

**RULE 26. CASE AND OUT-OF-HOME PLACEMENT PLANS****Rule 26.01. Case and Out-of-Home Placement Plans Generally**

When the responsible social services agency is the petitioner, the agency shall file with the court and provide to the parties and foster parent a case plan or out-of-home placement plan for the child and the parents or legal custodians, as appropriate. A case plan shall be prepared according to the requirements of Minnesota Statutes, section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; or 260C.212, subdivision 1; whichever is applicable.

**Rule 26.02. Child in Court-Ordered Foster Care: Out-of-Home Placement Plan**

**Subd. 1. Plan Required.** When a child is placed in foster care by court order, the responsible social services agency shall file with the court and provide to the parties and foster parents the case plan or out-of-home placement plan required under Minnesota Statutes, section 260C.212, subdivision 1.

**Subd. 2. Timing.** The out-of-home placement plan shall be filed with the court and provided to the parties and foster parents by the responsible social services agency within 30 days of the court order placing the child in foster care, an order for protective care, or order transferring legal custody to the responsible social services agency, whichever is earliest.

**Subd. 3. Content.** The out-of-home placement plan shall include a statement about whether the child and parent, legal custodian, or Indian custodian, participated in the preparation of the plan. If a parent or legal custodian refuses to participate in the preparation of the plan or disagrees with the services recommended in the plan by the responsible social services agency, the agency shall state in the plan the attempts made to engage the parent, legal custodian, and child in case planning and note such refusal or disagreement. The plan shall also include a statement about whether the child's guardian ad litem; the child's tribe, if the child is an Indian child; and the child's foster parent or representative of the residential facility have been consulted in the plan's preparation. The agency shall document whether the parent, legal custodian, or Indian custodian; child, if appropriate; the child's tribe, if the child is an Indian child; and foster parents have received a copy of the plan. When the child is in foster care due solely or in part to the child's emotional disturbance, the child's mental health treatment provider shall also be consulted in preparation of the plan and the agency shall document such consultation in the plan filed with the court.

**Subd. 4. Procedure for Approving or Ordering Out-of-Home Placement Plan Prior to Disposition.**

(a) **Court's Approval of Jointly Developed Plan.** If the out-of-home placement plan was developed jointly with the parent and in consultation with others required under this Rule and Minnesota Statutes, section 260C.212, subdivision 1, upon the filing of the out-of-home placement plan, together with the information about whether the parent or legal custodian; the child, if appropriate; the child's tribe, if the child is an Indian child; and the foster parents have received a copy of the plan, the court may, based upon the allegations in the petition, approve the responsible social services agency's implementation of the plan. The court shall state such approval on the record at a hearing after the plan has been filed with the court and provided to the parties, foster parents, and the child, as appropriate, or serve written notice of the approval of the plan upon all parties and the county attorney. If the court directs that written notice of the approval of the case plan be served, such notice may be served pursuant to Rule 9.03.

(b) **Court's Approval of Plan not Jointly Developed.** When a parent or legal custodian refuses to participate in the preparation of the out-of-home placement plan or disagrees with the services recommended by the responsible social services agency, the agency shall notify the court

of the services it will provide or efforts it will attempt under the plan notwithstanding the parent's refusal to cooperate or disagreement with the services. Any party may ask the court to modify the plan to require different or additional services. The court may approve the plan as presented by the agency or may modify the plan to require services requested. The court's approval of the plan shall be based upon the content of the petition or amended petition.

(c) **Voluntary or Court-Ordered Compliance with Plan.** A parent may voluntarily agree to comply with the terms of an out-of-home placement plan filed with the court. Unless the parent voluntarily agrees to the plan, the court may not order a parent to comply with the plan until there is a disposition ordered under Minnesota Statutes, section 260C.201, subdivision 1, and Rule 51. However, the court may find that the responsible social services agency has made reasonable efforts to finalize a permanent placement plan for the child if the agency makes efforts to implement the terms of an out-of-home placement plan approved under this rule and Minnesota Statutes, section 260C.178, subdivision 7.

(d) **Copy of Plan.** When the out-of-home placement plan is either ordered or approved, a copy of the plan shall be incorporated into the order by reference. The plan need not be served with the order, unless the plan has been modified.

### **Rule 26.03. Child in Voluntary Foster Care: Out-of-Home Placement Plan**

#### **Subd. 1. Child in Voluntary Foster for Reasons Other than for Treatment.**

(a) **Timing.** The out-of-home placement plan required under Minnesota Statutes, section 260C.212, subdivision 1, shall be filed and served with the petition asking the court to review a voluntary placement of a child in placement when the placement is not due solely to the child's disability under Minnesota Statutes, section 260C.141, subdivision 2, and Rule 61.

(b) **Content.** The plan shall include a statement about whether the child and parent, legal custodian, or Indian custodian participated in the preparation of the plan. The plan shall also include a statement about whether the child's guardian ad litem; the child's tribe, if the child is an Indian child; and the child's foster parent or representative of the residential facility have been consulted in the plan's preparation. The agency shall document whether the parent, legal custodian, or Indian custodian; the child, if appropriate; the child's tribe, if the child is an Indian child; and foster parents have received a copy of the plan. When a child is in foster care due solely or in part to the child's emotional disturbance, the child's mental health treatment provider shall also be consulted in preparation of the plan and the agency shall document such consultation in the plan filed with the court.

**Subd. 2. Procedure for Approving Out-of-Home Placement Plan for Child in Voluntary Foster Care** The court shall consider the appropriateness of the case plan or out-of-home placement plan in determining whether the voluntary placement is in the best interests of the child as required under Rule 61.02.

### **Rule 26.04. Child Not in Foster Care: Child Protective Services Case Plan**

(a) **Plan Required.** When a petition is filed alleging a child to be in need of protection or services and the child is not in foster care or other out-of-home placement, the responsible social services agency or other agency shall file with the court the statutorily required protective services case plan designed to correct the conditions underlying the allegations that make the child in need of protection or services.

(b) **Timing.** When the child is not in foster care, the statutorily required child protective services plan shall be filed with the petition alleging the child to be in need of protection or services unless the responsible social services agency includes a statement in the petition explaining why it has

not been possible to develop the plan, which may include exigent circumstances or the non-cooperation of the child's parents or guardian. The child protective services plan shall be provided to the parties by the responsible social services agency at the time it is filed with the court.

(c) **Procedure for Ordering Child Protective Services Plan.** When the child is not in foster care or is not recommended to continue in foster care, but the court finds endangerment under Rule 42, the court may order the parties to comply with the provisions of the child protective services plan as a condition of the child remaining in the care of the parent, guardian, or custodian. The court may also order the parties to comply with the provisions of the plan as part of a disposition under Rule 51. When the court orders a child protection services plan, a copy of the plan shall be attached to the court's order and incorporated into it by reference.

**Rule 26.05. Child With Disability: Community Support, Individual Treatment, or Multiagency Case Plan**

**Subd. 1. Procedure.** If a child found to be in need of protection or services has a physical or mental disability and a case plan is required under Minnesota Statutes, section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; or 256B.092, the plan shall be filed with the court. Services may be ordered provided to the child according to the provisions of Minnesota Statutes, section 260C.201, subdivision 1, paragraph (a), clause (3). When an out-of-home placement plan is required under Rule 26.02 or a child protective services plan is required under Rule 26.04, the requirements of a plan under this paragraph may be included in such plans and need not be a separate document.

**Subd. 2. Timing.** The case plan shall be provided to the parties by the responsible social services agency at the time it is filed with the court.

***2019 Advisory Committee Comment***

*Rule 26 is amended in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule was formerly codified as Rule 37. Former Rules 37.02, subd. 5, and 37.06 have been deleted because the committee believes they are no longer necessary.*