

NEBRASKA'S THROUGH THE EYES OF THE CHILD INITIATIVE

COUNTY AND JUVENILE COURT PRACTICE GUIDE

BEST PRACTICES FOR ACHIEVING SAFETY, PERMANENCE, WELL BEING, AND FAIRNESS FOR ABUSED AND NEGLECTED CHILDREN AND THEIR FAMILIES

This Practice Guide is partially adopted from the Minnesota's Children's Justice Initiative County Practice Guide and is based on the Resource Guidelines published by the National Council of Juvenile and Family Court Judges. This Guide is to be used by local judge-led interdisciplinary collaborative teams to compare local practice with the practices described in the Guide. Teams identify practice areas where improvements need to be made and can be made and develop an action plan by assigning responsibility for implementing the improved practice and timelines for implementation.

NOTE to local teams: This Practice Guide contains a list of best practices compiled from a number of jurisdictions across the country. Not all of the best practices can be implemented in every jurisdiction. Some best practices may conflict with others (i.e., Some counties have a practice where the preliminary protective hearings are at a set time once per week. This practice would conflict with the 72-hour best practice). Some best practices simply cannot be currently implemented in certain jurisdictions (i.e., the size of the courtroom). If a best practice cannot be implemented, check the box. At the quarterly report update, team secretaries will be asked to provide a list of the best practices that cannot be implemented and the reasons why. These reasons will be considered on a statewide level for possible improvements.

		CHECK ONE				RESPONSIBLE ENTITY OR INDIVIDUAL	TARGET IMPLEMENTATION DATE
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BEST PRACTICES FOR COURT OPERATIONS AND CASE FLOW MANAGEMENT							
CFM1	Courts have a uniform method of recording judge's notes and expectations regarding next steps for parties and the status of the case from one hearing to the next.						
CFM2	One judge is assigned to hear, and hears, the matter from first appearance/preliminary protective custody through case termination.						
CFM3	Same county attorney, guardian ad litem, case worker and counsel for parent(s) and child handle case from petition through case termination.						
CFM4	Cases are assigned to judges based on reasonable caseload standards.						
CFM5	Court calendaring is respectful of the family's and stakeholders' time: a. hearings are scheduled to minimize waiting time; b. hearings are scheduled as close to time-certain as possible.						
CFM6	Court sets sufficient time for each case, i.e., except for check and pre-trial hearings, hearings are at least 30 minutes in length to fully address all issues recommended in the Resource Guidelines.						
CFM7	Court has and enforces a "no continuance" policy: a. hearings occur the date they are first scheduled; b. hearings are not rescheduled by request to court administration; hearings are rescheduled only if a motion is filed and the court makes findings of good cause shown on the record; c. parties document to the court emergency circumstances requiring continuance.						
CFM8	Court establishes specific days/times for Preliminary Protective Custody hearings so that counsel for parent(s) and children, GAL and others may be "on call" to attend.						
CFM9	Court has established procedure for providing notice of hearings to custodial and non-custodial parents, foster parents, relative caregivers, foster-adopt parents, children age fourteen or over, guardian ad litem, attorneys, CASA and the Foster Care Review Board.						
CFM10	Courtroom equipped with appropriate high-quality recording equipment.						
CFM11	The next hearing date is set in open court with parties and counsel present.						

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CFM12	Court orders are printed and given to the parties before they leave; courtroom is equipped with computer and printer.						
CFM13	Abuse/neglect cases are separated from non-juvenile matters on the court's docket through scheduling (applies to county courts).						
CFM14	Courtroom is sufficient to handle all parties; the courtroom holds the appropriate number of tables and seats for the parties.						
CFM15	A review of the child's situation is presented to the parties at the beginning of every hearing: "This matter regards the welfare of Suzie Q. She is 5 years old. She has been in foster care since October 1, 2006. She has been in foster care __ of the past 22 months. She has __ months until permanency must be established."						

BEST PRACTICES FOR FRONT-LOADING SYSTEM: ENSURING THAT COURT SYSTEM IMMEDIATELY ENSURES PARTIES' RIGHTS CAN BE MEANINGFULLY EXERCISED AND THAT THE OPPORTUNITY FOR PARENTS TO ACCEPT DELIVERY OF SOCIAL SERVICES OCCURS VERY EARLY IN THE COURT PROCESS; BEST PRACTICES RELATED FOR REDUCING ADVERSARIAL NATURE OF COURT PROCESS, WHENEVER POSSIBLE AND APPROPRIATE

FL1	The court has established procedure for appointing counsel and guardians ad litem upon removal of children (prior to preliminary protective custody hearing).						
FL2	The court appoints counsel who adhere to standards for counsel as approved by the Nebraska Supreme Court.						
FL3	NDHHS and county attorney have a process for early identification, location, and notification of non-custodial parents.						
FL4	For non-custodial parents who cannot be located after reasonable efforts, NDHHS has a process of submitting an affidavit to the court describing the efforts made to locate and serve the parent.						
FL5	The court has established procedure for early determination of paternity and determination and ordering of child support.						
FL6	NDHHS and county attorney have a process for early identification of <i>Indian Child Welfare Act (ICWA)</i> applicability and procedure for early compliance, including: <ul style="list-style-type: none"> Whether the child is an Indian child; 						

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	<ul style="list-style-type: none"> ▪ If child is Indian, which tribe is child’s tribe (tribe is provided notice by registered mail, return receipt required); ▪ Protocol for involving tribe as soon as possible in case planning and placement decisions including prior to legally required notice; ▪ Protocol for determining whether “active efforts to prevent the break up of the Indian family” have been provided as required by ICWA. 						
FL7	<p>NDHHS and/or the court have developed a process for use of concurrent planning, which may include:</p> <ul style="list-style-type: none"> ▪ Full disclosure of the concurrent plan to parent(s); ▪ Full disclosure to the Indian tribe; ▪ Placement of the child in a relative-adopt or foster-adopt home to reduce the number of times the child must move; ▪ Strict time limits on case progress and scheduling of hearings; ▪ Active efforts to have regular and meaningful visitation between parent(s) and child; ▪ Involvement of parent(s) in planning for the future of the child; ▪ Detailed small steps to accomplish the plan accompanied by parental record-keeping and frequent court reviews; ▪ Progress measured by behavior, documented in reports submitted to the court; ▪ Engaged, involved social work, supported by training, consultation and reasonable caseloads; ▪ Defining success by timely permanency, whether it is reunification or the alternate plan. 						

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FL8	If used, the concurrent plan is implemented in the first 90 days of the case.						
FL9	NDHHS and county attorney have process for early identification and notification regarding children who hold foreign citizenship or eligibility whose protective custody requires notification of consulate. ¹						
FL10	County has non-adversarial process ² in place available for use from pre-petition filing to permanent resolution of the matter to resolve issues related to child's safety, permanency and well-being and which: <ul style="list-style-type: none"> a. is used to identify and consider placement with relatives; b. maximizes a family's ability to provide and plan for child; c. gives parent(s) a fair chance to utilize services to achieve reunification; d. ensures services and plans for child and family are culturally appropriate. 						

BEST PRACTICES FOR EMERGENCY PROCEDURES AND ORDERS							
EP1	County attorneys prepare petitions, and file prior to hearing, that provide each involved child's name and include statements by caseworkers or law enforcement that provide specific information regarding: <ul style="list-style-type: none"> a. the immediate danger to the child and facts related to that danger, and b. any actions taken by caseworkers or law enforcement that were attempted to prevent the child's removal; or c. specific facts that made it impossible for reasonable or active efforts to prevent the removal. 						
EP2	Ex parte orders are child specific and fact based and include: <ul style="list-style-type: none"> a. individualized "contrary to welfare" findings that are supported by specific facts³; b. if possible⁴, individualized findings regarding reasonable or active efforts that 						

¹ The Memorandum of Understanding between the Ministry of Foreign Affairs of the United Mexican States and the State of Nebraska of the United States of America, Department of Human Services, Regarding Consular Notification and Access in Cases Involving Minors requires HHS to notify the consulate whenever a child born in Mexico, or born to Mexican parent(s), comes into the NDHHS system.

² Non-adversarial processes can include facilitated Pre-Preliminary Protective Custody Hearing Conferences, Family Group Conferencing, Mediation, Family Team Meetings and other similar strategies.

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	were provided to prevent the child’s removal or a finding that reasonable or active efforts could not have prevented the removal. In both cases the findings are supported by specific facts.						
EP3	NDHHS has procedure in place to quickly locate and assess relatives or others known to the child as emergency placements for children who have to be removed from their parent(s).						
EP4	NDHHS has procedure in place to immediately develop parent and sibling visitation plan for children who have been removed from their parent(s).						

BEST PRACTICES FOR PRELIMINARY PROTECTIVE HEARINGS (PPH)							
PPH1	Pre-hearing conference of all represented parties is held that addresses all main issues of hearing.						
PPH2	PPH is held within 72 hours of the child’s removal from the parent(s).						
PPH3	Parent(s) are represented by counsel at the pre-hearing conference.						
PPH4	Parent(s) are represented by counsel at the hearing and a GAL is appointed, if necessary.						
PPH5	Child is represented by GAL at the pre-hearing conference.						
PPH6	Child is represented by GAL at the hearing.						
PPH7	Child is present at the hearing, unless inappropriate.						
PPH8	Non-custodial parents (including putative fathers) are identified, and paternity issues are addressed (whether adjudicated, acknowledged, or on the birth certificate).						
PPH9	Petitions are complete, specific and accurate.						
PPH10	Court explains the court process to parent(s), advises them of their rights and						

³A court finding that “continuation in the home is contrary to the welfare of the child” that is supported by case specific facts must be made in the first order or a child’s stay in foster care will not be eligible for federal reimbursement.

⁴ If the Court does not have adequate information to make the reasonable efforts findings in the ex parte order, the Court has another opportunity to make the finding. The Court is recommended to make a reasonable efforts finding regarding removal or reunification at the Preliminary Protective Custody Hearing, where the Court is likely to have more information and where reasonable efforts may be more likely to have been provided. Federal IV-E eligibility requirements allow 60 days from removal to make the reasonable efforts finding.

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	responsibilities, and gives to them the <i>Guide for Parents</i> .						
PPH11	Court ensures that all parties are treated with dignity and respect.						
PPH12	All interested parties or participants are given the opportunity to be heard.						
PPH13	All reports to the court (from HHS and/or law enforcement) are distributed prior to the hearing (or pre-hearing conference, if applicable) and describe all facts and circumstances giving rise to removal, any allegations of abuse or neglect, and all efforts made to try to ensure safety and prevent the need for removal.						
PPH14	NDHHS appears at PPH prepared to offer assessments for mental health and substance abuse, as appropriate, and with a preliminary service plan ⁵ ; NDHHS has procedure to promptly schedule necessary assessment and service appointments and follow-up procedures to ensure parents' attendance at appointments.						
PPH15	Court receives information on whether the child can be immediately returned home with (or without) safety services, and any immediate dangers to the child.						
PPH16	Court evaluates the appropriateness of the placement proposed by NDHHS and considers any less disruptive alternative placements.						
PPH17	Court reviews whether the child can be placed with a sibling in the same foster or adoptive placement.						
PPH18	Court considers terms and conditions of visitation, with the intent that visitation be as frequent and unrestricted as possible given the child's safety and well-being.						
PPH19	Court reviews restraining orders and/or orders that expel an allegedly abusive parent from the home.						
PPH20	Court and parties identify all relatives, including siblings, who may be available to care for the child.						
PPH21	Court receives information on whether child is a member or eligible for membership in an Indian tribe.						
PPH22	Court receives information on whether parent(s) have been offered services and whether they voluntarily agree to participate, and what services NDHHS will be offering.						

⁵ "Preliminary service plan" refers to immediate steps that the parent can take to assess services that NDHHS believes will address the conditions leading to the request to place the child out of home. It does not refer to the Out of Home Placement Plan.

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PPH23	If the child could be placed outside the state of Nebraska, the court and parties ensure that the requirements of the Interstate Compact on the Placement of Children (ICPC) are followed.						
PPH24	<p>Court orders:</p> <ul style="list-style-type: none"> ▪ Are child specific and fact- based and include individualized findings, and are made prior to the parent(s) leaving court; ▪ Are written in language which allows the parents and all parties to fully understand the court’s order; ▪ Provide further directions to the parties such as those governing future parental conduct and any HHS services to the child and parent agreed upon prior to adjudication. 						
PPH25	<p>If child is placed outside the home, court orders:</p> <ul style="list-style-type: none"> • Describe who is to have custody and where child is to be placed; • Specify why continuation of child in the home would be contrary to the child’s welfare; • Specify whether reasonable or active efforts have been made to prevent placement (including a brief description of what services, if any, were provided and why placement is necessary); • Specify terms for visitation (both parent-child and sibling), support, and other family communication. 						
PPH26	Court orders provide notice of next hearing to custodial and non-custodial parents, foster parents, relative caregivers, foster-adopt parents, children age fourteen or over, the guardian ad litem, attorneys, CASA and the Foster Care Review Board, in court on the record.						

BEST PRACTICES FOR ADJUDICATION HEARINGS

AH1	<p>All parties have zealous legal representation, including:</p> <ul style="list-style-type: none"> ▪ Attorneys meet with clients prior to date of the hearing, whenever possible; ▪ Attorneys actively participate at every stage of the proceedings; ▪ Attorneys regularly consult and counsel client, including the following as 						
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	<p>appropriate:</p> <ul style="list-style-type: none"> ○ Investigate what contacts NDHHS has made ○ Interview client and key witnesses ○ Review NDHHS file and law enforcement reports ○ Obtain necessary medical, mental health, school and other records ○ Monitor client's case plan progress ○ Call and cross-examine witnesses ○ File and argue motions ○ Develop alternative dispositional proposals ○ File appeals <ul style="list-style-type: none"> ▪ Attorneys are willing to engage in and encourage their clients to engage in non-adversarial resolution of the case if feasible recognizing that, generally, this will result in better outcomes for children and families. 						
AH2	The adjudication hearing is held within 60 days of removal of the child from the parent's care.						
AH3	Prior to the adjudication hearing, the court inquires as to the witnesses required at trial.						
AH4	The child is present at the hearing, unless inappropriate.						
AH5	<p>The following key judicial decisions are made:</p> <ul style="list-style-type: none"> ● Whether allegations of the petition have been proved, if any; ● Whether there is a legal basis for continued court and agency intervention; ● Whether reasonable or active efforts have been made to prevent the need for continued placement and to safely reunify the family. 						
AH6	<p>Court orders include any steps or directives that are needed to ensure an effective disposition hearing and address any temporary needs of the child, including:</p> <ul style="list-style-type: none"> ● If the child is to be in foster care prior to disposition, orders regarding: <ul style="list-style-type: none"> ○ Placement ○ Visitation (parent and sibling) ○ Support ○ Any other intra-family communication ● Orders for further testing or evaluation of the child or parent(s) in 						

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	<ul style="list-style-type: none"> preparation for the disposition hearing; Orders for HHS to conduct prompt studies of relatives, including out-of-area and out-of-state, for possible placement; Orders for the perpetrator to stay out of the family home and have no contact with the child; Order setting date and time of next hearing and providing notice to custodial and non-custodial parents, foster parents, relative caregivers, foster-adopt parents, children age fourteen or over, the guardian ad litem of the child, attorneys, CASA and the foster care review board. 						
AH7	<p>The court's written findings:</p> <ul style="list-style-type: none"> Accurately reflect the reasons for state intervention; Provide sufficiently detailed information to justify HHS and court choices for treatment and services; Provide an adequate basis for refusing to return a child home or terminating parental rights if parent(s) fail to improve; Are written in language that allows all parties to understand how the court's findings relate to subsequent case planning. 						
AH8	In ICWA cases, qualified expert witness testimony is provided to the court for continued out-of-home placement of an Indian child.						

BEST PRACTICES FOR DISPOSITION HEARINGS							
DH1	The disposition hearing is held within 30 days after adjudication of the child.						
DH2	The disposition hearing occurs separately from the adjudication hearing through bifurcation or a separation of hearings.						
DH3	The child is present at the hearing, unless inappropriate.						
DH4	<p>Case plan/court reports and other pre-disposition reports are submitted to the court and parties at least 72 hours prior to the scheduled hearing for review and planning by the parties. Reports include:</p> <ul style="list-style-type: none"> A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing them; 						

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	<ul style="list-style-type: none"> • A description of services to be provided to assist the family; and • A description of actions to be taken by parent(s) to correct the identified problems. 						
DH5	If a party objects to a case plan/court report or intends to present evidence at the hearing, the party provides notice to the court and counsel in sufficient time ahead of the hearing.						
DH6	<p>Case plan/court reports for children in out-of-home care include:</p> <ul style="list-style-type: none"> • A description of the efforts made by HHS to avoid the need for placement and an explanation why they were not successful; • An explanation of why the child cannot be protected from the identified problems in the home even if services are provided to the child and family; • Identification of relatives and friends who have been contacted about providing a placement for the child; • A description of the placement and where it is located; • Proposed arrangements for visitation; • Placement for the child's siblings and, if they are to be apart, proposed arrangements for visitation; • An appropriate long-term plan for the child's future; • Proposed child support. 						
DH7	<p>The following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> • The appropriate statutory disposition of the case and long-term plan for the child; • The child's placement; • A complete review of the child's background and special needs, and assurance that all parties, including foster parents, have received such information; • Whether the HHS case plan reasonably addresses the problems and needs of the child and parent; • Whether HHS made reasonable or active efforts to eliminate the need for placement or prevent the need for placement; 						

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	<ul style="list-style-type: none"> • What, if any, child support should be ordered; • When the case should be reviewed. 						
DH8	<p>The court's written findings:</p> <ul style="list-style-type: none"> • Determine disposition of the case, including custody of the child; • Include specific permanency plan (e.g. maintenance of the child in the home of a parent, reunification with parent or relative, permanent placement with a relative, adoption) and a concurrent plan, if applicable; • Approve, disapprove, or modify the HHS case plan; • When placement or services are ordered that were not agreed upon by the parties, specify the evidence or legal basis upon which the order is made; • Specify whether reasonable or active efforts have been made to prevent or eliminate the need for placement; • Specify the terms of parental visitation and visitation with siblings, if applicable; • Specify parental responsibilities for child support; • Be written in language that allows parents and all parties to fully understand the court's order; • Set the date and time of the next hearing. 						

BEST PRACTICES FOR REVIEW HEARINGS							
RH1	The child is present at the hearing, unless inappropriate.						
RH2	<p>Case plan/court reports and other pre-hearing reports are submitted at least 72 hours prior to the scheduled hearing to allow parties an opportunity to investigate and prepare to respond. Reports include:</p> <ul style="list-style-type: none"> • A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing them; • A description of services provided to assist the family; • A description of actions to be taken by parents to correct the identified problems; 						

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	<ul style="list-style-type: none"> • A description of the efforts made by HHS to reunify the family since the last hearing and an explanation why they were not successful; • An explanation of why the child cannot be protected from the identified problems in the home even if services are provided to the child and family. 						
RH3	<p>The court reviews whether reasonable or active efforts are being made to rehabilitate the family and eliminate the need for the child’s out-of-home placement, including:</p> <ul style="list-style-type: none"> ▪ Whether the court-approved, long-term permanent plan for the child remains the best plan for the child; ▪ Whether services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances; ▪ Whether the child is in an appropriate placement which adequately meets all physical, emotional and educational needs; ▪ Whether the terms of visitation need to be modified; ▪ The amount of sibling contact, including efforts to place siblings together; ▪ Whether any additional court orders need to be made to move the case toward successful completion; ▪ What time frame to follow to achieve reunification or another permanent plan for each child. 						
RH4	When there are stipulations of issues by the parties, the court thoroughly reviews the agreement with the parties and ensures all issues have been thoroughly considered by all parties.						
RH5	<p>The court’s written findings of fact and conclusions of law includes the following:</p> <ul style="list-style-type: none"> • Why the children are in need of continued placement outside the parents’ home or continued court supervision, including the specific risks to the child; • Whether and why family reunification and an end to court supervision continues to be the long-term case goal; • Whether the agency has made reasonable or active efforts to eliminate the 						

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	<p>need for placement, with specific findings as to what actions the agency is taking;</p> <ul style="list-style-type: none"> • Whether the parent(s) are in compliance with the case plan and identify specifically what further actions the parents need to complete; • Orders for the agency to make additional efforts necessary to meet the needs of the family and move the case toward completion; • Approval of proposed changes in the case plan and any court-ordered modifications needed as a result of information presented at the review; • Identification of an expected date for final reunification or other permanent plan for the child; • Any other orders necessary to resolve the problems that are preventing reunification or the completion of another permanent plan for the child. 						
RH6	The court order is written in language that allows the parents and all parties to fully understand what action they must take to have the child returned to the parents' care; and sets the date/time of next hearing.						

BEST PRACTICES FOR PERMANENCY PLANNING HEARINGS⁶

PP1	The permanency planning hearing commences within 12 months of the child entering foster care.						
PP2	When reasonable efforts are not required, see Neb. Stat. §43-283.01 (4), the permanency planning hearing is held as soon as 30 days after adjudication, in which the permanency hearing and dispositional hearing are held concurrently.						
PP3	Parents have competent legal representation, with the same representatives who served the parents in the earlier stages of the proceedings, if applicable.						
PP4	All parties fully participate in the hearing, and the court gives an opportunity for all parties to speak, including the child.						
PP5	In ICWA cases, the Indian tribe is actively involved in permanency decisions. See						

⁶ Nebraska's practice has not typically distinguished the Dispositional Review Hearing from the Permanency Planning Hearing. Please note the differences. The Permanency Planning Hearing is required to be held within 12 months of the date a child enters foster care. Neb. Stat. 43-1312 (3)

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	25 U.S.C. §1912, 1915.						
PP6	Case plan/court reports and other pre-permanency planning hearing reports are submitted to court and parties with sufficient time for review and planning. Reports include the information needed to answer the questions in the following sections.						
PP7	The following issues are addressed during the hearing: <ul style="list-style-type: none"> • Updates on health and educational information; • A description of the child’s current placement and behavior; • A description of the services provided to the child, the progress the child has made and issues that still need to be addressed, including cultural needs; • If a member of a sibling group, information on the status of the relationship and contact between siblings. 						
PP8	If reunification is the recommended permanency plan, the following issues are addressed: <ul style="list-style-type: none"> ▪ How have the conditions or circumstances leading to the removal of the child been corrected or reduced? ▪ Why is this plan in the best interests of the child? ▪ How often is visitation occurring and what is the impact on the child? ▪ What is the date and detailed plan for the child’s safe return home and follow-up supervision after family reunification? ▪ What are the plans to continue any necessary services to the child? ▪ What are the plans to continue any necessary services to the family? ▪ If relevant, have the parents been trained regarding the mental health issues of the child? ▪ If a change of school will occur, what will be done to prepare for the transition? 						
PP9	If termination of parental rights and adoption is the recommended permanency plan, the following issues are addressed: <ul style="list-style-type: none"> ▪ What are the facts and circumstances supporting the grounds for termination? ▪ What reasonable or active efforts were made to reunify? ▪ Why is this plan in the best interests of the child? 						

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	<ul style="list-style-type: none"> ▪ Has the petition been 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 potential 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? 						
PP10	<p>If guardianship is the recommended permanency plan, the following issues are addressed:</p> <ul style="list-style-type: none"> ▪ Why is this option preferable to TPR and adoption? Why is it in the best interests of the child? ▪ What reasonable or active efforts were made to reunify? ▪ What are the facts and circumstances demonstrating the appropriateness of the guardian(s) to serve as permanent family to the child? Is there another person who spends significant time in the home, and if so, has that individual been interviewed and investigated for appropriateness? ▪ Has there been full disclosure of the child's special needs? ▪ What is the plan to ensure that this will be a permanent home for the child? ▪ What contact will occur between the child and parents, siblings, and other family members? ▪ What financial support will be provided by the parent(s)? ▪ What are the plans to continue any necessary services to the child? How will these services be funded after guardianship has been granted? ▪ If the child is not already placed in this home, why not, and: <ul style="list-style-type: none"> ○ How often is visitation occurring and what is the impact on the child? 						

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	<ul style="list-style-type: none"> ○ What is the date and detailed plan for the child’s placement in this home and follow-up supervision after placement? ▪ If a change of school will occur, what will be done to prepare for the transition? 						
PP11	<p>If another plan is being recommended, the following issues are addressed:</p> <ul style="list-style-type: none"> ▪ What are the compelling reasons not to proceed with reunification, TPR, or guardianship? What is the plan, and why is this plan in the child’s best interests? ▪ What reasonable or active efforts were made to reunify the child with the parent(s)? ▪ How will this plan provide stability, permanency and well-being for the child? ▪ What contact will occur between child and parents, siblings and other family members? ▪ What are the plans to continue any necessary services to the child? ▪ If the child is a teenager, what is the plan to prepare the child for independent living? ▪ If the child is not already placed in this home, why not and: <ul style="list-style-type: none"> ○ How often is visitation occurring and what is the impact on the child? ○ What is the date and detailed plan for the child’s placement in this home and follow-up supervision after placement? ▪ If a change of school will occur, what will be done to prepare for the transition? 						
PP12	<p>The court’s findings of fact and conclusions of law include:</p> <ul style="list-style-type: none"> • Findings as to the persons present and whether absent parties were provided with appropriate notice; verification that reports offered into evidence had been provided to all parties in advance of the hearing; • A finding as to what reasonable or active efforts HHS has made to reunify the family and to finalize a permanent plan. A well-designed, appropriate case plan and meaningful case reviews should prevent unexpected findings of “no reasonable efforts” at this stage of the case. Should it be found that additional remedial steps are necessary, specific expectations are set out in a 						

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	<p>detailed order, with a short time frame (e.g. 30 days) for holding the follow-up permanency hearing. A copy of the order is forwarded to the HHS director;</p> <ul style="list-style-type: none"> • A statement addressing special factors or conditions of the child that are identified as special needs, what services are to be provided to address these needs and who is responsible for providing the services; • A determination of the permanent plan for the child and why the plan is in the best interests of the child. The order states the steps to be taken and time lines for accomplishing the permanent goal. If the plan is reunification, the date for reunification is stated; • If the plan is termination of parental rights and the petition has not yet been filed, a finding that there are no exceptions found to the state’s requirement to file. If the petition has been filed, the court schedules pre-trials, mediation, if applicable, and trial dates. If the plan is termination of parental rights, and a parent wishes to relinquish parental rights at the permanency hearing, the court is prepared to accept the relinquishment and include the relinquishment in the order; • The next hearing date and purpose unless all court and HHS involvement is terminated. 						
PP13	<p>Where the court determines that the permanent plan for the child is something other than a permanent family, it finds compelling reasons for such a determination, which may include:</p> <ul style="list-style-type: none"> ▪ Services were not provided in a timely fashion; ▪ Parents have made substantial progress and reunification in the near future is likely; ▪ The Indian tribe is opposed to TPR and has offered a safe plan; ▪ A teenager opposes TPR and adoption, and is likely to disrupt an adoption. 						

BEST PRACTICES FOR TERMINATION OF PARENTAL RIGHTS TRIALS

TPR1	TPR Petitions are filed by the state for any child who has been in foster care for 15						
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	of the most recent 22 months.						
TPR2	TPR Petitions are filed with the court and served on the parties no later than 30 days after the court makes the determination that there is no exception.						
TPR3	TPR Petitions are filed when aggravating circumstances exist and the court has found that reasonable efforts do not need to be provided.						
TPR4	TPR Petitions are filed for any child in foster care where reasonable efforts have failed to correct the conditions that led to out-of-home placement and it in the child's best interests that parental rights be terminated.						
TPR5	<p>The TPR Petition:</p> <ul style="list-style-type: none"> ▪ Is complete, specific and definite; ▪ Contains allegations sufficiently precise as to give the parties notice of the issues at stake; ▪ Cites the statutory grounds relied upon and provides a summary of facts in support of each statutory ground; ▪ Addresses issues such as NDHHS efforts to work with parents, parents' cooperation with NDHHS, parents' condition, behavioral progress and improvements, and the effects of foster placement on the child; ▪ In ICWA cases, contains a summary of facts supporting the requisite findings in 25 USC § 1912; Neb. Stat. §43-1505. 						
TPR6	The court sets first appearance and pre-trial hearing dates within 30 days from the filing of the TPR Petition.						
TPR7	All parents are represented by counsel, and a GAL if necessary, and counsel is appointed immediately at the filing of the TPR Petition if a parent is unrepresented.						
TPR8	<p>The following dates are determined at the pre-trial hearing:</p> <ul style="list-style-type: none"> ▪ The date for discovery to be completed that is sufficiently in advance of the mediation or settlement conference to allow all parties the opportunity to review the materials in full; ▪ The date for mediation, pre-trial or settlement conferences that is sufficiently in advance of the trial date so that if significant progress is made, but another meeting is required to reach full agreement, there is adequate time 						

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	<ul style="list-style-type: none"> for a second meeting; ▪ A final pre-trial date, if necessary; ▪ The trial dates, on consecutive days. 						
TPR9	Counsel notify the court immediately following the mediation or settlement conference as to whether agreement was reached or whether the trial will proceed as scheduled.						
TPR10	Trial commences within 90 days of the date the petition was filed.						
TPR11	The court reserves time on the calendar within 7 days after the final day of trial to write the TPR findings and conclusions.						
TPR12	The court issues the decision no later than 14 days after completing trial.						
TPR13	The court's findings of fact and conclusions of law are set forth in language understandable by the parties and with clear and complete detail, sufficient to withstand appellate review.						
TPR14	<p>For permanency proceedings, the county has developed a non-adversarial process, such as mediation or settlement conferences, that would:</p> <ul style="list-style-type: none"> ▪ Provide parents with factual information that offers a realistic prospect of trial outcome and helps to separate personal issues and biases from factual information; ▪ Gives parents a sense of participation in future planning for the child and a sense of significance and closure with dignity that will no longer be available if the case goes to trial; ▪ Helps the child, parents and relatives to understand the importance of one stable home for the child and to overcome objections to terminating parental rights, opening the door to relative adoption; and ▪ Providing a forum to discuss the appropriateness of adoption with contact and to develop a proposed plan for the contact. 						
TPR15	If there is a voluntary relinquishment of parental rights, the court determines whether relinquishment was voluntary and informed, and ensures that the parent(s) understand the consequences of a termination of parental rights and their right to a trial, or, at a minimum, a copy is promptly filed with the court.						

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TPR16	<p>In ICWA cases, the voluntary relinquishment is:</p> <ul style="list-style-type: none"> ▪ Executed in writing; ▪ Recorded before a judge and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian; ▪ Certified by the court that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood; and ▪ <u>Not</u> made within 10 days after the birth of child. 						

BEST PRACTICES FOR TPR EXCEPTIONS HEARINGS⁷							
E1	<p>The Court's findings of fact and conclusions of law include:</p> <ul style="list-style-type: none"> • That the child has been in foster care for fifteen or more months of the most recent twenty-two months and a termination of parental rights petition is not required to be filed because of one of the following: <ul style="list-style-type: none"> ○ The child is living with relatives, ○ There are specific compelling reasons as to why a TPR filing is not in the child's best interests, ○ The family has not had a reasonable opportunity to avail themselves of the necessary services ordered by the court; or • That the child has been in foster care for fifteen or more months of the most recent twenty-two months and there are no exceptions to the requirement that a termination of parental rights petition be filed. 						

BEST PRACTICES FOR POST-PERMANENCY REVIEW HEARINGS							
PPR1	Review hearings are held at least every 90 days following the permanency hearing.						
PPR2	When reunification is the permanency plan, a 90-day review hearing is set at the						

⁷ Courts may be able to make this finding at the Permanency Planning Hearing. If not, an additional hearing must be held. Neb. Stat. 43-292.03.

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	permanency hearing, with a review or progress report set at 45 days after the permanency hearing to ensure significant movement toward the goal.						
PPR3	The court determines whether reasonable or active efforts have been made to finalize the permanency plan.						
PPR4	The child is present at the hearing, unless inappropriate, and provides information as to his/her needs.						
PPR5	Summary reports are submitted by NDHHS and the GAL or CASA in advance of the hearing to all parties and the court, and describes the efforts made toward accomplishment of the permanent plan as well as current information about the well being of the child.						
PPR6	The hearing is in court, on the record, and with the parties present. There are no paper reviews.						
PPR7	The court reviews the child's special needs, including: <ul style="list-style-type: none"> ▪ Updates on health and educational information; ▪ Updates on what is being offered to address the child's cultural needs; ▪ A description of the child's current placement adjustment; ▪ A description of the services that are being provided to the child, the progress the child has made and issues that still need to be addressed; ▪ If the child is 16 or older, whether the child is receiving appropriate services for independent living. 						
PPR8	If reunification is the permanency plan, and reunification does not occur within 90 days after the permanency hearing and is not likely to occur in the near future, a new permanent plan is determined and a termination of parental rights petition is filed within 30 days or another review hearing is set within 30 days to implement an alternative plan.						
PPR9	If guardianship or transfer of custody is the permanency plan, and the plan is not fully implemented at the permanency hearing, the plan is fully implemented within the 90-day period after the permanency hearing unless there is an exceptional reason otherwise, with a review or progress report set at 45 days after the permanency hearing to ensure significant movement toward the goal.						

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BEST PRACTICES FOR THE ADOPTION PROCESS						
A1	If venue is proper, the same judge that terminated parental rights presides over the adoption proceedings.					
A2	All parents' parental rights are terminated by the juvenile court prior to referral for adoption.					
A3	The child is present at the hearing, unless inappropriate, and provides information as to his/her needs. Neb. Stat. §43-108.					
A4	For a child who is placed in the adoptive home, review hearings are held a minimum of every 90 days until the adoption is finalized, and more frequently if there are complexities that could cause delays in the finalization.					
A5	In cases where an adoptive home must be recruited, review hearings are held every 30 to 60 days.					
A6	In cases where an adoptive home must be recruited, the GAL, CASA and NDHHS worker are actively investigating all interested and appropriate persons as potential adopting families, and NDHHS is actively seeking assistance from the Indian tribe in ICWA cases.					
A7	The hearing is in court, on the record, and with the parties present. There are no paper reviews.					
A8	<p>If the child has been in the adoptive home since the last hearing, the following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> ▪ Progress made since the last hearing toward finalization, the date of adoption finalization, the specific steps that must occur and the time frames for each step; ▪ New problems or issues that have arisen since the last hearing; ▪ If full disclosure regarding the child's background history and current or potential disabilities had not yet occurred, whether it has now occurred; ▪ If adoption with contact has been agreed upon, the contact to occur between the child and parents, siblings or other family members and whether it is working well for the child and others; ▪ Whether an Adoption Assistance agreement has been made, and whether all issues have been resolved; 					

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	<ul style="list-style-type: none"> ▪ Whether the adoptive family is aware of ways to access needed services after the adoption is finalized, whether the adoptive family has been given contacts for support groups or other adopting families who could serve as mentors and supports. 						
A9	<p>If the child has been placed in an adoptive home since the last hearing, the following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> ▪ A detailed description of the family and neighborhood in which the family lives, and identification of individuals who spend significant time in the home; ▪ If ICWA applies: <ul style="list-style-type: none"> ○ Whether the home meets placement preferences ○ Efforts made by NDHHS to identify a placement under ICWA ▪ The date of placement and the pre-placement process; ▪ The child's adjustment to the new home; ▪ If the home is out of state, whether the ICPC and ICAMA regulations have been followed and whether known or anticipated delays will occur relative to these compacts; ▪ Whether there has been full disclosure of the child's background history and current or potential disabilities; ▪ If the family's ethnicity is different than the child's, the efforts made to support relationships between the child and others of the same ethnicity, whether the family understands the special aspects of the child's ethnicity; ▪ Plans to meet the child's educational and special needs for services if the home is in a different community than the child's, and how or whether educational and service transitions will occur; if not, why not; ▪ If adoption with contact has been agreed upon, the contact to occur between the child and parents, siblings or other family members, and whether it is working well for the child and others; ▪ The contact the child will have with the prior caretaker and others with whom the child has had positive relationships; ▪ The date of adoption finalization, the specific steps that must occur and the time frames for each step; ▪ If appropriate, the date the Adoption Assistance agreement will be negotiated, plans to identify all appropriate subsidies and the date paperwork to these subsidies will be completed; 						

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	<ul style="list-style-type: none"> Whether the adoptive family is aware of ways to access needed services after the adoption is finalized, whether the adoptive family has been given contacts for support groups or other adopting families who could serve as mentors and supports. 						
A10	<p>If an adoptive home has been recruited but the child has not yet been placed in the home, the following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> A detailed description of the family and neighborhood in which the family lives, and identification of individuals who spend significant time in the home; The adjustment of the child and family; The progress in processing and approving the home, what remains to be done, and time frames for completion; The visitation and placement plan, and its time frame, whether visits have begun; If ICWA applies: <ul style="list-style-type: none"> Whether the home meets placement preferences Efforts made by NDHHS to identify a placement under ICWA Whether there has been full disclosure of the child’s background history and current or potential disabilities; If the home is out of state, whether the ICPC and ICAMA regulations have been followed and whether known or anticipated delays will occur relative to these compacts; If the family’s ethnicity is different than the child’s, the efforts made to support relationships between the child and others of the same ethnicity, whether the family understands the special aspects of the child’s ethnicity; Plans to meet the child’s educational and special needs for services if the home is in a different community than the child’s, and how or whether educational and service transitions will occur; if not, why not; The contact the child will have with the prior caretaker and others with whom the child has had positive relationships; Whether the adoptive family is aware of any adoption with contact agreement and whether they accept it. 						
A11	<p>If relative or foster home adoption is the permanent plan, the following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> Progress in approving the home as the adoptive home, what remains to be done and time frames for completion; 						

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	<ul style="list-style-type: none"> ▪ Whether there has been full disclosure of the child’s background history and current or potential disabilities; ▪ If adoption with contact has been agreed upon, the contact to occur between the child and parents, siblings or other family members, and whether it is working well for the child and others; ▪ When the adoption can be finalized, the steps necessary for completion, and the time frame; ▪ If appropriate, the date the Adoption Assistance agreement will be negotiated, plans to identify all appropriate subsidies and the date paperwork to these subsidies will be completed; ▪ Whether the relative or foster parent is aware of ways to access needed services after the adoption is finalized, whether the adoptive family has been given contacts for support groups or other adopting families who could serve as mentors and supports. 						
A12	<p>If NDHHS is recruiting an adoptive home, the following issues are addressed at the hearing:</p> <ul style="list-style-type: none"> ▪ Efforts made since the last hearing to identify potential adoptive homes both locally and in other jurisdictions; ▪ If ICWA applies, efforts being made to identify potential adoptive homes within the child’s tribal community and to comply with ICWA placement preferences; ▪ The status of investigations of adults with whom the child has or has had a positive relationship regarding their potential to be adopting families; ▪ The adoption exchanges and internet sites where the child is listed; ▪ The number of potential families that have expressed interest in the child, and the status of investigating each family. 						
A13	<p>In the final adoption hearing, the court addressed the following issues:</p> <ul style="list-style-type: none"> ▪ Whether parental rights are terminated and appeals process is completed; ▪ Whether all required consents to adopt have been provided; ▪ Home studies and/or court-ordered reports. 						
A14	<p>The court and parties are familiar with:</p> <ul style="list-style-type: none"> ▪ The Multiethnic Placement Act; 						

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	<ul style="list-style-type: none"> ▪ Removal of Barriers to Interethnic Adoption, 42 U.S.C. 1996b; ▪ Adoption Recruitment Best Practices; ▪ Interjurisdictional Adoptions and Interstate Compact on the Placement of Children (ICPC); ▪ Adoption Assistance Subsidies; ▪ Non-Recurring Adoption Expenses and Medical Expenses; ▪ Post-Adoptive Services; ▪ Adoption Assistance Agreements 						
A15	<p>There are post-adoptive services available in the area, which may include:</p> <ul style="list-style-type: none"> ▪ Help line; ▪ Parent training and education; ▪ Parent support groups; ▪ Individual and family counseling; ▪ Advocacy for needed services; ▪ Respite care; ▪ Intensive Home Based Services and Day Treatment programs; ▪ Residential treatment 						