



**Administrative Policies and Procedures: 16.27**

**DRAFT**

<b>Subject:</b>	<b>Resource Parents' Fourteen-Day Removal Notice and Right to Appeal Notice of Removal from a Foster Home</b>
<b>Authority:</b>	TCA 37-5-105, 37-5-106; 37-2-415; TCA 37-4-201-37-4-207; and P.L. 109-239 Safe and Timely Interstate Placement of Foster Children Act of 2006; TCA 37-4-101 et seq. Interstate Compact for Juveniles.
<b>Standards:</b>	COA PA-FC: 6.07
<b>Application:</b>	All Department of Children's Services Foster Care Services Employees and Contract Agencies

**Policy Statement:**

Any Department of Children's Services approved foster parent or ~~private provider~~ **contract agency** foster parent, which includes those parents providing placement and services to children subject to compliance with the Interstate Compact on the Placement of Children (ICPC), **are entitled to a fourteen (14) day written notice of removal of children from their home when it has been determined that a child's placement requires a change and/or when a child's safety is at risk. Any placement decisions, including disruptions, are held within the context of a Child and Family Team Meeting.**

~~Foster parents has have the right,~~ **Under certain conditions, foster parents have the right to appeal a DCS decision to remove the child from their foster home for placement in a different foster home, or a facility or in an adoptive foster home. per the conditions outlined in this chapter. The child must have been in the home of the resource family for a period of twelve (12) consecutive months in order for an appeal to be filed. All DCS resource parents are entitled to a fourteen (14) day written notice of removal of children from their home. No child placement disruptions should occur without convening a Child and Family Team Meeting.**

**Purpose:**

~~In the event that the Child and Family Team members determine that a child/youth should be removed from an approved foster parent or private provider's contract agency home, the foster parent may have the right to appeal the removal, depending on the circumstances for submitting appeals, timelines, and responsible parties are clearly outlined.~~

**To provide guidelines for determining and planning a movement and identifying an appropriate, safe placement for children/youth during pending investigations.**

<b>Procedures:</b>	
<p><b>A. Conditions under which appeal rights do not apply</b></p>	<p>Appeal rights do not apply for the following conditions:</p> <ol style="list-style-type: none"> <li>1. The child is being returned to his/her parents or legal guardian.</li> <li>2. The child is removed from the resource home pursuant to a court order requiring such removal.</li> <li>3. The child is removed from the resource home at the request of the resource parents.</li> <li>4. The child has been in the resource home for less than twelve (12) consecutive months.</li> </ol>
<p><b>A. Planning for the Movement</b></p>	<ol style="list-style-type: none"> <li>1. When there is a <u>planned move with consensus</u> of the team to move the child(ren)/youth, the below steps are followed:             <ol style="list-style-type: none"> <li>a) Consideration to change the placement of a child/youth is discussed within the context of a Child and Family Team Meeting (CFTM) and is scheduled, whenever possible, prior to the actual change of placement.</li> <li>b) Form <b>CS-0747, Child and Family Team Meeting Summary</b> is used to document CFTM decisions. For guidance on discussions held within the Child and Family Team (CFT), utilize the <u>CFTM Protocol</u>.</li> <li>c) If the team recommends a placement change, notification is provided to the foster family within fourteen (14) calendar days prior to removal, utilizing form <b>CS-0450, Notice of Removal of a Child from Foster Family Care</b>. A transition plan is then developed during the CFTM, followed by the move.</li> </ol> </li> <li>2. When it is determined there is a <u>planned move without consensus of the team</u> to remove the child(ren)/youth and there are <b>no</b> significant safety concerns of harm, the following steps occur:             <ol style="list-style-type: none"> <li>a) A CFTM is held to discuss the safety concern(s) and to determine whether or not a change of placement needs to occur. If it is determined the child(ren)/youth will be moved a transition plan is developed during the CFTM.</li> <li>b) The foster family receives a copy of form <b>CS-0450, Notice of Removal of a Child from Foster Family Care</b>, <b>CS-0403, Appeal for Fair Hearing</b> and <b>CS-0583, Foster Parent Waiver of Right to Appeal the Removal of a Child</b>.</li> <li>c) If the foster parent(s) appeal the move, the transition plan and the move is placed on hold. DCS staff collaborates with the Administrative Procedures Division to determine next steps.</li> <li>d) There is communication among team members about the appeal process and next steps.</li> <li>e) Once the appeal is resolved, the hearing order/agreement is incorporated into</li> </ol> </li> </ol>

the transition plan.

3. When it is determined there is a planned move without consensus of the team to remove the child(ren)/youth due to a **significant safety concern of harm**, the following steps will occur:
- a) The region ensures that a referral has been made to Centralized Intake to report the allegations and/or concerns.
  - b) The child(ren)/youth are immediately removed from the home
  - c) Notice of removal is given to the foster parent(s) by the FSW utilizing form **CS-0450, Notice of Removal of a Child from Foster Family Care, CS-0583, Foster Parent Waiver of Right to Appeal the Removal of a Child** and form **CS-0403, Appeal for Fair Hearing**.
  - d) Upon removal, if the foster parent(s) choose to waive their right to appeal, the FSW obtains their signature on form **CS-0583, Foster Parent Waiver of Right to Appeal the Removal of a Child** and send a copy to the following location within 24 hours:

**Department of Children's Services  
Administrative Procedures Division  
Plaza Tower-Metro Center  
200 Athens Way, 2<sup>nd</sup> floor, Suite B  
Nashville, TN 37243  
Using FedEx or UPS 37228  
Phone:615-741-1110  
Fax:615-741-4518**

**Note:** The foster parent, who is subject to a SIU investigation, is notified by the DCS investigator that they have a Regional Foster Parent Advocate available to assist and support them throughout the investigative process.

- e) A CFTM is convened within three (3) business days in order to determine placement needs.
- f) The assigned FSW consults with SIU regarding the nature of the safety concerns and discuss the on-going investigation.

**Note:** There may be times when there are significant safety concerns, but they do not rise to the level of SIU involvement. This may include situations that could be screened out at the DCS hotline, but would still raise safety concerns of the child(ren)/youth. These could include, but are not limited to, the following:

- ◆ A possible Immediate Protection Agreement (IPA) situation or custodial safety plan violation (with time frames)
- ◆ Child/youth behavior
- ◆ Level of supervision
- ◆ Household member or foster parent obtains a criminal charge

	<ul style="list-style-type: none"> <li>◆ Foster parent is unable to meet special needs of the child(ren)/youth</li> <li>◆ There is an emergency situation in the home</li> </ul>
<p><b>B. Notice of removal</b></p>	<p><del>1. At least fourteen (14) days prior to the planned removal of a child from a resource home for reasons other than those specified above, the resource parents shall be notified in writing of the department's or agency's intention to remove the child, the date of the intended removal, and the reasons for the intended removal, form <b>CS-0450, Notice of Removal of a Child From Resource Family Care.</b></del></p> <p><del>2. For DCS resource homes, form <b>CS-0450, Notice of Removal of a Child From Resource Family Care,</b> must also advise the resource parents of their right to appeal the decision and that if they appeal within ten (10) days, the child shall not be removed from their home pending the outcome of the appeal.</del></p> <p><del>3. The private provider shall notify resource parents, within the same time frames, with a similar form of their making. The DCS Family Service Worker (FSW) will be notified immediately by the private provider and will be involved in the decision of the Child and Family Team meeting.</del></p> <p><del>4. Advance notice of the intent to remove a child from a resource home is not required when the Department determines that there is an imminent threat of harm to the child's health or safety if he is not removed from the resource home immediately.</del></p>
<p><b>B. Significant safety concerns with SIU involvement</b></p>	<p>1. When there are significant safety concerns that rise to the level of involvement by the Special Investigations Unit (SIU), the following steps occur:</p> <ul style="list-style-type: none"> <li>a) Once SIU receives a report, they will make contact with the region by sending an initial notification via email and begin their investigation, according to DCS Policy <b>14.25, Special Child Protective Services Investigations.</b></li> <li>b) If significant concerns are noted SIU will contact the Regional Administrator/Designee and Placement Services Division to discuss concerns, the foster home and any history related to the case. Additional guidance for removal of the child(ren)/youth and any alternatives can be gained by consulting legal counsel, if needed.</li> <li>c) If the decision is made to remove the child(ren)/youth, regional staff will provide notice of removal of the child(ren) to the foster parent(s) utilizing form <b>CS-0450, Notice of Removal of a Child from Foster Family Care</b> and form <b>CS-0583, Foster Parent Waiver of Right to Appeal the Removal of a Child.</b></li> </ul> <p><b>Note:</b> Appeal rights only apply when a permanent move occurs.</p> <ul style="list-style-type: none"> <li>d) A formal CFTM is convened as soon as possible, but no later than twenty-four (24) hours after the child has left the home, and up to fourteen (14) days with the RA/Designee approval, to determine placement needs (temporary placement or permanent move) according to the <b>CFTM Protocol.</b></li> </ul> <p><b>Note:</b> The CFT cannot decide if respite extends past the fourteen (14) days</p>

	<p>without RA/Designee approval.</p> <p>2. If there are significant concerns that rise to the level of possible closure of the foster home, refer to Section B of DCS Policy <b><u>16.16, Denial, Closure, or Suspended Admissions of Foster Homes</u></b> for additional guidance.</p>
<p><b>C. Time limit for filing an appeal</b></p>	<p>1. Appeals from decisions to remove a child from a resource family will be accepted only if they are filed within ten (10) days after the mailing date of the written notice of the action unless good cause can be shown as to why the appeal could not be filed with the time limit.</p> <p>2. The time limits shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or legal holiday in which case the last day shall be the first day following a Saturday, Sunday, or legal holiday.</p> <p>3. In the cases of private provider removals of children from agency resource homes, families shall appeal removals to the DCS Family Service Worker (FSW) assigned to the child in their home. Resource families and the private provider are encouraged to resolve conflicts internally or by participation in a Child and Family Team Meeting. However, the ten (10) day period to file appeals is applicable as stated above to resource parents working with a private provider.</p> <p>4. Private provider resource parents shall file appeals through appropriate DCS channels as outlined below in <b>F, G and H</b>.</p>
<p><b>C. Moving Children Out of the Foster Home to Support an Investigation</b></p>	<p>1. If there is a need for child(ren) to move from a foster home for the purpose of supporting the Child Protective Services Investigation or to address an immediate safety concern, the movement can only occur through respite or a temporary change in placement.</p> <p>a) <b>Respite</b>- The decision to move the children out of the home, for an identified period of time, which is guided by the foster parent or agency. Refer to the <b><u>Guidelines for Supplemental Respite Care</u></b> for the arrangement and short-term, planned, or emergency care. During the respite episode, the child's placement will go unchanged in TFACTS. This respite placement is paid for by the foster parent</p> <p>b) <b>Temporary Placement Out of the Foster Home</b>- The child(ren) are physically placed into an new, alternative foster home for a specific period of time. The intent with the temporary placement out of the home is to support gathering more information to determine whether the child can be safely maintained in the current foster home placement. This placement is paid for by the Department or Contract Provider.</p> <p>2. The foster parent may be reimbursed for up to seven (7) days at the discretion of the region and with the approval of the Regional Administrator/Designee for DCS homes and the Contract Provider Executive Director/Designee as to Contract Agency foster homes. After seven (7) days and up to twenty-one (21) days, the foster parent may be reimbursed with written approval from the DCS Regional Administrator or his/her Designee. A caregiver or agency should not be reimbursed past twenty-one (21) days; however, in the event that the agency/caregiver and region agree that extending past twenty-one (21) days out of the home is the best interest of the child and the investigation, the DCS Deputy Commissioner of Protection and Prevention can approve an extension. If it is recommended the child should not return to the home of the foster</p>

	<p>parent and that is the focus of the SIU Investigation, a CFTM is convened to make a final decision on future placement.</p>
<p><b>D. Exception to the time limit for filing an appeal</b></p>	<p>In extraordinary circumstances, a written request must be submitted to the Commissioner of the Department of Children's Services by the resource parent. The Commissioner may grant a waiver of the time limit, and allow the foster parents to file an appeal after the ten (10) day time limit but prior to the actual removal of the child from the foster home. Time frames may vary in cases of SIU investigations. The decision will be provided in writing to the resource parent. This waiver is also available for resource parents working with a private provider.</p>
<p><b>D. Safety Planning</b></p>	<p>If there is a temporary removal of the child(ren) from the home, the CFT will address in the CFTM any plans for getting the child(ren) to school, any pending medical appointments, court hearings, arranged family/sibling visits, and/or other extra-curricular activities. Planning is focused on minimizing the disruption of the child(ren)'s daily activities and creating the least amount of stress during the displacement.</p>
<p><b>E. Waiver of right to appeal</b></p>	<p>When the resource parents concur with the plan for removal of a child from their home or when they choose not to pursue an appeal, they may waive their right to a hearing and to the fourteen (14) day advance notice period by executing a written waiver, <b>CS-0583, Foster Parent Waiver of Right to Appeal the Removal of a Child</b>. The waiver gives the Department the authority to remove the child from the home on the date specified in the original notice or on an earlier date, if an earlier date is specified in the waiver</p>
<p><b>E. Appeals</b></p>	<p><b>1. Filing the Appeal</b></p> <p>a) A foster parent who has had a custodial foster child in their home for a period of 12 or more consecutive months has the right to appeal a decision by a representative of DCS to remove the child(ren) from his/her home for placement in a different foster home or facility. This right does not apply, however, to removals necessitated by any of the following reasons:</p> <ul style="list-style-type: none"> <li>◆ Children returned to their parent(s) or legal guardian;</li> <li>◆ Children removed from the foster family home pursuant to a Court Order requiring the removal;</li> <li>◆ Children removed from the foster family home at the request of the foster parent(s).</li> </ul> <p>b) It is the responsibility of the assigned Family Service Worker (FSW) to provide information to the foster parents and discuss the following steps on how to file the appeal:</p> <ul style="list-style-type: none"> <li>◆ Discuss and complete form <b>CS-0450, Notice of Removal of a Child from a Foster Home, CS-0583, Foster Parent Waiver of Right to Appeal and CS-0403, Appeal for Fair Hearing</b>;</li> <li>◆ Provide a copy of forms, <b>CS-0450, CS-0583</b> and <b>CS-0403</b> to the Regional Administrator/Designee and relevant Contract Agency provider;</li> <li>◆ Scan and e-mail a copy of forms, <b>CS-0450, CS-0583</b> and <b>CS-0403</b> to the Administrative Procedures Division at <a href="mailto:EI-DCS.AdministrativeProcedures@tn.gov">EI-DCS.AdministrativeProcedures@tn.gov</a>, and</li> <li>◆ Place a copy of forms, <b>CS-0450, CS-0583</b> and <b>CS-0403</b> in the foster home</li> </ul>

	<p>file and mail to:</p> <p style="text-align: center;"><b>Department of Children's Services Administrative Procedures Division 200 Athens Way 2<sup>nd</sup> floor Suite B Nashville, TN 37243 Phone: 615-741-1110 Fax: 615-741-4518</b></p> <p><b>2. Time limit for filing the Appeal</b></p> <p>a) Appeals from decisions to remove a child from a foster family is accepted only if they are filed within ten (10) business days after the mailing date of the written notice of the action unless good cause can be shown as to why the appeal could not be filed with the time limit.</p> <p>b) The time limits are computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or legal holiday in which case the last day is the first day following a Saturday, Sunday, or legal holiday.</p> <p>c) The maximum time limit for processing an appeal regarding the removal of a child from a foster family home is forty-five (45) days from the receipt of the appeal and ending on the date the initial order is entered/ mailed to the foster parents.</p> <p><b>3. Time Limitation</b></p> <p>Except as may be specifically waived in writing by both the foster parent(s) and the Commissioner or his/her designated representative, the maximum time limit for processing an appeal regarding removal of a child from a foster family home is forty-five (45) days. This time begins to run on the date the request for appeal is received by the department and ends on the date the Initial Order is entered/mailed to the foster parent(s).</p> <p><b>4. Conditions under which Appeal Rights do not apply:</b></p> <p>a) The child/youth is being returned to his/her parents or legal guardian.</p> <p>b) The child/youth is removed from the foster home pursuant to a court order requiring such removal.</p> <p>c) The child/youth is removed from the foster home at the request of the foster parents.</p> <p>d) The child/youth has been in the foster home for less than twelve (12) consecutive months.</p>
<p><b>F. Pre-hearing conference</b></p>	<p><del>1. The resource parents shall be given an opportunity to discuss their disagreement regarding the decision to remove the child from their home with the team leader, the team coordinator and the contract agency supervisor when applicable, at the time they request to file an appeal.</del></p> <p><del>2. Every effort shall be made to resolve the complaints through informal conference procedures at the local and regional level; however, such a conference will in no</del></p>

	way deny or infringe on the resource parents' right to appeal.
<b>G. Filing the appeal</b>	The original copy of form, <b>CS-0403, Appeal for Fair Hearing</b> must be mailed to DCS Central Office, Administrative Procedures Division, with copies to the resource home record, the Regional Administrator, the Director of Adoption, Foster and Kinship Care and the relevant private provider.
<b>H. Time limit on hearing the appeal</b>	The maximum time limit for processing an appeal regarding the removal of a child from a foster family home is forty-five (45) days, from the date of the Notice of Removal and ending on the date the initial order is entered/ mailed to the resource parents.
<b>I. Removal of a child</b>	If the decision is upheld to remove the child from the resource home, the final order shall state the date on which the child shall be removed, and the date cannot be less than seven (7) days from the mailing date of the letter.

<b>Forms:</b>	<a href="#"><u>CS-0450 Notice of Removal of a Child from a Foster Home</u></a> <a href="#"><u>CS-0403 Appeal for Fair Hearing</u></a> <a href="#"><u>CS-0583 Foster Parent Waiver of Right to Appeal</u></a>
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<b>Collateral Documents:</b>	<i>Foster Parent Bill of Rights</i> <a href="#"><u>Guidelines for Supplemental Respite Care</u></a> <a href="#"><u>DCS Policy 16.16, Denial, Closure, or Suspended Admissions of Foster Homes</u></a> <a href="#"><u>CFTM Protocol</u></a> <a href="#"><u>ICPC Practice and Procedure Manual</u></a>
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<b>Glossary:</b>	
<b>Term</b>	<b>Definition</b>
<b>Significant Safety Concerns:</b>	A risk to the physical or emotional well-being of a child that is already in the custody of the Department. The potential trauma that the child could experience staying in the foster home is out-weighed by the potential trauma of the move. DCS has responsibility in making safe foster care placements and should give different consideration to changing foster care placements than is given when re-moving from a parent <b>or guardian.</b>
<b>Temporary Placement out of the foster home:</b>	The child(ren) are physically placed into an new, alternative foster home for a specific period of time until the conclusion of the investigation.