



Permanency Hearing Benchcard

CASE MANAGEMENT – BEFORE THE HEARING

Persons who should be present at the permanency hearing'

- Judge or judicial officer
- Parents of each child whose rights have not been terminated
 - Mothers, fathers (legal, biological, alleged, putative, named), non-custodial parents – all possible parents
- Child
- Assigned caseworker
- Agency attorney and/or prosecuting attorney
- Attorney(s) for each parent
- Legal advocate for the child
- Guardian *ad Litem* (GAL); CASA
- The child's current placement (caregivers, foster parents, custodial adults, adoptive parents)
- All adult relatives of the child
 - Relatives (P.L. 110-351) with legal standing or other custodial adults, including adult half-siblings
 - Paternal *and* maternal relatives

Hold the permanency hearing no later than 12 months after date the child was first considered to have entered foster care (42 U.S.C. § 675(5)(C)) or 30 days after the court determines reasonable efforts to return the child to the parent are not required, whichever is first (42 U.S.C. § 671(a)(15)).

After the initial permanency hearing, subsequent permanency hearings must be held every 12 months while the child is in care (45 C.F.R. 1356.21(b)(2)(i)).

- Non-related extended family, fictive kin (persons known and trusted by the families; godparents)
- Parents of a sibling child, where such parent has legal custody of the sibling (P.L. 113-183)
- If ICWA applies: Indian custodian; the child's tribe and attorney; tribal representative/tribal liaison; ICWA-qualified expert witness
- Treatment and/or service providers
- Parent partners, parent mentors if assigned/available, substance abuse coach, DV advocate
- Cultural leaders, cultural liaison, religious leaders
- Adult or juvenile probation or parole officer
- Educational surrogate parent if appropriate
- Educational liaison/school representative
- Court-certified interpreters or court-certified language services
- Court reporter
- Court security

Review the relevant documents

- Current and updated case plan
- CASA, GAL, or Foster Care Review Board report
- Information from the child
- Information from the current caregiver, foster parents
- Service provider reports
- Medical and education records
- For children placed out of state, the report documenting the visit by the caseworker

Consider whether there are any related cases in juvenile or other courts

- Are there other family, delinquency, domestic violence, probate, guardianship, or criminal cases or orders of protection involved in this case?
- What is update or status of those cases?
 - What are the steps required for obtaining update/status?
- What is the impact on this hearing?
- Can these cases be consolidated before one judge?
- Is there a potential for duplicative or conflicting orders?
- Can the judges consult?

CONDUCTING THE PERMANENCY HEARING

Opening the Hearing

- Call the case.
- Identify the people in the courtroom and their connection to the case.
- Swear in the parties, participants, and relatives.
- Explain the type and purpose of the hearing.
- State the number of days the child has been in care and the number of placements to date.

Due Process Considerations

- NOTICE
 - Have the identity and location of all parents and/or guardians been determined?
 - If not, what diligent search efforts have been made? Are they sufficient?
 - Has paternity of all children been legally established? If so, how?
 - How were the parents and/or guardians notified of this hearing?

- Was the notice in a language and form understandable to the parents and/or guardian?
- If child, parents, legal custodians, caregivers, or relatives who requested notice are absent, confirm that they were properly noticed.
- If parent is absent and has not been served, inquire about the diligent search.
 - Require a thorough description of efforts to locate and advise any absent parent of the hearing and confirm that a diligent search was begun. If needed, ask parents.
- Have the foster parents, pre-adoptive parent, or relative providing care for the child been provided notice of, and an opportunity to be heard in, the hearing? (42 U.S.C. § 675(5)(G))
- Has the agency exercised due diligence to identify and provide notice to all adult relatives of the child's removal and their options to participate in the child's care and placement? (42 U.S.C. § 671(a)(29))
- Has the agency exercised due diligence to provide notice to all parents of a sibling child, where such parent has legal custody of that child? (P.L. 113-183 § 471(a)(29))
- If the child is eligible for membership in a federally recognized tribe, confirm that the tribe has been notified pursuant to ICWA.
- Do the provisions of the Americans with Disabilities Act, Service Members Civil Relief Act, UCCJA/UCCJEA, ICPC, or other federal laws apply to this case?
- **REPRESENTATION**
 - Address any outstanding or new representation issues.
 - If the parents do not have representation, are they entitled to representation?
 - Determine if the right to counsel is understood.
 - Are there language issues to consider in appointing counsel?
 - If parents request counsel and claim to be indigent, have parents filled out affidavit for indigence?
 - If parents are ineligible for the appointment of counsel or knowingly, intelligently, and voluntarily waive appointed counsel, ask if they want to proceed pro se or hire a private attorney. Explain pro se if necessary.

- Has counsel had sufficient opportunity to consult with his/her client prior to the hearing?
- Has counsel been appointed to represent the child? If not, appoint counsel to represent the best interests of the child if it has not yet been appointed.
 - Has counsel met with the child in person? Is counsel able to determine and advocate the child's position?
 - Should the court appoint a Guardian *ad litem* and/or CASA for the child?
- If any counsel needs to be appointed, ensure that orders appointing counsel are expedited.

Engage parents, children, relatives, and foster parents present

- What language are you most comfortable speaking and reading?
- Do you understand what this hearing is about?
 - Explain the purpose of the hearing.
- Have you had sufficient opportunity to speak with your counsel prior to this hearing?
- Were you involved in any ADR process used before this hearing? If yes, what was the outcome?
- What family members and/or other important people should be involved in this process with us?
 - Ask parents if any other individuals should be involved in this court matter, or who else is significant in the child's life.
- Consult with the child in an age-appropriate manner regarding the permanency plan and/or transition to independent living (42 U.S.C. § 675(5)(c)(iii); P.L. 113-183 § 475A(a)(2)).

KEY INQUIRIES, ANALYSES, AND DECISIONS AT THE PERMANENCY HEARING

REFLECTIONS ON THE DECISION-MAKING PROCESS TO PREVENT BIAS

Take a moment before every hearing or before making decisions in a case to ask yourself:

- What assumptions have I made about the cultural identity, genders, and background of this family?
- What is my understanding of this family's unique culture and circumstances?
- How is my decision specific to this child and this family?
- How has the court's past contact and involvement with this family influenced (or might influence) my decision-making process and findings?
- What evidence has supported every conclusion I have drawn, and how have I challenged unsupported assumptions?
- Am I convinced that reasonable efforts (or active efforts in ICWA cases) have been made in an individualized way to match the needs of the family?
- Am I considering relatives as preferred placement options as long as they can protect the child and support the permanency plan?
- Have I placed the child in foster care as a last resort?
- Have I integrated the parents, children, and family members into the hearing process in a way that ensures they have had the opportunity to be heard, respected, and valued? Have I offered the family and children the chance to respond to each of the questions from their perspective?
- Is this family receiving the same level and tailoring of services as other families?
- Is the parents' uncooperative or negative behavior rationally related to the involvement of the agency and/or the court?
- If this were my child, would I be making the same decision? If not, why not?

ICWA Inquiry and Determination

- Was the ICWA inquiry made by the agency? Whom did the agency ask?
- Has an ICWA determination been made?
 - If yes, different standards apply; refer to the ICWA Checklist.²
 - If yes, determine whether there was clear and convincing evidence, including testimony of a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in **serious emotional or physical damage to the child** (25 U.S.C. § 1912(e)).
- If ICWA applies:
 - Determine whether the state court has jurisdiction.³
 - Have the parent or Indian custodian and the Indian child's tribe been notified of this hearing by registered mail with return receipt requested?
 - Has the case been evaluated for transfer to a tribal court?
 - Has the tribal court accepted jurisdiction?
 - Has either parent vetoed the transfer?
 - Does good cause exist to deny the transfer?

If ICWA applies, or the court has reason to believe ICWA applies, the court should refer to the ICWA Checklist.

Determine the permanency plan (42 U.S.C. § 675(5)(c))

- What plan does the agency recommend?
- How was the plan determined, and who was involved in developing the plan?
- What is the child's position? How was the child consulted?
- What is the concurrent plan? What efforts are being made to implement it?

Does the court-approved, long-term permanent plan for the child remain the best plan for the child?

In determining the permanency plan, review the following:

REVIEW FAMILY TIME (IF APPLICABLE)

- Reassess the type, frequency, duration, and quality of family time.
- Consider who should supervise (a visitation center, a caseworker, or an approved third party).
- Outline incentives to gradually increase family time or reduce limits. Indicate if the agency is given discretion to increase (and whether this includes up to reunification) or is automatic upon proof of satisfying the announced incentive (such as approved housing or completion of a specified case plan task).
- If a child is placed in permanent guardianship, the court should specify the frequency and nature of family time between the child and the child's parents, siblings, and other family members in the written order.
- If siblings are unable to be placed together, verify sibling visitation is occurring. The agency must make reasonable efforts to provide frequent sibling visitation, even with previously adopted siblings (P.L. 110-351).
- Inquire if transportation has been an issue and determine who has been present and has participated in the visits.
- If family time is not possible because of the distance of the parent, the court should specify what alternative forms of contact are permitted (such as phone, email, webcam, or video conferencing).
- If the case involves domestic violence, ensure family time practices are adequate to protect the child.
- Ensure that there is ongoing supporting documentation regarding the frequency, quality, and progress of family time.
- Verify that the family time is consistent to meet the developmental, emotional, and mental health needs of the child.

REVIEW THE CHILD'S CURRENT PLACEMENT

- **Determine if safety is still an issue.** Consider reunification when the circumstances that caused the creation of the case plan have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's remaining with or being returned to the child's parent.⁵

- Ask what changes, if any, have been made to the child's living arrangement and/or placement since the last hearing. If there has been a change, ask if the change is necessary to achieve the child's permanency goal or meet the child's service needs.
- If siblings are not placed together, determine why not, and ask about efforts made (when appropriate) to keep them together.
 - Has every possible effort been made to place siblings together, when appropriate, in the same home? And, in the event of permanent placement of the siblings, has every effort been made to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other? (P.L. 110-351)
- Verify that the caseworker advised the child and the individuals with whom the child will be placed of the availability of more permanent and legally secure placements and the type of assistance associated with each placement.
- Inquire of the child, caregiver, GAL, and caseworker of any issues with the current placement.
 - Consider the child's preference – conduct an age-appropriate consultation with a child during a permanency hearing (42 U.S.C. § 675(5)(c)(iii); P.L. 113-183 § 475(A)(a)(2)).⁶
- Determine if concurrent planning is appropriate based on the facts of the case.⁷
- Verify that the caregiver is willing and able to meet the needs of the child.
 - Does the current placement apply the reasonable and prudent parent standard and permit the child to engage in age- or developmentally-appropriate activities? (P.L. 113-183 § 475(5)(B), § 475(A)(a)(3))
 - Is the placement trained to help children with traumatic stress cope with those reactions? Is the placement knowledgeable about recognizing and managing traumatic stress reactions?
 - Is the placement trained to help children who have been victimized by sex trafficking? (P.L. 113-183)
- Is the placement in proximity to the child's education setting or does it otherwise support educational continuity? (42 U.S.C. § 675(1)(G))
- If the case involves domestic violence, ensure safety provisions exist, the placement is appropriate to protect the child, there is safety plan compliance, and visitation practices are adequate to protect the child.⁸

REVIEW AND ADDRESS THE NEEDS OF THE CHILD AND CHILD WELL-BEING⁹

- What services, interventions, and/or supports are in place to assess and ensure the child's well-being?
 - Does the agency have the child's most current health and education records?
(42 U.S.C. § 675 (1)(C))
 - Have they been provided to the child's current foster/kinship caregiver?
 - Verify that the child's mental, physical and dental, medication, and reproductive health care needs have been addressed. Get input from all parties or participants, including the child and caregiver.
- Verify that the parents are participating in the child's medical, educational, and other appointments related to the child's well-being as appropriate.
- Are the services specifically tailored to address this child's unique issues?
 - If applicable, are services related to the child's traumatic stress being provided? Ensure sufficient supports and treatments are in place to address any of the child's trauma issues.
 - If applicable, are services related to the child's victimization as a result of sex trafficking being provided? Ensure sufficient supports and treatments are in place to address any issues stemming from the child's victimization (P.L. 113-183).
- How has the agency assessed the quality of any services provided?
- How are the child's connections to his/her cultural heritage being preserved and promoted?
- What efforts has the state made to ensure children in foster care form and maintain long-lasting connections to caring adults, even when a child in foster care must move to another foster family home or when the child is placed under the supervision of a new caseworker? (P.L. 113-183 § 105(3))
- What progress has the child made? What are the barriers to progress, if any? What additional services, interventions, and supports will be provided to assist the child in overcoming these barriers?
- What is the status of the child's education?
 - Review educational records, including any individualized education plan. If an educational surrogate parent has been appointed, the educational surrogate parent should report to the court as appropriate.
 - Verify that the child is attending school on a regular basis and has adequate school supplies and transportation.

- Has the agency developed a plan to ensure educational stability? (42 U.S.C. § 675(1)(G))
 - Verify that the child is attending the same school as when he or she first entered care. If not, verify what has been done to ease the transition.
- **If the child is 14 or older**, has the agency developed a transition plan, personalized at the direction of the child, including specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services? (42 U.S.C. § 675(H))
 - Has the agency documented the child's education, health, visitation, and court participation rights, and the right to receive a credit report annually? Have those rights been fully explained to the child in an age-appropriate way? (P.L. 113-183 § 475(A))
 - Verify that children age 14 and older have been able to select and include up to two individuals (excluding those normally involved on their case planning team) to be involved in developing their case plan (P.L. 113-183 § 475(1)(B)).
 - If aging out of foster care (18, 19, 20, or 21), has the youth been supplied with his or her birth certificate, Social Security card, driver's license or identification card, health insurance information, and medical records? (P.L. 113-183 § 475(5)(I))
- What are the child's interests? What are the agency and the placement doing to support those interests?
 - Is the child able to participate fully in age- or developmentally-appropriate activities such as sports, field trips, and overnight activities? (P.L. 113-183 § 475(5)(B); § 475(A)(a)(3))
- Order child support, if not already ordered. If already ordered, review compliance.
- **If the child has been missing from placement**, inquire about the factors that led to the child being absent from care and to the extent possible, how those factors will be addressed in the current or subsequent placements (P.L. 113-183 § 471(a)(35)).
 - If the child has been missing from placement, inquire about what is known of the child's experiences while absent from care, including whether the child was a victim of sex trafficking or at risk of such victimization, and if so, what services will be offered (P.L. 113-183 § 471(a)(35)).

To determine the permanency plan, conduct a five-plan analysis

IF THE PLAN IS REUNIFICATION

- Why is this plan in the child's best interests?
- What is the expected reunification date? Is reunification achievable within a timeframe consistent with the child's developmental needs?
- What services are in place to support successful reunification?
- What is the plan for follow-up supervision upon reunification?
- Are the parents in compliance with the case plan?
- What is preventing the child from returning SAFELY home TODAY?
- What is the current and immediate safety threat?
 - Has the threat been diminished? How do you know that? Specifically, how can the risk be ameliorated or removed?
 - What type of safety plan could be developed and implemented in order for the child to return home today?
- What specifically prevents the parents from being able to provide the minimally adequate standard of care to protect the child?
 - Will the removal or addition of any person from or in the home allow the child to be safe and be placed back in the home?
- If the safety threat is too high to return the child home, how have the conditions for return been conveyed to the parents, family, and child, and are you satisfied that they understand these conditions?

IF THE PLAN IS ADOPTION

- How is adoption rather than reunification in the best interests of the child?
- Is the child of an age where his/her consent is required by state law?
- What is the status of proceedings to terminate parental rights?
 - Determine the date by which the agency must file a petition to terminate parental rights.

- Is the child currently in an adoptive placement? If not, what is the plan to place the child in an adoptive placement?
- What efforts were made to identify relatives willing and able to adopt the child?
- How have alternatives to adoption and/or other options been discussed and resolved, including:
 - Cultural/customary adoptions for an Indian child
 - Relative guardianship v. non-relative adoption
 - Adoption subsidies and supports
 - Open adoption or post-adoption contact
- Determine the agency's timeframe for completing legal proceedings, home study, adoption subsidy, and other steps in the adoption process.
- Has the agency made full disclosure about the child's current and prospective needs?
- What, if any, services for such needs will continue after the adoption is finalized?

IF THE PLAN IS PERMANENT GUARDIANSHIP

- How is permanent guardianship rather than reunification or adoption in the best interests of the child?
- What is the relationship between the proposed permanent guardian and the child? Can the proposed permanent guardian provide the child with a safe, nurturing home?
- Is the child placed with the proposed permanent guardian? If not, what is the plan to place the child with the proposed permanent guardian?
- Has the agency disclosed to the proposed permanent guardian the child's current and prospective needs? What, if any, services for such needs will continue after the guardianship is finalized?
- Has the agency identified, and is it able to assist in securing, the resources the proposed permanent guardian will need to support the child through the age of majority, including:
 - Guardianship subsidy
 - Child support
 - Social Security
 - Food stamps

- Medicaid
- Determine the timeframe for completion of the permanent guardianship process.

IF THE PLAN IS PLACEMENT WITH A FIT AND WILLING RELATIVE

- How is placement with a fit and willing relative rather than reunification or adoption in the child's best interests?
- Has the agency fully informed the relatives about the benefits of adoption and/or permanent guardianship?
- What is the nature of the relationship between the relative and the child? Can the relative provide the child with a safe, nurturing home?
- Is the child placed with a relative? If not, what is the plan to place the child with a relative?
- What contact will occur between the child and parents, siblings, and other family members?
- Has the agency fully disclosed to the relative the child's current and prospective needs? How will the relative be able to meet those needs? What, if any, services for such needs continue after the permanency plan is finalized?
- Is the relative financially able to care for the child through the age of majority? Has the agency informed the relative about any aid or benefits that may be available to support the child?

IF THE PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)

- Has the agency documented a compelling reason for this plan? (42 U.S.C. § 675(5)(C))
- What is the child's position regarding APPLA as the permanent plan? How was the child consulted?
- How will this plan provide stability and permanency for the child?
- Does the child have any special needs? If so, will services for such needs continue after this plan is finalized?
- What is the identified, specific, permanent placement for the child? Is the child already placed in this home? If not, what is the plan for placement?
- What efforts has the agency made to identify, locate, and contact relatives or non-relatives who may be able and willing to care for the child on a permanent basis?

- How will connections and relationships important to the child be maintained through this permanency goal?
- If the child is placed in congregate care or an institutional setting, how is this least restrictive, most family-like, and consistent with the best interests and special needs of the child? What efforts have been made to provide additional services that would allow the child to reside in a more permanent, family-like environment? (42 U.S.C. § 675(5)(A))
- If the child is 14 years old or older, determine whether the agency is providing services needed to assist the child to make the transition from foster care to successful adulthood (P.L. 113-183 § 475(5)(I)).

Summary of key findings/orders

- If the child has been in foster care 15 of the past 22 months, has a termination of parental rights petition been filed? If not, is there a compelling reason not to file a TPR petition? (42 U.S.C. § 675(5)(E))
 - If the agency is required to file a termination of parental rights petition, but has not done so or has expressed an intention not to file, state whether:
 1. the child is placed with a relative;
 2. the agency has documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child; or
 3. if reasonable efforts are required, the agency has not provided to the family of the child, consistent with the time period in the case plan, such services as the agency deems necessary for the safe return of the child to the child's home.
- Has the agency made REASONABLE EFFORTS to finalize the permanency plan? (45 C.F.R. § 1356.21(b)(2))
 - The court's determination of the permanent plan for the child and why the plan is in the child's best interests. The order should state the steps to be taken and timelines for accomplishing the permanent goal.
 - If the permanent plan is reunification and the child is not yet returned to the parent(s), whether reunification is achievable within a reasonable amount of time taking into consideration the child's age and unique needs. Specify a date for reunification.
 - If the plan is termination of parental rights and a TPR petition has not been filed, the

order should state the expected timeframe for filing a TPR, which must be within 30 days. If the petition has been filed, the court should schedule pre-trials, mediation, and trial dates.

- If the plan is TPR, and a parent wishes to relinquish parental rights at the permanency hearing, the court should be prepared to accept the relinquishment and include the relinquishment in the order.
- If the permanency plan is adoption, permanent guardianship, placement with a fit and willing relative, or APPLA, and the child is not living with the proposed permanent family, did the agency provide documentation that includes child-specific recruitment efforts such as use of state, regional, and national adoption exchanges, including electronic exchange systems? (45 C.F.R. § 1356.21(g)(5))
- If the child is placed out of state, determine whether:
 - The placement continues to be appropriate and in the best interests of the child (42 U.S.C. § 675(5)(C));
 - The child has been visited every 12 months by a caseworker;
 - The required report has been submitted.
- If the child is 16 years old at the time of the review, determine whether the agency is providing services needed to assist the child to make the transition from foster care to independent living.

Whether the agency provided, and the court reviewed, the health and education records of the child, including the most recent information available regarding the names and addresses of the child's health and educational providers; the child's grade level performance; the child's school record.

- A record of the child's immunizations; the child's known medical problems; the child's medications; and any other relevant health and education information concerning the child determined to be appropriate by the agency.
- Orders necessary to address issues or concerns identified in the health and education records or during the court hearing.
- Order that parties engage in alternative dispute resolution, if applicable.

FINDINGS AND CONCLUSIONS

- Persons present and whether absent parties were provided with appropriate notice; verification that reports offered into evidence have been provided to all parties in advance of the hearing.
- A finding of the reasonable efforts made to reunify the family and a finalized permanency plan. A well-designed, appropriate case plan and meaningful case reviews should prevent unexpected findings of “no reasonable efforts” at this stage of a case. Should it be found that additional remedial steps are necessary, specific expectations should be set out in a detailed order, with a short timeframe (e.g., 30 days) for holding the follow-up permanency hearing. A copy of the order should be forwarded to the head of the agency.
- A statement addressing special factors or conditions of the child that are identified as special needs, what services are to be provided to address these needs, and who is responsible for providing the services.
- The court’s determination of the permanency plan for the child and why the plan is in the best interests of the child. The order should state the steps to be taken and timelines for accomplishing the permanent goal. If the plan is reunification, the date for reunification should be specified.
- If the plan is TPR and the petition has not yet been filed, the order should state expected timeframe for filing a TPR petition, which must be within 30 days. If the petition has been filed, the court should schedule pre-trials, mediation, and trial dates.
- If the plan is TPR, and a parent wishes to relinquish parental rights at the permanency hearing, the court should be prepared to accept the relinquishment and include the relinquishment in the order.
- For any plan, the next hearing date and purpose unless all court and agency involvement is terminated.

SETTING THE STAGE FOR SUBSEQUENT HEARINGS AND ACHIEVING POSITIVE OUTCOMES FOR CHILDREN AND FAMILIES

Effective Case Planning Moving Forward: The court should set clear expectations for parties and advocates regarding the information to be provided to the court at subsequent hearings by inquiring about:

Trauma:

- Has trauma played a role in the child's behavior?
- Is trauma being sufficiently considered in decisions about where the child is going to live and with whom?
- Is there reason to believe that the child is a victim of sex trafficking or at risk of becoming a sex trafficking victim? Is the placement able to support their needs and are appropriate services in place? (P.L. 113-183)

Child Well-Being:

- Has the court fully considered well-being issues including education, physical and dental health, and mental/emotional/developmental health?
- Does the placement facilitate a sense of "normalcy" by supporting the child's participation in developmentally appropriate activities and events? (P.L. 113-183)
- If the child has been missing from placement(s), why did the child leave? How will the agency address those factors in current/subsequent placements? What experiences did the child have while absent? Was the child exposed to traumatic events? How will the current/subsequent placements address any needs resulting from that trauma? (P.L. 113-183)

Refer to the Preliminary Protective Hearing Chapter in the GUIDELINES for more detail.

POST-PERMANENCY REVIEWS

- If the court determines the goal should continue to be family reunification, the focus of post-permanency hearing reviews will continue to be on the appropriateness of services offered to the parents and their progress on eliminating safety risks.
- If goal is no longer reunification, the focus of post-permanency hearing reviews will be on the agency's efforts to finalize the concurrent plan as the new permanency plan.
- If reunification is not possible, the child well-being inquiry must go beyond basic questions of safety and physical health as the child welfare system is responsible for meeting the child's educational, emotional, and social needs, including preparing the child for transition to an adult as appropriate.

CONCLUDING THE PERMANENCY HEARING

Case Management – Prepare for the next hearing

- Make oral findings and orders that all participants can understand.
- Enter additional orders necessary to move the case toward permanency.
- Set review or permanency hearing and identify tasks to be accomplished.
 - Focus on permanency. State the number of months the child has been in care and how many months before the permanency hearing.
 - Identify an expected date for final reunification or achievement of another permanency plan for each child.
 - Set the date and time of the next hearing within state and federal timeframes. Review hearings should be set for at least 30 minutes.
- Identify persons whose presence is needed at the next hearing.
- Consider appropriateness of alternative dispute resolution process.
- Complete a detailed written order.
 - Ensure all orders are written, signed, copied, and distributed to all parties at the end of the hearing.

Engage parents, children, and family members

- Specifically ask parents and children if they understand what occurred at the hearing, and engage them in a conversation about next steps.
 - Can you tell me what happened here today?
 - Can you tell me what the next steps are?
- Advise parents of the importance of their active participation in all proceedings.
 - Advise parents of the rigorous timeframes for child abuse and neglect cases outlined in state and federal laws.
 - Advise parents of the consequences for failure to appear at future court hearings.
 - When calendaring the next hearing, all parties, including the parents, should be asked if the scheduling works for them, and if not, ask for a better time.
- Ensure that parents and children have contact information for caseworkers and attorneys and that they understand the process to request court review if necessary.
- Ask if there are any questions for the court.

PREPARE FOR THE NEXT HEARING

- Focus on permanency and mandatory timeframes.
- Set review and permanency hearings, and identify tasks to be accomplished.
- Make understandable findings and orders in court on the record.
- Engage parents and children.

The first review should be set within three to six months of the permanency hearing. The case must be reviewed no less frequently than every six months (42 U.S.C. § 675 (5)(B)).

PERMANENCY HEARING BENCHCARD ENDNOTES

¹ State and federal laws determine who must be present for any hearing to proceed. Noted participants may or may not be required by law; however, as many as possible should be encouraged to attend the initial hearing.

² *The Indian Child Welfare Act Checklists for Juvenile and Family Court Judges* are available from the National Council of Juvenile and Family Court Judges at www.ncjfcj.org.

³ *Ibid.*

⁴ State law may require judicial approval of the permanency plan. See 65 Fed Reg 4053 (Jan. 25, 2000).

⁵ See Lund, T., & Renne, J. (2009). *Child safety: A guide for judges and attorneys*. Washington, DC: American Bar Association.

⁶ See section of General Issues Chapter covering children in court, pg. 72.

⁷ See section of General Issues Chapter covering concurrent planning case models, pg. 93.

⁸ See section of General Issues Chapter covering domestic violence considerations, pg. 57.

⁹ Judges may wish to re-visit the child well-being questions listed in the PPH Benchcard to supplement this inquiry.

¹⁰ See *The Indian Child Welfare Act Checklists for Juvenile and Family Court Judges*, *supra* note 2.