



Juvenile Dependency Benchmark Series

Permanency Hearing

Engage Parents and Child and Explain Hearing Process

1. Who is here? Did DHS notify and transport age-appropriate children? Did DHS notify foster parents, grandparents, tribe? If the child is not present, why not?
2. Determine who wishes to be heard and tell them how and when that is going to happen.
3. Determine if parents or others should be excluded when children are heard or if children should be heard in chambers. ORS 419B.310.
4. Briefly explain in simple language that the hearing is about answering the following questions:
 - a. Can the child go home now?
 - b. How is the child doing? Is the current foster home okay?
 - c. How is the child doing at home, at school and (if at least 14) in planning for transition to successful adulthood?
 - d. How is the visitation ("family time") plan working?
 - f. Did DHS help parents fix the problems that brought the child into care? (identified in the jurisdictional judgment)
 - g. Are parents making progress, so the child can go home? When?
 - h. If parents are taking too long of a time to fix their problems, is there another kind of permanent plan like adoption or guardianship that would be better for the child?
 - i. Is DHS making progress on the alternate or "concurrent" plan?
5. Ensure the procedures in ORS 419A.253 are followed for any materials that you rely on that a party has not offered or matters judicially noticed.

Is there a continued basis for jurisdiction?

6. Motions to dismiss:
 - a. Apply rules of evidence to this part of the proceeding.
 - b. If the plan is return to parent, DHS has the burden to prove, by a preponderance of the evidence, that the facts on which jurisdiction is based persist to the degree that they pose a current threat of serious loss or injury that is reasonably likely to be realized.

Is the child's placement in child's best interest?

7. Must make findings that placement is in child's best interests and is least restrictive and family like. If ICWA applies – follow placement preferences.
8. Must make findings as to DHS diligent efforts to place child with relatives and siblings.
9. If the court finds the current placement is not in the child's best interest, the court may direct DHS to place the child in one of the placement categories outlined in ORS 419B.349. The court may not order a specific placement.

How is the child doing?

10. Elicit testimony from child, foster parents, grandparents, relatives or others as to how child is doing at home and in school. If the child is not present, why not?
11. How is the visitation plan working? (See questions 24 - 28 on Full Review Benchcard.)
12. Based on court report and testimony, determine whether the number of placements, schools, and contact with DHS and visits with family is in the child's best interests.
13. Inquire as to wellness exams, assessments, special medical/mental health/ developmental/trauma needs, appropriateness of psychotropic medications.
14. Inquire as to education: Is child in same school? If not, has best interest determination been made? ORS 339.133
 - a. School attendance and grades? Plan to help improve?
 - b. Special Ed – Is there an educational surrogate? Consider appointing one.
15. For ages 14 and over:
 - a. Efforts to assist child in completing high school?
 - b. Transition plan for successful adulthood including housing, employment, community connections and supportive relationships?
 - c. Was teen provided written information on getting a bank account, credit report, college tuition waivers, health services w/o consent, how to remain in foster care after 18? ORS 418.201(4).
16. Safety: how often is the caseworker in the foster home and what has s/he observed? Has the child been provided a copy of the foster children bill of rights and contact information of people responsible for his/her care? ORS 418.201

Has DHS made sufficient concurrent plan efforts?

17. Take testimony, review Concurrent Planning Checklist.

Findings When Permanent Plan is Reunification

18. Must make written findings if DHS made reasonable efforts ("RE") / active efforts ("AE") to safely return ward within a reasonable time and finalize the permanent plan of reunification. DHS must make efforts as to each parent. AE requires DHS to assist client through steps.
19. Must make written findings as to whether the parent has made sufficient progress for child to safely return home within reasonable time with health/safety being the paramount concern.
20. If court determines further efforts will make it possible for the child to return home within a reasonable time, order the services the parent is required to complete and the progress that must be made over a given period of time.



21. May determine DHS not in compliance with case plan and order any changes to case plan and date for case progress report or order CRB to review.
22. To change plan to adoption:
 - a. Must find DHS made reasonable/active efforts and the parents made insufficient progress for the child to safely go home.
 - b. Must make findings that none of following circumstances apply: (1) Child placed with relative and placement will be permanent; (2) A compelling reason exists not to file a TPR under ORS 419B.498(2) including (but not limited to): (a) parent is participating in services that will make it possible for the child to return home within a reasonable time, (b) another plan is more appropriate, (c) CRB or court made no reasonable/active efforts finding at a prior hearing.
 - c. Must order date by which TPR shall be filed and set hearing no later than 6 months from expected date of service.
23. If change of plan to something less than adoption, must determine why the ward should not be placed in a higher level in the plan hierarchy when moving down the list from return to parent, adoption, legal guardianship, "placement with a fit and willing relative," APPLA (child must be at least 16).

Findings when Permanent Plan Not Reunification

24. Must make written findings if DHS made RE to (1) place child in a timely manner in accordance with the plan and (2) finalize child's permanent placement.
25. Must order plan continued or changed and rule out higher levels in plan hierarchy even when plan stays the same.
26. To change back to reunification: Inquiry is if child can be returned home within a reasonable time. Sufficient progress standard does not apply. Court can consider facts extrinsic to jurisdictional basis in evaluating parent and must give parent opportunity to respond to evidence.

Set Next Hearing(s) and Order Next Appearance

27. Must enter judgment within 20 days and set next annual permanency hearing. Attach exhibits to judgment and attach list of facts judicially noticed, if any.

Questions?

Contact the Juvenile Court Improvement Program, 503.986.6403

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