MINNESOTA
OFFICE OF THE FOSTER
YOUTH OMBUDSPERSON

Informational Memo

Date: September 25, 2025

To: Marvin Davis (DCYF), Michelle Seymore (DCYF), Heidi Ombisa-Skallet (DCYF), Kathleen Hiniker (DCYF), Representative Kim Hicks, Representative Jessica Hanson, Kirsten Anderson (Aspire-MN), Stephanie Hogensen (Children's Cabinet) *Listed recipients are welcome to share this memo with others. OOFY reserves discretion to share this memo more widely, including via publication on our agency website.

From: Misty Coonce, Ombudsperson for Foster Youth (OOFY)

RE: Opportunities to strengthen requirements and practices for TPLPC (Transfers of Permanent and Legal Physical Custody)

OOFY supports and appreciates the statutory changes made in recent years that further protect foster youth's relationships with relatives and kin, including their parent(s), through updates to the preferred permanency outcomes. From the perspective of foster youth, we see great value in TPLPCs to relatives continuing to be prioritized over TPR and adoption to non-relatives. We understand that TPLPC will continue to be used more frequently as our system becomes more cautious with legally severing a parent-child relationship through Termination of Parental rights; we support these efforts.

From OOFY's experience and perspective, TPLPC and adoption are often presented to caregivers and foster youth as largely equal options, with similar level of permanence and supports. However, there are important differences that youth, families, and child welfare professionals need to fully understand. There is opportunity to address current requirements and practices regarding TPLPCs to better ensure foster youth's access to stability, supports, services, information, and protection.

We will continue to monitor, share, and investigate situations related to referenced content in this memo and more broadly in line with our legislative mandate to "promote the highest attainable standards of competence, efficiency, and justice for youth who are in the care of the state." We offer this memo to inform and support other's efforts to pursue improvements in policy and practice. We include a list of several areas that may benefit from further attention to ensure appropriate protections for Foster Youth in TPLPC situations, as well as a list of relevant items/activities outside of this memo's scope.

Identified areas and opportunities

Reduced access to health insurance

- Adoption: Youth can remain on their adoptive parent's insurance through age 26 just as birth children can.
- TPLPC: Youth may be covered by MA as part of Northstar Kinship Assistance until age 18, with the option for the relative custodian to request extension to age 21. They cannot be added to their relative custodian's health insurance after Northstar benefits end. They do not qualify in the MA-FFY category. This leaves a timeframe of several years with limited access to health insurance.
- Possible solution: From OOFY's understanding, addressing this gap likely requires seeking legislative change to Medicaid policy.

Fewer opportunities for youth to provide formal and informed input

- Adoption: To proceed with adoption finalization involving a foster youth age 14 or older, legal consent is required and there is a formal process to obtain this. DHS-1956-ENG (Consent to Adoption for Youth over 14 years of age, pursuant to Minnesota Statute, section 259.24, subdivision 3)
- TPLPC: Although current statute (Sec. 142A.605 MN Statutes Subd 1, a, (5) requires that a foster youth age 14 or older must be consulted about a proposed TPLPC, there is not a formal process for this and it is unclear how this is happening in practice.
    - This practice guide Finding Permanency fo Children in Foster Care: Transfer of Permanent Legal and Physical Custody to a Relative indicates that a youth age 14 or older signs the Kinship Placement agreement. There is no signature line for youth on the Kinship Placement Agreement. The practice guide provides no guidance on what consultation with a youth 14 or older might look like
- Possible solutions:
    - Create a more formal process to obtain foster youth's consent to TPLPC.
    - Create materials that help ensure foster youth receive clear, consistent information on different permanency pathways (such as TPLPC, TPR/adoption, TPR/Permanent Custody to the Agency, entering Extended Foster Care) and the pros and cons of each, so that youth can provide informed input on their preferences. Materials should clearly outline the differences in access to benefits and services between each permanency outcome.
    - For example, foster youth who consent to TPLPC will lose access to EFC, some avenues for health insurance coverage at 18, they won't have automatic inheritance rights from their relative custodian, and they may not be eligible for ETV. Foster youth need to understand the differences in their biological parents ability to regain custody after a TPLPC vs. options to seek restoration of parental rights after a TPR.
    - As long as youth have been appropriately informed, their input should be prioritized.

Fewer consequences for abandonment/child maltreatment

- Statute is clear that child maltreatment concerns should be treated the same whether it's a biological parent, adoptive parent, or relative custodian. In practice, several situations have come to OOFY's attention where relative custodians (and adoptive parents) have a much easier time "giving up on" the

child when things get hard. This leads to additional moves and instability for the youth, and possible lack of appropriate consequences (such as a maltreatment finding or other indicator of possible concern about caregiving ability or commitment, that would come up on a background study) for the relative custodian or adoptive parent.

- This document DHS-7024B-ENG_Ver 6-19_8-15-19 specifies that existing child welfare laws apply for TPLPCs, and further notes "Relative custodians may request modification or termination of TPLPC orders."
- Possible solution: Further clarification in written materials that termination of a TPLPC is only considered in order to reunify the child with one or both parents or in limited situations, to transfer custody to another relative when this is in the best interest of the child.

Fewer protections for ongoing relationships with relatives

- Adoption: Communication and Contact Agreements can be entered into as part of the adoption finalization process to support ongoing relationship with a child's parent, siblings, and other relatives. In statute, a clear process for enforcement of the agreement is outlined, including the opportunity for the prevailing party to be awarded attorney's fees and costs. The parties to the agreement are provided a certified copy of the order.
- TPLPC: Although the TPLPC order can outline expectations for ongoing contact with relatives and/or a child's parent(s), there is less opportunity for enforcement. Unlike Communication and Contact Agreements, only the relative custodian typically receives a copy of the TPLPC order.

Less preparation of relative custodians

- Adoption: It is clear in statute that a complete, thorough, detailed, and current Social and Medical History for a foster child is required to be given to a prospective adoptive parent Sec. 259.43 MN Statutes . As part of the adoption finalization process, the child's Social and Medical History is reviewed by DCYF, which helps ensure they are completed comprehensively as required.
- TPLPC: There is no statutory requirement to provide a Social and Medical History. Administrative rule outlines information that should be provided about foster children before placement or within five days. There is no specific mention of a Social and Medical History in statute or rule for TPLPC situations, and no requirement that information about foster children be provided in writing. For TPLPC's, the child's Social and Medical history is not reviewed by DCYF as part of the TPLPC finalization process.
- A complete, thorough, detailed, and current Social and Medical History helps support caregivers in making an informed decision on their ability and readiness to permanently care for a child, including knowing what supports and services they should seek access to and advocate for.

Inaccurate legal documents

- For most children, a birth certificate reflecting their identified given name is applied for and issued soon after birth. In some situations, this does not happen, leading to an inaccurate birth certificate (i.e. name is listed as "Baby Girl Last Name" or "Last Name, Last Name"). Children must have a name before they can have a social security number assigned.
- Adoption: In an adoption finalization process, these issues are routinely addressed and birth certificates amended to reflect the child's given name, to ensure the name on a birth certificate matches the name

on a court order. Similarly, there is an expectation that the social services agency must verify that the child has a social security number and apply for one, if needed, in the adoption finalization process.

- TPLPC: The process to verify documentation and correct name discrepancies is less clear, resulting in incorrect/inaccurate birth certificates and related challenges with obtaining social security cards and other critical documentation for the child. There is no expectation that a social services agency must verify that a child has a social security number or to apply for one. It can be a complicated, confusing process for relative custodians to address this issue after a TPLPC is finalized.
    - After becoming aware that this issue is happening more frequently due to our state's shift to prioritizing TPLPC over adoption, OOFY raised this issue to DCYF staff. They shared plans to further explore solutions.

Rights to inheritance

- Adoption: A child inherits from an adoptive parent as they would from a birth parent.
- TPLPC: There is no right to inherit from relative custodians unless specified in a will. (DHS-7024A-ENG_Ver 5-19_8-15-19). When a relative custodian passes away, foster youth currently have less access to financial resources and legal rights that would have been available to them if they were adopted. When relative custodians have biological children, this unequal access to inheritance rights can lead to additional family stress at an already stressful and challenging time.

Reduced oversight and review for TPLPC process

- Adoption: DCYF reviews the suitability of the placement through a formalized review process. As noted previously, Adoption Placement Agreements and many other documents are formally reviewed by DCYF as part of the adoption finalization process.
- TPLPC: DCYF does not review the suitability of the placement or Kinship Placement Agreements through a formalized process. They currently do not have the legal authority for this because the children are not under guardianship of the commissioner.

Unclear or lacking protections for immigrant children who are undocumented

- Adoption: There is clear requirement that the social services agency must assist in applying for Special Immigrant Juvenile Status (SIJS) for a child who lacks legal status, including gathering required documentation and arranging access to immigration services. This is included in the Adoption Process Checklist DHS-6542-ENG (4-19-15)GJF
- TPLPC: There is no similar requirement in the TPLPC Process Checklist DHS-6978 Transfer of Permanent Legal and Physical Custody (TPLPC) Process Checklist for Children in County Foster Care

Limitations

It is important to note the following areas that are not addressed in this Informational Memo:

Transfers of Custody outside of juvenile court

OOFY is aware of increasing practices of counties supporting, and to varying extent facilitating, transfers of custody for children prior to their entry into foster care and prior opening a juvenile court case ("family

arrangements"). OOFY supports practices that empower parents and families to make the best decisions possible for their children, and practices that minimize unnecessary involvement of systems. However, we hold concerns about unintended negative consequences of these practices, such as youth and families not being appropriately informed of the pros and cons of informal vs. formal system involvement, lack of services and support to the caregiver receiving the transfer of custody in family court (including financial support), lack of court oversight of decision making, lack of protection or services for the youth that they may otherwise receive if they formally entered foster care (Sibling Bill of Rights, attorney representation, GaL appointment, eligibility for EFC, FIG, ETC, etc). This list does not address these situations and instead focuses on cases where a social services agency has responsibility for care and custody of a foster child/sibling group.

HF 3002

OOFY is aware of legislation introduced at the end of the 2025 session HF 3002 as introduced - 94th Legislature (2025 - 2026) which proposes several substantial changes related to a youth's access to Extended Foster Care and other supports and services after a TPLPC. In recognition that there are active conversations between the bills' author and others with various perspectives, this list does not address anything from that bill. OOFY is happy to provide our agency's perspective and recommendations related to that bill as it further evolves.

SOUL Family Framework as an additional permanency pathway

This Informational Memo addresses opportunity to strengthen one of the currently available permanency outcomes for Minnesota foster youth. OOFY recognizes and supports efforts that are underway between DCYF and community partners to more seriously explore the SOUL Family Framework as an additional pathway in Minnesota.