

Bench Cards For
Essential Judicial Functions

Entry Order

Evaluation Order

TRO/Protective Order

Instanter Custody/Safety Plan Order

Continued Custody Hearing (CINC)

Continued custody Hearing (FINS/Delinquency)

Appearance to Answer

Adjudication Hearing

Disposition Hearing

Case Review Hearing

Permanency Hearing – Reunification

Permanency Hearing – Adoption (including TPR)

Permanency Hearing – Legal Guardianship

Permanency Hearing – Placement with Relative

**Permanency Hearing – Alternative Permanent Living
Arrangement**

Appendix

Essential Judicial Functions: Entry Order

Art. 613. Entry orders

A. If in the course of an investigation of a report, admission cannot be obtained to the home, school, or any other place where the child may be found, the investigator shall apply to the juvenile court for an order authorizing an entry for the purposes of interviewing the child and other members of the household, for the visual inspection of the child, and for an inspection of the home to the extent such an inspection is essential to the investigation of specific allegations. The affidavit of the applicant must demonstrate:

(1) That reasonable suspicion exists that the child has been abused or neglected.

(2) That entry has been denied.

B. The court may grant such an order on an ex parte application and may also order a law enforcement officer to accompany the applicant in executing the entry order.

Findings

DCFS is investigating a report of abuse/neglect and there is reasonable suspicion that the child has been abused/neglected

DCFS needs to interview the child/members of the household, visually inspect the child, and/or inspect the home to investigate the specific allegations

entry to the home/school/other place where the child may be found has been denied

Order

ex parte order permitted

may include order for law enforcement to accompany DDFS

Entry Order

Essential Judicial Functions: Evaluation Order

Art. 614. Evaluation orders

A. If necessary, the investigator may apply to the court for certain medical examinations and evaluations of the child or other children in the household.

B. Upon a showing of good cause in an affidavit executed by the applicant, the court may order a physical examination and evaluation of the child or other children in the household by any physician. Such an order may be granted ex parte.

C. Upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order a psychological or psychiatric examination and evaluation of the child or other children in the household by a psychologist or psychiatrist.

D. Upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order a physical, psychological, or psychiatric examination of the parent or caretaker.

E. When a medical examination of a child has been conducted pursuant to Article 612(A)(4), upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order an additional physical examination of the child or other children in the household by any physician. For the purposes of this Paragraph, an applicant may be the investigator or the child's parent or caretaker.

Findings

DCFS is investigating a report of abuse/neglect

DCFS shows good cause for needing a specific medical examination or evaluation

Order

physical exam of child/children in household may be ordered ex parte

set contradictory hearing for additional physical exam of child/children in household

set contradictory hearing for **psychological/psychiatric exam** of child/children in household

set contradictory hearing for **physical/psychological/psychiatric exam of parent/caretaker**

Evaluation Order

Essential Judicial Functions: Temporary Restraining/Protective Order

Findings

Are there reasonable grounds to believe that a **child is in need of care?**

ABUSE

The child is the victim of **abuse**

"Abuse" means any one of the following acts:

- (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of **physical or mental injury** upon the child by a parent or any other person.
- (b) The **exploitation or overwork** of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.
- (c) The **involvement of the child in any sexual act** with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:
 - (i) Any sexual act with any other person.
 - (ii) Pornographic displays.
 - (iii) Any sexual activity constituting a crime under the laws of this state.
- (d) A coerced abortion conducted upon a child.

the abuse was perpetrated, aided, or tolerated by the **parent or caretaker**, by a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or by a person living in the same residence with the parent or caretaker as a spouse whether married or not

AND

the **abuse seriously endangers the physical, mental, or emotional health and safety of the child**

NEGLECT

the child is a victim of **neglect**.

"Neglect" means the **refusal or unreasonable failure** to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, including prenatal neglect.

the neglect is by a parent or caretaker

AND

the child's physical, mental or emotional health and safety is substantially threatened or impaired

Temporary Restraining/Protective Order

Temporary Restraining/Protective Order (continued)

OTHER GROUNDS:

the child is without necessary food, clothing, shelter, medical care, or supervision because of the disappearance or prolonged absence of his parent or when, for any other reason, the child is placed at **substantial risk of imminent harm** because of the continuing absence of the parent.

as a result of a criminal prosecution, the parent has been convicted of a crime against the child who is the subject of this proceeding, or against another child of the parent, and the parent is now unable to retain custody or control or the child's welfare is otherwise endangered if left within the parent's custody or control.

the conduct of the parent, either as principal or accessory, constitutes a crime against the child or against any other child.

the child is a victim of human trafficking or trafficking of children for sexual purposes.

the child is a victim of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by any person regardless of their relationship to the child.

Findings

Based on abuse/neglect alleged, court finds:

Restraining order can protect child from abuse or neglect

Good cause shown for ex parte order, including immediate and present danger of abuse

Temporary Restraining Order - may include but not limited to the following:

Directing the defendant to refrain from abusing, neglecting, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the children, or any person alleged to be incompetent, on whose behalf a petition was filed.

Awarding to a party use and possession of specified community property, such as an automobile.

Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:

(a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought.

Temporary Restraining/Protective Order (continued)

(b) The residence is solely owned by the petitioner of the person on whose behalf the petition is brought.

(c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.

Prohibiting either party from transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.

Rule to show cause why a protective order should not be issued

set within 10 days (may be continued up to 10 additional days)

notice and service of TRO and hearing

Protective order findings

court has jurisdiction over parties and subject matter

parties consent or have had notice and opportunity to be heard

protective order would eliminate the need for removal of the child to protect him from further abuse

allegations proven by a preponderance of the evidence

Protective Order - may include but not limited to the following:

Relief available under TRO (above)

When there is a duty to support a party, any minor children, or any person alleged to be incompetent living in the residence or household, ordering payment of temporary support or provision of suitable housing for them.

Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any minor children or person alleged to be incompetent.

Ordering counseling or professional medical treatment for either the defendant or the abused or neglected person, or both

Fixed period of time not to exceed six months

Service of order

Essential Judicial Functions: Instanter custody/safety plan order

Findings

Reasonable grounds to believe that a **child is in need of care**

ABUSE

The child is the victim of **abuse**

"Abuse" means any one of the following acts:

- (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of **physical or mental injury** upon the child by a parent or any other person.
- (b) The **exploitation or overwork** of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.
- (c) The **involvement of the child in any sexual act** with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:
 - (i) Any sexual act with any other person.
 - (ii) Pornographic displays.
 - (iii) Any sexual activity constituting a crime under the laws of this state.
- (d) A coerced abortion conducted upon a child.

the abuse was perpetrated, aided, or tolerated by the **parent or caretaker**, by a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or by a person living in the same residence with the parent or caretaker as a spouse whether married or not

AND

the **abuse seriously endangers the physical, mental, or emotional health and safety of the child**

NEGLECT

the child is a victim of **neglect**.

"Neglect" means the **refusal or unreasonable failure** to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, including prenatal neglect

the neglect is by a parent or caretaker

AND

the child's physical, mental or emotional health and safety is substantially threatened or impaired

Instanter custody/safety plan order

OTHER CINC GROUNDS:

[] the child is without necessary food, clothing, shelter, medical care, or supervision because of the disappearance or prolonged absence of his parent or when, for any other reason, the child is placed at **substantial risk of imminent harm** because of the continuing absence of the parent.

[] as a result of a criminal prosecution, the parent has been convicted of a crime against the child who is the subject of this proceeding, or against another child of the parent, and the parent is now unable to retain custody or control or the child's welfare is otherwise endangered if left within the parent's custody or control.

[] the conduct of the parent, either as principal or accessory, constitutes a crime against the child or against any other child.

[] the child is a victim of human trafficking or trafficking of children for sexual purposes.

[] the child is a victim of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by any person regardless of their relationship to the child.

[] emergency removal or implementation of a safety plan is **necessary to secure the child's protection**

[] **reasonable efforts** made by DCFS to prevent or eliminate the need for the child's removal:

What is the current health/safety threat to this child?

History of threat, including previous complaints and services offered/provided

Has this threat been discussed with the family?

What services are related to that specific threat?

Are these services currently available?

Were these services offered to the family?

Is the family refusing services?

Was the family asked what services they think could remove the threat?

Will the removal or addition of another person from/to the home keep the child safe?

What other family members have been identified?

Has the possibility of providing a placement or other resources to the family been explored?

Instanter custody/safety plan order (continued)

- Can the health/safety of the child be protected by a TRO?
- Can the health/safety of the child be protected by a Protective order?
- Can the health/safety of the child be protected by a Safety plan order?

Denial of request for removal or safety plan order

emergency removal or issuance of a safety plan order is not necessary to secure the child's protection

OR

Safety Plan Order

written findings of fact supporting the necessity for the safety plan to safeguard child's welfare

require compliance with the terms/conditions of the safety plan as determined by or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home.

OR

Removal Order

written findings of fact supporting the necessity for the child's removal in order to safeguard child's welfare

provisional custody to suitable relative/individual capable of protecting the health/safety of child

includes order that custodian comply with safety plan

or

custody to DCFS

If oral safety plan or removal order given,

DCFS affidavit must be filed within 24 hours, including if child is at home or in placement

written court order issued

findings of fact supporting the necessity for the child's removal or implementation of a safety plan order in order to safeguard child's welfare

IF child removed,

determination of custodian.

and

set continued custody hearing - to be held within 3 days if child not returned home

IF safety plan ordered,

set continued custody hearing unless parents sign safety plan

Notice

DCFS to promptly notify parents/caretaker of the nature of the allegations, conditions of any safety plan, and the time and place of the continued custody/continued safety order hearing

Instanter custody/safety plan order (end)

Essential Judicial Functions: Continued Custody Hearing

Continuance

Did you:

- make a finding of good cause?
- determine best interests of the child?
- limit the continuance to 3 days?
- issue a written order identifying the mover and reciting the particular facts justifying the continuance?



A continuance exceeding the 3-day statutory maximum must be reported to the Supreme Court!

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- ensure that the Department has made reasonable efforts to place siblings together in foster, kinship and adoptive homes unless contrary to the safety or well-being of the child?

NOTE: If siblings are not placed together, the Department must document why not and must make reasonable efforts to provide frequent visitation or other on-going contact between siblings. You should ensure that the Department has written visitation plans for siblings. Sibling visits should not be dependent upon parent visits.

- ascertain that the Department has coordinated with appropriate local education agencies to ensure that the child remains enrolled in the school in which the child was enrolled at the time of placement. If changing schools is in the child's best interest, then the Department must document the reasons therefore.

Advice of Rights

Did you:

- advise the parent(s)/child of the nature of the proceedings?
- advise the parent(s)/child of the nature of the allegations?
- advise the parent(s)/child of the right to an adjudication hearing, including the right to call and cross-examine witnesses and the right to appeal?
- advise the parent(s)/child of the right to counsel?



Consider having parent(s) acknowledge on the record and/or execute a written acknowledgement of advisement and understanding of rights!

Appointments

Did you:

- appoint qualified counsel for the child(ren)? See Appendix.
- make a finding of indigency and appoint counsel for the parent(s)?
- appoint a curator for any absentee parent(s)?
- appoint CASA for the child(ren)?

Continued Custody Hearing

Continued Custody Hearing (continued)

Probable Cause

Did you:

- make written, individualized findings (documented in court order) that the continued custody is necessary for the child's safety and protection and is in the child(ren)'s best interest?**
- find reasonable grounds to believe that the child is in need of care?

Reasonable Efforts

Did you:

- make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to prevent need for removal from home and, after removal, to make it possible for child to safely return home?**

Custody

Did you:

- specify reasons why relative placement is not in the best interest of the child(ren)?
- ask persons present to identify all parents of child(ren) and their whereabouts and to identify other potential relatives/caretakers?
- avoid ordering a specific placement when granting custody to the Department?**

If child(ren) continued in custody of the Department:

Did you advise the parents of:

- the child(ren)'s need to have a safe and stable relationship with caretakers who are willing and able to assume parental responsibility and provide a permanent home, and to have these caretaker decisions made as quickly as possible?
- their responsibility to keep the Department apprised of their current address, to cooperate in preparing a case plan and otherwise in meeting the needs of their child(ren), and if the child(ren) cannot safely return home, to assist the child(ren)'s adjustment to other caretakers, and their obligation to contribute to the cost of care and treatment of their children?



This is a good time to address issues of visitation and the making payments toward the cost of care during the child(ren)'s stay in foster care!



The answer must be set within 15 days after the petition is filed. It's a good idea to notify all parties in open court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Continued Custody Hearing (end)

Essential Judicial Functions: Continued Custody Hearing in Delinquency and FINS Cases

Continuance

Did you:

- make a finding of good cause?
- determine best interests of the child?
- limit the continuance to 3 days?
- issue a written order identifying the mover and reciting the particular facts justifying the continuance?



A continuance exceeding the 3-day statutory maximum must be reported to the Supreme Court!

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- ensure that the Department has made reasonable efforts to place siblings together in foster, kinship and adoptive homes unless contrary to the safety or well-being of the child?

NOTE: If siblings are not placed together, the Department must document why not and must make reasonable efforts to provide frequent visitation or other on-going contact between siblings. You should ensure that the Department has written visitation plans for siblings. Sibling visits should not be dependent upon parent visits.

- ascertain that the Department has coordinated with appropriate local education agencies to ensure that the child remains enrolled in the school in which the child was enrolled at the time of placement. If changing schools is in the child's best interest, then the Department must document the reasons therefore.

Advice of Rights

Did you:

- advise the parent(s)/child of the nature of the proceedings?
- advise the parent(s)/child of the nature of the allegations?
- advise the parent(s)/child of the right to an adjudication hearing, including the right to call and cross-examine witnesses and the right to appeal?
- advise the parent(s)/child of the right to counsel?

Appointments

Did you:

- appoint qualified counsel for the child(ren)? See Appendix.
- make a finding of indigency and appoint counsel for the parent(s)?
- appoint a curator for any absentee parent(s)?
- appoint CASA for the child(ren)?



Consider having parent(s) acknowledge on the record and/or execute a written acknowledgment of advisement and understanding of rights!

Continued Custody Hearing

Continued Custody Hearing (continued)

Probable Cause

Did you:

- make written, individualized findings (documented in court order) that the continued custody is necessary for the child's safety and protection and is in the child(ren)'s best interest, i.e., that is "contrary to the welfare" of the child NOT to come into custody?**

NOTE: The court must identify specific reasons why remaining at home is not in the child's best interest and is necessary to protect the health and safety of the child, e.g., that it is contrary to the child's welfare to remain in the care, custody and control of his/her parent or guardian because the parent(s) are unwilling/unable to monitor or control the child, the child's behavior or environment is such that it has an adverse or potentially adverse impact of the child's physical safety or emotional well-being or that as a result of the seriousness or violence of the alleged act, the child's safety is compromised in some way by being released.

Reasonable Efforts

Did you:

- make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to prevent need for removal from home and, after removal, to make it possible for child to safely return home?**

NOTE: A reasonable efforts determination must be made by the court to document in the record what efforts the State has made to prevent the child's removal from the home. Examples of such efforts in delinquency and FINS cases may include State efforts focused on preventing further deterioration of the child's delinquent behavior (informal FINS); whether the child has been assessed and provided services (informal FINS); whether any alternative or diversionary program(s) have been attempted (prior delinquency probation, etc.); whether attempts have been made to explore relatives or other potential caregivers; or other alternatives to detention.

Custody

Did you:

- specify reasons why relative placement is not in the best interest of the child(ren)?
- ask persons present to identify all parents of child(ren) and their whereabouts and to identify other potential relatives/caretakers?
- avoid ordering a specific placement when granting custody to the Department?**

Continued Custody Hearing (continued)

Continued Custody Hearing (continued)

If child(ren) continued in custody of the Department:

Did you advise the parents of:

- ❑ the child(ren)'s need to have a safe and stable relationship with caretakers who are willing and able to assume parental responsibility and provide a permanent home, and to have these caretaker decisions made as quickly as possible?
- ❑ their responsibility to keep the Department apprised of their current address, to cooperate in preparing a case plan and otherwise in meeting the needs of their child(ren), and if the child(ren) cannot safely return home, to assist the child(ren)'s adjustment to other caretakers?



This is a good time to address issues of visitation and the making of payments toward the cost of care during the child(ren)'s stay in foster care!



The answer must be set within 15 days after the petition is filed. It's a good idea to notify all parties in open court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Continued Custody Hearing (end)

Essential Judicial Functions: Appearance to Answer

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.

Pre-hearing Conference

Did you:

- Convene a pre-hearing conference or set a date for the conference?



An appearance hearing allowed to take place more than 15 days after the petition is filed must be reported to the Supreme Court!

If not previously done, did you:

- advise the parent(s)/child(ren) of the nature of the proceedings?
- advise the parent(s)/child(ren) of the nature of the allegations?
- advise the parent(s)/child(ren) of the right to an adjudication hearing?
- advise the parent(s)/child(ren) of the right to counsel?



Consider having parent(s) execute a written acknowledgement of advisement and understanding of rights!

Appointments

If not previously done, did you:

- appoint qualified counsel for the child(ren)? See Appendix.
- make a finding of indigency and appoint counsel for the parent(s)?
- appoint a curator for any absentee parent(s)?
- appoint CASA for the child(ren)?

Stipulation

Did you:

- check that a pre-hearing conference was conducted?
- check that the Department approves of stipulation, if child(ren) in custody?
- personally and fully inform the parent(s) of their rights?

Appearance to Answer

Appearance to Answer (continued)

- personally and fully inform the parent(s) of the consequences of the stipulation, including the parent's responsibility to comply with the case plan and correct the conditions requiring the child(ren) to be in care?
- Ascertain that the consent to judgment is knowing and voluntary?

Answer

Did you:

- determine that the parent denies or admits the allegations of the petition?
- determine, upon admission, that there is a factual basis for adjudication and that the parent(s) consent to adjudication?



The adjudication must be set within 45 days of the filing of the petition. It's a good idea to notify all parties in open court!

Appearance to Answer (end)

Essential Judicial Functions: Adjudication Hearing

Continuance

Did you:

- make a finding of good cause?
- determine extraordinary circumstances?
- limit the continuance to 5 days maximum?
- issue a written order identifying the mover and reciting the particular facts justifying the continuance?



A continuance exceeding the 5-day statutory maximum must be reported to the Supreme Court!

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.

Taken Under Advisement

Did you:

- find exceptional circumstances for taking under advisement?
- limit the period to 10 days maximum?



An adjudication decision taken under advisement for more than 10 days must be reported to the Supreme Court!

Findings

Did you:

- find that the state proved the allegations by a preponderance of the evidence and that the evidence warrants an adjudication of Child In Need of Care?

-or-

- find that the evidence warrants an adjudication of Families In Need of Services?

-or-

- find that the evidence does not warrant a Child In Need of Care or Families In Need of Services adjudication and dismiss the petition?



The disposition hearing must be set within 30 days of the adjudication. It's a good idea to notify all parties in open court!

Custody

Did you:

- avoid ordering a specific placement when granting custody to or maintaining custody with the Department?**
- ask persons present to identify all parents of child(ren) and their whereabouts and to identify other potential relatives/caretakers?**

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Adjudication Hearing

Essential Judicial Functions: Disposition Hearing

Continuance

Did you:

- make a finding of good cause?
- determine best interest of child?
- issue a written order identifying the mover and reciting the particular facts justifying the continuance?



A setting for a disposition more than 30 days following the adjudication must be reported to the Supreme Court!

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- ensure that the Department has made reasonable efforts to place siblings together in foster, kinship and adoptive homes unless contrary to the safety or well-being of the child?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.

Custody

Did you:

- specify reasons why relative placement is not in best interest of child(ren)?
- make written, individualized findings (documented in court order) that continued custody is necessary for the child(ren)'s safety and protection?**
- make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to prevent need for removal from home and, after removal, to make it possible for child(ren) to safely return home, including what preventive and/or reunification efforts were made and why further efforts could/could not have prevented/shortened the separation of the family?**
- make findings on whether out-of-state placement (if applicable) is safe, appropriate and in child(ren)'s best interest?
- avoid ordering a specific placement when granting custody to or maintaining custody with the Department?**

Advice to Parent(s)

Did you:

- advise parent(s) of case review and permanency review procedure?
- advise parent(s) of obligation to: cooperate with Department, comply with case plan, keep Department apprised of current address, and correct conditions requiring child(ren) to be in care?

Disposition Hearing

Disposition Hearing (continued)

- ❑ advise parent(s) that petition to terminate parental rights may be filed if parents fail to comply with case plan, make significant measurable progress toward achieving case plan goals, and/or correct conditions requiring the child to be in care -or- if any other termination grounds are authorized?

Case Plan

Did you:

- ❑ find that the case plan submitted by the Department is consistent with the health and safety of the child and is in the best interest of the child, approve the case plan and order compliance?

-or-

- ❑ make specific written reasons why not?
- ❑ ensure that the Department's case plan has written visitation plans for siblings not placed together. Sibling visits should not be dependent upon parent visits.
- ❑ ensure that the Department in the child's case plan has coordinated with appropriate local education agencies to make sure that the child remains enrolled in the school in which the child was enrolled at the time of placement. If changing schools is in the child's best interest, then the Department must document the reasons therefore.
- ❑ ensure that the child's case plan includes assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement.
- ❑ ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Judgment of Disposition

Did you:

- ❑ enter a written order of disposition that specifies: the nature of the disposition, the maximum duration, the custodian(s), and service provision responsibilities?
- ❑ sign and date the written judgment of disposition?

Parental Contribution to Costs

Did you:

- ❑ determine parental ability to pay and order parental contribution to costs of care?



The first permanency review must be set within 270 days if the child was removed prior to disposition or within 365 days if removed at disposition, but in no case more than 365 days after removal!



The first case review must be set within 90 days if the child was removed prior to disposition or within 180 days if the child was removed at disposition. It's a good idea to notify all parties in open court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Disposition Hearing (continued)

Essential Judicial Functions: Case Review Hearing

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Attend and Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?
- or-
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?
- or-
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?

Review

Did you:

- consider the safety of the child?
- determine the continuing necessity for and appropriateness of the child(ren)'s placement?

Case Review Hearing

Case Review Hearing (continued)

- ❑ determine the extent of compliance with the case plan?
- ❑ determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement?
- ❑ thoroughly consider barriers to reunification?
- ❑ fine-tune visitation (parent and/or sibling) if necessary?
- ❑ seek relative resources?
- ❑ determine a likely date by which the child(ren) may be permanently placed?

Case Plan Review

Did you:

- ❑ make a written finding that the case plan submitted by the Department is consistent with the health and safety of the child(ren) and is in the best interest of the child(ren), approve the plan and order compliance by all parties?

-and-

- ❑ advise parent(s) of obligation to: cooperate with Department, comply with case plan, keep Department apprised of current address, and correct conditions requiring child(ren) to be in care?

-and-

- ❑ advise parent(s) that a petition to terminate parental rights may be filed if parents fail to: comply with case plan, make significant measurable progress toward achieving case plan goals, and/or correct conditions requiring the child to be in care -or- if any other termination grounds are authorized?
- ❑ ensure that the child has an appropriate transition plan before the youth reaches age 18.

-OR-

- ❑ find that the case plan submitted by the Department is not appropriate, in whole or in part, based on the evidence presented?

-and-

- ❑ make specific written reasons for finding that the plan does not protect the health and safety of the child(ren) or is otherwise not in the best interest of the child(ren)?

-and-

- ❑ order the Department to revise the case plan accordingly?



The next case review hearing must be set within 180 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 180-day statutory maximum must be reported to the Supreme Court!

Case Review Hearing (end)

Essential Judicial Functions: Permanency Hearing - Reunification

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Notice and Opportunity to Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?**
- or-**
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?**
- or-**
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?**

Permanency Hearing - Reunification

Permanency Hearing - Reunification (continued)

Permanent Plan – Reunification (Exploratory Questions)

- What are the case facts?
- If the child is age appropriate, what is the child's position on returning home?
- What does the case plan include, and how was it developed?
- Did the Department involve the parent in case planning and support the parent's participation?
- What services are included in the case plan?
- How have these services affected the parent's behavior or skills?
- What services are not in place, and why not?
- What has the court previously ordered regarding visitation, and what is the status of visitation?
- Is sibling and extended family visitation taking place?
- Have the Department caseworkers been diligent in implementing the agency's case plan?
- Have the parents been diligently following through on the case plan?
- What has happened since the case came into the system and the case plan developed?
- What is different now?
- What needs to happen to make return home possible?
- What has the Department done to reduce the likelihood of disruption if the child is returned?
- How much effort is reasonable?

Did you:

- ❑ **consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child? (See Appendix for federal guidance and a Youth Attending Court Checklist.)**
- ❑ **determine that reunification for the child(ren) is the most appropriate permanent plan and in the best interest of the child(ren), considering the child(ren)'s health and safety as the paramount concern, in accordance with the priorities of placement?**

If so, did you:

- ❑ find that the plan includes a specified time period for return consistent with the child's age and need for a safe and permanent home?
 - ❑ find the parent(s) compliant with the case plan and making significant measurable progress toward achieving goals and correcting conditions requiring child(ren) to be in care?
 - ❑ ensure that the child has an appropriate transition plan before the youth reaches age 18.
- NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.*

Permanency Hearing - Reunification (continued)

Permanency Hearing - Reunification (continued)

- ❑ **find that an out-of-state placement is safe, appropriate and otherwise in the best interests of the child, if applicable?**
- ❑ **avoid ordering a specific placement when maintaining custody with the Department?**

Reasonable Efforts

Did you:

- ❑ **make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to reunify the parent(s) and child(ren) or to finalize another appropriate permanent plan?**

Order(s) to Facilitate Permanency

Did you:

- ❑ enter any orders necessary and appropriate to facilitate the timely achievement of the child(ren)'s permanent plan, including an order to file a termination petition when the child has been in care for 15 of the last 22 months?



The next permanency review must be set within 365 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 365-day statutory maximum must be reported to the Supreme Court!

Red type indicates **LOSS OF FEDERAL FUNDING** for non-compliance

Permanency Hearing - Reunification (end)

Essential Judicial Functions: Permanency Hearing – Adoption (including TPR)

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Notice and Opportunity to Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?**
- or-**
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?**
- or-**
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?**

Permanency Hearing – Adoption (including TPR)

Permanency Hearing – Adoption (including TPR) (continued)

Permanent Plan – TPR Phase (Exploratory Questions)

- Are there any putative fathers, and do they have any rights?
- Who is entitled to notice and service of the TPR petition? How will this be accomplished? Missing parents? Foster and pre-adoptive parents?
- Can permanency be achieved without a trial? Voluntary surrender? Mediation? Family group conferencing?
- What records and/or testimony will be necessary to the case?
- What can be done to avoid trial delays?
- Have Indian Child Welfare Act (ICWA) mandates been met, if applicable?

Permanent Plan – Adoption (Exploratory Questions)

- Background
 - What is the child's placement history?
 - What are the child's wishes regarding adoption?
 - Are the current caregivers and/or relatives appropriate as adoptive parents, and if so, are they interested in adopting?
 - If an adoptive resource has not been identified, what is the Department doing to recruit, identify and process adoptive families?
- Agency's efforts to identify and recruit an adoptive resource
 - Has the Department placed the child with adoption listings and exchanges locally, regionally and/or nationally?
 - Has the Department made the child visible to other public and private adoption agencies, including special needs adoption agencies?
 - Has interstate adoption been considered?
 - Are there any special issues that would make the child hard to place?
 - Has information been provided to prospective adoptive parents concerning available adoption subsidies and other benefits?
 - If any families have started the approval process and been rejected, what are the reasons for the rejection?
- Agency's efforts to approve adoptive parents
 - Has an orientation been provided?
 - Is the home study complete? If not, by when?
 - Have criminal and child abuse backgrounds been checked?
 - Has the Department collected all relevant documents from those individuals who have passed the preliminary hurdles?
 - Has the Department shared all relevant information about the child with the adoptive family?
 - What remains to be done, and what is the timeframe for accomplishing these tasks?

Permanency Hearing – Adoption (including TPR) (continued)

Permanency Hearing – Adoption (including TPR) (continued)

- Post-adoption services
 - What types of post-adoption services will be needed, and are they being arranged?
- Post-adoption contact with biological family members
 - Should continuing contact with a grandparent, sibling or any parent be considered?
 - Would a visitation agreement affect the parent’s or child’s feelings about adoption?
 - Is post-adoption contact with members of the child’s birth family in the child’s best interest?

Did you:

- ❑ **consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child? (See Appendix for federal guidance and a “Youth Attending Court Checklist.”)**
- ❑ **determine that adoption of the child(ren) is the most appropriate permanent plan and in the best interest of the child(ren), considering the child(ren)'s health and safety as the paramount concern, in accordance with the priorities of placement?**

If so, did you:

- ❑ **find that an out-of-state placement is safe, appropriate and otherwise in the best interests of the child, if applicable?**
- ❑ **avoid ordering a specific placement when maintaining custody with the Department?**

Reasonable Efforts

Did you:

- ❑ **make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to finalize the child(ren)'s permanent plan?**

Order(s) to Facilitate Permanency

Did you:

- ❑ enter any orders necessary and appropriate to facilitate the timely achievement of the child(ren)'s permanent plan, including an order to file a termination petition?



The next permanency review must be set within 365 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 365-day statutory maximum must be reported to the Supreme Court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Permanency Hearing – Adoption (including TPR) (end)

Essential Judicial Functions: Permanency Hearing – Legal Guardianship

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Notice and Opportunity to Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?**
- or-**
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?**
- or-**
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?**

Permanency Hearing – Guardianship

Permanency Hearing – Legal Guardianship (continued)

Permanent Plan – Legal Guardianship (Exploratory Questions)

- What are the child’s unique needs, preferences and best interests?
- Are there convincing reasons why the child cannot or should not be adopted?
- Is this the best permanent guardian for the child, and is the guardian committed to staying involved with the child through the child’s life?
- Has the Department shared all relevant information about the child with the prospective guardians?
- Has the Department conducted the necessary background check?
- Does the caregiver need legal help?
- If the guardian will need financial help to care for the child, is such assistance available?
- Has the Department made sure that the prospective guardians fully understand their rights and responsibilities?
- Do the caregivers have any questions about the guardianship?
- Will there be ongoing contact with the child’s parents, siblings or other family members?
- Will the Department be monitoring the family, or providing any services in the future?

Did you:

- ❑ **consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child? (See Appendix for federal guidance and a “Youth Attending Court Checklist.”)**
- ❑ **determine that legal guardianship is the most appropriate permanent plan and in the best interest of the child(ren), considering the child(ren)'s health and safety as the paramount concern, in accordance with the priorities of placement?**

If so, did you:

- ❑ **find that an out-of-state placement is safe, appropriate and otherwise in the best interests of the child, if applicable?**
- ❑ **avoid ordering a specific placement when maintaining custody with the Department?**

Reasonable Efforts

Did you:

- ❑ **make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren)?**

Permanency Hearing – Legal Guardianship (continued)

Permanency Hearing – Legal Guardianship (continued)

Guardianship Assistance: Court Findings Required Pursuant to the Fostering Connections and Increasing Adoptions Act of 2008

Did you:

- ❑ **ascertain and make written findings (documented in court order) as to:**
 - ❑ **why return home and adoption are not appropriate permanency options?**
 - ❑ **the reasons for any separation of siblings?**
 - ❑ **the reasons why a subsidized guardianship is in the child's best interests?**
 - ❑ **the ways in which the child meets the State's eligibility requirements?**
 - ❑ **efforts to discuss adoption with kinship caregivers and guardianship with parents?**

Order(s) to Facilitate Permanency

Did you:

- ❑ enter any orders necessary and appropriate to facilitate the timely achievement of the child(ren)'s permanent plan?



The next permanency review must be set within 365 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 365-day statutory maximum must be reported to the Supreme Court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Permanency Hearing – Legal Guardianship (end)

Essential Judicial Functions: Permanency Hearing – Placement with Relatives

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Notice and Opportunity to Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?**
- or-**
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?**
- or-**
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?**

Permanency Hearing – Placement with Relatives (continued)

Permanent Plan – Placement with Relatives (Exploratory Questions)

- What will the legal status of the placement be?
 - Will the child remain in foster care?
 - What custody arrangement provides the appropriate level of supervision?
 - Should the relative adopt or do a guardianship?
- Is this the right plan?
 - Does the child have a bond with this family?
 - Are non-relatives willing to adopt or accept guardianship?
 - Will this placement help preserve family identity?
 - Will this placement help preserve a sibling bond?
 - What is the child's position?
- Is this the right family?
 - Does the Department have a complete picture of the family's situation?
 - Do family dynamics compromise the relative's ability to safeguard the child?
- Has the Department observed the interaction between the child and the relative?
 - Have relatives received counseling when appropriate?
 - What is the relative's commitment to the child?
 - Is the placement stable and long-term?
 - Has the Department collected and reported to the court sufficient information about the relative's home?
- Has the Department complied with the ICPC if the relative lives out of state?
- Have all necessary services been provided?

Did you:

- ❑ **consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child? (See Appendix for federal guidance and a "Youth Attending Court Checklist.")**
- ❑ **determine that the permanent plan of relative placement for the child(ren) is the most appropriate and in the best interest of the child(ren), considering the child(ren)'s health and safety as the paramount concern, in accordance with the priorities of placement?**
- ❑ **find that an out-of-state placement is safe, appropriate and otherwise in the best interests of the child, if applicable?**
- ❑ **avoid ordering a specific placement when maintaining custody with the Department?**

Permanency Hearing – Placement with Relatives (continued)

Permanency Hearing – Placement with Relatives (continued)

Reasonable Efforts

Did you:

- ❑ **make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to finalize the permanent plan?**

Order(s) to Facilitate Permanency

Did you:

- ❑ enter any orders necessary and appropriate to facilitate the timely achievement of the child(ren)'s permanent plan.



The next permanency review must be set within 365 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 365-day statutory maximum must be reported to the Supreme Court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Permanency Hearing – Placement with Relatives (end)

Essential Judicial Functions: Permanency Hearing – Alternative Permanent Living Arrangement

Indian Child Welfare Act

Did you:

- make inquiry concerning the possible applicability of ICWA to each child?

Fostering Connections and Increasing Adoptions Act Considerations

Did you:

- ascertain that the Department has exercised due diligence to identify and notify relatives of the child regarding this hearing and that the Department will continue its search for relatives and notify them of future hearings?
- if child is not placed with siblings, ascertain if circumstances have changed that would allow for placement with siblings.
- ensure that the child has an appropriate transition plan before the youth reaches age 18.
NOTE: During the 90-day period immediately prior to the date the child will attain age 18, the Department must provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and is as detailed as the child may elect. Federal law requires that youth play an active role in the planning for their present and future. Courts should engage youth in court proceedings and encourage their participation.

Intervention (if applicable)

Did you:

- find good cause for intervention by interested person/agency/organization?
- limit intervention to facilitate permanent placement and ensure best interests are protected?
- limit the nature and extent of participation in hearing, if needed?

Right to Notice and Opportunity to Be Heard

Did you:

- ensure that the foster parent/adoptive parent/relative providing care for the child is present and has an opportunity to be heard?**
- or-**
- ascertain that notice of the hearing and the right to attend and be heard was given by the Department to the absent foster parent/adoptive parent/relative providing care?**
- or-**
- find that diligent efforts were made by the Department to locate and notify the absent foster parent/adoptive parent/relative providing care?**

Permanency Hearing – Alternative Permanent Living Arrangement

Permanency Hearing – Alternative Permanent Living Arrangement (continued)

Permanent Plan – Alternative Permanent Living Arrangement (Exploratory Questions)

- Did the Department conduct a timely assessment and provide relevant services when the case first came in?
- Have other permanent options been fully considered and ruled out for valid, documented reasons?
- What efforts has the Department made to identify and recruit a permanent placement for the child?
- What are the child’s preferences?
- What are the compelling reasons why a more preferred permanent plan is not being selected?
- Is the proposed plan actually “a permanent living arrangement”?
- What support structures are being put into place?
- Does the child have any special needs, and what services is the Department providing?
- What efforts has the Department made to assess the safety, quality and stability of the alternative permanent living arrangement?

Did you:

- ❑ **consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child? (See Appendix for federal guidance and a “Youth Attending Court Checklist.”)**
- ❑ **determine that an alternative permanent living arrangement is the most appropriate permanent plan and in the best interest of the child(ren), considering the child(ren)'s health and safety as the paramount concern, in accordance with the priorities of placement?**
- ❑ find that the Department has documented the compelling reasons for recommending this plan over reunification, adoption, placement with a legal guardian or placement in the legal custody of relative?

If so, did you:

- ❑ **find that an out-of-state placement is safe, appropriate and otherwise in the best interests of the child, if applicable?**
- ❑ **avoid ordering a specific placement when maintaining custody with the Department?**

Reasonable Efforts

Did you:

- ❑ **make written, individualized findings (documented in court order) that the Department has or has not made reasonable efforts, based on the health and safety of the child(ren), to finalize the child(ren)'s permanent plan?**

Permanency Hearing – Alternative Permanent Living Arrangement (continued)

Permanency Hearing – Alternative Permanent Living Arrangement (continued)

Order(s) to Facilitate Permanency

Did you:

- enter any orders necessary and appropriate to facilitate the timely achievement of the child(ren)'s permanent plan?



The next permanency review must be set within 365 days. It's a good idea to set this date now and notify all parties in open court. A hearing exceeding the 365-day statutory maximum must be reported to the Supreme Court!

Red type indicates LOSS OF FEDERAL FUNDING for non-compliance

Permanency Hearing – Alternative Permanent Living Arrangement (end)

APPENDIX

RULE XXXIII. SPECIAL RULES FOR CHILD ABUSE AND NEGLECT CASES

PART I. Reassignment to Specialized Divisions

Section 1. Purpose

This rule is intended to effectuate the expeditious disposition of child abuse and neglect cases or juvenile cases under a one-family, one-judge policy.

Section 2. Definitions

"Child Abuse and Neglect Case" means any proceeding conducted by a court exercising juvenile jurisdiction involving the abuse or neglect of children as provided specifically in Titles VI, X, XI and XII of the Louisiana Children's Code and generally in other titles of said Code.

"One-Family, One-Judge Policy" means those policies and procedures that may be employed by a court to ensure that the same judge hears, to the extent possible, all cases involving a single family as a means of simplifying and coordinating the scheduling of cases for the parties and their attorneys, and as a means of addressing family problems in a more holistic manner.

"Specialized Division" means one or more sections of court or groups of judges in the same court designated to handle a particular type of case.

Section 3. Reassignment authority

A court having juvenile jurisdiction may reassign randomly allotted cases to a specialized division within the court pursuant to the provisions of this Part.

Section 4. Pilot program

Until such time as the legislature may grant formal authority for the permanent establishment of the specialized division, the authority herein granted by this Rule shall be limited to six years from the date a specialized division is established on a pilot basis. **[amended October 29, 2003]**

Section 5. Judicial consent to reassignment

A judge may be assigned to serve in the specialized division of the court only if the judge is in agreement with the pilot plan and consents to the assignment; no judge shall be coerced, in any way, to accept the assignment.

Section 6. Reporting

Upon the establishment of a specialized division, the court shall track the cases assigned to the specialized division and provide to the Supreme Court on a quarterly basis information indicating the improvements that have been achieved by the specialized division in the expedition of child abuse and neglect cases and those cases reassigned to the division under the one-family, one-judge policy.

Section 7. Random assignment of cases

In courts having more than one judge serving in the specialized division, new child abuse and neglect cases or those subject to the one-family, one-judge policy shall be randomly assigned within the division in accordance with Code of Civil Procedure Article 253.1 or by such other methods as may be provided by law for the expeditious processing of such cases.

PART II. Continuances [added June 12, 2002, effective September 1, 2002]

Section 1. Purpose.

This rule is intended to ensure that all judges exercising juvenile jurisdiction comply with the requirements of the Louisiana Children's Code regarding continuances and delays in child abuse and neglect cases, as defined in Part I, Section 2 of this Rule, specifically including the following time-sensitive case events:

Ch.C. Art. 624 Continued custody hearing

Ch.C. Art. 646 Appearance to answer

Ch.C. Art. 659 Adjudication hearing

Ch.C. Art. 666 Adjudication order

Ch.C. Art. 678 Disposition hearing

Ch.C. Art. 692 Case review hearing

Ch.C. Art. 702 Permanency hearing

Ch.C. Art. 1025.1 Appearance to answer (Termination of Parental Rights)

Ch.C. Art. 1031 Termination of Parental Rights hearing

Ch.C. Art. 1032 Continuances

Section 2. Non-compliance reports.

In the event that a continuance is granted or a delay is permitted that exceeds the maximum allowable statutory timeframe, the judge granting such continuance or permitting such delay shall report the non-compliance to the Court, through the Judicial Administrator. A copy of any order in which a continuance or delay exceeds the maximum legal time period, together with an explanation of the reasons for the delay, shall be submitted within ten days of the court's decision to grant the continuance or to permit the delay.

Reporting form follows this page.

Office of the Judicial Administrator
Supreme Court of Louisiana
1555 Poydras Street, Suite 1550
New Orleans, Louisiana 70112

REPORT OF NON-COMPLIANCE WITH STATUTORY TIME LIMITS

Supreme Court Rule XXXIII, Part II
Continuances and Delays in Child Abuse and Neglect Cases

[to be submitted within 10 days of court decision to grant continuance/permit delay]

Judge: _____

Court: _____

The following case has been continued or otherwise set beyond the maximum legal days:

Docket number: _____

<u>Case Event:</u>	<u>Maximum legal time period</u>
<input type="checkbox"/> Cont. Custody Hearing (Ch.C.Art 624)	3 days after child taken into custody
Continuance.....	3 day maximum for continuance
<input type="checkbox"/> Answer (Ch.C.Art 646)	15 days after filing of petition
<input type="checkbox"/> Adjudication Hearing (Ch.C.Art 659)	45 days from filing/child in custody
Continuance.....	105 days from filing/child not in custody
Continuance.....	5 day maximum for continuance
<input type="checkbox"/> Adjudication Order (Ch.C.Art 666).....	10 days maximum under advisement
<input type="checkbox"/> Disposition (Ch.C.Art 678)	30 days after adjudication
<input type="checkbox"/> Case Review Hearing (Ch.C.Art 692)	6 months from removal of child
<input type="checkbox"/> Permanency Hearing (Ch.C.Art 702)	30 days of Art. 672.1 decision that reasonable efforts are not required
	12 months from removal of child
<input type="checkbox"/> Termination Answer (Ch.C.Art 1025.1).....	15 days from filing of petition
<input type="checkbox"/> Termination Hearing (Ch.C.Art 1031)	60 days from answer

Maximum legal time period exceeded by: _____ days/months

Reasons for delay:

Attached is a copy of the order in which the continuance or delay exceeds the maximum legal time period.

APPROVED: _____

Signature of Judge

PART III. ATTORNEY QUALIFICATION AND STANDARDS

[effective July 1, 2005]

SUBPART I. Qualification

Section 1. Purpose

This rule provides an administrative procedure to ensure appointment of qualified counsel to children in child abuse and neglect proceedings.

Section 2. Applicability

The provisions of this rule apply to all counsel appointed on or after July 1, 2005 to represent children in Child Abuse and Neglect Cases, as defined in Rule XXXIII, Part I, Section 2.

Section 3. Qualifications of Appointed Counsel

A. Prior to appointment as counsel for children in child abuse and neglect proceedings, an attorney shall have the following qualifications:

1. The attorney shall be licensed to practice law in the State of Louisiana and in good standing with the Louisiana State Bar Association; and
2. Effective July 1, 2005, the attorney shall have completed within the last two years a minimum of eight hours of training or education relevant to child abuse and neglect cases, and/or shall have sufficient knowledge to satisfy the court of the attorney's qualifications.

Evidence of qualifications may include proof of attendance at relevant continuing education programs or documentation of qualifications signed by a judge.

3. Effective January 1, 2006 and thereafter, the attorney shall complete a minimum of six hours of approved continuing legal education each calendar year, and shall submit to the Supreme Court documentation of compliance no later than January 31 of the following calendar year.

The requisite education shall include relevant law and jurisprudence, child development, child abuse and neglect, and the roles, responsibilities and duties of independent counsel for children, including the Standards for Representation of Children.

B. Attorneys shall submit evidence of their qualifications to the Louisiana Supreme Court, Division of Children and Families, and a list of attorneys qualified for appointment shall be maintained and published by the Court.

C. Appointment of counsel for children in child abuse and neglect cases shall be made from the list of qualified attorneys, except when the court appoints an attorney otherwise qualified but not yet on the list. In that case, the court shall document the qualifications of the attorney and instruct the attorney to file the documentation with the Supreme Court.

Reporting form follows this page.

*Supreme Court
State of Louisiana
Office of the Judicial Administrator
Division of Children and Families*

CHILD ATTORNEY QUALIFICATIONS FORM

(effective January 1, 2006)

for compliance with
Part J, Rule XXXIII, Part III
of the Rules of the Supreme Court of Louisiana

For calendar year 20__:

I, _____ (attorney name) do hereby submit the following qualifications for representation of children in child abuse and neglect cases:

I am currently licensed to practice law in Louisiana and am in good standing with the Louisiana State Bar Association.

AND

I have read and understand the Supreme Court Rules For Cases Involving the Protection of Children, including the Standards of Practice, and hereby agree to abide by them in my representation of children in child abuse and neglect cases.

AND

I have completed a minimum of six hours of continuing legal education relevant to child abuse and neglect cases, as is evidenced by the attached documentation.

Date: _____ Attorney: _____

Print Name: _____

Bar number: _____

Address: _____

Send to: LASC, Division of Children and Families 504-599-0098 (fax)
1555 Poydras Street, Suite 1550, New Orleans, LA 70112

SUBPART II. Child Attorney Standards

Standard 1. Continuing right to counsel

Each child has a right to independent counsel at every stage of Child in Need of Care proceedings, which right begins at the continued custody hearing and continues through subsequent Certification for Adoption proceedings, including any relevant writs or appeals.

An attorney serving as counsel for a child in a Child in Need of Care proceeding should continue representation of the child through any subsequent Certification for Adoption proceedings, including any relevant writs or appeals.

Standard 2. Duties

An attorney serving as independent counsel for a child owes the same duties of loyalty, confidentiality, advocacy and competent representation to the child as are owed to any client.

Standard 3. Client abilities

Counsel for a child should ensure the child's ability to provide client-based direction by structuring all communications to account for the child's age, level of education, developmental level, cultural context and degree of language acquisition.

Standard 4. Basic obligations

Counsel for a child should:

Obtain copies of all pleadings and notices;

1. Participate in discovery, negotiations, conferences and hearings;
2. Inform other parties and counsel of the attorney's representation and expectation of reasonable notice of any conferences and hearings and of any changes in circumstances affecting the child and the child's family;
3. Avoid creating and attempt to reduce delays in the proceedings and advocate for timely permanence for the child;
4. Advise the child about the case, the child's rights, the court system, the proceedings, counsel's role, expectations of the legal process, the risks and benefits of possible courses of action, and other relief;
5. Determine the client's desires and preferences in a developmentally appropriate and culturally sensitive manner;
6. Advocate for the desires and expressed preferences of the child and follow the child's direction throughout the case in a developmentally appropriate manner;
7. Develop a theory and strategy for hearings; and
8. Identify appropriate family and professional resources for the child.

Standard 5. Conflict of interest

If counsel is or has formerly represented another party in the case or is appointed for siblings, there may be a conflict which could require that counsel decline representation or withdraw from representing all of the children.

Standard 6. Client under a disability

Counsel for a child should determine whether the child is “under a disability” pursuant to the Rules of Professional Conduct with respect to each issue in which the child is called upon to direct the representation.

To the extent that a child cannot express his/her desires and preferences, counsel for the child shall make a good faith effort to determine the child's wishes and advocate accordingly and/or request appointment of a Court Appointed Special Advocate.

To the extent that a child does not or will not express his/her desires and preferences about particular issues, the child's attorney should determine and advocate the child's best interests. Determination of the child's best interests should be based on objective criteria, such as the child's specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing and permanent environment, and the use of the least restrictive alternatives available.

If counsel for a child determines that the child's expressed desires and preferences would be seriously injurious to the child, the lawyer may request appointment of a Court Appointed Special Advocate to advocate for the best interest of the child and continue to represent the child's expressed desires and preferences, unless the child's position is prohibited by law or is without any factual foundation. Counsel for a child shall not reveal the basis of the request for appointment of a Court Appointed Special Advocate which would compromise the child's position.

Standard 7. Meet with the child

Establishing and maintaining a relationship with a child is the foundation of representation. Regardless of the age of the child, counsel for the child must engage in regular and meaningful communication with the child in a developmentally appropriate manner, and should personally meet with the child no later than 15 days after appointment, prior to all court hearings, and when advised of any change in circumstances affecting the child.

Standard 8. Investigate

Counsel for a child should conduct thorough, continuing and independent investigations and discovery, including but not limited to:

1. Reviewing the social service, psychiatric, psychological, drug and alcohol, medical, law enforcement, school and other records of the child;
2. Reviewing the court files of the child and siblings, case-related records of the Department of Social Services and other service providers;
3. Contacting lawyers for other parties and Court Appointed Special Advocates for background information;
4. Contacting and meeting with the parents, guardians and/or caretakers of the child, with the permission of their attorneys;
5. Obtaining necessary authorizations for the release of information;
6. Interviewing individuals involved with the child, including school personnel, social workers, foster parents and other caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;
7. Reviewing relevant photographs, video or audio tapes and other evidence; and
8. Attending treatment, placement, and administrative hearings; other proceedings involving legal issues; and school conferences or staffings concerning the child as needed.

Standard 9. Filing pleadings

Counsel for a child should file petitions, motions, answers, responses or objections as necessary to represent the child, including but not limited to:

1. Request for mental or physical examination of the child or parent(s);
2. Request for protective order;
3. Object to an answer of his/her parent;
4. Motion to consolidate cases;
5. Motions for discovery;
6. Motion for disclosure of the court record;
7. Motion for medical treatment of the child;
8. Motion to dismiss;
9. Motion to elicit the child's testimony by videotape or closed-circuit television;
10. Motion to modify or terminate custody or visitation;
11. Request for a restraining order to prevent a change of placement;
12. Rule for contempt for non-compliance with the orders of the court;
13. Petition for termination of parental rights;

14. Request for services for the child and/or the family;
15. Objection to continuances and extensions of time;
16. Response to the case plan or case review report;
17. Request for a case plan review, case review hearing and/or permanency hearing;
18. Motion for sequestration of witnesses;
19. Motion to modify disposition;
20. Motion for sanctions for failure to comply with permanency planning requirements;
21. Writs; and
22. Appeals.

Standard 10. Request for services

Consistent with the child's wishes, counsel should seek and advocate for appropriate services to access entitlements to protect the child's interests and to formulate or implement a plan for services including, but not limited to:

1. Family preservation or reunification services;
2. Sibling and family visitation;
3. Child support;
4. Domestic violence prevention, intervention and treatment;
5. Medical and mental health care;
6. Drug and alcohol treatment;
7. Parenting education;
8. Independent living services;
9. Adoption services;
10. Education, special education and related services;
11. Recreation or social services;
12. Housing;
13. Supplemental security income (SSI) to help support needed services;
14. Services for developmental disabilities;
15. Therapeutic foster or group home care; and
16. Hospitalization or residential treatment.

Standard 11. Participation in mediation and settlement negotiations

Counsel for a child should participate in mediation and settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect on the child of continuances and delays.

Standard 12. Hearings

Counsel for a child should attend and participate in all hearings and conferences with the court relevant to the child.

Counsel should explain to the child, in a developmentally appropriate manner, what is expected to happen before, during and after each hearing.

Counsel should make appropriate motions and objections. If necessary, counsel should file briefs in support of issues. During all hearings, counsel should preserve legal issues for appeal, as appropriate.

Counsel should present evidence, direct and cross-examine witnesses, offer exhibits, and provide independent evidence as necessary.

The child should be present at significant court hearings, regardless of whether the child will testify, except when counsel affirmatively waives the child's presence because the child does not want to attend, is too young to sit through the hearing, would be severely traumatized by attending, or for other compelling reasons.

Counsel for a child should decide whether to call the child as a witness considering the child's need or desire to testify, any repercussions of testifying, the necessity of the child's testimony, the availability of alternative forms of admissible testimony, the child's developmental ability to provide testimony and withstand cross-examination.

Counsel should ensure that the child is prepared to testify, including familiarizing the child with the courtroom, court procedures and what to expect during direct and cross-examination.

Counsel should seek to ensure that questions to the child are phrased in an age and developmentally appropriate manner.

Counsel should be familiar with issues of competency and reliability of children's testimony and be prepared to establish or defend the competency or reliability of the child.

Counsel should review all written orders to ensure conformance with the law and with any verbal orders of the court, should discuss all orders and their consequences with the child, and monitor implementation of the orders.

Standard 13. Continuing duties

Counsel for a child should continue to remain in contact with all parties and service providers and monitor case progress between hearings.

Standard 14. Appellate Review

Counsel for a child should consider and discuss with the child, as developmentally appropriate, the possibility of a writ or an appeal. If after such consultation, the child wishes to appeal an order, and the appeal has merit, counsel should take all steps necessary to expedite the appeal and protect the interests of the child during the pendency of the appeal.

If counsel determines that an appeal would be frivolous or that counsel lacks the necessary experience or expertise to handle the appeal, counsel should notify the court and seek to join co-counsel, or be discharged or replaced.

The child's attorney should participate in an appeal filed by another party unless discharged.

When the appellate decision is received, counsel should explain the outcome of the case to the child.

Standard 15. Scope of Representation

Counsel for a child should seek to ensure continued representation of the child at all child-related conferences and hearings so long as the court maintains its jurisdiction.

Counsel for a child should discuss the end of legal representation with the child and determine what contacts, if any, will continue between the child and his/her counsel.

Federal Update Relative to Consultation with Child In Permanency Hearings

8.3C.2c TITLE IV-E, Foster Care Maintenance Payments Program, State Plan/Procedural Requirements, Case review system, permanency hearings

08/07/2007 – Current	
Question	In what way can a State meet the requirement for the court holding a permanency hearing to conduct age-appropriate consultation with the child in section 475(5)(C)(ii) of the Social Security Act (the Act)?
Answer	<p>Any action that permits the court to obtain the views of the child in the context of the permanency hearing could meet the requirement. Section 475(5)(C)(ii) of the Act tasks the State with applying procedural safeguards to ensure that the consultation occurs. However, the statute does not prescribe a particular manner in which the consultation with the child must be achieved which provides the State with some discretion in determining how it will comply with the requirement.</p> <p>We do not interpret the term "consult" to require a court representative to pose a literal question to a child or require the physical presence of the child at a permanency hearing. However, the child's views on the child's permanency or transition plan must be obtained by the court for consideration during the hearing. For example, a report to the court in preparation for a permanency hearing that clearly identifies the child's views regarding the proposed permanency or transition plan for the child could meet the requirement. Also, an attorney, caseworker, or guardian ad litem who verbally reports the child's views to the court could also meet the requirement. Information that is provided to the court regarding the child's best interests alone are not sufficient to meet this requirement. Ultimately, if the court is not satisfied that it has obtained the views of the child through these or any other mechanism, it could request that the child be in the courtroom, or make other arrangements to obtain the child's views on his/her permanency or transition plan.</p>
Source/Date	06/22/07
Legal and Related References	*Social Security Act – 475(5)(C)(iii)

Youth Attending Court Checklist

In hearings where the youth will be present, consider the following:

- What arrangements have been made to prepare the youth for the hearing? (age appropriate description of the court process, tour of the courtroom?)
- What arrangements have been made to consult with the child after the court hearing (child's attorney, social worker, therapist, foster parent?)
- Have arrangements been made with the school to ensure the youth will not miss any school work while attending the hearing?
- Who will transport the youth?
- Does the youth wish to speak to the judge privately?
- Is there a support person available to accompany the youth to court?
- Are there safety issues with the youth and any other person expected to be in court?
- Has enough time been allotted to accommodate the youth's presence?
- Have agency and service provider reports been submitted timely to prepare the judge to interact with the youth?
- Does the youth want to submit a statement in writing?
- Is the type of testimony expected likely to be harmful to the youth?
- How far away is the youth placed?

Andrea Khoury
National Child Welfare Resource Center on Legal and Judicial Issues

Child Well-Being Checklist

Health/Medical

- Has the youth had a comprehensive health assessment since entering foster care?

(Note: For infants, what health problems and risks are identified in the infant's birth and medical records, e.g., low birth weight, prematurity, prenatal exposure to toxic substances?)

- Are the youth's immunizations complete and up to date for his/her age?
- Does youth have any conditions/disabilities that require ongoing care?
 - If so, has youth been trained in self-care?
- Date of last dental exam?

(Note: According to the American Academy of Pediatric Dentistry, craniofacial, head, face and neck injuries occur in more than half of child abuse cases.

Oral injuries may be inflicted with instruments such as eating utensils or a bottle during forced feedings, hands, fingers or scalding liquids or caustic substances.

The abuse may result in contusions, burns or lacerations of the tongue, lips, buccal mucosa, palate (soft and hard), gingival alveolar mucosa, or frenum, fractured, displaced, or avulsed teeth, or facial bone and jaw fractures.

A careful and thorough intraoral and perioral examination is necessary in all cases of suspected abuse and neglect. This mandate applies even to infants whose teeth have not yet emerged.)

- Date of last visual exam?
- Date of last hearing exam?
- Date of last mental health evaluation, if indicated?
- Has the youth received screening for lead exposure?
- Does youth present with any substance abuse issues?
 - Are the issues being addressed?
- If dating, has youth received comprehensive reproduction/sexual health information?
- If dating, has youth received any information about domestic violence services?
- Has the youth received screening for communicable diseases?
- Is female pregnant?
 - If so, is youth receiving prenatal care and counseling?

(Continued)

- ❑ Does youth have children?
 - If so, name and date of birth?
 - If so, is youth placed with children? If no, where are children placed?
 - If so, does youth have contact with children?
 - If so, is parenting assistance being offered by the Department?

Placement History/Housing

- ❑ Where is the child currently placed/type of placement?
- ❑ Dates of placement?
- ❑ Is youth on runaway status? If so, what efforts are being made to locate child?
- ❑ If youth is nearing discharge, does youth have housing (or a place to reside)?
- ❑ If not, have appropriate applications been completed/submitted for public housing?
 - Date of application submitted?
- ❑ If youth is likely to need supportive housing, have referrals been made for housing alternatives for mental disabilities, physical disabilities, HIV/AIDS or addiction issues?

Permanency/Family Resources

- ❑ Does youth have regular contact with siblings?
- ❑ Does youth have regular contact with extended family/fictive kin?
- ❑ Is youth placed with siblings?
- ❑ Has caregiver of siblings been considered as a resource for the youth?
- ❑ If domestic violence occurred in the youth's home, was youth referred to any programs or services?
- ❑ Has the Department asked the youth/parents or other relatives to identify potential discharge resources (to establish an alternative, family-based setting)?
- ❑ Has the youth been referred to "Connections for Permanency" where available?
- ❑ If TPR is inevitable or being considered, does the youth want to be adopted?

(Continued)

Education

Enrollment and Attendance

- Is the youth enrolled and attending school? Attendance records?
- Have efforts been made so the child can remain in the same school?
- Has there been a change of school since the last hearing? If so, why?
- Who is responsible for getting the child to school?
- Has the child been truant, suspended or expelled?

Youth's Progress

- Is the youth making academic progress?
- Is the child passing LEAP tests?
- Is the youth making social/emotional progress?
- Does the youth have physical, emotional or mental health issues that adversely affect the child's progress at school?
- Are any assessments needed?
- For age 14+, is there an independent living skills/transition plan?
- For grades 9 – 12, is there preparation for post-secondary education?

Education Decision-Making Responsibility

- Who will collect and communicate child's educational history/needs?
- Who will be responsible for regular, day-to-day decision-making?
- Who will be responsible for special education needs decision-making?
- Who will monitor the child's educational progress on an on-going basis?
- Are expenses for extracurricular activities, school trips, year books and other costs being covered?
- Does the child need tutoring? If yes, is it being provided?
- What can the court do to ensure the youth's educational stability and success?

(Continued)

Special Education

- Is youth in special education? If yes, date of placement?
- Does the child have an IEP or a Section 504 plan?
 - Date of last IEP?
 - Next IEP date?
 - Any follow-up required?
- Is special education placement appropriate?
- If inappropriate placement, is this issue being addressed?

For Youth Not in School

- Graduated?
- GED?
- Homeschooled?
- Dropped out?
- If youth dropped out/opted not pursue higher education, was this decision discussed?
Was counseling offered?

College Preparation

- Is the Department making efforts to assist with ACT/SAT prep classes?
- Have efforts been made to assist youth with obtaining/completing college applications, including scholarships/financial aid forms?
- Has the Department scheduled a college tour?
- Is YAP an option?
- Are resources available to assist with purchase of computer, books, and other school supplies?

(Continued)

Life Skills/Preparation for Adulthood

- If youth is on track for discharge (“aging out” or other reason), does youth have
 - Housing?
 - Health Insurance/Medicaid?
 - Source of income?
 - Work authorization?
 - Contact with permanent connection/supporting adult?
 - Information on continued support from the Department?
 - Copies of immunization and/or medical records?
 - Social Security card?
 - Birth certificate?

- Public Benefits
 - Public assistance application? Submitted?
 - Any necessary certifications or re-certifications for Medicaid?
 - Verification of SSI benefits
 - Food stamps

- Discharge Resources
 - Has the Department assisted youth in opening a bank account?
 - Has vocational training been offered?
 - Have Life Skills services been offered?
 - Has the Department explored organizations (religious, athletic, community, etc.) and made appropriate referrals?

Employment

- If youth is or will be seeking employment, has youth received assistance with
 - Preparing a resume?
 - Interviewing skills?
 - Job search?
 - Contact with state job-finding resources/
 - Internship programs?

Bias Checklist

Developed by Rita Cameron Wedding, Ph.D., California State University, Sacramento

Bias in child welfare practice occurs incrementally through “micro-actions” that are barely visible and are rarely challenged because they are practiced consistently within society and agencies. It is hard to detect bias in a single act; but, cumulatively, bias can contribute to patterns of disproportionality.

Bias as it results in differences, however slight, in the application of policies and procedures can make the difference between in-home services, removal or reunification.

This checklist identifies a few of the many potential sites of bias in child welfare services, practices, personal and institutional biases.

- ❑ *Coding, Cues and Labeling*: Using words like “resistant,” “hostile,” and “aggressive” can sometimes be shorthand or coded language with racial overtones. Reports and other forms of documentation which include comments like “refuses services” with no explanation are left to interpretation. This makes it easy for stereotypes to fill in the holes.
- ❑ *Objectification of Families*: Using terms like “broken homes,” referring to mothers as “crack heads” and fathers as “deadbeat dads” or making disparaging remarks or assumptions about single mothers make it hard to assess for family strengths.
- ❑ *Vague Definitions of Neglect*: Ambiguous charges of neglect such as “poor parenting skills” are highly susceptible to biased evaluations of harm.
- ❑ *Stereotypes* that Black women are aggressive, that Black men are violent, that Native Americans are spiritual, or that Mexican men are macho are well-known. Equally as problematic are assumptions of Asians as “model minorities” and white middle-class as normative and inherently good.
- ❑ *Squelching Conversations about Race*: “Colorblindness” allows everyday practices of discrimination to go undetected.
- ❑ *Inflexible Personal Values* about family structure, religion, sexual orientation and discipline can influence assessments of family strengths.
- ❑ *Political Climate and Cultural Differences* can influence decisions to “remove.”
- ❑ *Conditions of poverty* can influence court decisions.
- ❑ *Over-reliance on technology* can result in rigid and imprecise reports.

Interstate Compact for the Placement of Children (ICPC) Checklist

When children are placed across state lines, the ICPC applies. It is designed to safeguard children by requiring the receiving state to grant approval before the child can be sent there. The ICPC is a compact enacted by all 50 states, the District of Columbia and the U.S. Virgin Islands. It is binding on the states and supersedes state laws to the contrary.

Basic procedure in ICPC cases:

1. The agency in the sending state sends an information packet to the sending state compact administrator who reviews it for completeness and compliance with Article 3 of the ICPC.
2. The sending state compact administrator sends the packet to the compact administrator in the receiving state who checks for completeness and compliance with the laws of the receiving state and refers it to the local district office.
3. The local district office must complete a home study and advise whether the proposed placement appears contrary to the interests of the child.
4. The receiving state compact administrator makes a determination, based on the recommendation of the local district, of whether the proposed placement appears contrary to the interests of the child and sends notice of that determination to the receiving state compact administrator, the sending state compact administrator and the local agency in the sending state.

Delays tend to occur for two reasons: the agency sends incomplete documentation and the receiving state does not complete the home study promptly.

Asking the following questions will help you keep track of the case:

- Has the receiving state gotten all of the information it needs to make a determination?
- If not, specifically what must be sent?
- How long has the receiving state had the completed referral?
- Has the receiving state started the home study?
- How much longer will it take the receiving state to complete the home study?
- Can the Department provide any information that would help the receiving state agency reach a decision?

Louisiana's ICPC Compact Administrator Staff

Leola McClinton, DCA, Adoptions, lmclint@dss.state.la.us, 225-342-4034

Linda Stephens, A-G, lstephen@dss.state.la.us, 225-342-4032

Karen Washington, H-M, kwashin3@dss.state.la.us, 225-342-8867

Mary Hughes, N-Z, mhughes@dss.state.la.us, 225-342-2669