

CHAPTER 133H**GENERAL PLACEMENT PROVISIONS****Authority**

N.J.S.A. 30:4C-4(c), (f) and (h) and 30:4C-50 et seq., and 30:4C-101 et seq.

Source and Effective Date

R.2005 d.95, effective February 23, 2005.
See: 36 N.J.R. 4203(a), 37 N.J.R. 902(a).

Chapter Expiration Date

Chapter 133H, General Placement Provisions, expires on February 23, 2010.

Chapter Historical Note

Chapter 133H, General Placement Requirements, was adopted as R.1994 d.532, effective October 17, 1994. See: 25 N.J.R. 5752(a), 26 N.J.R. 4188(a).

Pursuant to Executive Order No. 66(1978), Chapter 133H, General Placement Requirements, was readopted as R.1999 d.338, effective September 8, 1999. See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a). As a part of R.1999 d.338, Subchapter 4, Review of Children Placed in New Jersey by Another State, was adopted as new rules, effective October 4, 1999. See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).

Subchapter 5, Tuition Program, was adopted as new rules by R.2004 d.271, effective July 19, 2004. See: 35 N.J.R. 4836(a), 36 N.J.R. 3426(a).

Chapter 133H, General Placement Provisions, was readopted as R.2005 d.95, effective February 23, 2005. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. PLACEMENT SELECTION
(RESERVED)****SUBCHAPTER 2. AUTHORIZATION FOR
PLACEMENT: VOLUNTARY CONSENT OF
PARENT OR COURT ORDER (RESERVED)****SUBCHAPTER 3. REVIEW OF CHILDREN IN
OUT-OF-HOME PLACEMENT OR CARE
PROVIDED BY A RELATIVE****10:133H-3.1 Scope**

The provisions of this subchapter shall apply to the Division and to each child in out-of-home placement or cared for by a relative in accordance with N.J.A.C. 10:133H-3.10, each parent, any legal counsel for the child, the parent or the Division, and each out-of-home placement provider or relative providing care for a child in accordance with N.J.A.C. 10:133H-3.10. The provisions of this subchapter shall not apply to those situations cited in N.J.A.C. 10:133H-3.11.

Recodified from N.J.A.C. 10:133H-3.2 and amended by R.1999 d.338, effective October 4, 1999.
See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).
Rewrote the section. Section was "Authority".

10:133H-3.2 Definitions

The definitions in N.J.A.C. 10:133-1.3 are hereby incorporated in this subchapter by reference.

Recodified from N.J.A.C. 10:133H-3.3 by R.1999 d.338, effective October 4, 1999.
See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).
Former N.J.A.C. 10:133H-3.2, Scope, recodified to N.J.A.C. 10:133H-3.1.

10:133H-3.3 Purpose of a placement review

(a) The purpose of a placement review shall be to determine:

1. The safety of the child;
2. Whether the out-of-home placement or care provided by a relative should continue, consistent with the provisions of N.J.A.C. 10:133H-3.4;
3. If reasonable efforts to reunify are not required when a court has made a determination pursuant to N.J.S.A. 30:4C-11.3;
4. The extent of compliance with the case plan and the extent of progress made toward alleviating or mitigating the causes which necessitate placement;
5. Whether the placement plan required by N.J.S.A. 30:4C-55 is appropriate or should be revised, including specifically:
 - i. Whether the case goal is still appropriate or should be modified;
 - ii. Whether the intermediate objectives relating to the case goal are appropriate or should be modified;
 - iii. Whether the statement of the duties and responsibilities of the Division, the parent, the out-of-home placement provider or relative providing care for the child, and the child, if age appropriate, including the services to be provided by the Division to the child, the parent, and the out-of-home placement provider or relative providing care for the child, should be modified;
 - iv. Whether the Division has made reasonable efforts to return the child home, including the provision of visitation in accordance with the applicable law unless (a)3 above applies;
 - v. Whether the Division has made reasonable efforts to locate family members who may be willing and able to care for the child; and
 - vi. Whether the continued out-of-home placement or care provided by a relative of the child is appropriate and in the best interest of the child;

6. A likely date by which the child can safely be returned home or, if the child cannot be returned home, placed for adoption or legal guardianship or in another permanent living arrangement; and

7. Whether to prepare for a permanency hearing, pursuant to 42 U.S.C. § 675(5)(C).

Recodified from N.J.A.C. 10:133H-3.4 and amended by R.1999 d.338, effective October 4, 1999.
See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).
Rewrote the section heading and the section. Former N.J.A.C. 10:133H-3.3, Definitions, recodified to N.J.A.C. 10:133H-3.2.
Amended by R.2005 d.95, effective March 21, 2005.
See: 36 N.J.R. 4203(a), 37 N.J.R. 902(a).
In (a), deleted N.J.A.C. reference in 5i.

10:133H-3.4 Determination of whether out-of-home placement or care provided by a relative should continue

(a) In deciding whether the out-of-home placement or care provided by a relative should continue, the Division shall consider and determine the following:

1. The safety of the child;
2. Whether the circumstances and reasons originally necessitating the out-of-home placement or care provided by a relative of the child continue to exist or if additional or different circumstances have occurred which support continued out-of-home placement or care provided by a relative;
3. Whether the Division in the provision of services has made reasonable efforts to return the child home and the failure to achieve that return home is not due to a lack of appropriate Division services or actions, as specified in the case plan, see N.J.A.C. 10:133D-2;
4. Whether the Division has provided ample opportunity for visitation between the child and parent, siblings and relatives, so as to maintain the parent-child and family relationships;
5. Whether continued out-of-home placement or care provided by a relative serves the best interest of the child;
6. Whether a less or more restrictive out-of-home placement would better meet the child's needs;
7. Whether an out-of-home placement or care provided by a relative in closer proximity to the child's family is available and if it would better serve the child's needs; and
8. Whether the child should be placed with any of his or her siblings and what efforts have been made to place the siblings together.

Recodified from N.J.A.C. 10:133H-3.5 and amended by R.1999 d.338, effective October 4, 1999.
See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).

In the section heading and throughout the section, inserted "or care provided by a relative", in (a), inserted 1, renumbered former 1 to 7 as 2 to 8, in 3, substituted "reasonable efforts" for "every effort", and in 8, inserted "the child should be placed with any of his or her siblings and what". Former N.J.A.C. 10:133H-3.4, Purpose of the placement review, recodified to N.J.A.C. 10:133H-3.3.

10:133H-3.5 Frequency of placement reviews

(a) At least once every six months, the Division shall:

1. Conduct a placement review in accordance with N.J.A.C. 10:133H-3.7;
2. Participate in a review by the Child Placement Review Board pursuant to N.J.S.A. 30:4C-50 et seq. and N.J.A.C. 10:133H-3.8; or
3. Participate in another professional case review in accordance with (b) below.

(b) Another professional case review, including, but not limited to, a Case Assessment Resource Team review, a meeting to develop or revise a child's treatment plan in accordance with N.J.A.C. 10:127-6.1 or 10:128-6.1, or a court hearing, may substitute for the placement review only when:

1. The review is held during the required time frame in accordance with (a) above;
2. The same people receive prior written notice of the review in accordance with N.J.A.C. 10:133H-3.6(a); and
3. The purpose of the review is the same as that of a placement review conducted in accordance with N.J.A.C. 10:133H-3.3.

Recodified from N.J.A.C. 10:133H-3.6 and amended by R.1999 d.338, effective October 4, 1999.

See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).

Rewrote the section. Former N.J.A.C. 10:133H-3.5, Determination of whether out-of-home placement should continue, recodified to N.J.A.C. 10:133H-3.4.

Amended by R.2005 d.95, effective March 21, 2005.

See: 36 N.J.R. 4203(a), 37 N.J.R. 902(a).

In (b), amended the N.J.A.C. reference in the introductory paragraph.

10:133H-3.6 Notice of Division placement review

(a) The Division shall provide adequate prior written notice of the date, time and location of the placement review to each of the following, if applicable:

1. The parent;
2. The out-of-home placement provider or relative providing care for the child;
3. The child, if age appropriate;
4. Legal counsel for the child, the parent and the Division;
5. The Child Placement Review Board; and
6. The Case Assessment Resource Team Coordinator.

(b) In addition to those persons cited in (a) above, the Division may provide prior written notice of the date, time and location of the placement review to another person(s) or professional(s) providing care or services to the child or parent beyond those services provided by the Division.

(c) The out-of-home placement provider or relative providing care for the child shall have the opportunity to be heard at the placement review. Each other person invited to the placement review shall be entitled to attend and participate in the placement review to the extent deemed appropriate by the Division and in concert with the consent of the parent.

(d) In the absence of personal attendance, each invited person may submit information in writing to the Division concerning the case goal and case plan for the child.

Recodified from N.J.A.C. 10:133H-3.7 and amended by R.1999 d.338, effective October 4, 1999.

See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).

Rewrote (a), in (b), inserted "or parent", in (c), substituted "the out-of-home placement provider or relative providing care for the child shall have the opportunity to be heard at the placement review. Each other" for "Each", inserted the (d) designator, and in (d), substituted "each" for "the". Former N.J.A.C. 10:133H-3.6, Frequency of placement reviews, recodified to N.J.A.C. 10:133H-3.5.

10:133H-3.7 Convening and conducting the Division placement review

(a) The Division placement review shall be convened and conducted by a Division representative, as defined in N.J.A.C. 10:133-1.3, who has no responsibility for case management or delivery of service to the child who is the subject of the placement review or to the child's parent.

(b) Division representatives who participate in the Division placement review shall include the designated Division representative who conducts the placement review, the Division representative having direct service responsibility for the child, and that Division representative's supervisor. The Division representative for the parent of the child being reviewed and for each of the child's siblings shall also be present at the placement review or submit information about the parent's or sibling's situation or circumstances to the Division representative conducting the placement review.

(c) The Division representative conducting the placement review shall ensure that the following are assessed or determined at the placement review:

1. The safety of the child;
2. The circumstances that necessitated the out-of-home placement or care provided by a relative and the efforts made by the Division to prevent out-of-home placement or care provided by a relative unless the circumstances in N.J.A.C. 10:133H-3.3(a)3 apply;
3. The continuing need for out-of-home placement or care provided by a relative;

4. The appropriateness of the out-of-home placement or care provided by a relative;

5. The proximity of the child's out-of-home placement or care provided by a relative to his or her own home and the efforts made by the Division to provide continued contact between the child, parent, siblings not residing with the child and each relative identified in the case plan, as one with whom the child shall visit;

6. Whether the child is making an adequate adjustment to the out-of-home placement or care provided by a relative, as indicated by the child's behavior;

7. Whether returning the child to his or her own home is contrary to the child's welfare;

8. The current objectives of the case plan, the extent of compliance with the case plan, and whether the objectives are being implemented and are likely to lead to achieving the case goal;

9. Whether the child's case goal is the most likely to meet his or her needs and whether progress is being made toward its achievement;

10. Whether the services the Division is providing to the child, his or her parent, and the out-of-home placement provider or relative providing care for the child meet the identified service needs and whether there are obstacles to meeting the identified service needs;

11. Whether the Division, parent and out-of-home placement provider or relative providing care for the child are fulfilling their respective responsibilities in accordance with the case plan;

12. Whether the child is fulfilling any responsibilities in accordance with the case plan;

13. The extent of progress made toward alleviating or mitigating the causes of out-of-home placement or care provided by a relative unless the circumstances in N.J.A.C. 10:133H-3.3(a)3 apply;

14. Whether the parent and the Division are maintaining the visitation schedule;

15. Whether obstacles exist that are preventing achievement of the case goal and the efforts being made by the Division to alleviate the obstacles;

16. Whether the services needed to assist the child, age 16 or over, to make the transition from living in an out-of-home placement or care provided by a relative to living independently are being provided;

17. Whether progress is being made to identify, search for, and assess relatives of the child in order to determine their appropriateness and willingness to care for the child;

18. Whether the child has siblings in out-of-home placement or care provided by a relative, what the case plan and case goal are for each of them, whether the case plan includes placing any of the siblings together, and what efforts the Division is making to place the siblings together until they can be reunited with their parent;

19. Whether recommendations by the Child Placement Review Board or court orders are being followed;

20. The time frame and conditions required for return of the child to his or her own home or an alternate permanent living arrangement;

21. Whether the Division shall initiate a petition to terminate parental rights or shall determine that one of the exceptions listed in N.J.S.A. 30:4C-15.3 exists; and

22. Whether to identify an adoptive parent and conduct a home study as necessary.

(d) The Division shall inform the parent, in accordance with N.J.A.C. 10:133D-2.8(b), the child, if appropriate, and the Child Placement Review Board of the outcome of the Division's placement review, except that those persons cited in N.J.A.C. 10:133H-3.6(a)2 and 6 and 3.6(b) may receive only that information from the placement review which has a direct effect on the care or services being provided by that person or professional. The Division shall inform legal counsel for the child, the parent or the Division of the outcome of the placement review upon the request of each legal counsel.

(e) The Division representative who conducts the placement review shall share the outcomes of the placement review and other critical case information learned at the placement review with each Division representative who has a responsibility to have the information, following the placement review.

Recodified from N.J.A.C. 10:133H-3.8 and amended by R.1999 d.338, effective October 4, 1999.

See: 31 N.J.R. 1793(a), 31 N.J.R. 2888(a).

Rewrote the section. Former N.J.A.C. 10:133H-3.7, Notice of Division placement review, recodified to N.J.A.C. 10:133H-3.6.

Amended by R.2005 d.95, effective March 21, 2005.

See: 36 N.J.R. 4203(a), 37 N.J.R. 902(a).

In (c), substituted "N.J.S.A. 30:4C-15.3" for "section 31 of P.L. 1999, c.53" in 21.

10:133H-3.8 Division responsibility to the Child Placement Review Board

(a) Pursuant to N.J.S.A. 30:4C-50 et seq., the Division shall provide the following information in its notice of out-of-home placement or care provided by a relative to the Family Court within five calendar days of a child's out-of-home placement or care provided by a relative:

1. The reasons for the out-of-home placement or care provided by a relative;

2. The Division's efforts to prevent out-of-home placement or care provided by a relative;