppock
- <sup>50</sup> KSA 38-2273
- <sup>51</sup> Kansas Judicial Council. (2022). Report of the Judicial Council Juvenile Offender Child in Need of Care Advisory Committee on the Consideration of Attachment When Selecting an Adoptive Resource for a Child in the Child in Need of Care System. Retrieved from <https://www.kansasjudicialcouncil.org/Documents/Studies%20and%20Reports/2022%20Reports/Attachment%20Study%20Report%20-%202022-%20Approved%20by%20JC.pdf>
- <sup>52</sup> Jihad, Maleeka and Handelman, Jessica 2022. The Weaponization of Whiteness in Child Welfare. The Guardian, NACC Volume 44-Number 03 Fall 2022.
- <sup>53</sup> Administration for Children and Families. (2022). Child and Family Services Reviews Onsite Review Instrument and Instructions. Children's Bureau, Department of Health and Human Services. Retrieved from <https://www.cfsrportal.acf.hhs.gov/document/download/XqXYrg>