



PERMANENCY PRE-HEARING CONFERENCE PROTOCOL

Pilot Project: DHHS-AOC/ODR

Definition

The Permanency PHC (PPHC) is a structured facilitated discussion among all parties that focuses on critical questions that need to be answered at an upcoming permanency hearing.

Purpose

The purpose of the PPHC is to bring the parties together to gather information and determine what information is still needed prior to the Permanency Hearing so that (a) the Court has sufficient detailed information to make a permanency decision that is in the child's best interests regarding the child's safety, well being, and timely permanency and (b) the parties have the opportunity to discuss what permanency plans will be proposed to the Court and what steps need to be made to accomplish the plans. The PPHC may result in an agreement among the parties regarding the permanency plan that can be presented to the Court but that is not the main purpose. Even if there is no agreement, the PPHC participants should address all the questions that correspond with the relevant permanency plan (detailed below) and that information should be presented to the Court.

Court permanency review

The Court must convene a Permanency Hearing for each child in the foster care system a minimum of every twelve months after the child enters foster care. The Court is required to determine what the permanency plan shall be for the child, namely: reunification, adoption, or guardianship. The Court is should determine that the permanency plan sets forth what steps are to occur to make sure that the plan is realized.

When

Optimally, the PPHC should be held at least 6-8 weeks prior to the permanency hearing so that there is sufficient time for the parties to gather or provide any missing information that is needed to respond to the following questions and to ensure that all court ordered services have been provided.

Who attends

The PPHC should be attended by the parents and their attorney(s), older children and youth, caseworker, guardians ad litem, relatives, foster parents, the county attorney, and the family support worker.

Confidentiality and privilege

The PPHC is governed by Neb. Rev. Stat. section 43-247.01 in regard to confidentiality and privilege. This provision states in part: “All discussions taking place during such facilitated conferences, including plea negotiations, shall be considered confidential and privileged communications, except communications required by mandatory reporting under section 28-711 for new allegations of child abuse or neglect which were not previously known or reported.”

Facilitator

The facilitator(s) for the PPHC of the pilot project between DHHS and AOC/ODR shall be trained, proficient child welfare facilitators affiliated with an ODR-approved mediation center. The facilitator will have a minimum of 30 hours of basic mediation training; have 8 or more hours of child welfare facilitation training; and 8 hours of continuing education per year on topics related to child abuse and neglect, juvenile justice, permanency planning, crisis management, cultural competency, role of the team, engaging families, or plan development.

Pre-conference preparations

The judge should order the PPHC at the hearing that precedes the Permanency Hearing. All parties are expected to come to the PPHC with information that responds to the questions that will be covered in the PPHC and that are listed in the appendix. Attorneys should prepare their clients for the PPHC. The ODR-approved mediation center will assist with case management and preparation for the PPHC, including determining which parties should attend, when and where scheduled, and preparing the parties for the conference. The affiliated PPHC facilitator should review the court file prior to the PPHC.

Conference

- 1) **Introduction:** The facilitator explains the process and each attendee introduces him/herself and his/her role in the legal case or in the child’s life. If there is not a designated “scribe” the facilitator should ask one of the professionals to take notes. The facilitator provides information about confidentiality and privilege for communications during the conference.
- 2) **Updates on the child(ren):** The following should be covered for each child in the family
 - a. Updates on health and educational information for each child.
 - b. A description of each child’s current placement and behavior.
 - c. A description of the services provided to each child, the progress the child has made and issues that still need to be addressed, including cultural needs.
 - d. If a sibling group, information on the status of the relationship and contact between siblings, including half siblings.

3) Updates on the Parents

- a. A description of the services provided to each parent, the progress the parent has made and issues that still need to be addressed.
 - b. A description of the contact that the parents have had with each child in the family.
- 4) **Discussion of Permanency Plan recommendation:** The caseworker should present DHHS's recommendation for the permanency plan and why. Other parties should briefly discuss their agreement or disagreement with the DHHS's plan.
- 5) **Addressing Permanency Plan Questions:** If there is consensus at the PPHC regarding the Permanency Plan, then only the questions for that plan need to be addressed at the PPHC. If there is not agreement, each plan that will be recommended by a party to the court should be addressed. All questions, if relevant, associated with the Permanency Plan should be addressed. Questions are provided in Appendix A.
- 6) **Discussion of next steps:**
 - a. Clarification of any information that is still missing, court ordered services that have not been provided, or non-court required changes to details of current plan (e.g., move to overnight visits). Designate person who is responsible for addressing each part and a timeline.
 - b. Discussion of any other activities/plans that will occur prior to permanency hearing (e.g. caseworker will provide information to county attorney and guardian ad litem about how overnight visits have gone; referral will be made for full family group conference if reunification is not the recommended plan and there is no good alternative permanency plan that is available.) Designate person who is responsible for each part and a timeline.
 - c. Determination of what information should be provided to the court and by whom.

Appendix A

Questions for PPHC¹

IF REUNIFICATION IS RECOMMENDED:

- How have the conditions or circumstances leading to the removal of the child(ren) been corrected?
- Why is this plan in the best interest of the child(ren)?
- How often is parent-child contact occurring and what is the impact on the child(ren)?
- What is the date and detailed plan for the child(ren)'s safe return home and follow-up supervision after family reunification?
- What are the plans to continue any necessary services to the child(ren)?
- What are the plans to continue any necessary services to the family?
- If a change in school will occur, what will be done to prepare for the transition?

IF TERMINATION OF PARENTAL RIGHTS (TPR) AND ADOPTION ARE RECOMMENDED:

- What are the facts and circumstances supporting the grounds for termination?
- What reasonable efforts were made to reunify?
- Why is this plan in the best interest of the child(ren)?
- Has the petition been filed and if not, what is the date it will be filed?
- Are there relatives who will adopt the child if TPR is granted? If so, is the child living with the relative? If not, why not? If there are no relatives willing and able to adopt, why not?
- If relative adoption is not the plan, is adoption by the foster parents the plan? If not, why not?
- If an adoptive home must be recruited, what efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? Are there adults with whom the child has a positive relationship and are they potentially adopting families?
- Will adoption with contact be recommended and why or why not?
- What counseling will occur to assist the child to deal with this change of plan?
- If the child is an Indian child, have ICWA requirements been met?

IF PERMANENT GUARDIANSHIP OR PERMANENT CUSTODY IS RECOMMENDED:

- Why is this option preferable to TPR and adoption? Why is it in the best interest of the child(ren)?
- What reasonable efforts were made to reunify?
- What are the facts and circumstances demonstrating the appropriateness of the individual or couple to serve as permanent family to the child(ren)? Is there another

¹ These questions are recommended for judges to consider in permanency hearings (*Adoption and Permanency Guidelines*, National Council of Juvenile and Family Court Judges, 2000). The PPHC provides an opportunity to gather this information and deal with unresolved issues prior to the permanency hearing to improve the quality and depth of the hearing and to promote timely permanency that is in the child(ren)'s best interest.

person who spends significant time in the home, and if so, has that individual been interviewed for appropriateness?

- Has there been full disclosure to the family of the child(ren)'s circumstances and special needs?
- What is the plan to ensure that this will be a permanent home for the child(ren)?
- What contact will occur between the child(ren) and parents, siblings, and other family members?
- What financial support will be provided by the biological parents?
- What are the plans to continue any necessary services to the child(ren)? How will these services be funded after the guardianship or custody has been granted?
- If the child(ren) are not already placed in the home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
 - What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
 - If a change in school will occur, what will be done to prepare the transition?
- Will the state continued to offer any financial assistance to the guardians once finalized?

IF ANOTHER PLAN IS BEING RECOMMENDED:

- What are the compelling reasons not to proceed with reunification, TPR, adoption, permanent guardianship or permanent custody? What is the plan, and why is this plan in the child(ren)'s best interest?
- What reasonable efforts were made to reunify the child(ren) with the parent(s)?
- How will this plan provide stability and permanency for the child(ren)?
- What contact will occur between child(ren) and parents, siblings and other family members?
- What are the plans to continue any necessary services to the child(ren)?
- If the child is a teenager, what is the plan to prepare the child for independent living?
- If the child(ren) are not already placed in a home, why not and:
 - How often is parent-child contact occurring and what is the impact on the child(ren)?
 - What is the date and detailed plan for the child(ren)'s placement in this home and follow-up supervision after placement?
 - If a change in school will occur, what will be done to prepare the transition?