

## **D&N 101**

### **Parties and Roles:**

- The Court
  - Who does the court represent?
    - The court does not represent anyone. The “Court” refers to either a Judge or a Magistrate. Typically, a magistrate will make most of the decisions and a Judge will conduct the Adjudication Trial and the Termination of Parental Rights trial (if there is one).
  - What do they do?
    - The Court is a Judge or Magistrate who makes decisions about your case and your child(ren).
  - What are my rights?
    - Anything you say in the Court is not confidential and will become part of the record that can be viewed by anyone in the case. While there is no confidentiality regarding things that are said or written to the Court, the general public cannot get documents that have been filed in your case. A magistrate will typically make most of the decisions in your case. You have a right to request a Judge for your hearings.
- Respondent
  - The parent, guardian, or legal custodian are sometimes referred to as a respondent or respondent parent.
  - Parents, guardians, or legal custodians are at the center of the case and all decision making. Services should be focused on the whole family, while also meeting the individual needs of the child(ren) and parent(s), guardian, or legal custodian. The family is the reason the system exists and who the system serves.
- Respondent Parents’ Counsel (RPC) or Private Attorney
  - Who does the RPC/private attorney represent?
    - You have a right to be represented by an attorney. If your income is below a certain amount, you have a right to have the Judge or Magistrate appoint an attorney to represent you at no cost to you. If you do not qualify for the appointment of counsel, you have a right to hire your own attorney. The RPC or private attorney is your attorney. They are the person who will provide legal representation to you and usually speak directly to the Court on your behalf.
  - What do they do?

- If you qualify and are appointed an RPC, they will provide legal representation to you free of charge. Your attorney will usually speak to the Court on your behalf and file documents, such as motions or responses telling the Court what you want it to order. Your attorney will also talk with the other people involved in the case about what you want and negotiate matters on your behalf. Your attorney will explain to you what is happening in your case and may advise you about your options throughout the case.
  - What are my rights?
    - When you talk with your attorney privately, your conversations are privileged and confidential, meaning those conversations generally cannot be revealed without your consent. If you talk with your attorney when other people are around, what you say is not privileged or confidential and those conversations can be discussed in court unless those other people are part of your defense team. Please discuss confidentiality further with your attorney.
- County/City Attorney (CA)
  - What does the CA represent?
    - The CA is the attorney that is with the representative from the Department of Human Services. The CA does not represent the Caseworker individually.
  - What do they do?
    - The CA speaks to the Court during hearings, files documents for the Department of Human Services and argues in court for their position. The CA will also talk with your attorney about what you want.
  - What are my rights?
    - The CA should never talk to you without your attorney present. If they do, you are not required to respond and you should notify your attorney immediately. Any conversation you have with the CA will not be private or confidential and can be revealed to the Court or other parties in the case.
- Guardian Ad Litem (GAL)
  - Who do they represent?
    - The GAL is an attorney appointed to represent the best interest of your child(ren) (who are under 12 years old). They are independent of the other parties.
  - What do they do?

- Similar to your attorney's representation of you, the GAL will speak in court and file documents, either motions or responses, to give information to the Court about what they believe is in the best interests of your child(ren).
- What are my rights?
  - The GAL is required by law to try to talk to you about your child(ren) and communicate with you throughout the case in order to learn more about the needs of your family. You have a right to not respond and to have your attorney present when talking to the GAL. Consult with your attorney before talking with the GAL. Any conversation you have with the GAL will not be private or confidential and can be revealed to the Court or other parties in the case.
- Counsel for Youth (CFY)
  - Who do they represent?
    - A Counsel for Youth (CFY) is your child(ren)'s attorney if your child(ren) is 12 or older at the time the dependency and neglect case is filed, or if your child(ren) turns 12 years old while the case is open. The CFY represents your child(ren) and what your child(ren) want. If there is a GAL before your child turns 12 years old, GAL may become the CFY.
  - What do they do?
    - The CFY advises your child(ren) and tells the Court about what your child(ren) wants. The CFY has professional duties to your child(ren) including a confidential relationship with your child(ren). The CFY will independently investigate, help your child(ren) to understand their options, counsel your child(ren) to help them determine their position, and advocate for that position in court. The CFY will also help your child(ren) decide whether to waive their therapeutic privilege.
  - What is the difference between a GAL and a CFY?
    - The GAL considers what your child(ren) wants, and then tells the Court what the GAL thinks is in your child(ren)'s best interest. The CFY argues for what your child(ren) wants. Things your child(ren) tells the CFY cannot be told to others without your child(ren)'s consent. The GAL can share information to further your child(ren)'s best interest.
  - What are my rights?
    - The CFY is required by law to try to talk to you about your child(ren) and communicate with you throughout the case in order to learn

more about the needs of your family. You have a right to not respond and to have your attorney present when talking to the CFY. Consult with your attorney before talking with the CFY. Any conversation you have with the CFY will not be private or confidential and can be revealed to the Court or other parties in the case.

- County Department of Human Services
  - Who do they represent?
    - DHS is a party to the case and does not represent anyone. Instead, DHS is the county agency that is tasked with keeping your child(ren) safe. In the beginning stages of your case, it is their job to: 1) assess whether the child(ren) are safe in your care; 2) if not safe, assess whether a safety plan can be created to keep the child(ren) with you; 3) advise the Court of the reasons they have filed a request to find that your child(ren) are dependent or neglected; 4) ask for your child(ren) to be removed from your custody if they believe your child(ren) is not safe with you; and 5) request other orders from the Court that they believe are necessary to keep your child(ren) safe.
  - What do they do?
    - DHS' involvement has multiple parts. It includes assessing whether they believe your child(ren) are safe in your care, asking for the removal of your child(ren) from your home if they believe the child(ren) are not safe, and working with you and your attorney to create a treatment plan to return your child(ren)/close the case. They are also responsible for assisting you to follow the treatment plan and provide resources to do so. If you cannot pay for the services, DHS will provide you with vouchers or directly pay the service providers. If they believe the treatment plan has not resulted in you being able to safely parent your child(ren), they may ask the Court to place custody of the child(ren) with another person or terminate your parental rights.
  - What are my rights?
    - You have various rights with DHS, including a right to be presumed a fit parent unless the Court decides otherwise. You also have a right to have DHS pay for services that are required in your treatment plan, if you cannot afford the services. DHS must use "reasonable efforts" to provide, purchase, or develop the services necessary to prevent unnecessary placement of your child(ren) out of your home or to reunify you with your child(ren).

- Caseworker

- Who do they represent?
  - The Caseworker does not represent anyone. Instead, the Caseworker is the specific person from DHS that is assigned to work with you and your family and connect you and your child(ren) with the services listed in your treatment plan.
- What do they do?
  - The Caseworker will communicate with you in person and by phone, text, or email. The Caseworker will set up family time between you and your child(ren) and will write the treatment plan, if necessary, with you and your attorney's input. The Caseworker will also set up the authorization/payment for services that may be ordered by the Court through your treatment plan. The Caseworker will also schedule meetings, communicate with your service providers to get updates, and provide updates about your case to the Court.
- What are my rights?
  - You have the same rights with the Caseworker that you have with DHS (listed above). Additionally, there is no confidentiality with the Caseworker and anything you tell the Caseworker can be revealed to the Court or another party in the case.
- Special Respondent
  - Who do they represent?
    - A Special Respondent does not represent anyone. A Special Respondent is a person involved in the case who is not a parent, but who resides with, has had a parenting role with, or generally maintains a significant relationship with, the child(ren).
  - What do they do?
    - The Special Respondent may have specific tasks that they must do or not do, based on the best interests of your child(ren). For instance, they may be ordered not to see you or your child(ren), or they may be ordered to do treatment.
  - What are my rights?
    - You have a right to object to anyone being made a Special Respondent. The Court will make the final decision. Anything you say or write to a Special Respondent can be told to others; there is no confidentiality with a Special Respondent.
- Intervenor
  - Who do they represent?

- An Intervenor does not represent anyone. An Intervenor is a person who has asked to be involved in the case and has been allowed to do so by the Court. This can be a grandparent, foster parent, or someone else with a special relationship with your child(ren).
  - What do they do?
    - As a party, Intervenors may have specific tasks that they must do or not do, based on the best interests of your child(ren). They can ask the Court for things and can tell the Court what they want.
  - What are my rights?
    - You have a right to object to anyone being made an Intervenor, though in some cases, certain people have a right to intervene. The Court will make the final decision. Anything you say or write to an Intervenor can be told to others; there is no confidentiality with an Intervenor.
- Kinship Caregiver
  - Who do they represent?
    - Kinship Caregivers are relatives, friends, neighbors and other people with a significant relationship to the child(ren), youth, or family who are caring for your child(ren) in their home. For instance, kinship can include people like a teacher, neighbor, or coach.
  - What do they do?
    - The Kinship Caregiver may not be a party, unless they are also a Special Respondent or Intervenor. Because they are providing a home for your child(ren), they will receive documents about the case. The Kinship Caregiver may attend the family meetings and court hearings.
  - What are my rights?
    - Anything you say or write to a Kinship Caregiver can be told to others; there is no confidentiality with this person.
- Foster Parent
  - Who do they represent?
    - A Foster Parent does not represent anyone. A Foster Parent is a person who is not a kinship person and is providing a home to your child(ren) after the Court has ordered that your child(ren) be removed from your home.
  - What do they do?
    - The Foster Parent provides a home for your child(ren), may take your child(ren) to family time, and may take your child(ren) to appointments with doctors or therapists. They will receive documents

about the case. The Foster Parent may attend the family meetings and court hearings.

- What are my rights?
  - Anything you say or write to a Foster Parent can be told to others; there is no confidentiality with a Foster Parent. You have a right to ask that the Foster Parent leave when you discuss your treatment plan in family meetings. As a parent, when your child(ren) is to be taken to medical/dental appointments, you have a right to be consulted prior to the appointment and a right to receive the medical/dental records unless otherwise ordered by the Court. In emergency situations, the Court may order treatment if the Court determines that the treatment is in your child(ren)'s best interest or you cannot be reached. In those cases, you also have a right to receive the treatment records.
- Court Appointed Special Advocate (CASA)
  - Who do they represent?
    - A CASA volunteer does not represent anyone. A CASA is a trained volunteer who gathers information about the child(ren) and writes reports to the Court based on their findings. A CASA may or may not be appointed at the Advisement Hearing.
  - What do they do?
    - A CASA volunteer will give reports to the Court about your child(ren). The CASA volunteer may also participate in family meetings and court hearings. They will receive documents about the case.
  - What are my rights?
    - You have a right to object to the appointment of a CASA and, if you do, the judge will make the final decision about whether appointment of CASA is in your child(ren)'s best interest. Anything you say or write to a CASA volunteer can be told to others; there is no confidentiality with a CASA. Consult with your attorney before talking with the CASA. You have a right to ask that the CASA to leave when you discuss your treatment plan in family meetings.

### **Emergency Hearing**

- What is an Emergency Hearing?

- This is the first hearing in your case and must take place within 48 hours to 72 hours depending on how your child is removed from your care.
- At this hearing, the Judge or Magistrate will decide:
  - Whether there is enough evidence to support a Petition in Dependency and Neglect (D&N) being filed;
  - Whether your child(ren) should continue to be temporarily removed from your care;
  - Where your child(ren) should be placed;
  - Whether any protective orders need to be entered in your case; and
  - When and how you will be able to see your child(ren) if not in your care.
- The Emergency Hearing may also be called a Temporary Custody Hearing, a Shelter Hearing, or a Preliminary Protective Proceeding. What the hearing is called will depend on the jurisdiction.
- What are my rights?
  - You have a right to notice of the date and time of the Emergency Hearing and to appear. DHS must give you notice. You have a right to be represented by an attorney. You have a right to have DHS make reasonable efforts to keep your child(ren) at home with you before removing the child(ren) unless there is an emergency situation that excuses DHS from making reasonable efforts. “Reasonable efforts” is a legal term that generally means the exercise of diligence and care to keep your child(ren) in your home or, if they are removed, to reunify you with your child(ren). You should talk to your attorney about what reasonable efforts should be made in your case. You have a right to disagree with the removal of your child(ren) and any protective orders that you are being asked to comply with and to have a hearing where the CA must prove the necessity of those orders. You have a right to call witnesses to testify on your behalf and can also subpoena witnesses to testify.
  - Unless there is a safety risk, you have a right to regular family time with your child(ren). Family time must start within 72 hours after the Emergency Hearing. You have a right to have an interpreter if English is not your first language. If you have a disability, you have a right to reasonable modifications for your disability. For example, this may include a sign language interpreter if you are deaf or other modifications to the court process to accommodate your disability.
- Who will be there?
  - You, the Judge or Magistrate, the CA, your attorney, the GAL or CFY, the CASA, and the Caseworker. Your child(ren) may also be present, especially if

age 12 or older. Please see The Parties Information Sheet for information about roles.

- When will it happen?
  - The hearing will take place within 48 or 72 hours depending on how your child(ren) was removed from your custody.
- What can happen?
  - The Judge or Magistrate may decide that your child(ren) should be returned to your care, or the Judge or Magistrate may decide that your child(ren) shall remain out of your care and remain in foster care or kinship care.
- What else do I need to know?
  - In most cases, you should receive a copy of the Petition in Dependency & Neglect at the Emergency Hearing. The Petition tells you why DHS is involved with your family and the reasons that the CA is saying that your child is dependent or neglected. If you have not already done so, you will be asked to complete a Financial Affidavit (also called an Application for State Paid Professional (JDF 208)). This is how the Court will determine whether an attorney will be appointed to represent you at no cost to you (if you make too much money to have an attorney appointed at no cost, you may hire your own attorney). You will be asked to complete a Relative Affidavit at, or shortly after, your Emergency Hearing. The purpose of the Relative Affidavit is to locate potential placements for your child(ren) if they are not able to remain at home with you. NOTE: This document is very important to you, your child(ren), and your case. Because of this, it is critical you talk to your attorney about the form and submit it to the court when ordered to do so. You will be asked if you or your child(ren) are members or are eligible for membership in any Indian or Native American tribe. The reason for this is because of a federal law called the Indian Child Welfare Act (ICWA), which provides increased protections for Indian child(ren).
  
- Advisement Hearing
  - What is an Advisement Hearing?

- At the Advisement Hearing, the Court will explain your rights to you. This is called an advisement and should occur at or before your first appearance in court. The advisement may occur at the Emergency Hearing, or it may occur at a separate Advisement Hearing. The advisement may be done by video, your attorney may advise you in place of the court advisement, or the Court may formally advise you of your rights. At the time you are advised by the Court (in person or by video) or your attorney, you should receive a copy of the Petition in Dependency & Neglect. The Petition tells you why DHS is involved with your family and the reasons the CA is saying your child(ren) is dependent or neglected. The Petition must be filed within 14 days of your child(ren) being removed from your home and promptly provided to you.
- What are my rights at the Advisement Hearing?
  - You have a right to notice of the date and time of the Advisement Hearing and to appear at the Advisement Hearing. You have a right to be represented by an attorney. See The Parties Information Sheet for more information. You have a right to ask the Court and/or your attorney any questions you may have about your case. You have a right to talk to your attorney about your case before the Advisement Hearing takes place. You have a right to be told the reasons why DHS is involved with your family. You have a right to dispute the reasons for the Petition and have a trial where the CA must prove those reasons. If you have a pending criminal case or are facing potential criminal charges, you have a right to raise your 5th Amendment right to remain silent. Anything you say in the course of your Dependency & Neglect case could be used against you in your criminal case. You have a right to have an interpreter if English is not your first language.
  - If you have a disability, you have a right to reasonable modifications for your disability. For example, this may include a sign language interpreter if you are deaf or other modifications to the court process to accommodate your disability.
- Who will be at the Advisement Hearing?
  - You, the Judge or Magistrate, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Your child(ren) may also be present, especially if age 12 or older. Please see The Parties Information Sheet for information about roles.
- When will the Advisement Hearing happen?

- In most jurisdictions, the Advisement Hearing takes place at the Emergency Hearing.<sup>1</sup> If your child(ren) was not removed from your home, or if you did not appear at the Emergency Hearing, the Advisement Hearing may be your first appearance in court. If there was no Emergency Hearing or if your jurisdiction holds those hearings separately, the Advisement Hearing generally happens within 30 days after the Petition is filed, and you will be notified of that date and time.
- What can happen at the Advisement Hearing?
  - You will be advised of many of your rights by the Court. Other rights may exist, and you should discuss those rights with your attorney. You may be asked to either admit or deny the allegations in the petition. If you admit, your case will continue to a Dispositional Hearing. If you deny, your case will continue to a contested Adjudicatory Hearing.<sup>2</sup> You should discuss your options with your attorney before admitting or denying the allegations in the Petition.
- What else do I need to know about the Advisement Hearing?
  - If you have not already done so, you will be asked to complete a Relative Affidavit at, or shortly after, your Emergency Hearing. The purpose of the Relative Affidavit is to locate potential placements for your child(ren) if your child(ren) is not able to remain at home with you. NOTE: This document is very important to you, your child(ren), and your case. Because of this, it is critical you talk to your attorney about the form and submit it to the Court when ordered to do so. If you have not already been asked, the court will ask if you or your child(ren) are members or are eligible for membership in any American Indian or Native American tribe. The reason for this is because of a federal law called the Indian Child Welfare Act (ICWA), which provides increased protections for Indian child(ren). Throughout your case, you have a right to have DHS make reasonable efforts to provide services so that your child(ren) can safely return to your home. “Reasonable efforts” is a legal term that generally means the exercise of diligence and care to reunify you with your child(ren). You should talk to your attorney about what reasonable efforts should be made in your case. Unless there is a safety risk, you have a right to regular parenting time with your child(ren). Parenting time should start no more than 72 hours after your child(ren) is removed from your home. You have a right to get updates about your child(ren), to be consulted about important decisions being made about your

child(ren), and to make certain decisions on behalf of your child(ren), such as medical and educational decisions.

- Adjudication Hearing

- What is an adjudication trial?

- An adjudication trial (sometimes called a hearing) is where the jury or judge decides whether claims in the Petition have been proven that a child or children are dependent or neglected. Parents have a right to have an attorney represent them during the trial (the attorney may be free, if eligible). The trial may be in front of a jury or a judge

- What are my rights at the adjudication trial?

- You have the right to have a jury make the decision. You have the right to be present. You have the right to an interpreter if English is not your first language. You have the right to an attorney (if you make too much money to have an attorney appointed at no cost, you may hire your own attorney). You have the right to present evidence. You have the right to call witnesses, and you can force witnesses to testify by a subpoena. You have the right to cross examine all witnesses (or have your attorney do that for you). You have the right to require the People (CA) to prove all allegations by a preponderance of the evidence (see below for definition). If you have a disability, you have a right to reasonable accommodations for your disability.

- Who will be at the adjudication trial?

- The parents of the child(ren), the parents' attorney, the Guardian Ad Litem, the CA, a representative from the Department of Human Services (DHS), the judge, witnesses that testify, and the jury (if a jury trial is requested). There may be other people in the Courtroom unrelated to your case, such as staff and member of the public.

- When will the adjudication trial happen?

- When the trial is held, depends on the age of the child(ren):
      - If one or more of the children are under the age of 6 years, the adjudication trial must happen within 60 days of when you are given a copy of the Petition.
      - If all of the children are 6 years old or older, the adjudication trial must happen within 90 days of when you are given a copy of the Petition

- What can happen at the adjudication trial?

- Witnesses will be called to testify about what they have seen and observed. The parents can be called as a witness by any of the

attorneys. Sometimes, expert witnesses will be called to give an opinion in certain areas (ex. Doctors). The witnesses will be questioned by the attorneys and Guardian Ad Litem. After all of the witnesses have been called, the jury or judge will decide if the County Attorney has provided enough evidence to show that the child(ren) are abused or neglected child(ren).

- What else do I need to know about the adjudication trial?
  - In order to show that the child(ren) are abused or neglected, the County Attorney must show that it is more likely than not that the abuse or neglect has occurred. This standard is called “preponderance of the evidence”. If the County Attorney has proven the abuse or neglect by a “preponderance of the evidence”, then the child(ren) are “adjudicated” to be dependent or neglected child(ren). The standard “preponderance of the evidence” means that the County Attorney has to prove that “it is more probably true than not” that the children are dependent or neglected based on the claims in the Petition. If the jury decides that the County Attorney has not shown that “it is more probably true than not” that the child(ren) have been abused or neglected, the case closes. Sometimes, you may have criminal charges pending at the same time as the adjudication trial. In those cases, you are not required to testify. Rather, you may exercise your 5<sup>th</sup> Amendment right not to incriminate yourself. In those cases, the jury will be provided with an instruction that they can make an inference that by asserting the 5<sup>th</sup> Amendment right, the answer would have been unfavorable.

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- Dispositional Hearing

- What is a dispositional hearing?
  - At a Dispositional Hearing, the Court will order the treatment plan. The treatment plan will include objectives and action steps that you will be ordered to complete successfully to have your child(ren) return home and close the case. All parties must comply with the Court ordered treatment plan.
- What are my rights at the Dispositional Hearing?
  - You have a right to an attorney at no cost if you financially qualify. If you make too much money to have an attorney appointed at no cost, you may hire your own attorney. You have a right to object to the proposed treatment plan. You have a right to ask for changes or

additions to the proposed treatment plan. If you don't agree with some, or all, of the treatment plan objectives and/or action steps, you have a right to a hearing where you can present evidence, call witnesses, and force witnesses to testify by a subpoena. You have a right to cross examine all witnesses (or have your attorney do that for you). You have a right to be present. However, if you fail to appear, the treatment plan can be ordered in your absence. You have a right to an interpreter if English is not your first language. If you have a disability, you have a right to reasonable accommodations for your disability.

- Who will be at the dispositional hearing?
  - You, the Judge or Magistrate, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Any Intervenor, Kinship Caregiver, or Foster Parent may attend. Your child(ren) may also be present, especially if age 12 or older. Please see The Parties Information Sheet for information about roles.
- When will the Dispositional Hearing happen?
  - The hearing must be held within 30-45 days after the adjudication (by admission or trial) enters.
- What can happen at the dispositional hearing?
  - The Court will order the treatment plan with any modifications. The Court will ask if the treatment plan is capable of success and what is needed to accomplish the goals of the treatment plan. The Court will order the you to provide DHS with the names and addresses of family members and supports who have an interest in the child(ren) or can help you be successful. The Court will set a Permanency Planning Hearing within 90 days.
- What else do I need to know about the Dispositional Hearing?
  - The goal of the treatment plan is to correct the safety problems that impact your respondent's ability to safely parent your child(ren). DHS has the responsibility to provide services. You are responsible to participate in services and communicate anything that interferes with their ability to be successful. Meetings outside of court, including family engagement meetings and other appointments such as treatment, will likely be a requirement of the treatment plan. It is important to keep in communication with professionals throughout your case, such as your attorney, the caseworker, GAL, CFY, and your treatment providers.

- Permanency Planning Hearing

- What is a Permanency Planning Hearing?
  - The purpose of the Permanency Planning Hearing is to plan for a permanent home for your child(ren)
- What are my rights at the Permanency Planning Hearing?
  - You have a right to inform the Court what permanent plan you think is in your child(ren)'s best interest. You have a right and obligation to provide DHS with the names and addresses of family members or kin.
- Who will be at the Permanency Planning Hearing?
  - You, the Judge or Magistrate, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Any Intervenor, Kinship Caregiver, or Foster Parent may attend. Your child(ren) may also be present, especially if age 12 or older. Please see The Parties Information Sheet for information about roles. There may be other people in the Courtroom unrelated to your case, such as staff and member of the public. At any Permanency Planning Hearing, the Court is required to consult with your child(ren), if appropriate, in a developmentally appropriate manner regarding their permanency plan. Sometimes this is done through the GAL or CFY, though child(ren) are encouraged to attend this hearing.
- When will be Permanency Planning Hearing happen?
  - The initial Permanency Planning Hearing for the child(ren) must take place as soon as possible after a Dispositional Hearing but no later than 91 days after the Court orders the treatment plan. Follow up Permanency Planning Hearings must take place every six months, but can happen more often if deemed necessary. A Permanency Planning Hearing is often combined with a Review Hearing
- What can happen at the Permanency Planning Hearing?
  - The Court will decide what the permanent plan will be for your child(ren). The Court can order a concurrent plan (meaning more than one plan may be ordered at a time). The permanent plan may be remain home, return to a parent, adoption by a relative or non-relative, permanent placement with a fit and willing relative or kin through allocation of parental responsibilities (APR), other permanent plan living arrangement, or emancipation.
- What else do I need to know about the Permanency Planning Hearing?

- Child(ren) under the age of six must be placed in a permanent home within one year of their removal. This is called Expedited Permanency Planning (EPP).
- What are the possible permanent plans that will be discussed at the Permanency Planning Hearing?
  - **Reunification/Return Home:** The child(ren) return home with you as the parent. You have all rights and responsibilities for your child(ren). The case is dismissed after a transition period occurs and DHS is no longer involved. DHS may re-engage with the family in the future if there are safety concerns. The goal is for this to occur as quickly as it can safely happen. The Court will be looking for consistency in your treatment plan compliance when determining how quickly this can safely happen. Please note that this varies by case. Ask your attorney about your specific case.
  - **OPPLA (Other Planned Permanent Living Arrangement):** A youth who is at least age 16 may choose OPPLA as their primary goal and may choose to stay in foster care after turning 18, when the youth can choose to join the Youth in Transition Program to continue receiving services until age 21 on a voluntary basis. Once they are legally an adult, they hold their own rights and can decide whether to continue services on a voluntary basis with DHS or close their case and end services. If they chose to close their case before age 21, they can request to reopen it until they turn 21. Please note that this varies by case. Ask your attorney about your specific case.
  - **APR (Allocation of Parental Responsibilities):** This is, typically, where someone other than the parent is given the rights and responsibilities to care for your child(ren); this could also include custody with the other parent or joint custody between the parents. APR is a permanent order unless it is changed by a court order. You may ask to regain residential custody of your child(ren) after 2 years, or earlier if an emergency situation exists. You may ask the Court to expand your parenting time under the APR order sooner than 2 years. A Court will consider the your progress in relation to the concerns that existed at the time when the Dependency & Neglect case closed and will consider what is in the child(ren)'s best interest when deciding whether or not to modify the APR order. Please note that this varies by case. Ask your attorney about your specific case.

- **Adoption:** When a motion to terminate parental rights is granted by the Court and your child(ren) is legally adopted, no legal rights or responsibilities remain between you and your child(ren). Another person permanently has all parental rights and responsibilities for your child(ren). Adoption is permanent and typically cannot be undone by a future court order. Typically, you do not have a right to visitation with your child(ren). Any visitation that may occur would be up to the adoptive parents. Please note that this varies by case. Ask your attorney about your specific case.
- Review Hearing
  - What is a Review Hearing?
    - The Court is required to review the placement of your child(ren) and ensure your child(ren)'s needs are being met. The Court will review your progress and successes with the treatment plan and make sure DHS is helping you accomplish the treatment plan goals
  - What are my rights at the Review Hearing?
    - You have a right to request changes to your treatment plan, inform the Court of any barriers to your success, and share what you think is in your child(ren)'s best interest. You have a right and obligation to provide DHS with the names and addresses of family members or kin. You have a right to request more frequent review hearings and more services to assist with your success.
  - Who will be at the review hearing?
    - You, the Judge or Magistrate, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Any Intervenor, Kinship Caregiver, or Foster Parent may attend. Your child(ren) may also be present, especially if age 12 or older. Please see The Parties Information Sheet for information about roles.
  - When will the Review Hearing happen?
    - The Court will review your case regularly, typically every 60 to 90 days.
  - What can happen at the Review Hearing?
    - The Court can make changes to the treatment plan and to the placement of your child(ren). The Court can enter protective orders
  - What else do I need to know?
    - A Review Hearing may be combined with other types of hearings such as Permanency Planning Hearings. There is typically a report that will be written by the Caseworker. Your attorney should go over the report prior REVIEW HEARING CONTENTS What is it? What are my rights?

Who will be there? When will it happen? What can happen? What else do I need to know? to the hearing. Sometimes the report will be referred to as the FSP or Family Services Plan.

- TPR (Termination of Parental Rights) Hearing
  - What is a Termination of Parental Rights hearing?
    - A Termination of Parental Rights hearing is where your parental rights to your child(ren) could be terminated forever. DHS, the GAL, or the CFY can file a motion to terminate parental rights if there is evidence that you have not finished the treatment plan or there are still safety concerns. Sometimes this can be as soon as 10- 12 months from the filing of the Petition.
  - What are your rights during a Termination of Parental Rights hearing?
    - You have a right to an attorney (if you make too much money to have an attorney appointed at no cost, you may hire your own attorney). You have a right to present evidence. You have a right to call witnesses, and you can force witnesses to testify by a subpoena. You have a right to cross examine all witnesses (or have your attorney do that for you). You have a right to require the party who filed the TPR motion to prove that termination of your parental rights is in the best interests of your child(ren) by clear and convincing evidence. 1 You have a right to have the Court make the decision. You have a right to an interpreter if English is not your first language. If you have a disability, you have a right to reasonable accommodations for your disability.
  - Who will be at a Termination of Parental Rights hearing?
    - You, the Judge, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Any Intervenor, Kinship Caregiver, or Foster Parent may attend. Your child(ren) may also be present, especially if age 12 or older. Any witnesses who will testify at the hearing will be present. Please see The Parties Information Sheet for information about roles
  - When will a Termination of Parental Rights hearing happen?
    - If a party files a motion to terminate parental rights, the hearing will be set within 120 days from the day the motion was filed.
  - What can happen at a Termination of Parental Rights hearing?
    - Testimony the court may hear includes:
      - Whether the treatment plan was appropriate.

- Whether the parent(s) exhibit the same problems without adequate improvement.
  - Whether the parent(s) are unfit.
  - Whether or not the conduct or condition of the parent(s) is unlikely to change within a reasonable time.
- The Court will give primary consideration to the physical, mental, and emotional conditions and needs of the child(ren). The Court will also determine if there is a less drastic alternative such as Allocation of Parental Responsibilities (APR).
- What else do I need to know about a Termination of Parental Rights hearing?
  - If the Court terminates your parental rights, you have a right to appeal the decision. Talk to your attorney about the process of appeal. Your court ordered visitation with your child(ren) will stop. You will not get notice of any future hearings and your court appointed attorney may end. You may have the ability to establish a contract with the people who may be adopting your child(ren). Talk to your attorney about this possibility. If your parental rights are terminated, there are instances when the Court can reinstate parental rights if your child(ren) are not likely to be adopted, have not achieved permanency, and you have addressed the safety issues that led to the termination of your parental rights.
- APR (Allocation of Parental Responsibilities) Hearing
  - What is Allocation of Parental Responsibilities Hearing?
    - This is a hearing where the Court can decide that someone other than you will be given the rights and responsibilities to care for your child(ren). An APR can result in the other parent having custody of your child(ren), or you might have joint custody with the child(ren)'s other parent. The APR order will specify who can make decisions for your child(ren). Sometimes the person who will make the decisions may be required to talk with you or the other parent before making a decision, or they person may be required to make decisions jointly with you and/or your child(ren)'s other parent.
  - What are my rights?
    - You have a right to be represented by an attorney, including the right to appointed counsel. See The Parties Information Sheet – Respondent Parents' Counsel (RPC) or Private Attorney for more information. You have a right to present evidence. You have a right to call witnesses, and you can force witnesses to testify by a subpoena.

You have a right to cross examine all witnesses (or have your attorney do that for you). You have a right to require the party who filed the APR motion to prove that and APR is in the best interests of your child(ren). You have a right to have the Court make the decision. You have a right to an interpreter if English is not your first language. If you have a disability, you have a right to reasonable accommodations for your disability.

- Who will be there?
  - You, the Judge, the CA, your attorney, the GAL or CFY, the CASA, the Caseworker, and any Special Respondent. Allocation of Parental Responsibilities (APR) CONTENTS What is it? What are my rights? Who will be there? When will it happen? What can happen? What else do I need to know? Any Intervenor, Kinship Caregiver, or Foster Parent may attend. Your child(ren) may also be present, especially if age 12 or older. Any witnesses who will testify at the hearing will be present. Please see The Parties Information Sheet for information about roles. There may be other people in the Courtroom unrelated to your case, such as staff and member of the public.
- When will it happen?
  - Once a Motion for APR is filed, the Court will schedule a hearing as soon as all parties and the Court can agree on a date and time
- What can happen?
  - At an APR Hearing, evidence (testimony and exhibits) will be given to the Court about your progress on the treatment plan; the safety of your home; whether there is a Kinship Caregiver who is willing to accept an APR order; the child(ren)'s needs in terms of permanency; whether there is a parent-child relationship that benefits the child(ren); and, the child(ren)'s preference.
- What else do I need to know?
  - An APR is a permanent order unless it is changed by the Court. You may ask to get custody of your child(ren) back after 2 years, or if an emergency situation exists. You may ask the Court to give you more family time under the APR order sooner than 2 years. A Court will consider your progress in relation to the concerns that existed at the time the APR was ordered and will consider what is in your child(ren)'s best interest when deciding whether or not to modify the APR order. An APR may be the best option when there is an existing relationship you have with your child(ren), that benefits your

child(ren), and there is a Kinship Caregiver who is willing to take custody of the child(ren) while continuing your contact with your child(ren). The APR order will specify what family time you will have with your child(ren). While family time is often included in an APR, sometimes there is no family time reserved for a parent. In those situations, you will have to ask the Court in the future to get family time.

- GOAL: Child(ren) return home