

Going to Court:
When & How a Foster
Parent Can Help

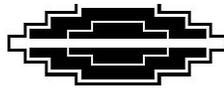
A Guide for Foster Parents and Other Caregivers About
Participating in Court Hearings

What is my role in Children's Court?

The purpose of Children's Court is to keep children safe, to help families create a safe home for their children, and to create permanency in children's lives, either in their own homes or through adoption or another permanent living arrangement. The Children's Court is not designed to punish parents; this Court does not deal with criminal charges that are sometimes filed in these cases.

As the child's caregiver, you have information that could be very useful to the Children's Court Judge when he or she makes decisions about the child in your care. In fact, the importance of the information foster parents can provide is recognized in federal law in the Federal Adoption and Safe Families Act (ASFA).

The New Mexico Children's Court Rules require that caregivers be given notice and an opportunity to be heard. The Rule states that *"in abuse and neglect proceedings, the department shall give notice of permanency hearings and periodic judicial review hearings to the child's foster parents, pre-adoptive parents, and relative care givers. The notice given shall expressly inform foster parents, pre-adoptive parents and relative care givers of their right to be heard at the permanency hearing or judicial review."*



Even if you have already talked to your CYFD Worker, the Guardian ad Litem (GAL) or the Youth Attorney, or the child's Court Appointed Special Advocate (CASA), and told them a lot of the same information you would tell the Judge, you should still tell the Court directly. The Judge needs to hear from you specifically, and he or she may have specific questions only you can answer.

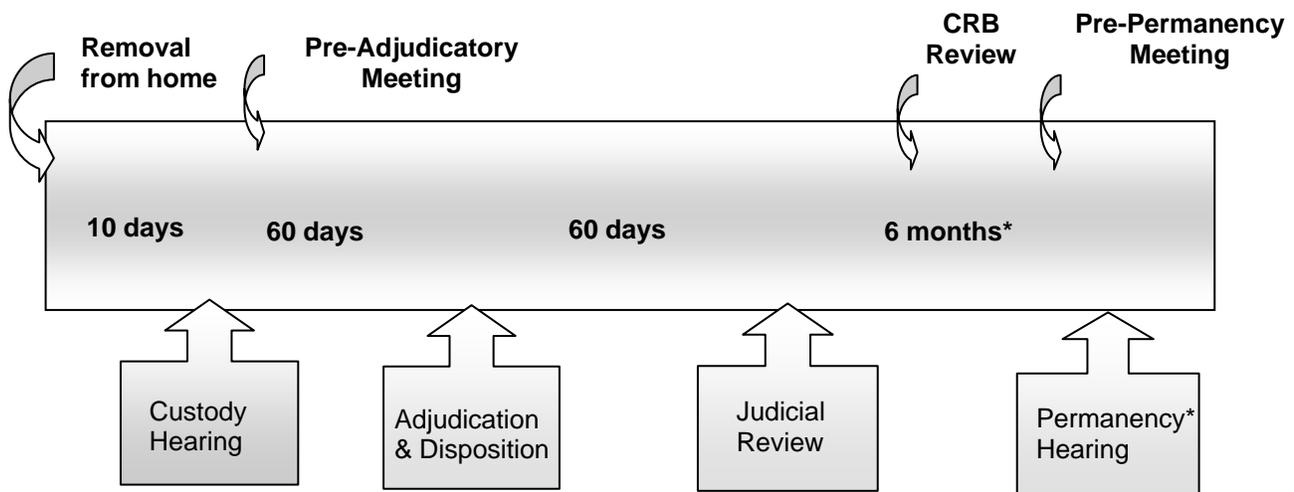
Besides, if you go to Court and participate in a hearing, you will no doubt learn a lot by listening to the other people there. So although you don't actually have to go to Court, you really should think about it! Who else knows as much as you do about how the child is doing?

However, you may not be allowed to attend or to speak at some hearings. For example, you are not allowed to attend or be heard at a termination of parental rights (TPR) trial unless you are called as a witness or unless you have been permitted to intervene (more information on intervening later). Check with your CYFD Worker.

How is the Court involved in abuse and neglect cases?

According to the New Mexico's Children's Code, the Children's Court is responsible for critical decisions in all child abuse and neglect cases. The Children's Court Judge decides whether or not abuse or neglect, in fact, exists, and whether the child may safely remain at home. The Judge also decides whether custody of the child should be given temporarily to the Children, Youth, and Families Department (CYFD). The Judge may order that the child or family receive counseling or other services.

While the child is in CYFD custody, the Children's Court Judge monitors the case. The Judge will hold judicial hearings and reviews to make sure the child is safe and to make sure the family is complying with their treatment plan. At each hearing, the Judge will decide whether or not CYFD is making reasonable efforts to return the child home (or to some other permanent arrangement) as soon as possible. The time frame for reviews and hearings and related events is shown here.



**A Permanency Hearing shall be commenced within six months of the initial judicial review of a child's dispositional order or within twelve months of a child entering foster care.*

Each Court hearing or meeting has a different purpose. They are all explained on the next two pages. Per the New Mexico Children's Court Rules, Foster Parents have the right to be informed and/or heard at various hearings.

The Custody Hearing

Within ten working days of when a petition is filed in Children's Court, the Judge will hold a **Custody Hearing**. At that hearing, the Judge will decide if the child should stay in the temporary custody of CYFD until the trial (adjudication) is held.

The Adjudicatory Hearing and Disposition

The **Adjudication (or Adjudicatory Hearing)** is a trial before the Judge on the allegations involved in removing the child from home. It must be held within 60 days of the date that the respondent is served the petition. At this trial the Judge decides whether or not there is reason to find that the child has been abused or neglected.

The **Disposition (or Dispositional Hearing)** is usually held at the same time as the Adjudication. If not, it must be held within 30 days of the Adjudicatory Hearing. At this hearing, the Judge orders the treatment plan that the parents must follow in order to have the child returned home.

The Judicial Review

Within 60 days of the Disposition, there will be a **Judicial Review**. At that time, the Judge will review the case and make sure the treatment plan is being followed and that the parents and CYFD are all doing what has been ordered. The Judge may order changes in the treatment plan at that time. *You have the right to receive notice, to attend, and be heard at the Judicial Review. Your observations about how the child is doing could be helpful to everyone involved in deciding what needs to happen next.*

The CRB Meeting

The Citizen Review Board (CRB) is a group of trained volunteers from your community. Before the Permanency Hearing, and regularly thereafter through the life of the case, your local CRB will review the child's case. At the **CRB Meeting**, CRB members will decide if they agree with the permanency plan for the child.

Everyone involved with the case is invited to talk to the CRB. You will receive an invitation to this meeting from the CRB office. The meeting will be held in your community and is less formal than a Court hearing. If you prefer to provide information to the Board in writing, there is a short form included with your invitation that you can use. Your observations will help the CRB make decisions and recommendations about the child, which will be reported to the Judge. *You have the right to receive notice, to attend, and be heard at the CRB Meeting.*

The Permanency Hearing

The Permanency Hearing is an extremely important event. It is held within six months of the initial Judicial Review or within twelve months of a child entering foster care, whichever occurs first. Before the case goes to the Permanency Hearing, the local Citizens Review Board (CRB) meets to review the case and make recommendations to the Judge. At the Permanency Hearing, the Judge hears from CYFD, the GAL or Youth Attorney, the respondent's attorney, and possibly the Court Appointed Special Advocate (CASA) and others about whether or not the child can be safely returned home. *You have the right to receive notice, to attend, and be heard at the Permanency Hearing.*

Subsequent Hearings

If the Judge decides the child's permanency plan should be reunification (return home), and the child is not returned home within three months, a **Permanency Review Hearing** will be held to decide if the permanency plan should be changed to adoption or some other permanent arrangement. *You have the right to receive notice, to attend, and be heard at the Permanency Review Hearing.*

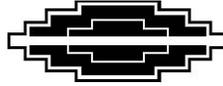
If a child remains in custody after the Permanency Hearing, there will be a **Judicial Review** in Court six months thereafter, and another Permanency Hearing every twelve months until the case is dismissed. At each review, the Judge will consider the appropriateness of the child's permanency plan and make sure that reasonable efforts are being made to implement the plan. The local Citizen Review Board will also continue to review the case approximately every six months for the life of the case. *You have the right to receive notice, to attend, and be heard at the Judicial Review.*

Pre-Hearing Meetings

The Children's Code requires that a mandatory meeting be held before both the Adjudicatory Hearing and the Permanency Hearing. All "parties" to the case (that is, the parents and their attorneys, the GAL or Youth Attorney, and the CYFD worker) must be there. At the **Pre-Adjudicatory Meeting**, the parties will discuss the child's placement, the treatment plan, and the issues to be addressed at the Adjudicatory Hearing. At the **Pre-Permanency Meeting**, the parties will discuss what the child's permanency plan (for example, reunification or adoption or other planned permanent arrangement) should be. This plan will then be recommended to the Judge.

What information can I provide that the Court would find helpful?

The Children's Court Judge must make decisions about what is best for the child in your care. It can be helpful to the Judge for you to provide factual information about the child. You should describe what you have observed and you should discuss the child's needs. You should avoid being judgmental, especially about other people involved in the case.



Some types of information which could be helpful include:

- placement information (when the child came to live with you and his/her emotional and physical condition at that time);
- medical information (medications the child is taking, medical conditions or needs, visits to the doctor, hospitalizations, the child's physical development and developmental lags);
- dental information (visits to the dentist, dental problems);
- behavioral information (the child's behavior in your home; services the child is receiving and who is providing them, how the child expresses his/her needs and emotions, the child's eating and sleeping patterns, etc.);
- educational information (the child's grade level in school and his/her performance, dates and results of school conferences you have attended, educational testing the child has received and results of those tests, and the child's educational needs);
- visitation (dates of visits with parents and other family members, observations of the child's or the family's behavior during visits if you were there, other contact with family members including phone calls and letters);
- the child's interests and activities (special activities the child participates in, the child's talents, interests, hobbies, or skills);
- professional contacts (contacts between you and the child's CYFD Worker, the Guardian ad Litem or Youth Attorney, and CASA, if the child has one);
- recommendations (any services you think the child needs and why).

What should I know about presenting information to the Court?

Since you are not required to attend a Court review or hearing, you may decide not to go. But you could choose to provide information to the Court in writing. In that case, prepare a brief, well-organized, and factual report. Don't be judgmental. Send the report well ahead of time, within a few days of receiving notice of the hearing, if possible. If you send a report to the Court, you must also send it to the attorneys in the case: the CYFD attorney, the GAL or Youth Attorney, and the parent's attorney. You should also send a copy of your report to the child's CYFD Worker and CASA. If you choose to submit a written report, you may include information about the following topics:

- Medical, dental and general physical health of the child
- Behavioral health of the child
- How the child is adjusting to the living arrangement
- Educational progress. *For example, if the child is a special education student, what is the status of the Individual Education Plan (IEP)*
- Social skills and peer relationships
- Special interests and activities
- Status of visitations
- Other helpful information

You may decide you would like to be heard in Court. Or you might receive a *subpoena* requiring you to attend the hearing as a witness. In either event, here are a few tips:



- Be accurate and factual
- Be organized, prepared, and calm
- Be sincere, serious, and polite
- Listen carefully to each question. Wait until the question is completed before you begin to answer
- Pause, think, and answer the question directly and completely
- If you do not understand a question, ask that it be rephrased
- Be sure of the answer you are giving. Offer to explain your answer, if necessary
- Use language you are comfortable using
- Dress professionally (like you would for a job interview)
- Always show respect to others in the Courtroom. Listen carefully to what they say. Don't argue with the Judge or the attorneys

As a foster parent, you have the right to be notified, to attend, and to be heard at many of the Court reviews or hearings that pertain to a child in your care. You have information and observations that are important for the Court to hear.

You may also participate in some of the meetings held in between Court hearings (like the Pre-Adjudicatory Meeting, the CRB Review, and the Pre-Permanency Meeting). By sharing your observations and recommendations, you can be part of the team that helps decide what is best for the child and the family.

This booklet provides some information about Court hearings and other meetings in child abuse and neglect cases and gives you some tips about participating in Court. Remember, there is probably no one who knows what's going on with the child in your care better than you do. You should be heard!



Some of the information in this booklet is adapted from *Caregivers and the Courts: A Primer on Juvenile Dependency Proceedings for California Foster Parents and Relative Caregivers*, developed by the Judicial Council of California Center for Families, Children and the Courts.

**PREPARED BY SHAENING AND ASSOCIATES, INC. AND
THE NEW MEXICO SUPREME COURT'S COURT IMPROVEMENT PROJECT TASK FORCE**

**Funding provided by the U.S. Department of Health and Human Services
Administration for Children and Families and the State of New Mexico**

For further information about the New Mexico Court Improvement Project, contact the Administrative Office of the Courts, 505-827-4800.