

CHILD PROTECTION BEST PRACTICES BULLETIN

Innovative Strategies to Achieve Safety, Permanence, and Well-Being

BEST PRACTICE BULLETINS

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- CONNECTING CHILDREN WITH INCARCERATED PARENTS
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SPECIAL CALENDARING

WHAT IS *Special Calendar*ing?

Certain situations in a child abuse or neglect case set up special requirements for hearings or other activities. The three most common such situations are when the Court finds that reasonable efforts to reunify the family are no longer required, when the filing of a motion to terminate parental rights (TPR) is required by law, and during the last permanency hearing before the child turns eighteen (the Discharge Hearing).

According to the New Mexico Children's Code, the Court may find that reasonable efforts to reunify are no longer required because such efforts would be futile or because the parent has subjected the child to aggravating circumstances as defined by law. In these cases, the Code requires that a Permanency Hearing be conducted within 30 days. As a best practice, the Court would set a date and time for the Permanency Hearing at the time of the finding of futility or aggravated circumstances, and a scheduling order would be distributed to all parties.

Both the Adoption and Safe Families Act (ASFA) and the Children's Code require that the State file a motion for TPR if the child has been in foster care for 15 of the last 22 months, except under certain circumstances. ASFA also requires that a motion for TPR be filed within 60 days after the Court determines that the child was abandoned or the parent was convicted of certain felonies, such as murder or manslaughter of another child or a felony assault resulting in serious bodily injury to a child. As a best practice, the Court would set a date for the filing of the motion, or for the agency to appear in court to explain why moving to TPR would not be appropriate at this time.

For older youth who are in custody, the last Permanency Hearing prior to a young person's eighteenth birthday must also be scheduled as the Discharge Hearing. Additional time should be allotted for this hearing to ensure that all transition services are in place and that required information has been provided to the youth.

WHAT IS *Current Practice*?

Currently there is no standardized statewide practice regarding Special Calendar

WHAT IS *Best Practice*?

At the time of the finding of futility (that reasonable efforts to reunify the family are no longer required), the Court would set a date and time for the Permanency Hearing and a scheduling order would be distributed to all parties. At that time the Court would notify the parties of this date and set forth the issues to be addressed (i.e., what the child's permanency plan will be and the concrete steps needed to achieve that plan; what has been done and what still needs to be done). The Court would also specify the evaluations and assessments to be conducted, the services to be provided, reports to be submitted, and other expectations.

Best Practices cont...

Currently, when a child has been in custody for 13 of the most recent 22 months, a tickler appears in CYFD's FACTS systems for the Children's Court Attorney, alerting the attorney of the upcoming deadline for filing a TPR motion. Such a tickler could also appear in the Court's data system, either through CYFD notifying the Court or through adaptations to the judge's database. At this time, anticipating the 15 of 22 months deadline, the Court would issue a notice setting a date for the filing of a TPR motion, or the Children's Court Attorney would request a hearing to explain to the Court why moving to TPR would not be appropriate at this time. When the State must file a motion for TPR, it also begins to seek an adoptive placement for the child.

The Discharge Hearing, which is scheduled as part of the last permanency hearing prior to the youth's eighteenth birthday, requires the Court to make sure that the youth has been provided with specific information and documents before turning eighteen. This is a critical hearing for the youth as it ensures that the young person has important information necessary for the youth to understand his or her family, health and education history. In addition, it is imperative that youth are provided with original documents necessary to continue or obtain services or benefits. Most importantly, this is the last opportunity the Court has to satisfy itself that the youth is prepared to have his or her case dismissed. As a result, this hearing may require additional time.

WHAT ARE THE *Advantages of Special Calendaring?*

The primary purpose of Special Calendaring is to ensure that efforts to achieve permanency for the child are moving forward as efficiently and effectively as possible in cases in which no reasonable efforts are required, a youth is nearing adulthood, or a motion for TPR is required by ASFA and the Children's Code. In addition, Special Calendaring in these circumstances would ensure compliance with ASFA and the New Mexico Children's Code. The seriousness of these special circumstances requires particularly close attention to these cases by the Court and the parties, and having definite dates and times for hearings and filings allows everyone involved in the case to plan ahead with certainty.

WHAT IS *My Role?*

- As a JUDGE, if you have made a finding of futility, you would immediately set the date and time for a Permanency Hearing within 30 days and specify the amount of time to be allotted to the hearing. You would identify the key issues to be addressed at the Permanency Hearing and set expectations of the parties in terms of evaluations and assessments to be conducted, services to be provided, and reports to be submitted. You would set up a tickler to remind the Court when the child has been in custody 13 months, anticipating the 15 of 22 months deadline. When that date is reached, you would issue a notice setting a date for the filing of a TPR motion or set a date and time for a hearing to explain to the Court why moving to TPR would not be appropriate at this time. You would request that CYFD notify the Court that a certain permanency hearing will also be a Discharge Hearing and include a request for additional time. You would clarify your expectation that the youth be present and that you will require additional time to hear from the youth about whether the requirements of the Discharge Hearing have been met. For all Advance and Special Calendaring, you would sign the scheduling order/notice and ensure all parties receive copies.
- As a CASEWORKER, you would develop the child's permanency plan in advance of the permanency hearing. You would work with the Children's Court Attorney to develop the TPR motion. You would meet with the youth before the last Permanency Hearing and provide all required information and documents.
- As a CHILDREN'S COURT ATTORNEY, you would meet with the caseworker to review legal issues and case materials, interview witnesses, develop evidence, and otherwise prepare for each event.

- As a RESPONDENT ATTORNEY or YOUTH ATTORNEY, you would meet with your client in advance of each event, including the pre-permanency meeting and the permanency hearing, to ensure that your client understands the issues and is prepared and to make sure you understand your client's wishes. You would facilitate your client's participation in the scheduled event. You would review case materials, interview witnesses, develop evidence, and otherwise prepare for the event.
- As a GAL, you would meet with your client in advance of each event to ensure that your client understands what is happening and is prepared. If appropriate, you would facilitate your client's participation in the scheduled event. You would review case materials, interview witnesses, develop evidence, and otherwise prepare for the event.
- As a CASA VOLUNTEER, you would visit the child, foster parents, biological parents, school teachers or day care providers, and others associated with the case, and update the CASA Court Report for the calendared events.
- As a CRB MEMBER, you would hold reviews as scheduled by the CRB office to coincide with calendared events.
- As a PARENT, you would participate in your scheduled pre-permanency meeting and permanency hearing. Before the event, you would meet with your attorney to make sure you understand the issues and what is expected of you and to make sure your attorney understands your wishes.
- As a FOSTER PARENT, you would keep track of the hearings scheduled in the case and plan to participate if possible and appropriate. If your foster child is supposed to receive any evaluations or assessments or participate in any other services before the hearing, you would do your part to make sure he or she receives those services.
- As a YOUTH, you would keep track of your scheduled hearings and attend each one if possible. You would talk to your Youth Attorney to make sure he or she understands your wishes. You would also talk to your Youth Attorney to make sure you understand what is expected of you at each hearing, and do everything you can to meet those expectations. You would identify any additional information you need before you turn eighteen and communicate that to CYFD and to the Court.
- As the CHILD or YOUTH, you would participate in visits with your parents. You would talk to your case-worker about your visitation schedule and how your visits are going. You would also talk to your attorney or GAL about what you want in terms of visiting your family.
- As a FOSTER PARENT, you would work with the caseworker and do what you can to help make productive and effective visits occur. You would observe and report to the caseworker what the child said about the visit.

THIS BULLETIN IS JOINTLY PUBLISHED BY:



NEW MEXICO CHILDREN'S COURT
IMPROVEMENT COMMISSION



NEW MEXICO CITIZENS REVIEW BOARD

SAMPLE SCHEDULING ORDER

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN’S COURT

JQ No. _____
Judge: _____

STATE OF NEW MEXICO *ex rel.*,
CHILDREN, YOUTH AND FAMILIES DEPARTMENT,

In the Matter of _____ (Child(ren)’s names), A Child(ren)
And Concerning _____ (Jane Doe and John Doe), Respondent(s).

The Court enters the following scheduling order:

1.) MANDATORY PRE-PERMANENCY HEARING MEETING: All parties and counsel of record shall personally attend the mandatory pre-permanency hearing meeting on _____ (date), at _____ (time) a.m./p.m. in the Courtroom of Judge, _____ at the _____ County District Court, in _____, New Mexico, with _____ (time allotted) allotted for the meeting. [meeting must be held not less than 10 days prior to the Permanency Hearing].

2.) PERMANENCY/DISCHARGE HEARING: The Permanency/Discharge Hearing is hereby set for _____ (date), at _____ (time) a.m./p.m. in the Courtroom of Judge _____ at the _____ County District Court, in _____ New Mexico, with _____ minutes/hours scheduled for the hearing so that special attention can be paid to the transition plan for _____, a child who is approaching eighteen (18) years of age. The Department shall prepare, file and serve the Permanency Hearing Report on each party by (date).

Honorable Division:

xc:

Children’s Court Attorney
Respondent’s Attorney
CASA
Citizen’s Review Board Foster

Guardian ad Litem or Youth Attorney
Judge’s TCAA
Social Worker
Parent/Substitute Care Provider