

NEW YORK STATE  
 DEPARTMENT OF SOCIAL SERVICES  
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



ESAR A. PERALES  
 Commissioner

[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.]

**INFORMATIONAL LETTER**

TRANSMITTAL NO.: 85 INF-5  
 [Family & Children Services]

TO: Commissioners of Social Services

SUBJECT: Guidelines for "At Risk" Placement of Certain Foster Children

DATE: March 29, 1985

SUGGESTED DISTRIBUTION:  
 Commissioner  
 Assistant/Deputy Commissioners  
 Director of Services  
 All Child Welfare Staff  
 Authorized Adoption Agencies  
 Attorneys and Legal Staff

CONTACT PERSON: Inquiries regarding this release should be directed to Mr. H. A. Harkess, Bureau of Policy Planning, Division of Family and Children Services, Room 11D, 40 North Pearl Street, Albany, New York 12243 or by calling toll free (within New York State) 1-800-342-3715, Extension 4-8120.

**I. PURPOSE**

The purpose of this letter is to encourage local social services districts and authorized adoption agencies to make placements of certain foster children who are not likely to return home but who are not yet freed for adoption with foster families who will make a commitment to adopt the child if and when the child is legally freed and to provide foster care for the child as long as the child needs it even if the child is not freed. As there is some risk that the child may not be freed for adoption, these placements are termed "at risk" placements. This letter discusses the nature of such placements and presents guidelines which identify situations and conditions for considering children and families appropriate for an "at risk" placement.

**FILING REFERENCES**

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References

## II. BACKGROUND

A child who is in foster care is usually not considered for placement with a view toward adoption unless he is legally freed and his parents' legal rights toward him have been terminated, either by the parent's voluntary surrender of those rights or by a judicial determination. The child is placed in foster care and an adoptive family will be sought only if and when the child is freed. In many instances, the adoptive family may be the foster family which has been caring for the child. When it is not or when the foster family declines to adopt, the child must be removed from the foster home for purposes of adoptive placement.

This need to find a new, adoptive home constitutes one major delay in achieving permanency for children. The removal from the foster home may also cause an emotional disturbance in the life of the child which contributes even further to the delay in completing an adoptive placement and achieving permanency.

For children for whom it may be determined that they are unlikely to return home, some districts and agencies have developed a placement policy that helps to avoid these delays and disruptions and to establish a sense of permanency at an early stage in placement. Even though it may be some time before they can be legally freed, such children are placed with a foster family who will make a commitment to provide foster care for as long as a child needs it and to adopt the child if and when the child is legally freed. The experience of these districts and agencies has been incorporated in the development of the accompanying guidelines for making placements of foster children who are not likely to return home but who are not yet freed for adoption with foster families who have accepted or expressed a view toward adoption.

## III. PROGRAM IMPLICATIONS

The placement approach this letter and its accompanying guidelines presents is an alternative to traditional foster care placements and is based on the recognition that multiple foster care placements, their resulting lack of permanency and their potential for developing insecurity can be damaging to children. This approach also acknowledges that permanence for a child is life in a family as well as a legal status. A child deserves as a matter of right to have a permanent home with loving, caring parents. Where this is the child's biological parent(s), this must be encouraged and reinforced and the full resources of the agency and the community brought to bear to keep the family intact. When it is apparent, however, that such efforts cannot or will not be successful and that casework and legal consultation agree that the child is unlikely to return home and efforts to free the child will be pursued, even though there may be some risk that the child may not be freed, efforts should begin to turn toward finding an alternative permanent placement. One such alternative is the "at risk" placement.

### The "at risk" placement concept

The "at risk" placement is not a new concept. The first concerted efforts to

utilize these kinds of placements as part of permanency planning for children, at least the first such efforts actively reported, were begun in 1973 by Lutheran Child and Family Services, River Forest, Illinois, and in 1975 in Oregon by the Oregon Permanency Planning Project. In New York State, several agencies have also begun to make such placements. Notable among these have been Louise Wise Services, Leake and Watts, Catholic Charities of the Archdiocese of New York, and the Schenectady and Monroe County Departments of Social Services. Each of these agencies, along with the Department's Ad Hoc Adoption Policy Task Force (1983), has made contributions which have been incorporated into the development of the guidelines which appear below.

One of the greatest difficulties in framing the concept and developing the guidelines for the "at risk" placement has been the determination of an acceptable terminology to characterize such placements. These placements have been variously referred to in practice and in a slowly emerging body of literature regarding such placements as "pretermination," "at risk of not being freed," "at legal risk" or simply "at risk," "risk adoption" or "fostercare/adoption." While these terms reflect key aspects of such placements, the latter, "foster care/adoption," is perhaps most accurate and at the same time least acceptable. It confuses the situation in that adoption cannot be the final term until and unless the child in care is legally freed. According to the basic concept, however, placement is to be made specifically where the child is not yet legally freed, albeit he is also not likely to return to the home of his parent(s). In like manner, to use the terms "risk adoption" or "pretermination" in describing the situation before freeing actually occurs may also unduly confuse or raise unrealistic expectations in foster parents, children and/or workers. They may also be viewed by some courts as pre-judging or biasing the legal process necessary to terminate parental rights to free the child.

The terms "at legal risk" and "at risk of not being freed" when used alone only refer to the negative risk aspects, yet they refer to the one essential reality of the situation surrounding such placements. While the aim is ultimate permanency in a new family for a child who is unlikely to return to his birth parents' home, there remains some degree of risk that that aim may not be achieved. At the same time, referring to the placement as an "at risk" placement indicates that positive action is being taken on behalf of the child to remove as many of those elements of risk as possible. It expresses that the purpose of the placement and of the casework and legal activity surrounding it are directed toward that issue and towards determining and establishing permanency for the child. On balance, then, the term used to characterize these conditions is "at risk" placement.

#### The benefits of the "at risk" placement

One benefit of the "at risk" placement is that it begins to establish a new stable family life for a child who is unlikely to return home and does so even before or in the absence of freeing for adoption. It is the one aspect of permanence, a sense of family belonging that can, and should be considered and planned for long before termination and before attaining permanence as a legal status.

"At risk" placements may also contribute to another goal of the permanency planning process: the reduction of the number of placements a child undergoes while in foster care. The "at risk" placement provides no absolute guarantee against having to move a child in foster care. These placements may also disrupt or fail just as do traditional foster placements and even adoptive placements. However, because there is commitment to both the program and to the specific child who is placed with them, the participants in an "at risk" placement are more likely to make the placement work. Such a placement can provide a framework for stability and security even if permanence as a status cannot be immediately guaranteed. The child benefits from a stable placement offering continuity of care that contributes to his or her ability to develop normally. The child's permanency is planned and structured as part of the placement, differing significantly from a traditional foster care placement in which the foster family may have made no commitment toward the long-term care or adoption of the child. The foster parents of an "at risk" placement make a specific commitment to the child that is far deeper than that of traditional foster care. This is not to say that deep commitments are never part of traditional foster care. They are. However, obtaining and assuring this commitment is generally not part of the traditional placement process.

#### The "at risk" placement as an aid to the service planning process

The "at risk" placement can be a significant aid to the service planning process, especially in regards to efforts to rehabilitate the natural family, in counselling the natural family regarding an intent to surrender, and/or in documenting and making efforts to terminate parental rights and free the child for adoption. In the case of rehabilitating the natural family, the knowledge that the child in care is in a relatively secure situation and environment can allow both the natural parent(s) and caseworker to proceed without at least one of the anxieties frequently attendant upon the foster placement and the subsequent service planning process. In a situation where the natural parent(s) are considering surrender of the child for adoption, the same knowledge of a secure placement and environment and their knowledge of the foster family's commitment to their child can give them the time and emotional security to make a decision without having to worry about what is happening or is going to happen to the child if they do surrender. And lastly, the placement of the child with a family who has already made a commitment to accept adoption of the child can beneficially speed the procedures toward finalization of an adoption when a child is legally freed.

Alongside these benefits there must be set some specific procedural issues that must be taken into account in making an "at risk" placement. In whatever manner such a placement arises or is planned, great care must be taken to insure that there is no suggestion or implication that the placing agency is trying to 'snatch' a child from its biological parent(s) or that the placement is undermining any attempts at the rehabilitation of the parent(s) or the restructuring of the natural family from whence the child has come. It is a primary function of the agency to be genuinely concerned with maintaining biological family ties if at all possible. Courts must also be able to ascertain that parents' rights are upheld until such time that they can no longer be maintained in the interest of the child and the parents. Agencies must, therefore, make good faith efforts to provide

full and committed social services to parents while also making a permanent plan for the child's life. The purpose of permanency statutes, diligence of effort requirements, termination of parental rights provisions and of court review of these efforts and of adoption placements and finalizations is primarily to preserve and strengthen family ties wherever possible and then, and only secondarily, to find a permanent alternative home for a child who cannot return home.

#### Guidelines for "at risk" placement

With this understanding of the background and basis for the development of these guidelines, the remainder of this letter will discuss first which children may be most appropriate for "at risk" placements. Then there is a description of the characteristics of families with whom such placements have proven most successful, including some guidelines for the recruitment of and the completion of home studies on families who are being considered for "at risk" placements. Lastly, there is a discussion of some special issues related to the maintenance of the "at risk" placement once it is made.

These guidelines do not guarantee success nor are they in any way a substitute for the casework assessment, evaluation and planning that must of necessity consider each case, each child, each family and each situation on its own merits. Indeed, the "at risk" placement requires greater assessment and evaluation efforts than either traditional foster care or adoption. These guidelines must be utilized with adequate regard to changing conditions and situations. A child or family who may have been in one situation or condition a year or two years ago may now be in a different one. A consideration for an "at risk" placement that was only marginal or inappropriate then may now be appropriate given changed conditions, attitudes or behaviors. With proper attention to these considerations, the "at risk" placement can be a significant contribution to an agency's permanency planning program.

#### Child appropriate for "at risk" placements

While it may seem to be stating the obvious, the first consideration is that only a child who would be placed in a foster family home is an appropriate child for an "at risk" placement. A child who is in need of structured care or treatment in a group home or institution is not yet ready for an "at risk" placement.

The second primary determiner of the child for whom an "at risk" placement may be considered appropriate is that the child must be one for whom the casework and legal assessment indicates that the child is truly unlikely to return home and that attempts will be made to free the child for adoption either by counselling the parent(s) regarding the option of surrender or by seeking judicial termination of parental rights, even though it may take a lengthy period of time or even though it cannot be stated as a certainty. The determination of the degree of risk and of the feasibility of an "at risk" placement must include the advice and counsel of competent legal staff. Legal consultation must be a part of the decision-making process from the initiation of the consideration of such a placement until the return home, discharge or adoption of the child. Even relatively high risk situations may lend themselves to an "at risk" placement if upon legal consultation there is a determination that there is a possibility that

termination proceedings could result in the freeing of the child and the casework assessment is that to do so would be in the best interest of the child.

The consultation need not provide an assurance nor even a clear likelihood that freeing the child is probable, only that it may be possible. Some circumstances, such as only a moderate chance of legally freeing a child that is coupled with a realistic casework assessment that the child cannot be returned home because of a parent's inability or incapacity (but which is not sufficiently grave enough or otherwise appropriate to provide grounds for termination of parental rights), may lend themselves to an "at risk" placement in which the foster family clearly commits to becoming the 'second family' for this child while recognizing and accepting the fact that adoption is only a remote possibility.

The prime situation in an "at risk" placement, the one to which the term "risk" applies, is that the child may not be legally freed for adoption. In assessing children for whom an "at risk" placement may be appropriate, there appear to be three groups of children, ranked according to the apparent degree of risk of not being legally freed. Within each group there are situations which serve as indicators of the child's likelihood of returning home and/or of not being freed for adoption.

These situations are indicators, not determinants, of conditions where experience has shown that children are likely eventually to be freed for adoption. Also, no one indicator alone will be sufficient to determine the likelihood of freeing a child and/or of achieving a successful outcome through an "at risk" placement. These indicators must be considered along with other factors as part of a general casework assessment to reach a decision as to the viability of a particular "at risk" placement. As has been already noted, each child, each family, each case and each situation must be considered on its own merits.

With these basic principles as guidance, it is now possible to consider those situations/indicators that may lead a caseworker or case manager to consider a child for an "at risk" placement.

In the first group are situations where a child appears very likely to become free for adoption, such as:

- o the child has been surrendered by one parent and the other parent is either unknown or uninvolved with the child and/or the agency's previous attempts to identify or locate the parent have been unsuccessful;
- o the child has come into care as the result of the death of the parent with whom he was living and the other parent is unknown or uninvolved with the child and/or attempts to identify or locate the other parent have been unsuccessful;
- o the child has been abandoned or apparently abandoned by one or both parents and initial attempts to locate the other one or both parents have been unsuccessful;

- o one parent's rights have been terminated and the second parent's rights are likely to be terminated due to that parent's non-involvement with the child but have not yet been terminated solely because that other parent is unknown or has not been located.

In each of these cases, completion of termination proceedings require only the tolling of the statutory time required to establish the grounds for termination or the documentation that statutory requirements (e.g., diligent search for an unknown or missing parent) have been met. Children in these situations would properly have a discharge goal of adoption and should not be placed without a careful consideration of the foster family's willingness to adopt when freeing is completed.

The second group of situations involves those children for whom there is a slightly higher or moderate risk that a child may not be legally freed. The major factor that makes these situations of more risk than the first group of situations is the level of parental involvement that has been or is still being evidenced toward the child, even though the parents' actions, in one way or another, indicate the child is unlikely to return home and/or that the parents' rights are likely to be terminated. The presence of some parental involvement means there may be more difficulty in freeing the child for adoption.

Situations in this group include:

- o a child whose mother has discussed and affirmatively considered adoption and surrender since the child's birth and who has transferred the child's care to a local district or authorized agency but who has not as yet actually surrendered the child;
- o a child whose parent(s) previously surrendered a sibling and who expressed a plan to surrender this child;
- o a child whose parents' rights to older siblings have been terminated;
- o a child whose parent(s) has/have a previous history of not participating in planning for this child or an older sibling who has been in care; and
- o a child who has a prior history of abuse, who has been returned home, has been abused again, has been returned to care, and for whom it is likely termination proceedings will be initiated.

In each of these situations the increased degree of risk and the increased complexity of the situation due to the presence of at least some, if only minimal, parental involvement in the life of the child prior to placement will require greater casework assessment and effort to determine the feasibility of an "at risk" placement and to gather essential data to give the foster parents an accurate sense of the degree of risk or possible delay in freeing the child for adoption. The extent to which this may be done is illustrated below by two examples from this second, moderate risk group of children who may be considered appropriate for "at risk" placements.

In the first situation where a parent (in the most common situation, an out-of-wedlock mother) has discussed and affirmatively considered adoption and surrender since the child's birth and has made a voluntary placement agreement but who has not as yet surrendered the child, there are a number of questions the answers to which will assist in determining the likelihood of the child's being freed for adoption and thus predicting the likely outcome of an "at risk" placement. For example, during what time frame and to what extent did the affirmative consideration of surrender take place? Has there been only one such discussion or have there been several? Was this plan discussed prenatally as well as since the birth? Is this the plan the mother has been consistently expressing? What appears to be the mother's capacity for making mature judgments? What are the expressed attitudes, if any, of others of her family which may be an influence on the mother's final decision regarding surrender? Is there a named or otherwise known putative father and is it known whether he or his family has directly or indirectly expressed interest in guardianship and/or planning for the child?

As has been noted, the answers to these questions would only be indicators of the risk and the likelihood of freeing the child. They must be weighed with the positive results to be achieved by making an "at risk" placement. There is only one clear situation where an "at risk" placement of a child whose mother has indicated a choice to surrender would be specifically contraindicated. This would be where the mother's family or the father or the father's family seem likely to assert an interest in assuming the care of the child. In such a situation, an otherwise appropriate "at risk" placement should not be made until the situation is resolved.

The second example of how increased assessment will aid the caseworker or case manager in determining an "at risk" placement for a child in this moderate risk group relates to the child who is the younger sibling of a child or children who had been the subject of a surrender or termination of parental rights by this same parent. The circumstances surrounding the prior surrender or termination will of course be weighed. However, the fact that the parent has previously surrendered or had parental rights terminated regarding another child or children is not of itself sufficient reason to consider that surrender or termination is likely for the present child in care. There must be some active indication by the parent(s) that the plan for this child will also be surrender, sufficient reason to believe that the parent(s) will not plan for this child's return home and/or grounds on which to move toward termination of parental rights. Where these conditions exist, even with the moderate risk that the child may not finally be freed for adoption, placement of the child in an "at risk" placement would be appropriate.

One other factor that weighs toward "at risk" placements for this moderate risk group of situations is the child's age. For the younger child, even a relatively short stay in a placement from which he will have to be replaced for adoption can be harmful to the goal of achieving permanency. For the older child, there is a greater possibility that a relationship built up with the parent may impede termination of parental rights. For these two reasons, the younger the child the more important it is that he not be placed without consideration of the family's willingness to adopt if and when possible, i.e., that an "at risk" placement be a primary consideration where the assessment is that the child is unlikely to return home.



There are two what may be termed "high risk" situations in which it is also likely that a child will eventually be freed for adoption and for whom "at risk" placement may be considered appropriate. Each of these situations involve the termination of parental rights.

The first such situation is that where one parent has surrendered parental rights to a child and the other parent is incarcerated or institutionalized. In making the assessment as to the appropriateness of an "at risk" placement it is extremely important to be aware that neither incarceration nor institutionalization of a parent is in itself a basis for termination of parental rights nor for making an "at risk" placement for the child of such a parent. It may be, however, that the incarcerated or institutionalized parent, prior to his/her incarceration or institutionalization, has failed to meet parental obligations as defined in the permanent neglect, abandonment or abuse provisions of the termination statutes. Where this is the case, the likelihood that a petition to terminate parental rights will prove successful is sufficiently high enough that, even though there may be some delay in completing the process, an "at risk" placement would be an appropriate consideration.

Where these situations do not apply to the incarcerated parents, however, there are additional factors to be considered. The incarcerated parent must be given an opportunity to plan for the child's future or to plan and arrange visits with the child at the parent's place of incarceration. However, where the parent has failed on more than one occasion while incarcerated to cooperate with the agency making up such plans or arrangements, termination under the permanent neglect provision may then be obtained. Where this situation applies to an incarcerated parent and the agency plans to pursue termination, an "at risk" placement would be an appropriate consideration.

The other relatively high risk situation is that where one or both parent(s) have a history of drug or alcohol abuse and have shown no evidence of overcoming or attempting to overcome it. Where this behavior results in the parents' failure to substantially and continuously or repeatedly to maintain contact with or plan for the future of the child, termination in such situations is possible under the permanent neglect provisions of the law. This process, however, is frequently a lengthy and difficult one and the outcome of such cases, although frequently in favor of freeing the child for adoption, is by no means certain.

In each of these situations, legal consultation as to the likelihood of success for a termination proceeding is vitally important. As in previous situations, if it is determined that termination cannot be considered even possible, then these children would not be included as children for whom an "at risk" placement may be appropriate. Equally, where the casework and legal judgment agree that the potential for a successful outcome of a termination proceeding is sufficiently high, an "at risk" placement can be a valuable consideration.

These situations are "high risk" not only because of the greater complexity they present relating to freeing a child for adoption but also because of the probable length of time that may be involved in the freeing process. Even though an "at risk" placement is made with the foster parents being aware of the potential risks, it is still a fact that long delays carry the attendant potential for

engendering impatience and disappointment in the foster parent(s) waiting to adopt or in the child waiting to be adopted. The continued uncertainty of these situations is a factor that contributes to a higher degree of risk. However, these factors are manageable through appropriate recruiting and preparation of the foster families and children and through continued counseling and casework during the course of the placement. Therefore, "at risk" placements of even these high risk categories of children would be appropriate.

#### "At risk" placement of a child already in care

Many of the situations which are appropriate for considering "at risk" placement become apparent at an assessment early in a child's foster care placement. In other cases, they do not arise or it does not become apparent that the child is unlikely to return home until the child has been in care for some period of time.

In such situations, first consideration should be given to discussion with the present foster family regarding their interest in adopting the child. Such first preference consideration must be given to any foster parent who has cared for a child for eighteen months or more. Even when the child has not been in the care of the foster parent(s) the required eighteen months, the foster parent(s) presently caring for the child should at least be considered. This is in keeping with the goal of reducing the number of placements for a child to attain permanency.

The present foster parent's willingness or unwillingness to adopt is not, however, the sole deciding factor as to continuing the child's placement or to move the child to an "at risk" placement with another family who has expressed its desire and willingness to adopt if and when the child is freed. Where the overall assessment regarding continuing the child's placement with the present foster family results in a negative determination by the family or the agency, another foster home meeting the "at risk" placement criteria should be sought. Removal of a child from a home in which a child has been for some time is a difficult decision, but if these foster parents are not willing to adopt or are otherwise not appropriate for long-term care and adoption of the child, it is ordinarily best to place the child in a permanent family as soon as this becomes the goal, rather than to permit another six months or a year to pass.

#### Children for whom "at risk" placement appears inappropriate

"At risk" placements are not appropriate where there is a determination that the child will return home. Such placements are also highly questionable and should generally be considered inappropriate where there is a determination that a child will not be returned home but there will be no action to terminate parental rights and free the child for adoption.

Another situation where the risk of not freeing a child is sufficiently high to make consideration of an "at risk" placement inappropriate for a child is where the court has already rejected a petition to terminate parental rights. Though the agency may be successful on appeal or in a future petition, the delay in obtaining the termination is certain to be lengthy and a successful outcome is not as clearly

possible as in the other risk categories. Also, a legal proceeding in such a situation may be undercut by a placement or a re-placement in which adoption is seen as the purpose.

Another situation in which the risk may be too excessive for an "at risk" placement is that where the child still harbors such strong real or fantasy ties to his parent(s) that he will overtly or covertly resist adoption. This situation adds risks quite separate from the legal risks discussed herein. The mere existence of some child resistance should not of itself exclude an "at risk" placement. Some such resistance may in fact be considered quite normal. The child's overall emotional ability to make the adjustment to not living with the parent(s) and to accept an "at risk" placement will be the key factor in making the decision to pursue an "at risk" placement or not.

#### Families considered appropriate for "at risk" placements

Identifying types of foster families that are appropriate for "at risk" placements is more difficult than identifying the type(s) of children who may be so placed. The caseworker in such a situation must draw upon the full range of professional skills and judgement in assessing a family's likelihood to successfully handle such a placement. This judgement requires the assessment of at least these basic factors that have proven indicative of a family's ability to handle an "at risk" placement:

- o the family has a positive motivation and sincere interest in making a permanent commitment to the child;
- o the family understands and is willing to accept a placement in which an identified element of risk of the child's not being freed and/or having to be returned home may be present;
- o the family has other children and the family functioning as a whole is considered good and capable of absorbing an additional family member;
- o the family has adopted children previously;
- o the family has a good internal support system and/or is part of an extended family relationship and/or has developed community ties and the ability to use community resources;
- o the family has demonstrated a capability to work cooperatively with the agency and to work positively to resolve any problems or situations that may arise.

While these factors suggest that families with children may be more readily acceptable as families for "at risk" placements, childless families may also be suitable and appropriate based on the same assessment factors.

It is important to recall that no one factor is a positive or negative determinant in or of itself. The factors must be weighed together as part of a

holistic picture of this family to determine whether this family, all things considered, is an appropriate family for an "at risk" placement.

Overriding all of these factors, however, is the one that has been paramount throughout these guidelines. The family must have, and the caseworker must put forth the work and effort to maintain, an ability to sustain its commitment and to tolerate and work through the ambiguities, ambivalences, delays, disappointments and frustrations that can be attendant upon the risks involved in making an "at risk" placement.

#### Families in which "at risk" placements appear inappropriate

There is one situation in which a family is not a likely prospect for "at risk" placements. This is the family which has stated it is interested only in adoption and will only accept a child with the assurance of the agency that they will be able to adopt the child who is placed with them. In this situation, it would clearly be counter-productive to make an "at risk" placement in such a family, as such a placement cannot honestly be accompanied by such an assurance.

#### Special issues related to placements

There are other issues that impact upon the decision to make an "at risk" placement and upon the efforts required to sustain the placement once it is made. Chief among these are:

- o the effect/impact of the placement upon the actions to free the child;
- o visitation by biological parents while the child remains in care and is not yet freed.

These situations are most likely to arise when a child has been surrendered by, or parental rights terminated regarding, an uninvolved parent and the child has been removed from the home of the involved parent with the probability that termination proceedings will be or are being undertaken with regard to that parent as well. Such a child may be considered appropriate for an "at risk" placement. Because of the continuing legal proceeding, however, certain special efforts are necessary.

The first of these special efforts is the same effort as is required for any child who enters placement. Whenever a child is in placement and the parent's rights have not been terminated, efforts must be directed toward providing for visits between the parent(s) and the child and for rehabilitative work with the parent(s). Even though the assessment indicates that the child is unlikely to be able to return to home, these efforts are required to continue so long as the parental rights of the natural parent(s) have not been terminated or visitation limited or suspended by written agreement or court order and/or a discharge goal of adoption has not yet been established. It is important that an "at risk" placement neither deprive nor give the appearance of having deprived the parent of visitation or any other rights concerning his or her child.

State policy requires that family reunification must remain the priority until it is clearly established that reunification is not feasible. An "at risk" placement in such a situation should be one in which the foster family is able to provide a maximum feeling of security for the child, to cope with disturbances that may arise as the result of a natural parent's visits, to tolerate a lengthy and potentially painful termination process, and is committed to keeping the child as a foster child or to help him return to his parents if termination fails.

#### Recruitment and home studies to prepare for "at risk" placements

The consideration of the possibility of "at risk" placements should be an integral part of an agency's foster care and adoption recruitment, orientation and home study process. An orientation to "at risk" placements requires more than the generalized discussion of risk situations that occurs in most adoptive orientations and home studies. A thorough discussion of the risk factors as outlined in these guidelines is necessary if prospective foster families are to be able to decide for themselves whether they are interested in emergency or short term placements, long term placements (without consideration of adoption), "at risk" placements, or adoption, or any combination of these. It is also appropriate to discuss "at risk" placements with initial applicants for adoption. Adoptive applications may not be denied or dismissed because an applicant does not want to consider an "at risk" placement. However, the presentation to foster and adoptive parent applicants of the "at risk" placement possibility has great potential for developing a pool of families realistically ready to provide the kind of care needed by these children.

In recruiting and completing the orientation and home studies for families to be considered for "at risk" placements, there are some factors to be considered. Parents who are considering accepting children "at risk of not being freed" should be clear that their commitment to care for such a child includes risk for them as well. As a result, homes being considered for "at risk" placements should be thoroughly evaluated for their ability to establish and maintain a long term commitment to the child placed with them (a) whether or not the child is in fact legally freed, and (b) even though their legal status may remain that of foster parent for an extended period of time. Also, these homes should be assessed for their ability to accept the possibility of a failure to complete the adoption because the child will not be legally freed, because the child refuses adoption or otherwise fails to cooperate, or because a missing parent returns to claim the child and/or refuses to surrender the child or otherwise cooperate in the child's adoption.

Properly prepared, both agencies and families will be able to develop effective and successful "at risk" placements and subsequent adoptions.

#### Summary

The aim of these guidelines is to minimize the period of foster placement prior to the achievement of permanence for all children and to minimize the number of different families to whom children must adjust and from whom they must experience separation. Based on these guidelines, there are six placement decision situations at which an "at risk" placement may be selected for a child not

yet free but for whom return home is not a viable discharge plan. These are:

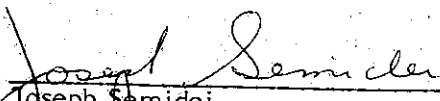
- (a) at initial placement, unless the placement is an emergency placement necessary to the protection of the child;
- (b) at re-placement from an emergency foster home;
- (c) when re-placement is needed because of removal from a foster home, for any reason;
- (d) when re-placement is considered because a child is not doing well in the current foster home;
- (e) when a child who has been in congregate care is ready for a foster home placement; and
- (f) when the permanency goal for a child is changed to adoption.

At any of these decision points a child who has been determined unlikely to return home should be considered for an "at risk" placement whenever possible.

Because the situation of each child, his relationship with his natural family, and general circumstances differ, this letter has only considered broad concepts and principles and has only offered guidelines for consideration in making "at risk" placement decisions. It is hoped that these guidelines will serve the purpose of encouraging additional "at risk" placements.

#### IV. RECOMMENDED ACTION:

It is recommended that each district and each authorized adoption agency review these guidelines to determine their applicability to the district's or agency's foster care and adoption cases. Where an "at risk" placement appears appropriate based on these guidelines and the agency's legal and casework determinations, such placements are expressly encouraged.

  
Joseph Semidei  
Deputy Commissioner  
Division of Family and  
Children Services