

FREQUENTLY ASKED QUESTIONS

Proposed Soul Family Legal Permanency Option

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GENERAL OVERVIEW

Why is the SOUL Family permanency option needed?

All children and youth deserve a caring network of family, friends and mentors to guide them through their teenage years and into adulthood. For young people experiencing foster care, supportive adult relationships are not only critical in navigating the challenges and uncertainty of the child welfare system, they are cornerstones of successful reintegration, adoption and permanent custodianship — the established pathways to legal permanency. These existing legal options work well for many young people. But others find these options fail to address the complexities of their lives and relationships.

Many young people report these permanency arrangements are decided for them instead of with them and, as a result, do not support their needs for lifelong relationships and healing. In addition, young people feel these permanency options are grounded in legal traditions that do not appropriately reflect and honor their own unique cultures, family structures and communities. What if there were another legal pathway to permanency that would allow a young person to define their own family?

The young people who designed SOUL Family identified three key reasons why this proposed permanency pathway is needed. The current permanency options do not always support a vision of family that is youth-centered or that engages youth in a way that values their voice or the relationships they believe are most important. The existing permanency options do not consistently support lasting, legal relationships with designated adults and family members, leaving youth without a permanency

model that reflects their cultural traditions and family structures. For some, the current legal options for permanency force an undesirable decision: Choose between permanent relationships or eligibility for critical education and financial support services reserved for those youth who “age out” of the system without a legal connection to family.

Where did the idea for SOUL Family come from?

A determined and visionary group of Jim Casey Fellows from the Jim Casey Youth Opportunities Initiative® began meeting in 2018 with adult allies at the Annie E. Casey Foundation and national legal experts to discuss strategies to strengthen legal permanency options to better meet their needs. The young leaders concluded that, in addition to reforming established legal pathways, a fifth permanency option is needed. Their work illustrates the imperative to put young people in the driver’s seat and, with proper support and guidance, to help create a permanency option that enables them to thrive as healthy, productive adults.



What are the guiding principles of the SOUL Family permanency option?

SOUL Family is part of a larger effort to strengthen all permanency options and provide youth in foster care lifelong support, sense of belonging and the legal benefits of being part of a caring family. The young leaders who created SOUL Family felt strongly that all permanency options should be guided by these principles:

- All youth deserve permanency through the development and support of lifelong relationships that connect them to the people they consider their family and community.
- Providing permanency is the obligation of the child welfare system and the inability to connect young people to a permanent family represents a system failure.
- All permanency options must be guided by adolescent development principles, including the provision of support continuing at least through age 26.
- Permanency must allow for a network of supportive relationships that includes a legal relationship with a primary adult or multiple adults, ongoing connections to family members, and deep relationships with other caring adults.
- Permanency must honor young people's sibling relationships, including joint placement whenever possible and frequent visitation.
- Permanency begins with the family and community that youth identify as their own. This family network should play a key role in the permanency planning process.

- Permanency decisions must meaningfully engage youth and reflect their views and wishes.
- Long-term oversight and investments are needed to ensure that youth and families have the benefits, services, and emotional support needed to sustain permanent relationships.

Why is SOUL Family described as a permanency option when many young people do not like the term “permanency?”

Permanency implies lasting relationships that endure over time. The word has been used to describe the child welfare system's legal obligation to find loving and supportive families for youths in its care. For too many young people in foster care, however, permanency is a false promise — a traumatic reminder of systemic failures that lead to uncertain legal status, disrupted relationships and a difficult road to adulthood. The young leaders who designed SOUL Family decided to continue using the term “permanency” because it is readily understood by key decision makers and uniformly used in state and federal laws. Over the long term, however, many young people are committed to redefining the word “permanency” to reflect its true meaning.



How does SOUL Family promote race equity for youth in foster care?

Every year, approximately 20,000 young people — almost half of those 16 and older in foster care — “age out” of the child welfare system without a loving, supportive and permanent family. As compared to white youth, the odds of aging out without a permanent legal family are even greater for youth of color: Black youth, for example, are 28% more likely to leave care without a permanent legal relationship; Hispanic youth are 17% more likely to leave care without a permanent legal relationship; and youth of other races are 5% more likely to leave care without a permanent legal relationship. The established permanency options often fail to honor the customs, practices and extended family structures of non-white cultures. Under the proposed SOUL Family permanency option, the definition of legal family becomes broader and reflects each youth’s social context and real-life experience. SOUL Family agreements recognize the critical role of extended family and community in the lives young people while providing the benefits and protections of more established legal pathways.

What’s needed to strengthen existing legal permanency options?

In addition to creating SOUL Family as a permanency alternative, the young leaders from the Jim Casey Youth Opportunities Initiative developed recommendations to improve existing permanency options, such as expanding young people’s role in selecting an appropriate permanency option or increasing the availability of post-permanency supports.



LEGAL IMPLICATIONS

How does SOUL Family work?

SOUL Family would establish primary legal relationships involving a young person — who is at least 16 years old — and one or more caring adults. It carries the legal status, rights and responsibilities of a familial relationship that will continue throughout the young person’s lifetime. The SOUL Family:

- maintains a young person’s legal relationships with biological and extended family, especially parents and siblings;
- allows additional caring adults to commit to specific roles that support the young person, in areas such as education or career guidance and celebration of milestones;
- outlines resources and connections that the young person will receive through government and community-based organizations and the network of caring adults; and
- connects the young person to continuing support to help them thrive and to help navigate relationship challenges that might arise after the child welfare case is closed.

What are the key elements of the SOUL Family permanency agreement?

If Kansas enacts the SOUL Family legal permanency option, Kansas will specify the requirements of SOUL Family agreements, taking into consideration recommendations of local youth leaders. However, there are a few key elements that every state should include in the SOUL Family legal permanency option:

- A legal relationship between the youth and one or more primary adults that:
 - carries the legal status of a familial relationship, including the benefits and resources that flow from that relationship under existing legislation;
 - supports a young person’s continued legal relationship with their biological and extended family; and
 - includes funding and services on par with other legal permanency options.
- To implement the SOUL Family legal permanency option, administrative needs include:
 - a family- and youth-centered planning process;
 - meaningful youth engagement to support the development of a SOUL Family permanency agreement;
 - a process for distributing funds for living settings and other needs;
 - a method for assessing and approving primary permanency resources;
 - a family-engaging and youth-focused array of government-provided and community-based post-permanency services; and
 - a family-engaging and youth-focused permanency oversight system.



Who chooses the members of a youth's SOUL Family?

The young person decides who is a member of their SOUL Family, with guidance of caregivers, the caseworker and other supportive adults. As with all permanency options, Kansas Department of Children and Family and the court are responsible for ensuring the adults are safe and appropriate and understand their roles and responsibilities in the young person's life.

Does SOUL Family end when a youth becomes an adult?

No. SOUL Family is designed to provide lifetime permanence, family connections and a sense of belonging to the young people who choose this pathway. The legal familial relationships would continue throughout the youth's lifetime. The young person can make most legal decisions for themselves when they become a legal adult and still benefit from continuing support of a caring network of adults as well as resources to help them thrive. They may receive many of the same benefits as children in other families, including rights of inheritance and participation in health decision making during aging. Kansas will determine what legal benefits apply and how they will be managed.

How is SOUL Family different from existing permanent custodian laws?

While there are some similarities between SOUL Family and permanent custodianship, there are several distinctions.

Similarities:

- Termination of parental rights is not required.
- Youth may remain connected to their biological family and their permanent custodian.
- Youth, depending on age, may be eligible to receive transition-to-adult services and benefits.
- While the youth is under 18, the SOUL Family primary adult(s) would have certain decision-making rights, like those of a permanent custodian

Differences:

- Permanent custodianship generally ends at age 18 though can continue until 21 under limited circumstances. SOUL Family relationships are intended to last throughout adulthood.
- A young person in a permanent custodianship arrangement does not hold the same rights as those proposed for the youth in a SOUL Family. For example, a permanent custodianship is silent on inheritance rights of a young person. A SOUL Family requests consideration of inheritance rights.
- A young person in a SOUL Family would have access to the maximum allowable benefits available under other permanency options.
- A youth in a SOUL Family may have the option to live independently. This decision would be made with SOUL Family primary adults and caring adult network, the caseworker and the court, if needed.



Why is SOUL Family available only to youth ages 16 and older?

The young leaders who helped design SOUL Family had lengthy discussions about the age, stage of development and level of emotional maturity needed to make decisions affecting their lives and their chosen long-term family members. Based on their experiences, and outreach with other youth in foster care, they determined that young people 16 and older have the developmental capacity, judgment, and emotional maturity to understand and distinguish among the permanency options. They decided that older youth are capable of assessing these choices with the counsel of trusted adults and understand their long-term emotional needs.

In a SOUL Family, who makes legal decisions for the youth under age 18?

The designated primary adult(s) would be the decision makers for the young person until they become an adult. Because SOUL Family does not terminate the legal relationship with biological parents, siblings and extended family, the court would determine any residual legal rights they may have. However, if there is a disagreement between the primary adult(s) and the youth's biological parents as to what is best for the young person, the primary adult(s) would make the final decision as a permanent custodian would.

Does the youth have to live with one of the members of the SOUL Family?

Most who choose the SOUL Family option will live with one or more primary adults. There may be circumstances when a young person, especially one over 18, may live independently to attend school, reside with a significant other or pursue another appropriate living situation with support of their primary adult(s) and caring adult network.

How does asset inheritance work under the SOUL Family?

Young leaders who participated in developing the SOUL Family legal option determined that the right to inheritance, and inclusion in the primary adult's health insurance and health-related decision-making, should be critical components of SOUL Family arrangements. Each youth's SOUL Family agreement would specify expectations for legal benefits such as inheritance.



How does SOUL Family differ from another Planned Permanent Living Arrangement (APPLA)?

Another Planned Permanent Living Arrangement (APPLA) is a term used in federal law for situations in which a young person lives independently in a “stable, secure living arrangement that includes relationships with significant adults” under child welfare agency supervision until the youth “ages out” of the foster care system. SOUL Family differs from APPLA by creating a network of adults who have a legal familial relationship supporting youth so they thrive into adulthood. Originally intended only for young people for whom reintegration, adoption or permanent custodianship are not options, child welfare experts generally agree that APPLA does not provide young people with the lifelong, adult connections they need to thrive nor is this option legally enforceable.

What can youth do if adults in the SOUL Family fail to meet their legal responsibilities?

There are several options. The young person, primary adults and other caring adults may attempt to resolve the issues through a family meeting, with the support of the caseworker. If the issue cannot be resolved within the SOUL Family, Kansas DCF can connect the young person to an expert mediator through the court. If there is a more serious problem with an adult, the young person or a lawyer acting on the young person’s behalf could petition the court for a modification of the SOUL Family agreement. Solutions could include a judicial request to remove a primary adult from their responsibilities or authorize a different adult to take on legal responsibilities in the young person’s life.

After a judge approves the youth’s SOUL Family, when and how will the young person’s child welfare case be closed?

Young leaders, in partnership with their caseworker and other supportive adults in their SOUL Family network, must drive all aspects of their permanency decision making. Just as the young person should feel completely ready to choose SOUL as the best option and must consent to any final SOUL permanency order, they should also help to determine when their Kansas DCF case should be closed. It is essential that the young person have the opportunity and adequate time to adjust to their permanency transition. Considerations for case closure should include:

- A reasonable time period (e.g., 60-90 days) has elapsed after the judge enters the SOUL Family order;
- The court and DCF have put forth a clear and concrete plan for the young person to seek help, including access to mediation, and, if necessary, to re-open the court matter if SOUL Family permanency is disrupted;
- The SOUL Family order clarifies and commits to the ongoing financial and educational support the young person will continue to receive once the case is closed; and
- The SOUL Family order identifies a reliable and responsive DCF and/or provider agency contact to answer questions that arise about the young person’s care and stability.



What Post-Permanency services would be available and who provides them?

Kansas will determine the level of assistance available to support the court-ordered SOUL Family order. The young leaders who designed this option recommended that, at minimum, states should guarantee the following beyond age 18:

- Medicaid coverage, until at least age 26;
- Cash assistance, at least until the young person becomes an adult and preferably through age 26;
- Chafee Foster Care Independent Living benefits, which support foster youth transition into adulthood through education, employment, financial management, housing, emotional support, etc.;
- Maintenance payments for ongoing housing support (foster home, supervised independent living setting, unsupervised independent living setting, subsidized rent, rental assistance, etc.);
- Age-appropriate, youth-driven case oversight/management services/supports until the youth becomes an adult;
- Educational and training vouchers;
- Life skills training and employment support; and
- Continued court oversight if needed in case conflicts arise.

Who will pay for these services and supports?

This question will be answered more fully as the SOUL Family proposal moves forward in Kansas. The state of Kansas may be able to use a combination of government, private and philanthropic dollars to provide ongoing financial and other necessary support.



IMPACT ON FAMILY RELATIONSHIPS

If a youth who is 18 designates two DIFFERENT primary adults, which adult has primary decision-making authority?

The young person and the SOUL Family primary adults must agree upon a plan that identifies a process for resolving disagreements. The plan would become part of the court-approved SOUL Family agreement. They may decide to designate one primary adult as a key decision maker or call on the network of caring adults in the SOUL Family. If necessary, the SOUL Family may decide to use a family mediator or ask the court to resolve any significant conflicts.

What happens when the birth parent and the SOUL Family adults disagree on an important decision for the youth?

There may be times when the adults in the lives of young people disagree. If an agreement cannot be reached, however, the primary adult(s) designated under the SOUL Family agreement will have the final decision-making authority just as a permanent custodian would.

What services are available if a youth has a conflict with a soul family member?

SOUL Family provides young people and the caring adults in their lives access to community-based services and benefits to help keep their relationships strong and work through problems as they arise. If the young person's network of caring adults cannot navigate critical challenges, the court-approved permanency agreement will also specify how the young person might receive additional support from Kansas DCF, private provider agencies, community-based organizations, mediation, or as a last resort, a return to court to modify the SOUL Family agreement. No matter the pathway to resolution, settling any conflicts should be a youth-centered and youth-driven process.

How does the SOUL Family support sibling connections? Can siblings share the same SOUL Family?

SOUL Family is specifically designed to maintain and reinforce sibling relationships and does not require the termination of legal relationships with a young person's biological family. Siblings can share a SOUL Family, as designated through separate legal agreements or informally through shared relationships with the same supportive adults. This flexibility under the SOUL Family permanency option allows young people to determine the nature of their relationships with siblings and other important people in their lives and feel fully supported in those relationships.



SOUL FAMILY IMPLEMENTATION

What can the Kansas Department for Children and Families, the courts and the community do to support the effective implementation of SOUL Family?

Caring adults, government agencies, the community and the courts have critical roles in ensuring the effectiveness and sustainability of SOUL Family.

- Kansas Department of Children and Families has the primary responsibility to guide young people through the permanency decision-making process, ensure that adults named in permanency plans are safe and supportive, and connect the young people and their caring adults to available services.
- The primary adult(s), network of other caring adults, birth parents and extended family members share responsibility to ensure that young people are safe, their needs are addressed, and they have supportive, permanent relationships throughout adulthood.
- The court evaluates and approves SOUL Family agreements and provides continuing oversight to ensure that appropriate benefits are provided and ongoing conflicts are resolved.
- The community recognizes and supports young people's most important relationships and ensures that SOUL Families receive adequate and appropriate financial, educational, and social assistance.

Do SOUL Family primary adults need to be licensed?

Kansas DCF will determine whether and how to license primary adult(s) with the guidance of Kansas young leaders with lived experience. The young leaders who designed the SOUL Family option recommend that all adults who have a legal decision-making role would be approved through a process similar to that used for foster parents, permanent custodians and adoptive parents.

How will SOUL Family become a legal permanency option in Kansas?

A growing number of young leaders who have experienced foster care and adult allies, including attorneys and policymakers, are working in Kansas to build support to make SOUL Family a legal permanency option for eligible young people in Kansas. As their work advances, they will draft model legislation and learning with youth in foster care, child welfare advocates, lawyers, judges and other community stakeholders in additional states.

The goal is to make SOUL Family a legal option as part of a healthy continuum of permanency pathways in every state.

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