



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
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SEP - 4 2003

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Dear Colleague:

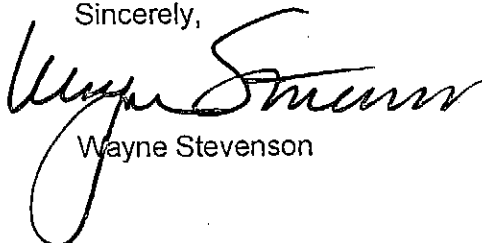
Enclosed please find the Office of Children, Youth and Families (OCYF) Bulletin Number 3130-03-01/3140-03-07 entitled Permanent Legal Custodian Policy. This bulletin makes OCYF Bulletin Number 3130-01-02/3140-01-02 entitled Interim Policies and Procedures for Subsidized Permanent Legal Custodianship obsolete. This bulletin provides requirements and guidelines for implementation of the permanency goal option of permanent legal custodianship for children in the custody of the county children and youth agency.

The Adoption and Safe Families Act of 1997 (ASFA) (P.L. 105-89) provides for an intensified focus on safety, permanency, well-being and timeliness with regard to children served by the child welfare system. ASFA expanded the manner in which children in the custody of the child welfare system can achieve permanency by no longer considering adoption the only permanent alternative to reunification. Pennsylvania's Juvenile Act (42 Pa. C.S., Chapter 63) was amended to comply with the federal ASFA provisions and added placement with a permanent legal custodian as a permanency goal. The creation of this option allows children who may have otherwise lingered in long term foster care the opportunity to remain in a stable home setting without continued child welfare involvement and with an increased sense of stability.

In addition to the programmatic requirements and guidelines regarding establishing the goal of permanent legal custodianship, this bulletin also includes the requirements for the provision of a subsidy to the custodian for the care of the child. The availability of subsidy payments promotes financial stability that would otherwise only be available as a foster care maintenance payment, thus resulting in stability in the custodianship arrangement.

The guidelines set forth in this bulletin will assist child welfare professionals in improving permanency outcomes for children in substitute care. As always, thank you for your continued dedication to assisting Pennsylvania's children in achieving permanence in their living situations.


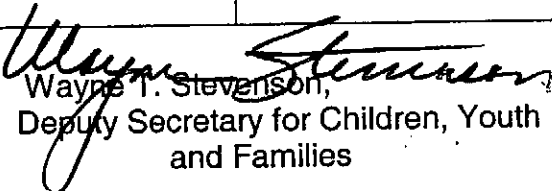
Sincerely,



Wayne Stevenson

Enclosure

Cc: Charles Songer
Barbara Robbins
Bernadette Bianchi

	OFFICE OF CHILDREN, YOUTH AND FAMILIES BULLETIN I. COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE		
	NUMBER: 3130-03-01/ 3140-03-07	ISSUE DATE: August 20, 2003	EFFECTIVE DATE: IMMEDIATELY
SUBJECT: Permanent Legal Custodian Policy		BY:  Wayne T. Stevenson, Deputy Secretary for Children, Youth and Families	

SCOPE: COUNTY CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
 COUNTY CHILDREN AND YOUTH ADVISORY COMMITTEES
 PRIVATE CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
 COUNTY CHIEF JUVENILE PROBATION OFFICERS
 COUNTY CHILDREN AND YOUTH SOLICITORS
 COUNTY CHILDREN AND YOUTH FISCAL OFFICERS

PURPOSE:

The purpose of this bulletin is to provide requirements and guidelines for the use of permanent legal custodianship (PLC) as a permanency option for children who have been adjudicated dependent or delinquent, as well as the requirements for when a subsidy is paid to the custodian for the care of the child. This bulletin also includes references to applicable Commonwealth statute and regulation and practice considerations for county children and youth agencies and county juvenile probation offices to consider when recommending a goal of placement with a permanent legal custodian for a child.

BACKGROUND:

In the winter of 2000, a work group was convened that included individuals from public and private child welfare agencies, the Pennsylvania Child Welfare Competency Based Training and Certification Program and the Juvenile Court Judges Commission to address the Adoption and Safe Families Act (ASFA) identified permanency option of placement with a permanent legal custodian. The components of this bulletin reflect the work of this group.

REFER COMMENTS AND QUESTIONS REGARDING THIS BULLETIN TO: Regional Directors Origin: Kerin J. Kohler (717-346-0445) and Teri Taschner (717-772-1585)
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A second workgroup was convened to address the issues related to providing a subsidy to a permanent legal custodian. The work of this group was reflected in OCYF Bulletin 3130-01-02/3140-01-02, Interim Policies and Procedures for Subsidized Permanent Legal Custodianship, issued in June 2001. Bulletin 3130-01-02/3140-01-02 provided policy and procedure regarding permanent legal custodians who were eligible to receive a subsidy in order to provide adequate care to the child. This bulletin replaces 3130-01-02/3140-01-02.

In January 2000, OCYF issued The Pennsylvania Standards for Child Welfare Practice (Practice Standards). The Practice Standards are based on research findings and were developed with consultation from the Child Welfare League of America. These Practice Standards represent a consensus among families, county agency staff, private agency staff, social work educators and the staff from OCYF. This process was an effort to determine the actions necessary to improve overall child welfare practice. The Practice Standards define the standards, which we should strive to meet in order to increase positive outcomes for the children and families we serve. Special focus was paid in the areas of Safety, Permanency, and Well Being. This bulletin incorporates the principles set forth in the Practice Standards in an attempt to promote the implementation of best practice across the Commonwealth.

STATUTORY AND REGULATORY AUTHORITY:

FEDERAL STATUTE:

1. Adoption and Safe Families Act of 1997 (ASFA) (P.L. 105-89)

Provides states with the tools and incentives, through statutory and regulatory requirements, to achieve the goals of safety, permanency, and well being for children and their families with a focus on timeliness. ASFA provides the impetus to dismantling the barriers to permanency that exists for children in placement and the need to achieve permanency for these children. The Office of Children, Youth and Families (OCYF) issued OCYF Bulletin 3130-01-01 to assure compliance with ASFA.

2. The Multiethnic Placement Act of 1994 (MEPA)

MEPA requirements, along with requirements of the Interethnic Placement amendments to MEPA in the Small Business Job Protection Act of 1996, which apply to foster care and adoption also apply to permanent legal custodianship in that child welfare agencies, both public and private, that provide for or fund foster family care or adoption services may not:

- Deny any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the adoptive or foster parent or the child involved; or
- Delay or deny the placement of a child for adoption or into foster care or otherwise discriminate in making a placement decision on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved.

STATE STATUTE:

42 Pa. C.S., Chapter 63. The Juvenile Act. The Juvenile Act was amended to comply with federal ASFA provisions.

Section 6351. Disposition of dependent child.

§6351 (a) (2). Provides for the court to transfer the temporary custody of a child found to be a dependent child to an individual, including a relative, who after study, is found by the court to be qualified to receive and care for the child.

§6351 (a) (2.1). Provides for the court to transfer permanent legal custody of a child to an individual, including a relative, who after study, is found by the court to be qualified to receive and care for the child. Visitation and child support is also addressed.

§6351 (e) Permanency hearings. Establishes a time frame in which the court shall conduct permanency hearings for the purpose of determining and reviewing the permanency plan for a child who is in substitute care.

§6351 (f.1) Additional Determination. Requires that the court determine if and when the child will be returned to the child's parent, guardian or custodian, placed for adoption and the county agency will file for termination of parental rights, placed with a legal custodian, placed with a fit and willing relative or placed in another living arrangement intended to be permanent in nature and approved by the court. A hierarchal order is also established.

Section 6357. Rights and duties of legal custodian.

Provides for the granting of custody of a child to a legal custodian and places certain rights upon that custodian, including the right to physical custody of the child, to determine the nature of the child's care and treatment. The custodian is prescribed the right and duty to provide for the care, protection, training and education, and the physical, mental and moral welfare of the child.

DEFINITIONS:

County Agency: The county children and youth social services agency established pursuant to section 405 of the act of June 24, 1937 (P.L. 2017, No. 396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code.

Custodian: A person other than a parent or legal guardian, who stands in loco parentis of the child, or a person to whom legal custody of the child has been given by order of a court.

Placement: Twenty-four hour out-of-home care and supervision of a child.

Permanent Legal Custodianship (PLC): A permanency plan option for a child in the custody of the county agency that is placed in substitute care. Permanent legal custodianship is a recognized permanency goal. Once custody of the child is awarded to a permanent legal custodian, the child is considered to have achieved permanency.

Subsidized Permanent Legal Custodian (SPLC): A permanent legal custodian who receives a subsidy for the cost of providing care to a child.

DISCUSSION:

The intention of ASFA was to make state child welfare systems more responsive to the needs of the children and families they serve. A primary tenet of ASFA is that all children should live in safe and permanent homes. ASFA contains several key principles relating to permanency which include:

- substitute care is a temporary setting and not a place for children to grow up;
- permanency planning begins as soon as the child enters substitute care;
- the practice of concurrent planning is encouraged to facilitate the timely consideration of all permanency options;
- achieving permanency requires timely decisions from all parts of the child serving system; and
- innovative approaches are needed to produce change.

PLC has both advantages and disadvantages that should be weighed carefully when establishing a permanency plan for a child.

The advantages of PLC include:

- provides a long-term stable environment for the child;
- allows a child to strengthen an established relationship;
- provides legal recognition to a defacto parental figure;
- promotes attachment and bonding to an adult; and
- reduces county agency involvement as the court may order that there is no need for continued agency intervention.

The disadvantages of PLC include:

- PLC does not provide the same level of permanence to the relationship, as does adoption;
- the child and custodian may view the relationship as less of a commitment;
- custodianships, especially kinship custodianships, may discourage parents from rehabilitation; and
- the court may retain jurisdiction of the case with continued agency involvement.

POLICY AND PROCEDURES:

Child welfare professionals must have an understanding of the importance of permanency planning, including concurrent planning, for children in substitute care. PLC is a method by which a child can achieve permanency. PLC is not appropriate for all children but may serve some children very well. As specified in §6351 (f.1) of the Juvenile Act, the first and most preferred permanency option for children is to return to the home of a parent, guardian or custodian. If reunification is not possible, the next preferred option is adoption. PLC may not be used to avoid transracial adoption when the adoption is best suited to meet the child's protection and physical, mental and moral welfare. For children who cannot be reunified with their parents, or for whom adoption is not possible, the next permanency option is placement with a permanent legal custodian. Parental consent is not required for a PLC and parental rights need not be terminated. However, when appropriate, the parent should be involved in the development of the child's placement, permanency and visitation plan and financial support.

Prior to ASFA, a child for whom reunification and adoption were not possible might have been placed in long term foster care. Now, when a child has developed a strong bond with a custodian, the child can remain with that custodian without continued agency intervention. The expectation is that the child will remain with the custodian until the child reaches the age of majority. PLC is a permanent arrangement for a child and not intended to be temporary.

These guidelines have been prepared to help county child and youth agencies and juvenile probation offices to determine when it is appropriate to establish a goal of placement with a permanent legal custodian for children in substitute care.

PERMANENCY GOAL CONSIDERATIONS:

PLC must be determined on a case-by-case basis. PLC may be more appropriate for an older child who may have ties to his/her family. It may be less appropriate for a younger child, as it does not provide the permanence of adoption. Children, such as those that are medically fragile or have other special needs should also be considered for placement with a PLC. PLC may be considered appropriate for a sibling group to ensure that family connections are preserved. A child is eligible for the goal of placement with a PLC when the conditions outlined below have been met.

- The child has been adjudicated dependent and/or delinquent as defined by the Juvenile Act, is unable to return home and for whom the goal of adoption has been ruled out.
- The child, age 12 or older, refuses to consent to adoption and has participated in adoption counseling to the extent that the child understands the implications of his/her refusal to consent to adoption. Pennsylvania's Adoption Act (23 Pa. C.S. §2711(a) (2)) requires the child to consent to the adoption if the child is 12 years of age or older and capable of consent.
- The child, under the age of 12, for whom adoption counseling has been provided to prepare the child for adoption and who is very much opposed to adoption.

- Parental rights have been terminated and the child's permanency plan of adoption is no longer an option; however, termination of parental rights is not required for a child to have the goal of placement with a PLC.
- The child's parents have been receiving treatment/services for a specific condition (e.g., substance abuse, mental health, and mental retardation) and cannot or will not remedy the condition within the time required for a safe reunification or the services or treatment available to the parent are not likely to remedy the situation which lead to the placement of the child.
- A child must be in the custody of a county agency and must have had at least one permanency hearing, prior to the court's determination that placement with a PLC is the permanency goal for the child.
- A child must be living with the identified custodian for a total of six months, which need not be consecutive, prior to the court ordering the placement with a PLC. The six-month total time frame allows the county agency to request a permanency hearing for the purpose of proposing a goal change to placement with a PLC at any time during the child's placement, which allows the child to achieve expedited permanency.

COUNTY AGENCY OPTIONS FOR PERMANENCY SERVICES:

County agencies have the following three options when providing permanency services to children in substitute care. These options may be used exclusively or in combination to best meet the needs of the county agency. These options include the following:

- Provide permanency services directly with county agency staff;
- Purchase permanency services from another agency; and/or
- Make referrals to the Statewide Adoption Network (SWAN) Prime Contractor for units of services.

SWAN Program Components:

The SWAN Bulletin 3350-03-01, expanded the scope of permanency services to children in substitute care to be available to children for whom placement with a PLC is a prospective permanency option. The following are the children who may be serviced through SWAN:

- Children in the legal custody of county agencies and/or have a court-ordered goal of adoption;
- Children in need of post-permanency services. These services are available through the Department's contract with the SWAN Prime Contractor and are subject to the availability of funds designated by the Department for post-permanency services. Post-permanency services may also be provided by the county agency and funded through the Needs Based Plan and Budget (NBPB) process; or
- Children without a goal of adoption. These children are eligible for child profile, child specific recruitment and child preparation services.

Eligible families are those applicants who express an interest in providing permanency for children who meet the criteria identified above and are approved in accordance with the Commonwealth's requirements. Permanency includes placement with a permanent legal custodian.

PERMANENT LEGAL CUSTODIAN ELIGIBILITY GUIDELINES:

In order for placement with a PLC to be considered as a permanency goal for a child, the child must be placed in an approved foster family home for a total of six months. These need not be six consecutive months. Given that the child is in the custody of the county agency, he/she should be in an approved foster home. Should this not be the case, the county agency would need to follow the guidelines established in the Emergency Caregiver Bulletin, OCYF Bulletin 3140-03-08/3490-03-04, or the Kinship Care Policy Bulletin, OCYF Bulletin 00-03-03, in order to approve the home in which the child is placed. The following guidelines apply when a person seeks to become the permanent legal custodian for a child and should be considered when determining if the individual is "qualified to receive and care" for the child.

- Should more than one qualified individual be a prospective custodial resource for the child, for example a relative becomes a prospective custodian and the child has been residing with a non-relative foster parent for at least a six month period who is also a prospective custodian, the court may evaluate the prospective custodians on an equal basis and award custody based on a disposition best suited to maintain the child's safety, permanency and well being.
- Potential custodians, including kinship resources, must have a thorough understanding of the benefits of adoption over custodianship.

COUNTY AGENCY RESPONSIBILITIES RELATING TO PLC:

The county agency is responsible for ensuring that the following actions occur and must maintain documentation of such actions.

- Reasonable efforts were made toward a return home or toward adoption or that reasonable efforts are no longer required as per order of the court .
- Compelling reasons exist which make placement with a PLC, the permanency goal best suited to the child's physical, mental or emotional health, safety or morals.
- Potential permanent legal custodians (formal kinship caregivers and/or foster parents) are informed of the availability of this permanency option, as well as the availability of a subsidy payment for those custodians who meet the specified requirements to receive a subsidy as outlined in this bulletin. Attachment A shall be utilized for this purpose.
- The custodian has had a family profile or foster family care home assessment within the last three years and subsequent annual addendums or reevaluations.
- Compliance with guidelines set forth in the SWAN Bulletin if permanency services were provided through a referral to the SWAN Prime Contractor.
- A petition has been made to the court for a change of permanency goal for the child to placement with a permanent legal custodian.

- Appropriate evidence has been presented to support this recommendation to the court.
- Training and support services are provided which are consistent with the needs of the custodian and the child to assist in the transition from formal kinship care or foster family care to a more permanent relationship.

PERMANENT LEGAL CUSTODIAN RIGHTS AND DUTIES:

When placement with a PLC has been determined by the court as the child's permanency goal, the custodian is expected to provide a safe and permanent home for the child. The following are the custodian's rights and duties to the child .

- Physical custody of the child.
- Determine the nature of the care and treatment of the child, including ordinary medical care (42 P.S. §6357 Rights and duties of legal custodians).
- Provide for the care, protection, training and education, and the physical, mental, and moral welfare of the child.
- Make other decisions on behalf of the child including:
 - Child's travel;
 - Child's driver's license;
 - Marriage; and
 - Enlistment in the armed forces.
- Petition for child support from the parents (See 23 Pa. C.S. 4321 et al and 42 Pa. C.S. 6351 (a)(2.1).
- Pay legal expenses related to a parent's request to change custody or visitation. The county agency will not provide legal counsel to any PLC who becomes a party to such legal matters.
- For those custodians receiving a subsidy, a decision to petition the court for child support should first be discussed with the county agency. The county agency does maintain the right to continue as the plaintiff in child support cases where a subsidy is paid to the custodian. The county agency is permitted to receive such child support payments for children in the subsidy program to help offset the costs of the subsidy that is paid to the custodian.

PARENTAL RIGHTS AND DUTIES:

If parental rights have not been terminated when a PLC arrangement occurs, specific rights and duties remain with the parents, including those outlined below, unless otherwise specified by the court.

- The right to visitation when it does not affect the health and safety of the child.
- The right to petition the court for custody of the child.
- The right to pass on property to the child.
- The duty to pay child support (See 23 Pa. C.S. 4321 et al and 42 Pa. C.S. 6351 (a)(2.1).

COURT PROCEDURE AND DOCUMENTATION:

The county agency shall request the Juvenile Court to make the following findings when considering and then ruling that the child's permanency goal is placement with a PLC in accordance with §6351 of the Juvenile Act (relating to the disposition of dependent child):

- that reasonable efforts to return to the parent, legal guardian or custodian need not be made and that reunification is not an option for the child;
- that compelling reasons exist why adoption is not an appropriate permanency goal for the child;
- that the child's permanency goal be placement with a permanent legal custodian and that this goal is best suited for the protection and physical, mental and moral welfare of the child;
- that, after study, the specified custodian(s) is/are qualified to receive and care for the child;
- the visitation plan if any, with parents, siblings, and extended family when sufficient information is available; and
- the necessity and/or appropriateness of continued county agency involvement.

Court orders should have standard language addressing the custodian's rights and duties relating to the physical custody, medical care, authority to make educational decisions and sign all educational plans including individual educational plans, to file for child support and to make other decisions on behalf of the child as outlined in this bulletin.

COUNTY AGENCY RESPONSIBILITIES FOLLOWING TRANSFER OF CUSTODY:

Once the court has awarded custody to a permanent legal custodian, the child is no longer considered to be in substitute care. The county agency may find it necessary or appropriate to support the success of the PLC arrangement through a referral to community-based services or to prevention services that are funded by a county agency.

The court or the county agency may determine that the child and custodian continue to need services in order to assure the success of the PLC arrangement and to ease the transition out of agency custody. In this case, the county agency may continue to provide in-home services as it would with any other family in need of such services. The following regulatory requirements would apply to these cases:

- a Family Service Plan is required for the child and the custodian;
- a review of the Family Service Plan at least once every six months; and
- the custodian family must be assigned a case manager and is counted in the caseworker-to-client family ratio.

VISITATION:

Placement with a permanent legal custodian allows interaction between a child and his/her family as determined by the court. The Juvenile Act (42 PA. C.S. § 6351(a)(2.1)) requires the court to "refer issues related to ... continuing visitation by the parent to the section of the court of common pleas that regularly determines ... visitation." However, the Juvenile Court should address this to the extent it impacts the child's permanency plan prior to transferring custody from the county agency to the custodian. If parental rights have not been terminated, parents usually have the right to visit the child. Visitation conditions must be addressed in the child's permanency plan and recommended to the court for approval. The county agency should consider the following issues when developing a visitation plan for a child for whom a goal of placement with a PLC has been recommended.

- The visitation plan should recognize the importance of the permanent legal custodian/child relationship.
- A visitation plan should be supportive of the child/parent or sibling/parent relationship.
- A visitation plan should be based on the child's need to see his/her parents and family and their ability to be supportive of the child and the child's permanency plan. The parties to develop the initial plan should include:
 - Parents;
 - Custodian;
 - Children who have capacity to contribute; or
 - Others, i.e. extended family, private agency, caseworkers, guardian ad litem.
- Visitation arrangements should change as the needs of the child and the custodian change. Parents and custodians should be aware of their options when they are unable to agree upon a visitation plan, (e.g. voluntary agreement, mediation, court order, when either party would like to make changes to the visitation arrangement in effect).
- Information in the visitation plan shall include:
 - Identifying information of persons to be included in the visits;
 - Dates for which the plan is effective;
 - Adequate notice of a visit;
 - Agreed upon rules which address any safety issues and whether visits must be supervised (e.g., no use of drugs or alcohol);
 - Visit frequency;
 - Visit length and time;
 - Transportation arrangements; and
 - Visit activities.

The court should notify the county agency if the child's parents petition for a change in visitation or custody of the child.

EDUCATION:

Since the permanent legal custodian has been awarded care and control of the child, the legal custodian has the duty to enroll the child in school pursuant to 24 P.S. §13-1327. When a child in substitute care requires special education services, a "surrogate parent" must be appointed pursuant to federal special education regulations as the child is a "ward of the state," (34 C.F.R. §300.515(a)(3). 34 C.F.R. §300.20 (a)(2) includes guardian in the definition of parent unless the child is "a ward of the state." "A child who has been placed with a permanent legal custodian, is not in the legal custody of the county agency, and is not a "ward of the state." Since the authority of a legal custodian to choose the child's educational program is provided in the Juvenile Act, and because federal regulations include guardian in the definition of parent, , court orders appointing permanent legal custodians may, but do not have to, address this issue by stating that the custodian is also the child's guardian for educational matters. Custodians, like parents and surrogates, may receive support services, including parent training activities.

FINANCIAL ASSISTANCE:

A custodian bringing a child into a household may incur various financial expenses. It is important to know what financial options may be available for the child and custodian. The county agency must notify the custodian of all options available to financially assist in the care of the child including a subsidy. The county agency should assist the custodian in the process of securing all benefits to which the child may be entitled. When a subsidy is not received, a custodian may apply for Temporary Assistance for Needy Families (TANF), General Assistance (GA), or for food stamps for the child at the local County Assistance Office (CAO). Any person who is receiving these benefits must notify the CAO of any changes in the household composition and income that may occur as a result of the PLC arrangement. In addition, a child may be eligible for Supplemental Security Income (SSI), a Social Security program for low-income children with disabilities. Application for SSI benefits must be made to the local Social Security Office. The court may order child support payments to be paid by the parent at the time the court orders placement with the permanent legal custodian. Continuing issues related to child support may be pursued in the Domestic Relations Section (DRS) of the Court of Common Pleas.

Temporary Assistance for Needy Families (TANF):

To be considered for TANF, the permanent legal custodian must be a specified relative. In order to be eligible for TANF, the child must meet the following specified eligibility requirements, known as definitive conditions .

- The child is living with a "specified relative". A specified relative is a person related to the child by blood or as a stepparent and includes the child's grandparents, great grandparents, aunts, uncles and cousins. (A specified relative is a person related to the child through blood or marriage within the fifth degree.) The CAO can help determine whether a relative meets the definition of "specified."

- The child is under age 18 years; or, if age 18, the child is still in school (a child is ineligible upon reaching age 19).
- The child is deprived of parental support.

Custodians who receive TANF for themselves or for themselves and the child are subject to the rules regarding work requirements and the five-year lifetime limit of TANF. The child will not be eligible for TANF if the custodian has exhausted his/her time limits. If the custodian is included on the grant, the custodian must meet the established work requirements. If the child is in school and works part-time, this income may be exempt from the determination of benefits. If the child is under age 18, and has not earned a high school diploma or its equivalent, he/she is required to attend an educational program or activity that will result in the receipt of a high school diploma or its equivalent. If the child is not in school, he/she must meet the work requirements to be eligible for TANF. If the custodian has any income, this will be considered if the custodian is included in the grant. The custodian should discuss the specific effect that this may have on the grant with the CAO.

General Assistance (GA):

The eligibility of the child for GA is determined only if the child does not meet the definitive conditions for TANF (e.g. the child is not related to the caretaker). The following restrictions effect the ability to receive GA:

- The PLC may be able to receive GA for a child until the child reaches age 18.
- The PLC cannot receive GA for himself/herself when the child is over age 13.
- If the child is in school and works part-time, the child's income may be exempt from the determination of benefits.
- If the child is under age 18, and has not earned a high school diploma or its equivalent, he/she is required to attend an educational program or activity that will result in the receipt of a high school diploma or its equivalent.
- If the child is not in school, he/she must meet the work requirements to be eligible for GA.

Food Stamps:

The determination of eligibility for food stamps is based on the income and resources of the household. The CAO can address questions regarding eligibility for food stamps.

Supplemental Security Income (SSI):

The county agency must notify the custodian that the child was or may be SSI eligible and assist with the application process. If a child is receiving SSI prior to the court ordering the PLC arrangement, the county agency and the custodian should request that the Social Security Office complete an assessment to determine whether the child's benefits will be affected by a change in the child's circumstances. For SSI, each child is considered a "family of one," which means that the eligibility for benefits is based solely on the program eligibility requirements for one person (i.e., the child) and

that, generally, the income, assets, etc. of everyone in the household are not considered. Once the court has ordered the PLC arrangement, the county agency must report to the Social Security Office that the payee is now the custodian. The custodian must be informed of the following by the county agency.

- That the custodian should also notify the Social Security Office of the change in the child's living arrangements.
- That SSI eligibility may be considered when determining additional benefits.
- That a child receiving SSI is automatically eligible for Medicaid.
- That those children who are receiving SSI benefits and the custodian is receiving a subsidy from the county agency, the county agency must reduce the monthly subsidy amount by the amount of the SSI benefit that the child is receiving. Permanent legal custodians who are receiving a subsidy are not permitted to receive the full reimbursement amount that was paid to them while the child was in foster care as well as the child's SSI benefits.

Child Support:

Unless parental rights have been terminated, parents generally have the duty to financially support their children. The court shall refer issues related to child support to the DRS of the court [42 PA. C.S. §6351(2.1)]. The county agency should assist the custodian in the initial process. At a minimum, the county agency needs to contact the DRS of the court to discuss a new assessment of parental support (see 23 PA. C.S. §4301 et al) and for the payments to be made to the child's custodian upon order of the court. If the custodian is receiving cash assistance (TANF or GA) for the child who does not receive a subsidy, any support the parents would pay will be assigned to the Department of Public Welfare (DPW) and the custodian would not receive the support payments. DPW may return up to \$50.00 a month of current support to the custodian. The county agency is permitted to receive child support payments to offset the cost of paying a subsidy to a PLC. Custodians receiving subsidies for the care of the child should discuss petitioning the court for child support with the county agency prior to doing so.

MEDICAL CARE:

When a child is placed in substitute care, the county agency makes application to the CAO for Medicaid for the child. Parents should maintain their insurance coverage, if any, for the child, which should continue after the court transfers custody to the custodian when parental rights have not been terminated. The county agency must work with the custodian and the CAO to determine the child's continued eligibility for Medicaid. The CAO makes the final determination of the child's eligibility for Medicaid once custody is transferred to the custodian.

Other issues with regard to the child's medical care are likely to arise. The county agency should work with the custodian to address these details prior to the court transferring custody of the child to the custodian.

Private Medical Insurance

- If parental rights are not terminated, parents are required to use their own medical benefits, if any, to cover the child.
- Although a PLC arrangement does not require a custodian to put the child on his/her own medical benefits, the custodian may do so if he/she wishes.
- If private insurance is not available, Medicaid may be available.
- If private insurance is available and the child is eligible for Medicaid, Medicaid will be the "payer of last resort."
- If the child's parents have health insurance available through their employer, a referral to the Health Insurance Premium Payment (HIPP) program may be completed. The HIPP program will make a determination as to whether purchasing the available insurance represents a cost savings to the Department. Parents who are enrolled in the HIPP program are required to cooperate with the program. Persons with court ordered medical coverage cannot be enrolled in the HIPP program.

Medicaid

- As soon as the county agency determines that the recommended permanency goal for the child is placement with a PLC, the county agency should contact the CAO to begin to make arrangements for a change in the child's benefits. The county agency must provide the PLC with an application for Medicaid for the child.
- Immediately after the court orders the PLC arrangement, the county agency shall notify the CAO of the transfer of custody to the PLC. The child's Medicaid will continue until the CAO has made contact with the PLC and a determination of continued eligibility can be made.
- The custodian must submit an application for Medicaid for the child at the local CAO.
- For a custodian who receives a subsidy for the care of the child, the subsidy payment is not considered income to the child when determining Medicaid eligibility. However, it is considered income for cash assistance benefits (TANF or GA).
- The county agency shall complete and send a CY-60 form to the local CAO, which contains a statement that the child is now in the custody of the permanent legal custodian, within five workdays of the court ordering the PLC arrangement. This form qualifies as proof of the custodianship. Once the county agency has obtained the court order establishing the PLC arrangement, it shall provide a copy of the order to the CAO. The county agency will verify the amount of the subsidy, if applicable.
- If the custodian and the child move to another state, the child will no longer be eligible for Medicaid in Pennsylvania and the custodian must immediately notify the CAO of the change in residence. If the custodian wants continued Medicaid coverage for the child, he/she will need to apply in the new state of residence.
- A child who is eligible for TANF/GA benefits is automatically eligible for Medicaid.

Behavioral Health and Substance Abuse Services

A child may be receiving substance abuse treatment services or behavioral health care services that will need to continue after the court orders a PLC arrangement. The county agency must help the custodian with ensuring that these services will continue uninterrupted. The service provider will also need to be informed that the contact person for the child will be the custodian and not the agency.

As soon as the county agency determines that the recommended permanency goal for the child is placement with a PLC, the county agency should assist the custodian in contacting the child's substance abuse/behavioral health care provider to ensure that:

- There is continuity of care for the child;
- Payments for treatment will continue to be made regardless of the source;
- The therapist/provider is aware of significant changes in the child's life;
- The custodian participates, if therapeutically advised; and
- The custodian is involved in the child's treatment plan.

TERMINATION OF PERMANANT LEGAL CUSTODIANSHIP:

A PLC arrangement provides a safe and permanent placement for a child. Although the arrangement legally ends when the child reaches the age of majority, it is hoped that the arrangement develops into a life-long relationship. The following are circumstances under which the PLC arrangement would no longer be valid:

- The court terminates the order placing the child with the PLC;
- Upon the death of the PLC when there is only one custodian. In this event, custody of the child reverts back to the Juvenile Court for further disposition. The court may order a new custodianship based upon the recommendations of the now deceased custodian; however, a study must be completed to determine if the proposed custodian is qualified to receive and care for the child.

SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP (SPLC):

The SPLC program provides a subsidy payment to the permanent legal custodian for the purpose of enabling the custodian to provide adequate care to the child. Those involved in the SPLC program are: the child, the custodian, the child's parents (when appropriate), the Juvenile Court and the county agency. In order for a county agency to establish a subsidy agreement on behalf of a child, the following conditions must be met:

- the child must be determined eligible for the subsidy according to the requirements established in this Bulletin;
- the custodian must be determined eligible for the subsidy according to the requirements established in this Bulletin;
- the Juvenile Court must order placement with a permanent legal custodian as the child's permanency goal and must confer the status of permanent legal custodian upon the specified custodian; and

- the county agency and the permanent legal custodian must sign a subsidy agreement according to the requirements established in this Bulletin.

SUBSIDIZED PERMANENT LEGAL CUSTODIAN ELIGIBILITY:

A permanent legal custodian is eligible to receive a subsidy for the cost of caring for the child when the following eligibility requirements are met:

- the permanent legal custodian meets all of the requirements of Title 55 Pa. Code Chapter 3700 regarding foster parent and foster family home approval and is not on provisional status; and
- the permanent legal custodian agrees to participate in the annual redetermination for continued subsidy eligibility.

COUNTY AGENCY RESPONSIBILITIES REGARDING SPLC:

The county agency must take the following actions and maintain documentation of such actions in order to claim reimbursement for any subsidies paid to permanent legal custodians.

- Provide written notice to any permanent legal custodian who requests a subsidy for a child in his/her care. The written notice must contain a statement advising: the custodian of the decision made regarding their eligibility to receive a subsidy; the basis for that decision; and the custodian's appeal rights.
- Negotiate a subsidy amount that is appropriate to the child's needs and the custodian's circumstances. Criteria for the subsidized custodian, such as residence or a means test designed to exclude prospective custodians from receiving subsidy payments or other benefits on behalf of an eligible child, may not be used by the county agency. The amount of the subsidy may not exceed the foster care maintenance payment, which would have been paid to the foster parent, if the child for whom the subsidy payment is made were living in a foster family home.
- Fully execute the subsidy agreement and provide the custodian with a copy of the agreement including their right to appeal the amount of the subsidy;
- Conduct an annual eligibility redetermination for the SPLC program taking into account any changes in the child's needs and/or the custodian's circumstances.
- Issue written notice to the custodian following the annual eligibility redetermination. The written notice must provide the results of the annual eligibility redetermination, including the custodian's appeal rights.

EXECUTION OF THE SUBSIDY AGREEMENT:

The county agency must make a written determination regarding child eligibility and custodian eligibility prior to the execution of the subsidy agreement. The subsidy agreement becomes effective on the date in which:

- all child and custodian eligibility requirements have been met and all parties have signed the agreement; or

- the Juvenile Court orders the placement with the permanent legal custodian. Subsidy payments may not begin until the court issues the order transferring custody to the custodian.

SUBSIDY AGREEMENT REQUIREMENTS:

The subsidy agreement is a written document, signed by the county agency director or designee and the custodian(s) that sets forth the terms of the subsidy (Attachment B). The agreement must specify the dollar amount of the subsidy, the payment schedule and the effective date of the agreement. The amount of the subsidy must be based on the child's needs and the circumstances of the custodian(s). The purpose of the subsidy payment is to enable the custodian(s) to provide appropriate care and support to meet all of the needs of the child. The amount of the subsidy may not exceed the foster care maintenance payment, which would have been paid to the foster parent if the child for whom the subsidy payment is made were in foster family care. Subsidies paid under the SPLC program are not eligible for Title IV-E or TANF reimbursement. The funding for the SPLC program consists of 80% state funds and 20% county funds.

A sample review form for the annual subsidy redetermination is included as Attachment C. County agencies may utilize their own process and form for completing the annual redetermination. Adjustments may be made to the subsidy agreement at the time of the annual redetermination. Adjustments may also be made to the agreement prior to the redetermination at the request of the county agency or the custodian(s). The subsidy can be provided to the custodian until the child reaches the age of 18 years. A copy of the agreement and each annual redetermination and any changes to the agreement must be provided to the custodian(s) within 15 calendar days of:

- the date of the original agreement;
- the date of the annual redetermination; or
- the date in which any changes were made to the agreement.

A copy of the custodian's appeal rights must accompany each agreement and any annual redetermination. The subsidy agreement will be terminated unilaterally by the county agency when any one of the following conditions occurs:

- The permanent legal custodian(s) is/are no longer providing for the financial support of the child;
- The permanent legal custodian(s) is/are determined by court action to no longer be legally responsible for the child;
- The permanent legal custodian(s) requests termination of the subsidy;
- The custodian and the county agency agree that the subsidy is no longer needed;
- The child reaches 18 years of age;
- The death of the custodian (if one custodian is appointed);
- The death of both custodians (if two custodians are appointed);
- The death of the child;

- The custodian fails or refuses to participate in the annual redetermination process for the subsidy agreement;
- There is a change in state statute, regulation or policy that requires a change in the agreement that the custodian is unwilling to accept; or
- There is a change in state statute, regulation or policy abolishing the SPLC program.

Subsidy agreements are not transferable. A custodian must provide written notice immediately but no later than 30 days to the county agency if any of the above situations occur.

APPEAL RIGHTS FOR SUBSIDIES:

Both the child and the custodian(s) have a right to appeal a decision that results in any of the following:

- A finding of ineligibility after a determination of eligibility;
- A denial or reduction of service; or
- The termination or suspension of service.

The county agency must provide written notification to the parties of their right to appeal the decision at:

- the time of the initial eligibility determination;
- each annual redetermination;
- the time in which any changes are made to the subsidy agreement by the county agency; or
- any time other eligibility requirements for the subsidy are established by the county agency.

The written notification must also provide the address where written appeal requests must be sent as well as a statement that the request for appeal must be made within 30 days of the date of the county agency's decision, as defined by the mailing date on the agency's written notification and the postmark on the appeal letter. All hearings will be conducted in accordance with 55 Pa. Code, Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

COUNTY AGENCY DOCUMENTATION REQUIREMENTS REGARDING SUBSIDIES:

The county agency must establish a SPLC eligibility file for each child for whom a subsidy agreement is executed. This file must be separate from the child's case record and must contain all of the documents and information needed to establish initial and ongoing eligibility for the SPLC program. The following documents and information must be included in the SPLC eligibility file.

- Copies of court orders documenting the date in which the child came into county agency custody; the petition filed with the court recommending the permanency goal of placement with a permanent legal custodian; the date in which PLC was

approved by the court as the child's permanency goal; and the date in which PLC was awarded by the court to the custodian(s) receiving the subsidy payment.

- The date in which the child was placed with the individual(s) who became the permanent legal custodian(s).
- A statement that the PLC met the approval requirements to provide foster family care at the time the goal of placement with a permanent legal custodian was ordered.
- Copies of the latest ChildLine and State Police/FBI clearances for the custodian(s).
- A fully executed subsidy agreement.
- Copies of the annual redetermination review forms.
- Copies of the written notifications provided to the custodian regarding the results of eligibility determination and any redetermination.
- Copies of the notice of appeal rights provided to the custodian.
- Copies of any requests for appeal submitted by the custodian and the results of any appeal hearings.

Attachment A
**Permanent Legal Custodian
Confirmation of Intent**

The first and most preferred permanency option for children in substitute care is to return to the home of a parent, guardian or custodian. If reunification is not possible, the next preferred option is adoption. For children who cannot be reunified with their parents, or for whom adoption is not possible, the next permanency option is placement with a permanent legal custodian. Prior to the Adoption and Safe Families Act, a child for whom the Juvenile Court ruled out reunification and adoption, might have been placed in long term foster care. Now, when a child is living in an approved foster care home and a strong bond has developed between that child and the caregiver who is an approved foster parent, the child can remain with that caregiver without continued agency intervention. The agency will file a petition with the Juvenile Court recommending the goal change to placement with a permanent legal custodian and that the child be placed in the custody of a specified custodian. Placement with a permanent legal custodian is a permanent arrangement for a child and not intended to be temporary.

Child: _____

I/We understand the various permanency options available to the above named child. If the Juvenile Court approves the permanency option of placement with a permanent legal custodian for the child and places the child in my/our custody, I/we

_____ Do wish to become permanent legal custodian(s), but do not wish to receive subsidy payments if approved. In choosing this option, I/we understand that TANF benefits, child support, Medicaid, SSI and other benefits may be available.

_____ Do wish to become permanent legal custodian(s) and receive subsidy payments if approved.

Permanent Legal Custodian(s):

Date: _____

Date: _____

Caseworker/Witness:

Date: _____

Attachment B

SUBSIDY AGREEMENT FOR PERMANENT LEGAL CUSTODIANS

This subsidy agreement is between _____

County Agency

and _____, permanent legal custodian(s) of

_____ Date(s) of Birth _____

and Social Security Number(s) _____

As a permanent legal custodian, I/we intend to care for the above mentioned child(ren) as a member of my/our family until the child reaches the age of majority. I/we enter into this agreement in order to receive a subsidy under the permanent legal custodianship program.

The county agency agrees to pay the above mentioned permanent legal custodian(s) a cash subsidy payment of \$ _____ per day.

The amount of this subsidy payment is based on the special needs of the child and the circumstances of the permanent legal custodian(s) and has been negotiated between the county agency and the custodian(s). The amount of the subsidy payments may not exceed the amount of the foster care maintenance payments that were paid to cover the cost of care had the child remained in foster care. The custodian(s) agrees to submit to an annual review of the child's circumstances and the continued appropriateness of the subsidized custodianship. The subsidy agreement may be modified, amended or terminated at any time by mutual agreement between the permanent legal custodian(s) and the county agency. Any such modifications or amendments shall be documented in writing and must be added to the subsidy agreement.

The permanent legal custodian(s) agrees to immediately but no later than 30 days, notify the county agency if any of the following circumstances occur:

1. they are no longer legally responsible for the child;
2. they are no longer financially supporting the child;
3. the child is no longer living with the custodian(s);
4. the child dies;
5. a change in the address or telephone number of the custodian's home;
6. the child becomes eligible for any benefit payments that would affect the subsidy payments made by the county agency, such as: Social Security Benefits; Supplemental Security Income; Veteran's Benefits; financial settlements; an inheritance; or large gifts; or
7. a change in circumstances that may affect the subsidy agreement. (I.e. death of a custodian, separation or divorce of the custodians).

The permanent legal custodians also agree to cooperate with all court orders that address any matters related to fulfilling the legal arrangements and responsibilities specified in the court order granting permanent legal custodianship.

This subsidy agreement will remain in effect regardless of the state in which the permanent legal custodians reside at any given time. For custodian families residing outside of Pennsylvania, Medical Assistance benefits may not be available to the child and eligibility will be determined based upon the guidelines for the state of residence.

Appeal Process: Permanent legal custodians may appeal the county agency's decision to reduce, change or terminate the subsidy agreement. Hearings will be conducted in accordance with 55 Pa. Code Chapter 275 (relating to appeal and fair hearings and administrative disqualification hearings).

This subsidy agreement becomes effective when all parties have signed the agreement or the date in which the Juvenile Court issues the permanent legal custodianship order. If all parties have signed the agreement prior to the issuance of the court order, subsidy payments may not begin until the court order has been issued. Subsidy payments may not begin until the permanent legal custodian has met all of the subsidy eligibility requirements. A copy of the court order should accompany this agreement.

The effective date of this agreement is _____.

Legal Custodian's Signature

Date

Legal Custodian's Signature

Date

Legal Custodian's Address

Telephone

County Agency Director or Designee's Signature

Date

Caseworker or Supervisor's Signature

Date

A copy of this subsidy agreement was given or mailed to the permanent legal custodian(s) on _____.

Attachment C
**Annual Redetermination Form for the
 Subsidized Permanent Legal Custodianship Program**

Name of Child _____ Child's Date of Birth _____
 Child's Social Security Number _____
 Name of the Permanent Legal Custodian(s) _____
 Telephone Number _____
 Date of Original Subsidy Agreement _____

	YES	NO	COMMENTS
Has the court terminated the permanent legal custodianship order?			
Has the child reached the age of eighteen?			
Is the child currently living with you?			
Are you legally and financially responsible for the child?			
Have there been any changes in the child's development, medical and/or behavioral condition that would require a change in the subsidy agreement? Please explain fully including the treatment required in the comment section.			
Since the initial agreement/ last annual review have any new benefits (such as Veteran's Benefits, Supplemental Security Income, Social Security) been initiated for or received by the child? If yes, please list the amount, source and effective date in the comment section.			
Were you convicted of any crimes related to welfare fraud during the past year?			
Would you like to terminate this subsidy agreement?			

I/we understand that the amount of subsidy may be adjusted based on the information I have given. I/we confirm that the information is true and accurate to the best of my/our knowledge. I/we will continue to fulfill the responsibilities of the permanent legal custodianship and this subsidy agreement.

Signature of Custodian _____ Date _____ Signature of Custodian _____ Date _____

This subsidy agreement has been: Changed _____ Unchanged _____

Reason for change: _____

The county agency must provide a written notification to the parties of their right to appeal the above decision. Appeal hearings will be conducted in accordance with 55 Pa Code, Chapter 275 relating to appeal and fair hearing and administrative disqualification hearings.

Signature of Supervisor _____ Date _____ Signature of County Agency Staff _____ Date _____

