**FEDERAL LEGISLATION THAT GUIDES OCS RE: PERMANENCY**

**There are many laws that have impacted the adoption and guardianship work in Alaska. Here are some you may want to review to learn more about adoption and guardianship:**

* 1978: Indian Child Welfare Act
* 1980: Adoption Assistance and Child Welfare Act
* 1986: Tax Reform Act
* 1994 Multi Ethnic Placement Act
* 1996: Small Business Job Protection Act
* 1997: Adoption and Safe Families Act
* 2008: Fostering Connections to Success and Increasing Adoptions Act

**PERMANENCY GOALS**

Remain in own Home: This goal is chosen when a child is placed in their own home and the goal is to help the child remain safely in that home. Although not recognized as a permanency goal, this is an option available in ORCA.

Reunification:

This refers to the process of returning children in temporary out-of-home care to their family of origin. Reunification is both the primary goal for children in out-of-home care as well as the most common outcome. (Child Welfare Information Gateway)

* When the permanency goal is reunification, a child should be back in the home within 12 months of coming into care.
* This goal should be the primary goal whenever a child is removed from a parent’s care, except in the extreme circumstances.
* Reunification should be the primary goal until parental rights are terminated or until the court has determined that reasonable efforts towards reunification are no longer required.
* The goal can apply to reunifying the child with both of their parents, the parent from the removal home, or the parent from the non-removal home.

Adoption:

This is the social, emotional, and legal process through which children who will not be raised by their birth parents become full and permanent legal members of another family and can include maintaining connections to their birth family. (Child Welfare Information Gateway)

* When the permanency goal is adoption, a child should be in a finalized adoption within 24 months of coming into care.
* This goal can be chosen at any time in the life of the case and is applicable to all children, including youth 18 and older.
* With this goal, children lose their right to natural inheritance from their biological parents.
* A homestudy is required for any adoption of a child in OCS custody, for the purpose of finalizing the adoption to a family who has been selected as the permanent placement.
* The family caring for the child is eligible for an adoption subsidy.

Guardianship

This is a judicially created relationship between a child and caregiver that is intended to be permanent and includes the transfer to the guardian of some, or all, of the following legal responsibilities: protection and supervision, education, medical treatment, care and control of the person, custody, and decision-making. (Child Welfare Information Gateway)

* When the permanency goal is guardianship, a child should be in a finalized guardianship within 18 months of coming into care.
* This goal can be chosen at any time in the life of the case, and may be the secondary goal when reunification or adoption is the primary goal.
* PSM I approval is required for this goal for children under 10.
* Guardianship should be entered into when it is a long term permanent plan.
* Most legal guardians enter into this commitment intending it to be a lifetime relationship even though the guardianship legally ends when the child turns 18.
* Certain guardianships may be subsidized.

Permanent Placement with a Fit and Willing Relative:

This is a permanent placement of a child with a relative until the child reaches the age of majority. This is intended to be a lifelong connection for the child. The child will remain in OCS custody legally but be placed with the relative permanently.

* This goal is only applicable to youth age 16 and older. This goal is appropriate for youth age 16 and older who will NOT be reunified, adopted, or placed in a guardianship.
* This is a preferred goal over APPLA.
* To use this goal, the PS Specialist IV will document whether a relative assessment and background checks (criminal and CPS) have been completed to help ensure the relatives are fit and willing to provide care for the youth until the youth reaches adulthood.
* The goal of permanent placement with a fit and willing relative cannot be a primary or secondary goal without first completing an administrative review.
* When placement with fit and willing relative is made the permanency goal for a youth, the intent must be that the youth remain in OCS custody until the age of majority.
* In the context of this section, “relative” means an individual who is related to the youth by blood, adoption, marriage, or Tribal custom.
* There are no federal timelines to determine when this goal will be finalized. This permanency goal is not recognized by the court, only by OCS.
* The PS Specialist will continue regular caseworker visits with the child to ensure safety, permanency, and well-being.
* The PS Specialist will file annual permanency reports and continue to explore how this goal best supports the child’s best interest.

APPLA:

APPLA stands for another planned permanent living arrangement (APPLA). With APPLA, the child welfare agency maintains care and custody of the youth and arranges a living situation in which the youth is expected to remain until adulthood. APPLA is a permanency option only when other options, such as reunification, relative placement, adoption, or legal guardianship, have been ruled out. (Child Welfare Information Gateway)

* This goal can only be used when the child is 16 years of age or older.
* This permanency goal can only be used with approval from the OCS Director.
* APPLA is a term created by the Adoption and Safe Families Act of 1997 to replace the term "long-term foster care."
* The use of this goal is considered a last resort and only after the department has made intensive efforts to find a permanent placement for the child.
* APPLA may not be initiated by the Protective Services (PS) Specialist. The youth must request emancipation in order for a discussion about APPLA to be reviewed. APPLA may not be used as a default permanency goal, regardless of the youth’s age.
* If the recommended goal is APPLA, these additional steps will be taken:
  + The PS Specialist IV will ensure that an APPLA meeting occurred;
  + The Regional Independent Living Specialist (RILS) will document the compelling reasons and why adoption, guardianship, and fit and willing relative were ruled out; and
  + The RILS will seek OCS Director approval of the goal per CPS manual section 3.14.3.

"Compelling reason" may include circumstances in which:

* + the child has specifically requested that emancipation be established;
  + a parent and child have a significant bond, but the parent is unable to care for the child because of an emotional or physical disability, and the child's foster parents have committed to raising the child to the age of majority and to facilitating visitation with the disabled parent.

What are some reasons APPLA may not be the best goal for a youth?

* Youth may see it as their team giving up hope.
* APPLA speaks to a living arrangement that is planned and permanent, but it does not guarantee permanent relationships. A stable living arrangement is important, but stable caring relationships that last a lifetime are more important.
* Youth with an APPLA goal are more likely to move to another placement when there is a behavioral issue or family crisis.
* Youth who age out of care without a permanent family connection are at high risk for many poor outcomes.

**Adult Adoption, Guardianships, or Conservatorships**

* Adult Adoptions can occur to facilitate permanency for youth, but no subsidy is available for these.
* Adult guardianship will be pursued for youth that have been determined to have a need due to their inability to care for themselves.
* Conservatorship will be pursued for youth that have been determined to have a need of conservatorship due to their inability to manage their financial affairs in adulthood.

**GUARDIANSHIP vs. ADOPTION**

* The Fostering Connections Act (FCA) of 2008 affirmed that adoption is the preferred permanency outcome for children.
* FCA also recognized that there are times that relative guardianship is a better option for children than adoption
* FCA also established a requirement that adoption must be considered and ruled out as a permanency option before guardianship is pursued.

**CULTURAL ADOPTION WITH OCS CONSENT -** (OCS CPS manual section 3.20.3)

* ICWA-eligible children who are in the custody of the OCS may be culturally adopted. The recognition of a cultural adoption by the child’s Tribal court or council can lead to the issuance, by the Bureau of Vital Statistics of a new birth certificate pursuant to 7 AAC 05.700(b). Customary Adoptions are completed at the request of the adoptive family. The adoptive family may choose to finalize the adoption in the State court as outlined under AS 25.23. If the child is culturally adopted, the choice of whether to seek a state court adoption order or apply directly to the Bureau of Vital Statistics for a substitute birth certificate is made by the adoptive parents.
* Historically, Alaska Native Tribes have conducted cultural adoptions for Tribal children who are being adopted by another family/Tribal member in the Tribal Court or council proceedings. In these proceedings, there is agreement among the child’s family and Tribe that it is in the best interests of the child for the adoption to be finalized. This option for ICWA-eligible children in OCS custody honors the child’s cultural traditions for adoption and allows for the adoption to be finalized in a Tribal setting.
* Cultural adoptions do not require a termination of parental rights prior to the finalization of the adoption; however once a Tribal Decree of Adoption and a new state birth certificate is issued with the new adoptive parents’ names on the birth certificate, the adoption is considered finalized by OCS.

Source: OCS 3.1.4 Permanency Goals and Permanency Planning