The Court's Role in Improving Permanency Outcomes for Children & Youth in Foster Care

APPENDIX COMPANION TO PERMANENCY BENCH CARD CHARTS: QUESTIONS TO ASK TO IMPROVE PERMANENCY OUTCOMES

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The information in this document is based on laws in effect at the time of publication (May 2020). Federal and state laws may change at any time. This information sheet may not be altered without the consent of the JRTA project.

JUDICIAL COUNCIL OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

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To every child we take into care we make a promise. We promise to the restore them to a healthier, more stable, more secure, safer family than the one from whom we removed them, either their original family or one who will share parenting with that family. No one can exempt us from that promise and none of the children or youth have forgotten that promise no matter how sure they may feel that it will not (cannot?) be fulfilled.

—*Bob Lewis, Youth Permanency Consultant*

INTRODUCTION

Strong families are the foundation for helping children develop into resilient, capable, and self-sufficient adults. Sadly, far too many youth who are involved in our child welfare system leave foster care without a family that will love them, care for them and be there for them no matter what.

Many California and federal statutes support the goal of assuring that our children achieve a committed lifelong family support network in a timely manner (permanency). Over time, these statutes have replaced the term "family" with the term "permanent placement." Beyond the statutory references of permanent plan, a permanent placement really means family.

Please, whenever you see "permanent placement" in statutory language, remember that the goal is to find a "forever family". That is what our children and youth need, deserve and are entitled to under the law.

Permanency-related statutes, in and of themselves do not provide the court with needed understanding of effective permanency philosophy and practice implementation. These appendices provide the court with probing questions to be asked at disposition, status review, permanency, and post-permanency hearings to help county agencies and social workers understand what is expected of them and to help the court determine findings required by law.

Language Clarification: Throughout this document the word "agency" should be understood to refer to the county child welfare agency or probation department.

A WORD ON REASONABLE EFFORTS FINDINGS

The reasonable efforts/no reasonable efforts findings are the most powerful tools given to the courts by federal legislation. These findings enable the court to determine whether the agency has done its job by providing reasonable efforts to:

- Prevent removal of the child from their home,
- Assist in reunifying the family, and
- Achieve timely permanency for the child. (reunification, adoption, legal guardianship, placement with a fit and willing relative.*)

If the agency provided adequate services, the court would make a finding on the record that "reasonable efforts" had been provided, but if the agency did not provide adequate services to prevent removal, the court would make a negative finding – "no reasonable efforts" – and the agency would be penalized and lose federal dollars for that case.

The trial judge has a difficult task since there is no definition of "reasonable efforts" and the services available in each community are different and may change over time. Nevertheless, the courts are obliged to make several "reasonable efforts" findings throughout the pendency of each child welfare case in which a child has been removed from parental care.

(45 CFR § 1356.21, 45 CFR 1356.22, 45 CFR § 1356.30, and §§ 472, 475(1), 475(4), 475(5), 475(6), and for a Tribal title IV-E agency § 479(B)(c)(1)(C)(ii)(II) of the Act.

*Because these appendices focus on achieving permanency for children and youth in foster care, we are including the actual language from 45 CFR § 1356.21(b)(2) Judicial determination of reasonable efforts to finalize a permanency plan.

> (i) The title IV-E agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care in accordance with the definition at § 1355.20 of this part, and at least once every twelve months thereafter while the child is in foster care.
>
> (ii) If such a judicial determination regarding reasonable efforts to finalize a permanency plan is not made in accordance with the schedule prescribed in paragraph (b)(2)(i) of this section, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

Appendix: Questions from the Bench to Improve Permanency Outcomes for Children Who Cannot Reunify

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* Interim reviews may be held through the progression of the case as needed. For questions for these reviews refer to Appendix 1 and other appendices depending on where the case is in the process.

APPENDIX 1: QUESTIONS CHILDREN/YOUTH WANT JUDGES TO ASK THEM

Every Hearing youth or their representative is present

SNAPSHOT

The perspectives of youth currently or formerly in foster care offer meaningful insights into the importance of permanency and what it takes to achieve lasting permanency. Voice for Adoption (VFA) is in continued communication with current and former foster youth. VFA's publication ***"Questions Youth Would Like Judges to Ask,***[1]" incorporates those perspectives. Many of the questions below are adapted from that publication.

Notes:

1. If the youth cannot participate in person, the court could set up a telephone appearance for the youth or require the young person's representative to gather and present the information in another format.
2. Children/youth sometimes will not be able to speak freely, either because they feel intimidated by the courtroom environment or they might feel pressure from their parents/social worker/relative/caregiver. The court can consider and implement ways to make the court setting more comfortable for the child/youth to speak freely in answering these questions. Some ideas to consider are hanging art done by children on the walls and/or placement of the judge's desk at the same level as where the youth sits. To remove the pressure a youth might feel from others in the courtroom, the court can consider speaking to the child/youth in chambers or removing individuals from the courtroom who are not entitled to attend and whose presence may prevent the child from speaking freely.

- How are you? How's it going?
- What are your goals for the future? How do you plan to achieve them? Where do you see yourself in 5 years? What support do you need from me to get there? Who in your life can also help you achieve this?
- Outside of school, what things or activities do you like to do? Do you need any help to make sure you can participate in those activities?
- Who is important to you? Who do you miss? Who do you think misses you?
- Is there a place or person you feel really supports you? Where do you feel connected? Where do you feel loved? Have you ever lived with someone where you felt you truly belonged?
- What do you like and dislike about where you live now? (consider asking outside the presence of caregiver)
- Do you know what is in your case plan? Let's go over it now. Is there any other support you need at this time that is not in your case plan?
- Is there anything you want us to know about what we've been talking about?
- How can I help you? Is there anyone else that you think could help?
- How do you feel about having a family that belongs to you, where you can grow up and be part of for your whole life? What would you want that family to be like? Is there anyone that you could see being part of that family?
- Have you talked to your social worker and your attorney about people that you are connected to and may want to live with? What happened after you told them?
- What are your educational goals and what do you need to reach them; where will you live and what is your back-up plan if this does not work out. Again, how can we help?

1 https://voice-for-adoption.org/youth-voices-permanency-%E2%80%93-four-steps-judges-and-court-professionals-can-take-promote-permanency

"Unpacking the No"

A critical component of the court's role is to assure that the agency, social worker, or permanency worker has helped youth who say they don't want a family to "Unpack the No." Throughout these appendices you will find questions to ask the agency to determine if this has been done. If the worker is unfamiliar with "Unpacking the No," the court can provide them with the following guidelines:

What Do Children/Youth Fear About Adoption?[2]

- The unknown, changing schools and their last names, leaving their communities and friends;
- Wondering if they will be safe and happy with their new families;
- Wondering if they will have to reject their bio families; wondering what the implications for their family relationships will be if they are adopted; Can those relationships be maintained if adopted?
- Fear that no one will want them;
- Fear that it won't work out and the family will eventually "give them back";
- Adoption was never explained to them, so they don't understand what it means;
- They have never met others who have been adopted and been able to ask what it was like for them.

2 Lessons from Wendy's Wonderful Kids, Child-Focused Recruitment Approach

APPENDIX 2: CHILD AND FAMILY TEAM (CFT) & NEW CCR CASE PLAN REQUIREMENTS

Disposition, Interim Reviews, Status Reviews

The Child and Family Team is key to timely and successful permanency outcomes. The purpose of the team is to engage the young person, their family and natural supports with child welfare and health care agencies, and other professionals to better develop individual case plans and identify supports and services to meet the needs of the child/youth, and their family. For children without an existing CFT, the agency should start to identify team members as soon as possible. A CFT meeting must be convened by the placing agency within the first 60 days of the child/youth coming into foster care (ACL 16-84). Sooner is better; some agencies hold them immediately. CFT meetings must continue throughout the case to discuss any placement changes and service needs for the child/youth.

Permanency/CFT Findings Required:

- The CFT includes the following participants as required: (WIC § 16501 (a)(4)(B))
  - ☐ The child/youth ☐ Parents ☐ Current caregiver ☐ Placing agency caseworker ☐ Representative from receiving agency ☐ FFA or STRTP staff (if applicable) ☐ County mental health representative ☐ Representative from the regional center (if applicable) ☐ Representative of the child's tribe or Indian Custodian (if applicable) ☐ CASA (if one has been assigned), unless the child/youth objects.
- The agency considered the recommendations of the CFT and documented the rationale for any inconsistencies between the case plan and the CFT recommendations. (WIC §§ 16501.1(a)(3), 706.6(b)(2), ACL 16-84)
- All members of the CFT were provided written or electronic information developed by the department describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents. (Note: Required for CFTs for children/youth in STRTPs, recommended for all CFTs.) (WIC § 16501.1(d)(2)(B)(ii))
- Prior to making a placement change the agency developed and implemented a placement prevention strategy in consultation with the CFT. (WIC § 1610.7)

CFT Related Case Plan Findings (New Through CCR)

The court must consider the case plan submitted for the hearing and must find as follows:

- The case plan meets the requirements of WIC § 16501.1(a-d);
- The child/youth was actively involved, as age and developmentally appropriate, in the development of the case plan and plan for permanent placement; (WIC § 16501.1(g)(1), Rule 5.708(e), JV-421(8)(a), JV-435(9))
- Each parent or legal guardian was actively involved in the development of the case plan and plan for permanent placement; (Rule 5.708(e), JV-421(8)(a), JV-435(9))
- In the case of an Indian child, the agency consulted with the Indian child's tribe, as defined in Rule 5.502, and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of tribal customary adoption as an appropriate permanent plan for the child if reunification is unsuccessful; (Rule 5.708(e))
- For a child/youth 12 years of age or older in a permanent placement, he/she was given the opportunity to review the case plan, sign it, and receive a copy. (WIC § 16501.1(g)(13), Rule 5.708(e)(7))

APPENDIX 2: CHILD AND FAMILY TEAM (CFT) & NEW CCR CASE PLAN REQUIREMENTS

Disposition, Interim Reviews, Status Reviews

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if CFT meeting and Related Case Plan Requirements Were Met:

- Did the agency identify and convene the CFT within 60 days of the child/youth coming into care? If not, when? (ACL 16-84)
- How many team meetings have been held?
- Who facilitates the team meetings? What are their qualifications and training?
- Was there a placement change considered and did the CFT have input on the placement decision? What was the CFT's recommendation and did this conflict with the agency's recommendation? If so, how was the conflict resolved? (ACL 16-84)
- If a placement change was considered, did the agency develop a placement preservation strategy and include the CFT in the development of that strategy? Was that strategy implemented? What was the result?
- Please provide me with copies of the CFT meeting notes.
- How were the child/youth, their family, and other people important to them and/or their family contacted and invited to participate in a CFT meeting?
- Are all of the following on the team as required?
  - ☐ The child/youth ☐ Parents- Which parents specifically? What is their role? ☐ Current caregiver
  - ☐ Placing agency caseworker ☐ Representative from receiving agency ☐ FFA or STRTP staff (if applicable) ☐ County mental health representative ☐ Representative from the regional center (if applicable) ☐ Representative of the child's tribe or Indian Custodian? (if applicable)
  - ☐ CASA (If one has been assigned), unless the child/youth objects.
- Which of the following optional informal and formal supports are included on the CFT?
  - ☐ Other family members If so, how many and which ones are actively participating?
  - ☐ Extended family and informal support persons, such as friends, coaches, faith-based connections, and tribes, as identified by the child/youth and family;
  - ☐ Other formal supports, such as substance use disorder treatment professionals or educational professionals, providing services to the child/youth and family, including attorney for child/youth and/or parent(s).
- How does the team reflect the cultural preferences and norms of the parent and child/youth? (ACL 16-84)
- How was the CFT involved in decisions regarding reasonable services to return the child safely home? (See Appendix 3 pg 9)
  - o What parental/guardian strengths were identified during the CFT meetings?
  - o How were those strengths used to identify services for the parent/guardian that would address the initial reasons for removal?

- Did the agency consider the recommendations of the CFT and document the rationale for any inconsistencies between the case plan and the CFT recommendations? Please provide a copy of all of the CFT reports so that I may review them. (Consider calling for a recess or continuance to allow enough time to review those reports.)

- When reviewing the CFT reports the court should look for information answering the following questions:
  - Did the CFT make room for meaningful input from the parents? The child/youth? Other family members? How was their input reflected in the CFT recommendations?
  - How did team members help children, youth and families recognize their strengths and encourage and support them to develop solutions that match what they prefer? (ACL 16-84)
  - How did the team show family members respect, and support the power of learning from mistakes when strategies do not work as intended, so the plan can be revised to improve outcomes? (ACL 16-84)
  - What services did the CFT identify for the parent(s)/guardian(s) which addressed the initial reasons for removal?
- How were the services individually tailored to address the unique needs and circumstances of the parents, children, and family? Did the agency make timely referrals? Did the agency arrange the services identified in the case plan or by the CFT?

- Were team members provided with written or electronic information describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth and nonminor dependents? (Required for children/youth in STRTPs, recommended for all children/youth)
- Were there disagreements raised about the sharing of information? How were these issues resolved and was there an understanding within the team about expectations for sharing information? (ACL 16-84)
- Were relevant information and records made available to the CFT members as required, to achieve communication needed to develop a plan to address the needs of the child/youth and family? (WIC § 832(a)(1))
- How were the child/youth, parents, and family members involved in making decisions about goals and strategies for the child/youth and family? (WIC § 16501(a)(4)(A))
- Describe how child/youth was actively involved (as age and developmentally appropriate) in the development of the case plan and plan for permanent placement; if the child/youth is 12 years of age or older and in a permanent placement, were they given the opportunity to review the case plan, sign it, and receive a copy?
- Describe how each parent was given the opportunity to be actively involved in the development of the case plan and plan for permanent placement. What input did the parents provide in the development of the case plan?

- Are team meetings held at times and locations that maximize involvement of the child/youth and family members?
- Does the child/youth's case plan include agency consideration of the recommendations of the CFT and documentation of the rationale for any inconsistencies between the case plan and the CFT recommendations?
- If not documented in CFT reports, ask how team members help children, parents and families recognize their strengths, and encourage and support them to develop solutions that match their preferences?
- If not documented in CFT reports, ask how the team members show respect, and support the power of learning from mistakes when strategies do not work as intended, so the plan can be revised to improve outcomes?
- How is the agency working with the CFT to develop supports and services needed to return the child/youth home or, when not possible, achieve another committed, loving forever family?
- How has the facilitator worked with the CFT to develop concurrent primary and backup plans for the family? For the child/youth?
- In the case of an Indian child/youth, describe how the agency consulted with his/her tribe, and actively involved the tribe in the development of the case plan and plan for permanent placement, including consideration of tribal customary adoption as an appropriate permanent plan for the child/youth if reunification is unsuccessful. (Rule 5.708(e))

Are you now able to make these findings?

- The CFT includes the following participants as required:

  ☐ The child/youth ☐ Parents ☐ Current caregiver ☐ Placing agency caseworker ☐ Representative from receiving agency ☐ FFA or STRTP staff (if applicable) ☐ County mental health representative ☐ Representative from the regional center (if applicable) ☐ Representative of the child's tribe or Indian Custodian (if applicable) ☐ CASA (if one has been assigned)?, unless the child/youth objects.

  ☐ Yes ☐ No (if no, ask for explanation of why not. If appropriate, ask agency to have more involvement from other individuals)
- The agency considered the recommendations of the CFT and documented the rationale for any inconsistencies between the case plan and the CFT recommendations.

  ☐ Yes ☐ No (if no, and the court would like the information before the next hearing, the court can order the agency to do so and submit an updated plan before the next hearing)
- All members of CFTs were provided written or electronic information developed by the department describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents. (Note: Required for CFTs for children/youth in STRTPs, recommended for all CFTs.)

  ☐ Yes ☐ No (if no and the child/youth is in an STRTP, the court may order the agency to provide the information to all CFT members, also recommended for members of all other children/youth's CFTs)

APPENDIX 2: CHILD AND FAMILY TEAM (CFT) & NEW CCR CASE PLAN REQUIREMENTS

Disposition, Interim Reviews, Status Reviews

- Prior to considering a placement change the agency developed and implemented a placement prevention strategy in consultation with the CFT.

  ☐ Yes ☐ No

- The case plan meets the requirements of WIC § 16501.1(a-d).

  ☐ Yes ☐ No (if no, the court must order the agency to comply with the requirements of WIC § 16501.1)

- The child was actively involved, as age and developmentally appropriate, in the development of the case plan and plan for permanent placement.

  ☐ Yes ☐ No (if no, the court may order the agency to do so and submit an updated plan within 30 days)

- For a child 12 years of age or older in a permanent placement, the child was given the opportunity to review the case plan, sign it, and receive a copy.

  ☐ Yes ☐ No (if no, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.)

- Each parent or legal guardian was actively involved in the development of the case plan and plan for permanent placement.

  ☐ Yes ☐ No (if no, the court may order the agency to do so and submit an updated plan within 30 days)

- In the case of an Indian child, the agency consulted with the Indian child's tribe, as defined in Rule 5.502, and the tribe was actively involved in the development of the case plan and plan for permanent placement, including consideration of tribal customary adoption as an appropriate permanent plan for the child if reunification is unsuccessful.

  ☐ Yes ☐ No (if no, the court must order the agency to do so, unless the court finds that the tribe is unable, unavailable, or unwilling to participate)

In every conceivable manner, the family is a link to our past, a bridge to our future.

—*Alex Haley*

APPENDIX 3: CHILD TO RETURN HOME AND REASONABLE SERVICES WERE PROVIDED TO AID IN THE SAFE RETURN TO THE PARENT(S)

Status Reviews, Permanency, Hearings (6, 12, 18 & 24 month)

Safe and successful reunification with parent(s) or legal guardian(s) remains the permanency goal throughout the case unless and until it is ruled out by the court. The child/youth must be returned unless doing so would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child/youth. The agency's report provided to the court for this hearing should include information needed for the court to make the required factual findings.

Whether or not the child/youth is returned home, the court must make a determination as to whether reasonable services have been provided to the parents or legal guardians to overcome the problems that led to the initial removal and continued custody of the child/youth. The services must be individually tailored to address the unique needs and circumstances of each family. (NOTE: The CFT is of primary importance in identifying the supports and services needed by the parents/guardians to overcome the problems that led to the initial removal. Please refer to Appendix 2 for Questions to Ask re Child and Family Team, page 3.)

Permanency Findings Required:

- The return of the child/youth to his or her parent or legal guardian would NOT create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child, and placement in foster care is no longer necessary or appropriate. (WIC § 366.21(f)(1)), Rule 5.715 (1), JV-436)
- The agency has complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody. (WIC § 366.21(e)(3), 366.22(a)(3), 366.25(a)(3), 636(d)(2)(B), 727.3(b)(3), 16501.1(b)(5), JV421(22), JV-435(10), Rules of Ct 5.678(c)(1), 5.708(c)(1), 5.760(e)(3), (42 U.S.C. §§ 671(a)(15), 672(a)(1)-(2); 45 C.F.R. § 1356.21(b)(1))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if the Child Can Be Safely Returned Home.

- Did the agency recommend return home?
- What strengths of the parents have been identified? How have these strengths been used to reduce identified risks?
- Was a risk assessment tool utilized? If so, explain how it was used and the result of the risk assessment.
- Were continued risks identified? If so, what are those risks? How are they being addressed?
- What is the evidence that there are no reasonable means to protect the child/youth's physical/emotional health without continued removal?
- Is there substantial evidence that the parent may flee jurisdiction of the court? What is that evidence?
- Has the child/youth left the court-ordered placement?
- Has the child/youth indicated an unwillingness to go home and the petition alleges physical or sexual abuse by the person residing in the home?
- What evidence has the agency provided showing that the child is at risk if returned home? Does it have credible and probative value? Does it meet the legal definition of detriment to prevent return by clear and convincing evidence?

Are you now able to make this finding?

- Return of the child/youth to his or her parent or legal guardian would NOT create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child/youth, and the his/her placement in foster care is no longer necessary or appropriate. State the factual basis for this conclusion on the record.

  ☐ Yes (If yes, within what time frame?)

  ☐ No (if no, proceed to next finding to determine if reasonable services were offered)

Questions Part III: Ask to Determine if Reasonable Efforts Were Made to Return the Child to a Safe Home by Providing Reasonable Services to Parent(s):

- Describe the preplacement assessment of the service needs of the child/youth and family, and preplacement preventative services provided. (WIC § 16501.1(b)(2))
- What role did the child/youth and his/her parent(s), legal guardian(s), and other family members play in identifying services and support needed? Were they active members of the CFT? If not, why not? (See Appendix 2, pg 3 – Child and Family Team for more questions re CFT)
- Was input from the child/youth and child's family, as well as input of relatives and other interested parties solicited and integrated into the case plan goals and strategies?
- What parental/guardian strengths were identified during the CFT meetings?
- How were those strengths used to identify services for the parent/guardian that would address the initial reasons for removal?
- How were the services individually tailored to address the unique needs of and circumstances of the parents, children, and family?
- Did the agency make timely referrals to service providers? Did the agency arrange the services identified in the case plan or by the CFT?
- Were the parents placed on a wait list for services? How did this affect case plan compliance?
- Were the services available at times convenient to working parents?
- Were the services available within the transportation options available to the parent(s)?
- Was there a fee the parent(s) had to pay to utilize any services?
- Did the parent(s) utilize the services? If not, were there barriers that made them difficult to utilize? If so, what efforts were made to remove those barriers?
- Did the CFT meet again to determine additional services? What concerns were the additional services meant to address?
- Has the case plan been updated as the service needs of the child/youth and family dictate?

APPENDIX 3: CHILD TO RETURN HOME AND REASONABLE SERVICES WERE PROVIDED TO AID IN THE SAFE RETURN TO THE PARENT(S)

Status Reviews, Permanency, Hearings (6, 12, 18 & 24 month)

Are you now able to make this finding?

- Reasonable efforts were made to return the child/youth to a safe home by providing or offering reasonable services designed to aid the parent(s) or legal guardian(s) to overcome the problems that led to the initial removal.

☐ Yes (if yes, and the court determined there is a substantial risk of detriment, then the court can terminate services, however, if the court finds that the parent(s) or guardian(s) is in substantial compliance with the case plan and there is a substantial probability that the child will be returned home within the next 6 months if given more services, the court can continue services)

☐ No (if no, continue the family reunification services for another 6 months) NOTE: The finding to continue services can only be made if the case is at a 6- or 12-month review hearing. In certain, limited circumstances the court can continue the case at the 18-month review hearing, up to a maximum of 24 months if the court cannot make a finding that reasonable services have been made to make it possible for the child to safely return home (See WIC § 366.22(b) for specifics).

Someone out there who might say, “I remember Johnny. Johnny always had a special place in my heart. Knowing that Johnny’s available for adoption at this point and no one has stepped forward - I’m going to step forward and do it. “

—Julie George, Wendy’s Wonderful Kids Recruiter

APPENDIX 4: CONCURRENT PLANNING

Disposition, Status Reviews, Permanency, Post-Permanency & Disrupted Adoption Hearings

There are circumstances when an unexpected change in the ability of a particular family (bio or other) prevents them from being able to follow through on their plan to become the child/youth's forever family. To eliminate preventable delays in achieving permanency, California and federal law require the child welfare agencies and probation departments to provide services to assist in reunification and at the same time (concurrently) provide services to achieve the goal of an alternate lifelong committed permanent family. This concurrent plan should have been identified and listed within the agency's report and discussed at the time of the original CFT and all subsequent CFTs. WIC §§ 366.21(a)(4) & (I)(3), 366.22(a)(3)(C), 366.25(a)(3)(C), 16501.1(g)(10), Rule 5.708(e), 45 C.F.R.§1356.21(b)(4))

Although concurrent planning is often considered only during reunification, case plans are also required to include concurrent plans when making reasonable efforts (or intensive and ongoing efforts for a youth in APPLA) to take any steps necessary to make and finalize a permanent placement for the child/youth, thus the identified concurrent plan(s) and services provided to support that plan should be contained within the social worker's report. If not, the Court should inquire, on the record, as to the agency's efforts.

Permanency Information Required to be Included in Social Worker Report:

- If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification AND the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. (WIC § 16501.1(g)(10))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine Concurrent Plans for This Child/Youth:

- What concurrent plans for permanency for this child/youth are in place at the same time that efforts are made to reunify? Is there more than one concurrent plan for permanency?
- Are there any barriers to the concurrent plan for establishing permanency? How are these being addressed so permanency can be achieved as expeditiously as possible if the child is not reunified?
- What specific services are identified in the current case plan that support these concurrent plans?
- Were these services identified in consultation with the CFT? If not, why not? (See Appendix 2, pg 9 for Questions to Ask re the Child and Family Team)
- Are the concurrent plan services being provided as identified and ordered? If not, why not?
- Did the agency incorporate family finding and engagement in the concurrent plan? (See Appendix 5, pg 15 for Questions to Ask re Location and Engagement of Relatives)
- Did the agency prepare the resource family to support concurrent planning? In what specific ways does the current caregiver support concurrent planning? Is the resource parent part of the CFT?
- Does the agency or probation department have and follow a policy and procedure for assuring concurrent planning? How is it being used for this child/youth?
- If the current caregiver is not willing to commit to permanence, how is this being addressed with the caregiver? Are other placements being explored?

Are You Now Able to Confirm That the Following Information Was Provided in the Social Worker's Report?

- Case plan includes description of services provided concurrently to achieve legal permanency if efforts to reunify fail.

  ☐ Yes ☐ No – if no, court can:

  - Request that an addendum report be filed providing concurrent planning information,
  - Ask that the information be provided at the next hearing,
  - Continue the matter to get the information

Questions Part III: To Ask about Specific County Concurrent Planning Implementation Efforts

If the court is not satisfied that concurrent planning is occurring on a consistent basis in the agency, the following questions could be useful:

- What training does the agency or probation department provide to staff to communicate the importance of concurrent planning in improving permanency outcomes for children in care?
- Does that training include the ways in which concurrent planning:
  - » Improves prognosis for reunification,
  - » Improves likelihood of meeting relative placement requirements early,
  - » Is important even when birth parents seem to be moving toward reunification, in order to have a viable alternative permanent family available should birth parent unexpectantly be unable to reunify,
  - » Shortens child/youth's time in foster care,
  - » Builds a robust support network not just for the child/youth, but also for the family, and includes relatives and/or important connections and NREFMs (nonrelated extended family members),
  - » Ensures that the child/youth achieves a permanent family without delay if birthparents falter in fulfilling reunification plans, or an identified permanent family changes their minds,
  - » How these efforts and services support the child/youth's lifelong, extended family support network.

Other considerations for Court action to improve consistent implementation of Concurrent Planning

- Set a meeting with child welfare and probation department management/supervisors to discuss the above,
- Develop a Concurrent Planning Workgroup to explore the use of concurrent planning and provide recommendations,
- Hold a brown bag luncheon to discuss your concerns and brainstorm ideas,
- Begin development of a county-specific policy for concurrent planning.

Contact or review Judicial Council website to view any upcoming regional or local trainings on concurrent planning https://cadependencyonlineguide.info/calendar/upcoming.jsp?null

APPENDIX 5: ONGOING REQUIREMENTS TO CONTINUE EFFORTS TO LOCATE AND ENGAGE RELATIVES[3]

Disposition, Status Reviews, Permanency, Post-Permanency & Disrupted Adoption Hearings

California and federal law support maintaining the safety, well-being, and healthy development of children/youth, and faster paths to permanency when they are removed from their parents or legal guardian, by placing them, whenever possible and appropriate, with relatives or someone familiar at the time of the initial placement or immediately thereafter. Consideration of placement with relatives does not end at disposition, rather it continues throughout the case, including diligent efforts to locate an appropriate relative at any permanency hearing at which the court terminates reunification services or at any post-permanency hearing if the child/youth is not placed for adoption. FAM § 7950(a)(1), & WIC § 361.3(d)

Permanency Findings Required:

- The agency has made diligent efforts to locate an appropriate relative[3]. (FAM § 7950(a)(1), WIC §§ 319(h)(2), 361.3(d), Rule 5.740(a)(6) & (b)(3)(A), ACL 17-35)
- Each relative whose name has been submitted to the agency has been evaluated as an appropriate placement resource. (FAM § 7950(a)(1), WIC §§ 319(h) 361.3(d), In re Isabelle G (2016) 246 Cal.App.4th 708, Rule 5.740 (b)(3)(B), 5.695(f), ACL 17-65)
- Whenever a new placement of the child/youth needed to be made, consideration for placement was again given to relatives who have not been found to be unsuitable and who will fulfill the child/youth's reunification or permanent plan requirements. (WIC § 361.3(d))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if Continued Efforts to Locate and Engage Relatives Have Been Made

- Did the agency's "family finding" efforts demonstrate due diligence to identify, locate and notice relatives up to the 5th degree?,[4] If yes, when was search and notice completed and what were the results? (Note: the reports should contain evidence demonstrating what was done to search and locate relatives to satisfy the finding of due diligence.)
- How many relatives/NREFMs[5]/important connections have been identified, what is their relationship to the child/youth?
- How many of those relatives have been located and notified of options to participate in care and placement of the child/youth?
- How were the relatives notified? What was the follow-up process for those relatives who did not respond to the initial notice?
- How many relatives/NREFMs/important connections are interested in ongoing contact with the child/youth?

3 As used in WIC § 319(h)(2) & WIC § 361.3(c)(2), "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, parents of a sibling of the child, if that parent has legal custody of the sibling, adult siblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. WIC § 361.3(c)(2), 309(e)(1), 362.1(c), 16002(g)

4 The Court is required to make a finding at the dispositional hearing as to whether or not the agency utilized due diligence to identify, locate and notice relatives up to the 5th degree in order to involve relatives and NREFMs in the CFT and subsequent CFT meetings and as possible emergency and ongoing placement options. (CA Rule 5.695, 5.790)

5 NREFM (Nonrelative extended family member) is defined as an adult caregiver who has an established familial relationship with a relative of the child, or a familial or mentoring relationship with the child. (WIC § 362.7)

- How many of those relatives/NREFMs/important connections are interested in providing placement for the child/youth?
- Have those relatives, NREFMs and/or important connections been assessed, as potential placement resources? What was the outcome of the assessments?

NOTE: If all of the above are not contained in the case plan or court report, consider setting interim review hearing to receive all information and evidence requested above.

Questions Part III: Additional Questions That May be Useful:

- Has the agency considered relatives or NREFMs who had been ruled out previously? Have their circumstances changed?
- Has the agency asked the child/youth, in an age-appropriate manner, and consistent with the his/her best interest, about his or her relatives, former foster parents, important connections and people whom they miss and with whom they would like to reconnect?
- Has the agency obtained information regarding the location of the child's relatives; where is that information?
- Did the agency review the child's case file for any information about relatives or NREFMs who asked about the child/youth, visited the child/youth in the past, or contacted the child/youth?
- Did the child/youth identity former foster parents and parents of close friends?
- Did the agency contact all identified relatives by telephone, e-mail, or in person?
- Did the agency ask those relatives for the names and locations of other relatives?
- Did the agency use internet search tools and social media to locate relatives?
- Did the agency use any other tools designed to uncover relatives and important connections including a genogram, family tree, family map, or other diagrams of family relationships? Which tools and where are the results?
- Were identified relatives invited to participate in the CFT?
- Were relatives given opportunities to participate in the child's life other than being asked to take placement? What opportunities are relatives being given to engage in the minor's life?
- How are the relationships with relatives being facilitated to promote a lifelong connection to the child?

APPENDIX 6: IDENTIFICATION AND REMOVAL OF BARRIERS TO PERMANENCE

Permanency & Post-permanency Hearings

Numerous barriers to permanency exist or are perceived to exist. Statutes require the agency to identify and address these barriers on a case by case basis. To the surprise of many, multiple evaluations of specialized permanency services have shown that the biggest barriers to permanency lie in the beliefs and culture of the counties and their external partners. The court plays a critical role in helping the agency discriminate between actual barriers and entrenched institutional beliefs and practices that have limited the number of children/youth achieving permanency.

Specialized permanency services[6] have been shown effective in achieving and sustaining permanent families for children and youth who are considered difficult-to-place, have had multiple placement moves, repeated AWOLs, behavior, developmental, and/or health challenges, etc. The agency's efforts to eliminate barriers must be included in their report (See Appendix 7, pg 19, Specialized Permanency Services and Appendix 10A, pg 45, Intensive and Ongoing Efforts).

Permanency Findings Required:

- Factual finding of barriers to achieving the permantent plan as of the hearing date have been identified and addressed (WIC §§ 366.21(g)(5)(A), 366.22(a)(3), 366.25(a)(3), 366.26(c)(4)(A), 366.3(h)(1), 706.6(n)(1), 16501.1(g)(15)(A) & (16)(C), JV form 446) and confirmation of case plan documentation of those barriers and steps the agency will take to address them. (WIC § 16501.1 (e)(15)(A), JV438(10)(c))
- When the child is under 16 years of age and has a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative, the social study includes a description of any barriers to achieving the permanent plan and the efforts made by the agency to address those barriers. (WIC § 366.3(h)(4), 706.5(c)(8), 706.6(n)(1))
- Reasonable efforts have been made to take steps necessary to make and finalize a permanent placement for the child. (WIC §§ 366(a)(1)(B), 366.3(d)(4), 727.4(d)(5)(C)), 45 C.F.R § 1356.21(b)(2)[6], U.S.C. § 671)a)(15)(C), JV forms 430(10) & 446(18))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if Barriers to Permanence Have Been Identified and Addressed

- What efforts has the agency made to identify barrier beliefs, cultural barriers, and policy barriers inside their institution that impact their ability to achieve permanency for all their children/youth? What efforts is the agency making to remove those barriers and become a permanency-competent organization?
- What other barriers to achieving the permanent plan have been identified? What efforts are being made to address those barriers?
- What are the child/youth's wishes regarding their permanent placement plan? What is the agency's assessment of those stated wishes?
- What services have been provided to help the child/youth address his/her history of trauma, separation and loss, and to remove the fear of further rejection by a permanent family? Note: these services are integral to specialized permanency services. (See Appendix 7, pg 19 – Specialized Permanency Services)
- What specific steps is the agency taking to find an adoptive family, a legal guardian, or an appropriate and willing relative, and to finalize the adoption or legal guardianship?

6 If a judicial determination is made that reasonable efforts have not been made within 12 months of when the child entered foster care and at least every 12 months thereafter while the child is in care the child becomes ineligible under title IV-E.

- What child-specific recruitment efforts has the agency used, for example:
  - » Empowerment and engagement of the child/youth to be the center of their child/youth-specific recruitment efforts,
  - » Extensive file mining to identify important connections for the child/youth; engagement of those found,
  - » Provision of mental health or other services to address the child/youth's history of trauma, separation, grief, and loss,
  - » Use of state, regional, and national adoption exchanges,
  - » Others – please specify.
- Describe the specialized permanency services (See Appendix 7, pg 19) the agency has provided. If not provided, explore what institutional barriers prevented provision of those services. (NOTE: documentation of specialized permanency service provision in the child/youth's case plan is appropriate for all children and required for children in care three years or more and having a permanent plan for adoption, legal guardianship, placement with a fit and willing relative or, for youth age 16 or older, another planned permanent living arrangement - APPLA). (WIC § 16501.1(g)(15)(A))
- For youth age 16 and above in another planned permanent living arrangement (APPLA), describe the intensive and ongoing efforts the agency has provided to the youth to return home or secure a placement with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children/youth, and to complete any steps necessary to finalize the permanent placement of the child. (See Appendix 10A, pg 45 - Intensive & Ongoing Efforts)
- If youth is in another planned permanent living arrangement (APPLA), who are child's permanent connections and supports?
- For an Indian child, describe the active efforts the agency has made to achieve a permanent family.
- If specialized permanency services have not been used, please explain why the agency chose not to provide these services.
- Does the child/youth have siblings? If so, are they placed together? If not why not? What efforts are being made to place the siblings together or why would those efforts be contrary to the safety and well-being of any of the siblings?

Are you now able to make these findings?

- Factual finding of barriers to achieving the permanent plan as of the hearing date have been identified and addressed and documented in the case plan.

  ☐ Yes (if yes, the court must make factual findings identifying the barriers)

  ☐ No (if no, and the court would like the information before the next hearing, the court can order the agency to do so and submit an updated plan before the next hearing)
- Reasonable efforts have been made to take any steps necessary to make and finalize a permanent placement for the child.

  ☐ Yes ☐ No (if no, the court can find no reasonable efforts and order the agency to provide reasonable efforts by next hearing)

APPENDIX 7: SPECIALIZED PERMANENCY SERVICES

Disposition, Status Review, Permanency & Post-Permanency Hearings

Over the last 20 years the child welfare field has developed practices shown highly effective in achieving permanent families for children/youth previously considered hard-to-place or even "unadoptable." In spite of their permanency and fiscal effectiveness, and in spite of statutory definition and documentation requirements, only a small percentage of children/youth receive these services.

Permanency Findings – Specialized Permanency Services

- All members of the CFT were provided with written or electronic information describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents: Required for children/youth in STRTPs, recommended for all children/youth. (WIC § 16501.1(d)(2)(A)(ii))
- If the child/youth has been in care three years or more and has a permanent plan for adoption, legal guardianship, placement with a fit and willing relative or, for children age 16 or older, another planned permanent living arrangement, the case plan includes documentation of specialized permanency services provided, and if not, why not? (WIC § 16501.1(g)(15)(A))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: To Determine Requirements for Specialized Permanency Services Have Been Met the Court Should:

- Ensure the agency provided the required written or electronic information to members of this child's CFT describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents. (Required for children/youth in STRTPs, recommended for all youth.)
- Inquire what specific specialized permanency services as defined in WIC § 16501(a)(8) are part of the agency's reasonable efforts to complete any steps necessary to make and finalize a permanent placement for this child/youth. Which have been provided to date? If the agency does not offer them, why not?
- Inquire how the agency is involving the child/youth in the design and implementation of their permanency services.
- Inquire how the agency is working with the child/youth to address their history of trauma, separation, and loss, to remove the fear of further rejection by a permanent family.
- Inquire if the agency is working with their behavioral health partners to include adoption/permanency-competent mental health services as needed address this child's/youth's history of trauma, grief, loss, stigma, and rejection that reduce his/her likelihood to achieve and sustain a permanent family.
  NOTE: Free, online adoption/permanency competency (NTI) training available. https://adoptionsupport.org/nti

- Inquire how open the agency staff is to making referrals for specialized permanency services.
- Inquire what services the agency provides to prepare a potential permanent family to meet the specific needs of this child/youth or nonminor dependent. What services the agency will provide after placement to sustain the family long-term?
- Inquire what permanency-competency training the agency staff has been provided. (NOTE: Free, online NTI training available – https://adoptionsupport.org/nti/) Does the agency utilize this?

Are you now able to make this finding?

- All members of the CFT were provided with written or electronic information describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents. (Required for children/youth in STRTP, recommended for all children/youth.)

  ☐ Yes ☐ No (If no, inquire why it was not provided to CFT. The court may order the agency to provide it)
- If the child has been in care three years or more and has a permanent plan for adoption, legal guardianship, placement with a fit and willing relative or, for youth age 16 or more, another planned permanent living arrangement, the case plan includes documentation of specialized permanency services provided, and if not, why not.

  ☐ Yes ☐ No (If no, inquire why the documentation was not provided. The court may order the agency to provide the documentation)

APPENDIX 8: TERMINATION OF SERVICES AND SELECTION OF THE PERMANENT PLAN

Permanency Hearing Where Reunification Service Are Terminated or Bypassed

Unless bypassed, the first permanent plan is always reunification through reasonable services to the parent(s) or legal guardian(s). The agency's efforts to reunify must be included in their report. When, after provision of those services, returning the child/youth home is still not safe, reunification services are terminated, at this permanency hearing.

Permanency Findings Required When Services are Terminated or Bypassed:

At Disposition Hearing when services bypassed:

- Reunification services need not be provided to a parent or legal guardian when the court finds by clear and convincing evidence there is a compelling reason that the parent or guardian meets the circumstances described in WIC § 361.5(b)(1-17)
- The appropriate permanent plan including the setting of a 366.26 hearing has been selected. (WIC § 361.5(f)), JV-421(36)(a-b)) (See Appendices 9 A-F) for questions to ask in selecting the appropriate permanent plan (pages 25-39)) **or**

At Permanency Hearing where reunification services are terminated:

- By a preponderance of the evidence, the return of the child/youth to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child/youth. (WIC §§ 366.21(e)(1) & (f)(1), 366.22(b)(3)(C), 366.25(a)(1), 727.3(b)(1)(B)), and there is clear and convincing evidence that reasonable services have been provided or offered to the parents or legal guardians. (WIC §§ 366.21(g)(4), 366.22(a)(3), 366.25(a)(3)) **then**
  - A. Order matter set for a hearing under WIC § 366.26 to select the most appropriate permanent plan for the child/youth (See Appendices 9 A-F, pg 25-39) and order termination of services (WIC § 366.21(g)(4) &(h), 366.22(a)(3), 366.25(a)(3)) **or**
  - B. Only for a youth age 16 years or older, when ordered to remain in foster care because it has been determined that the youth is not the proper subject for adoption and has no one willing to become legal guardians as of the hearing date, and no other permanent plan is appropriate, find and order a permanent plan of placement into another permanent living arrangement (APPLA). (See Appendix 9F - Another Planned Permanent Living Arrangement (APPLA) pg 39) (WIC §§ 366.21(a)(3), 366.22(a)(3), 366.25(a)(3))
- Factual findings identifying any barriers to achieving permanent plan as of hearing date (WIC §§ 366.21(g)(5)(A), 366.22(a)(3), 366.25(a)(3)) 366.26(c)(4)(A), 366.3(h)(1), 706.6(n)(1),16501.1(g)(15)(A) & (16)(C), JV form 446) and confirmation of case plan documentation of those barriers and steps the agency will take to address them. (WIC § 16501.1 (e)(15)(A), JV438(10)(c)) (See Appendix 6 - Identification and Removal of Barriers to Permanence pg 17)
- If child/youth has been in out of home placement for 6 months or longer, the county agency made efforts to identify individuals who are important to the child/youth and to maintain the child's/youth's relationships with those individuals, consistent with his/her best interest. (WIC § 366.21(c), JV-438(8)(a))
- The appropriate permanent plan has been selected (WIC § 366.21(f)(1), 366.3(e)(8), 727.2(e)(5), JV-438(10)(a)). (See Appendices 9 A-F for questions to ask in selecting the appropriate permanent plan pages 25-39)
- The likely date by which the permanent plan will be achieved or court jurisdiction terminated. (WIC §§ 366(a)(1)(F)(2), 366.3(e)(8,), 727.2(e)(5), JV form 438(10)(a))

APPENDIX 8: TERMINATION OF SERVICES AND SELECTION OF THE PERMANENT PLAN

Permanency Hearing Where Reunification Service Are Terminated or Bypassed

Permanent Plan Options in Order of Statutory Preference

1. **Permanent Plan of Adoption with Immediate TPR**
   or, for an Indian Child Permanent Plan of Tribal Customary Adoption without TPR (Appendix 9A, pg 25)
   Chose if the child/youth has been assessed as likely to be adopted and that TPR is not detrimental.
   Note: The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely her/she will be adopted.
2. **Permanent Plan of Legal Guardianship with Current Relative Caregiver (Appendix 9B, pg 29)**
   Chose if current relative caregiver is unable or unwilling to adopt because of exceptional circumstances, but is able and willing to become the legal guardian and it would be detrimental to the child to be moved.
3. **Permanent Plan of Adoption (no TPR until adoptive family is identified and approved) (Appendix 9C, pg 31)**
   Chose when child/youth has probability of adoption but is difficult to place. No TPR until adoptive family is identified and approved.
4. **Permanent Plan of Legal Guardianship with Current Nonrelative Caregiver or Another Appropriate Person (Appendix 9D, pg 33)**
   Chose when adoption or legal guardianship with relative is not an option and it would be detrimental to the child to be moved.
5. **Permanent Plan of Permanent Placement with Fit and Willing Relative (Appendix 9E pg 37 & 10B, pg 49)**
   Subject to periodic review. Chose if child/youth is living with a relative willing to provide a permanent family but unwilling or unable to adopt or accept legal guardianship due to exceptional circumstances.
6. **Permanent Plan of Another Planned Permanent Living Arrangement (APPLA) (Appendix 9F, pg 39)**
   Only for youth age 16 or above when there is no other appropriate permanent plan. Rarely the best plan.
7. **Child/youth Remains in Foster Care with Permanent Plan for One of the Options Above**
   Subject to periodic review

APPENDIX 9: SELECTION AND IMPLEMENTATION OF THE PERMANENT PLAN

.26 Post-Permanency Hearing

The permanent plan is the stated goal to achieve a permanent family for the child/youth, including nonminor dependents. Although the permanent plan is selected at the permanency hearing where services were terminated, (or at Dispo if reunification services are bypassed) WIC § 366.26 requires the court to review and consider the social worker report and to receive other evidence that the parties may present, then make findings to select and order a permanent plan for the child/youth at the 366.26 hearing.

Permanency Findings Required in Order of Preference:

- The child/youth is likely to be adopted and termination of parental rights would not be detrimental. Parental rights are terminated, order child to be placed for adoption (WIC § 366.26(b)(1) & (c)(1) (See Appendix 9A, pg 25) or for an Indian child, in accordance with his/her tribe, order the plan of tribal customary adoption without TPR, (WIC § 366.26(b)(2)) (See Appendix 9A, pg 25)
- Appoint a relative or relatives with whom the child/youth is currently residing as legal guardian or guardians, and order that letters of guardianship issue. (WIC § 366.26(b)(3)) (See Appendix 9B, pg 29)
- Identify adoption or tribal customary adoption as the permanent placement goal and order efforts to be made to locate an appropriate adoptive family within 180 days. (WIC § 366.26(b)(4)) (See Appendix 9C, pg 31)
- Appoint a nonrelative legal guardian and order letters of guardianship issue. (WIC § 366.26(b)(5)) (See Appendix 9D, pg 33)
- Order child/youth be permanently placed with a fit and willing relative subject to periodic review of the court. (WIC § 366.26(b)(7)) (See Appendix 9E, pg 37)
- Order child remain in foster care with appropriate permanency plan. (WIC § 366.26(b)(7)), 366.26(c)(4)(b)(ii)) (See Appendices 9A-F, pg 25-39)

Worker tenacity and a "whatever it takes" service mentality resulted in the strongest youth permanency outcomes. The private partner agency hired workers willing to go the extra mile and supported those workers with resources and supervision that consistently reinforced this practice philosophy.

– *County Child Welfare Administer*

APPENDIX 9A: ADOPTION WITH IMMEDIATE TPR, OR, FOR AN INDIAN CHILD, TRIBAL CUSTOMARY ADOPTION (TCA) WITHOUT TPR

.26 Post-Permanency Hearing

Once reunification services have been terminated, adoption, or, for an Indian child, tribal customary adoption, is the highest statutory preference for a child's/youth's permanent plan. If it is shown by CCE that adoption is likely, the court should establish adoption (and/or tribal customary adoption if Indian child) as the permanent plan. If a prospective adoptive parent(s) has been selected and approved, and termination of parental rights would not be detrimental to the child/youth, the court may, at the § 366.26 hearing, terminate the rights of the parent(s) and order that the child/youth be placed for adoption, or, for an Indian child/youth, order, without terminating parental rights, tribal customary adoption.

Permanency Finding Required for Permanent Plan of Adoption with TPR, or TCA without TPR:

- By a clear and convincing standard the child/youth is likely to be adopted (WIC § 366.26(c)(1))
- Reunification services shall not be offered (WIC § 361.5(b) or (e)(1)), OR the whereabouts of a parent has been unknown for six months OR the parent has failed to visit or contact the child for six months, OR the parent has been convicted of a felony indicating parental unfitness (WIC § 366.21(e)), OR that the court has continued to remove the child from the custody of the parent or legal guardian and has terminated parental rights. (WIC § 366.21, 366.22)
- The court did not find a compelling reason for determining that termination of parental rights would be detrimental to the child. (Not required for tribal customary adoption.) (WIC § 366.26(c)((B)(i-vi))

Questions Part I: Questions the Child/Youth Want Judges to Ask (See Appendix 1, pg 1)

Questions Part II: Ask to Determine if Adoption is the Appropriate Permanent Plan and to Prevent Disruption

- Is the child/youth currently living with a family approved to adopt them? If not, what are the factors that make them likely to be adopted?
- Has the agency provided "full disclosure" of the child's/youth's history, strengths, challenges, etc. to the prospective adoptive parent(s)? Has trauma-focused parenting training been provided to the potential adoptive parent(s)?
- What services will be in place to prevent the adoption from disrupting? How will the agency help the family access adoption-competent mental health services if and when needed?
- Has the prospective adoptive parent(s) been given the required information re importance of seeking adoption-competent mental health services if clinical help is required? (www.cdss.ca.gov/Portals/9/FMUForms/M-P/PUB511.pdf?ver=2019-05-14-110438-993)
- What questions has the prospective adoptive parent(s) been asked to ensure that they are able to make a lifelong, unconditional commitment to the child/youth. Questions could include:[8]
  - » In all ways, will the child/youth be treated as a member of the family?
  - » If another family member needs to move into the home, will this child/youth remain in the home?
  - » If the family moves out of state, will the child/youth go with them?

8 Questions adapted by the Emancipation Project, CPYP/Seneca

  - » Is the child/youth allowed to have disagreements and struggles with other children in the home, just as biological children do?
  - » Would the child/youth be asked to leave the house for mistakes or behavior for which other children would not be asked to leave?
  - » Is the child/youth included in inheritance?
  - » Has a plan been made for the child/youth should a parent be incapacitated? For instance, if the adoptive parent(s) dies, where would the child/youth live? Remember: it's not permanency if the answer to this question is "back into foster care." Foster parents' relatives should be explored and committed as well.
- Is the child/youth included in any and all family decisions in which biological children of this family are included?
- If the parent(s) were injured and end-of-life decisions needed to be made would the child/youth be included in the family decision-making?
- How does the child/youth benefit from the adult's network of family and close friends?
- Is the child/youth invited to go on visits to relatives and holiday celebrations?
- Is the same amount of money devoted to the child/youth as to other children in family, e.g., violin lessons, soccer camp, money for housing, school, etc.?
- Does the parent(s) offer the same level of mentoring, career counseling and emotional support as he or she offers to the adult's other children?

Questions Part III: Ask if the Agency Determines That the Child is Not Likely to be Adopted:

- Has the current caregiver and other of the child's/youth's important connections been given information regarding the permanency options of legal guardianship and adoption? What specific information have they been given? Best practice recommends that the following information be provided:
  - » What a permanent family can mean for the child/youth,
  - » Availability of adoption/permanency-competent post adoption/post guardianship support,
  - » Financial considerations that need to be explored for the family to consider a higher level of permanency,
  - » The difference between adoption and legal guardianship – which might be the best for this family,
  - » Information on Adoption Assistance and Kin-Gap subsidies,
  - » Medi-Cal eligibility continues after adoption or legal guardianship,
  - » Child/youth adopted age 13 and above maintain their eligibility for federal student financial assistance as an "independent student" – adoptive parents' income is not considered for eligibility,
  - » Some children/youth may say they don't want to be adopted for reasons underneath the surface – concerns, doubts, fears about what adoption means. If this child/youth says "no" what is the agency doing to unpack the "no"? (See Appendix 1, pg 2)
- If permanency with a relative does not seem to be an option at this point, what specific current efforts are being made to identify, locate, and engage relatives and extended family members? (See Appendix 5, pg 15)
- What specific activities are being carried out to meet the reasonable efforts requirement to take any steps necessary to make and finalize a permanent placement of the child/youth? If this information is not in the court report, finding should not be made until an adequate record is made to support the finding.

- Is it likely that the child/youth will be adopted within a reasonable time by the prospective adoptive parent or by some other family? (In re A.A. (2008) 167 Cal.App.4th 1292, 1313)
- Does the child's/youth's age, physical condition, and emotional state make it difficult to find a willing adoptive parent? (In re Sarah M. (1994) 22 Cal.App.4th 1642, 1649)
- If the caregiver is willing to adopt, are there any legal impediments to the prospective adoptive parent's adoption and whether he or she is able to meet the needs of the child?

Questions Part IV: Ask to Determine a Compelling Reason that TPR Would be Detrimental to the Child

- Does the child/youth have regular visits and contact with the parent(s)? If so, would the child/youth benefit from continuing contact? If not, has a bonding and/or attachment assessment been done? If so, by whom? Have all counsel been provided a copy? Have all counsel had ample opportunity to secure additional assessments? Will the assessor be available for cross-examination?
- Is the child/youth 12 years of age and older and objects to TPR? If yes, how has TPR been described or explained to the child/youth?
- How have the benefits of adoption been explained to the child/youth? If he or she states they don't want a family what activities has the agency made to understand why and '"unpack the 'no'" (See Appendix 1, pg 2).
- Would TPR create a substantial interference with the child's/youth's sibling relationships?
  - » If the child/youth has siblings not being placed with him/her, is the prospective adoptive family willing to allow/facilitate sibling connection? If not, what are the reasons?
  - » Has the prospective adoptive parent(s) signed a waiver allowing future sibling contact? (CDSS form AD 904B: https://www.cdss.ca.gov/Forms/English/AD904B.PDF) If not, what are the reasons?
- Is the prospective adoptive family willing to sign a post adoption contact agreement pursuant to FAM § 8616.5 & 8714.5? (Judicial Council form ADOPT-310) If not, what is the reason?
- Is the child/youth living with a foster parent or Indian custodian who is unable or unwilling to adopt because of exceptional circumstances but is willing and able to provide the child/youth with a stable and permanent family and the removal of the child/youth from the physical custody of his/her current caregiver would be detrimental to the child/youth? If yes, describe the exceptional circumstances.

Are you now able to make this finding?

- By a clear and convincing standard, the child/youth is likely to be adopted (WIC § 366.26(c)(1) **and**
- Reunification services shall not be offered (WIC § 361.5(b) or (e)(1)), OR the whereabouts of a parent has been unknown for six months OR the parent has failed to visit or contact the child for six months, OR the parent has been convicted of a felony indicating parental unfitness (WIC § 366.21(e)), OR that the court has continued to remove the child from the custody of the parent or legal guardian and has terminated parental rights. (WIC § 366.21 or 366.22)

☐ Yes ☐ No (If no, go to Appendix 9B, pg 29 – Legal Guardianship with Current Relative Caregiver)

Are you now able to make this finding? -continued

- The court did not find a compelling reason for determining that termination of parental rights would be detrimental to the child. (Not required for tribal customary adoption.) (WIC § 366.26(c) (B)(i-vi))

  ☐ Yes (if yes to all 3 bullets, order adoption or tribal customary adoption as the permanent plan. The court may then terminate parental rights.)

  ☐ No (If no, go to Appendix 9B, pg 29 – Legal Guardianship with Current Relative Caregiver)

The teens bring history with them. They bring baggage with them. They bring experiences with them. But having a place to bring the baggage, bring the experiences, and then shift out what they are going to keep, what they're going to use. How to rework it, how to shape it – that's what I've seen families enjoy doing. And that's what I think is so exciting about adopting the older child.

–Dr Joseph Crumley

APPENDIX 9B: LEGAL GUARDIANSHIP WITH CURRENT RELATIVE CAREGIVER[9]

.26 Post-Permanency Hearing

If adoption or tribal customary adoption is not shown to be likely, or if termination of parental rights is shown to be detrimental to the best interests of the child/youth, the court should appoint a relative(s) with whom the child/youth is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.

Permanency Finding Required for Permanent Plan of Legal Guardianship with Current Relative Caregiver:

- The child/youth is currently living with a relative(s) willing and able to become legal guardian(s), and removal of child/youth from the custody of his or her relative would be detrimental to the emotional well-being of the child/youth. (WIC §§§ 361.3(c)(2), 366.26(b)(3), 366.26(c)(1)(A), 361.5(g)(2)(B))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if Child is Living with Relative(s) Willing and Able to Become Legal Guardians.

- Is the current relative caregiver unwilling or unable to adopt due to exceptional circumstances but willing and able to become legal guardian(s)?
- If not currently willing, has the current relative caregiver been given information regarding the permanency options of legal guardianship and adoption? What are the reasons for the caregiver's position and how have those concerns been addressed?
- What specific information have they been given? Best practice recommends that the following information be provided:
  - » What a permanent family can mean for the child/youth,
  - » Availability of adoption/permanency-competent post adoption/post guardianship support,
  - » Financial considerations that need to be explored for the family to consider a higher level of permanency,
  - » The difference between adoption and legal guardianship – which might be the best for this family,
  - » Information on Adoption Assistance and Kin-Gap subsidies,
  - » Medi-Cal eligibility continues after adoption or legal guardianship,
  - » Children/youth adopted age 13 and above maintain their eligibility for federal student financial assistance as an "independent student"–adoptive parents' income is not considered for eligibility,
  - » Some children/youth may say they don't want to be adopted for reasons underneath the surface – concerns, doubts, fears about what adoption means. (See Appendix 1, pg 2) If this child/youth says "no" what is the agency doing to unpack the "no"?
- If permanency with a relative does not seem to be an option at this point, what specific current efforts are being made to identify, locate, and engage relatives and extended family members? (See Appendix 4, pg 13 – Concurrent Planning and Appendix 5, pg 15 – Ongoing Requirements to Continue Efforts to Locate and Engage Relatives)
- What specific activities are being carried out to meet the reasonable efforts requirement to take any steps necessary to make and finalize a permanent placement for the child/youth?

9 For purposes of an Indian child, "relative" shall include an "extended family member," as defined in the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1903(2)).

Are you now able to make these findings?

- The child/youth is currently living with a relative(s) willing and able to become legal guardians, and removal of child/youth from the custody of his or her relative would be detrimental to the emotional well-being of the child/youth.

  ☐ Yes (If yes, appoint relative(s) as legal guardian(s) and order that letters of guardianship issue)

  ☐ No (If no, go to Appendix 9C, pg 31 – Permanency Plan of Adoption with order for efforts be made to locate appropriate adoptive parent; no TPR until appropriate adoptive parent is identified and approved)

This is not easy work. It's hard work. It's important work and it's good work. And I think that's what keeps us all going. It fills our heart when we see children's hearts filled. And their hearts are filled when they have family.

—Deb Riley, C.A.S.E.

APPENDIX 9C: PERMANENT PLAN OF ADOPTION

(with order for efforts be made to locate appropriate adoptive parent – no TPR until appropriate adoptive parent is identified and approved)

.26 Post-Permanency Hearing

Contrary to prevailing myth, permanent families are probable for all children/youth waiting in foster care, even those with characteristics that might make it more difficult to identify adoptive parents for them. The court, while taking into account the relationship the child has with his or her caregiver, has a critical role in assuring that continued efforts are made to identify appropriate adoptive parents before the court considers legal guardianship by a current nonrelative caregiver or other appropriate person.

Permanency Finding Required for Permanent Plan of Adoption with Order to Locate Appropriate Adoptive Parent:

- The child/youth has a probability of adoption but is difficult to place for adoption and there are no identified or available adoptive parents for the child/youth because of the his/her membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child/youth is seven years of age or older. (WIC § 366.26(c)(3))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask re Assessment of Child as Difficult to Place/No Identified or Available Adoptive Parents.

- What are the social worker's beliefs about the "adoptability" of children considered difficult to place? (Note: children with all characteristics and challenges have repeatedly been shown to achieve adoption with proven, cost effective specialized permanency services.)
- Describe the specific activities being carried out to make reasonable efforts (active efforts for Indian child, or intensive and ongoing efforts for youth age 16 and older and in APPLA) to take any steps necessary to make and finalize a permanent family for the child/youth?
- Is the worker familiar with the specialized permanency services that have been shown to be effective in achieving permanent families for children who are considered difficult to place? Which of those services have been provided for this child/youth? (See Appendix 7, pg 19 – Specialized Permanency Services)
- If the youth is age 16 or older and in another planned permanent living arrangement, describe the intensive and ongoing efforts the agency is taking to achieve a permanent family for the youth? (See Appendix 10A, pg 45 Intensive and Ongoing Efforts)
- If the child/youth says "no" to having a family that belongs to him/her, what has the agency done to "unpack the 'no'"? (See Appendix 1, pg 2)
- Which of the following efforts have been made to find a family willing and able to adopt the child, or for siblings, the child/youth and his/her siblings?
  - » Utilizing the CFT to assist in identifying a family
  - » Asking the child/youth to help identify potential adoptive families (and/or other siblings if the child/youth is part of a sibling group)
  - » Providing targeted recruitment

- Utilizing thorough family finding techniques
- Listing the child/youth on California's regional adoption exchanges
- Providing child-specific recruitment for the child/youth or child/youth and siblings
- Listing the child and any siblings on the California Kids Connection website. www.cakidsconnection.org/
- Providing adoption/permanency competent mental health services to address the child's history of trauma, separation and loss
- For questions specifically regarding intensive and ongoing efforts for youth in APPLA see Appendix 10A, pg 45

Are you now able to make these findings?

- The child/youth has a probability of adoption but is difficult to place for adoption and there are no identified or available adoptive parent(s) for the him/her because of the child/youth's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child/youth is seven years of age or older.

  ☐ Yes (If yes, order adoption as the permanent plan and order efforts to be made to locate appropriate adoptive parents — no TPR until suitable adoptive parent(s) have been identified and approved)

  ☐ No (If no, go to Appendix 9D, pg 33 - Legal Guardianship with Nonrelative Caregiver or Other Appropriate Person)

APPENDIX 9D: GUARDIANSHIP WITH CURRENT NONRELATIVE CAREGIVER OR ANOTHER APPROPRIATE PERSON

.26 Post-Permanency Hearing

If TPR is not in the best interest of the child/youth and current relative caregiver(s) is unable or unwilling to become the child's/youth's legal guardian, and if it is in the best interest of the child/youth, legal guardianship or tribal customary adoption must be considered before any other permanent plan. (WIC § 366.26(c)(4)(A)) The current nonrelative caregiver, if assessed as a suitable guardian, would normally be the first choice. If that caregiver is not suitable, willing, or able, the court should consider another appropriate person.

Permanency Findings Required for Legal Guardianship with Current Nonrelative Caregiver or Other Appropriate Person:

- The adoption of the child or TPR is not in the best interest of the child as per (WIC § 366.26(c)(1)(B)(i-vi))
- Current nonrelative caregiver or another person is suitable, willing and able to become the child's legal guardian. (WIC § 366.26(b)(4)(A))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine a Compelling Reason that TPR Would be Detrimental to the Child/Youth

- What are the specific circumstances, as described in WIC § 366.26(c)(4)(B), that create the compelling reason that TPR is not in the best interest of the child/youth?
- Does the child/youth have regular visits and contact with the parent(s)? If so, would the child/youth benefit from continuing contact?
- Has the parent(s) shown that the strength and quality of the parent-child relationship, even in a tenuous placement, outweighs the security and sense of belonging that a new family would offer the child? (In re Autumn H. (1994) 27 Cal.App.4th 567, 575)
- Is the child/youth 12 years of age or older and objects to TPR?
- Would TPR create a substantial interference with the child's/youth's sibling relationships?
- Is the child/youth living with a foster parent or Indian custodian who is unable or unwilling to adopt because of exceptional circumstances but is willing and able to provide the child/youth with a stable and permanent family and the removal of the child/youth from the physical custody of his/her current caregiver would be detrimental to the child/youth?
- Has the court determined that reasonable services were not offered or provided to the parents?
- If permanency with a relative does not seem to be an option at this point, what specific current efforts are being made to identify, locate, and engage relatives and extended family members? (See Appendix 5, pg 15 – Ongoing Requirements to Continue Efforts to Locate and Engage Relatives)

Are you now able to make these findings?

- The adoption of the child/youth or TPR is not in the best interest of the child/youth as per WIC § 366.26(c)(1)(B).

  ☐ Yes (If yes, order that the present caretakers or other appropriate persons, if suitable, willing and able shall become legal guardians of the child/youth, or, in the case of an Indian child, consider a tribal customary adoption pursuant to WIC § 366.24.)

  ☐ No (If no, and the child/youth continues in foster care, the court shall make factual findings identifying any barriers to achieving adoption, tribal customary adoption in the case of an Indian child, legal guardianship, or placement with a fit and willing relative as of the date of the hearing. (See Appendix 7, pg 19 – Specialized Permanency Services) and go to Appendix 9E, pg 37 Permanent Placement with Fit and Willing Relative

Questions Part III: Ask Regarding Efforts to Locate a Suitable Legal Guardian

- Is the current nonrelative caregiver a suitable legal guardian and willing and able to become the child's/youth's legal guardian? In the case of an Indian child, consider a tribal customary adoption pursuant to WIC § 366.24.
- Has the current nonrelative caregiver been given information regarding the permanency options of legal guardianship and adoption?
- What specific information have they been given? Best practice recommends that the following information be provided:
  - » What a permanent family can mean for the child/youth;
  - » Adoption / permanency-competent post adoption / post guardianship support available;
  - » Financial considerations that need to be explored for the family to consider a higher level of permanency;
  - » The difference between adoption and legal guardianship – which might be the best for this family;
  - » Information on Adoption Assistance and Kin-Gap subsidies;
  - » Medi-Cal eligibility continues after adoption or legal guardianship;
  - » Children/youth adopted age 13 and above maintain their eligibility for federal student financial assistance as an "independent student" – adoptive parents' income is not considered for eligibility;
  - » Some children/youth may say they don't want to be adopted for reasons underneath the surface – concerns, doubts, fears about what adoption means. If this child/youth says "no" what is the agency doing to "unpack the 'no'"? (See Appendix 1, pg 2)
- Describe the child/youth's psychological ties to the caregiver. How long has the child/youth lived with the caregiver?
- How does the child/youth feel about legal guardianship with the current caregiver as his/her permanent plan?
- Does the current caregiver understand if they are not willing to become the legal guardian that efforts will be made to move the child/youth to a home willing and capable of providing legal guardianship, or if an Indian child, tribal customary adoption, unless if court finds removal would be seriously detrimental to the emotional well-being of the child due to substantial psychological ties to caregiver (WIC § 366.26(c)(4)(B)(ii))?

- If current caregiver is not suitable, willing and able to become the child's/youth's legal guardian, describe the specific activities being carried out to make reasonable efforts (active efforts for Indian child or intensive and ongoing efforts for youth age 16 and up and in APPLA) to take any steps necessary to make and finalize a permanent placement of the child/youth? Which, if any, of the following efforts have been utilized?
  - » Utilizing the CFT to assist in identifying a family
  - » Asking the child/youth to help identify potential adoptive families or legal guardians
  - » Providing child-specific recruitment for the child/youth
  - » Providing targeted recruitment
  - » Providing specialized permanency services
  - » Providing adoption/permanency-competent mental health services to address the child's/youth's history of trauma, separation and loss
  - » Educating the current caregiver about the benefits of legal guardianship and ensuring that the caretaker is aware of services and funding in the event of a legal guardianship
- If permanency with a relative does not seem to be an option at this point, what specific current efforts are being made to identify, locate, and engage relatives and extended family members? (See Appendix 5, pg 15)
- For questions specifically regarding identifying and removing barriers to adoption go to Appendix 6, pg 17
- For questions specifically regarding specialized permanency services go to Appendix 7, pg 19
- For questions specifically regarding intensive and ongoing effort for youth in APPLA go to Appendix 10A, pg 45

Are you now able to make these findings?

- The child/youth is living with an approved relative who is willing and capable of providing a stable and permanent home, but not willing to become a legal guardian as of the hearing date.

  ☐ Yes (If yes, the court shall order a permanent plan of placement with a fit and willing relative)

  ☐ No (If no, the court will order that the child/youth remain in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative. If the youth is 16 years of age or older, or a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement) (See Appendix 9F, pg 39 APPLA)
- Removal from the home of the current caregiver would be seriously detrimental to the emotional well-being of the child/youth because the child has substantial psychological ties to the caregiver.

  ☐ Yes (If yes, the child shall not be removed from the home)

  ☐ No (If no, the court will order that the child remain in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative. If the child is 16 years of age or older, or a nonminor dependent, and no other permanent plan is appropriate at the time of the hearing, the court may order another planned permanent living arrangement) (See Appendix 9F, pg 39)

When I was young it was very scary. I felt like I was growing up by myself, I didn't have any one to rely on. I was very happy when my grown up brother took me in. It was like hope came back into my life, you know.

—Teen reunified with adult brother

APPENDIX 9E: PERMANENT PLACEMENT WITH FIT AND WILLING RELATIVE

.26 Post-Permanency Hearing

If the child/youth is living with an approved relative who is willing and capable of providing a stable and permanent home, but not willing to become the adoptive parent or legal guardian as of the hearing date, the court shall order a permanent plan of placement with the fit and willing relative, subject to periodic review. (See Appendix 10B, pg 49) Regardless of age, the child/youth shall not be removed from the home if the court finds the removal would be seriously detrimental to his/her emotional well-being because the child/youth has substantial psychological ties to the relative caretaker.

Permanency Findings Required for Permanent Placement with a Fit and Willing Relative:

- The child/youth is living with an approved relative who is willing and capable of providing a stable and permanent home, but not willing to become a legal guardian as of the hearing date. (WIC § 366.26(c)(4)(B)(i))
- Removal from the home of the approved relative would be seriously detrimental to the emotional well-being of the child/youth because the child/youth has substantial psychological ties to the relative caretaker. (WIC § 366.26(c)(4)(B)(i))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Regarding Permanent Placement with a Fit and Willing Relative

- Describe the circumstances or reasons that the relative feels unable or unwilling to become the child/youth's adoptive parent or legal guardian. Were those concerns addressed?
- Describe the bond between the relative and the child/youth. How is the bond being assessed and addressed?
- How long has the child/youth lived with the relative? How does the child/youth feel about this permanent plan?
- Has the current relative caregiver been given information regarding the permanency options of legal guardianship and adoption?
- What specific information have they been given? Best practice recommends that the following information be provided:
  - ☐ What a permanent family can mean for the child/youth;
  - ☐ Adoption / permanency-competent post adoption / post guardianship support available;
  - ☐ Financial considerations that need to be explored for the family to consider a higher level of permanency;
  - ☐ The difference between adoption, legal guardianship, and placement with a fit and willing relative – which might be the best for this family;
  - ☐ Information on Adoption Assistance and Kin-Gap subsidies;
  - ☐ Medi-Cal eligibility continues after adoption or legal guardianship;
  - ☐ Children/youth adopted age 13 and above maintain their eligibility for federal student financial assistance as an "independent student" – adoptive parents' income is not considered for eligibility.
  - ☐ Some children/youth may say they don't want to be adopted for reasons underneath the surface – concerns, doubts, fears about what adoption means. If this child/youth says "no" what is the agency doing to unpack the "no"? (See Appendix 1, pg 2)
  - ☐ If child/youth is not currently living with an appropriate relative refer to Appendix 5, pg 15 – Ongoing Requirements to Continue Efforts to Locate and Engage Relatives.

"I was really just giving up on everything, really had nowhere to turn to, so I turned to drugs. Why would anybody want to adopt me? It's like me? Nah! But I knew if there was someone there who would just love me and pick away my little bad seeds that I had there, it was basically all I needed. I just needed someone to see me as me."

—*Youth, adopted at age 16*

APPENDIX 9F: ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)

.26 Post-Permanency Hearing & Post-Permanency Reviews

APPLA will rarely be the best permanent plan, and when used, the expectation is that the youth will stay in that family at least until they leave foster care. It's use is limited to youth age 16 or older, including nonminor dependents, where no other permanent plan is appropriate and there is a compelling reason to determine that it is not in the best interest of the youth to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, enter legal guardianship or be placed with a fit and willing relative.

The key words in this plan title are PLANNED and PERMANENT. This plan is not the same as long-term foster care. It should only be selected when the youth has a supportive and committed nonrelative family option who is unable or unwilling to adopt or take legal guardianship because of exceptional circumstances but is willing and capable of providing the youth with a stable and permanent family. The real charge to child welfare agencies and courts is to redouble efforts to achieve permanency for all youth in foster care.

Permanency Findings Required for Permanent Plan of APPLA:

- The youth is 16 years of age or older, or a nonminor dependent, and compelling reasons exist that no other permanent plan is in the best interest of the youth at the time of the hearing. State for the record the compelling reasons. (WIC § 366.26(c)(4)(B)(ii), 366.3(h)(1))
- The extent of the agency's compliance with the case plan in making reasonable efforts, or active efforts in the case of an Indian youth, to return the youth to a safe home and to complete any steps necessary to finalize a permanent family for the youth. (WIC § 366(a)(1)(B), 16501.1(g)(15)(A))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask Regarding the Need to Choose APPLA as the Youth's Permanent Plan

- What are the youth-specific and compelling reasons for the permanent plan of APPLA for this youth? Do not accept generalization such as "the youth is too old to be adopted" or "the youth does not want a forever family" or "the youth is unadoptable".
- Is the social worker concerned that the youth's behavior is a barrier? If so, inform the social worker about current understanding about impact on behavior of grief and loss and therapies shown effective, such as cognitive behavioral therapy (CBT).
- Is the social worker concerned that the youth is too old to be adopted or achieve legal guardianship? If so, challenge that belief.
- What reasonable efforts has the agency made to take any steps necessary to make and finalize the placement of the youth into a capable and committed permanent family?
  - » Utilizing the CFT to assist in identifying a family?
  - » Asking the youth to help identify potential adoptive family or legal guardians?
  - » Providing youth-specific recruitment for the youth?
  - » Providing targeted recruitment?
  - » Providing specialized permanency services? (See Appendix 7, pg 19)
  - » Providing adoption/permanency-competent mental health services for the youth to address the his/her history of trauma, separation and loss?

  - » Providing adoption/permanency-competent clinical support to prospective permanent families and resource families caring for the youth?
  - » Providing trauma-informed parenting training and coaching to resource families caring for the youth and potential permanent families?
  - » Diligent efforts at family finding?
  - » Other efforts? Please be specific.
- Are the efforts documented in the report?
- Has this youth told the agency they do not want to have a family that belongs to them? If so, is the agency aware that youth often say "no" for the following reasons, among others?
  - » The unknown, changing schools and their last names, leaving their communities and friends
  - » Wondering if they will be safe and happy with their new families
  - » Wondering if they will have to reject their bio families
  - » Fear that no one will want them; fear that it won't work and the family will "give them back"
  - » Adoption was never explained to them, so they don't understand what it means
  - » They desire independence and don't understand that a permanent family can support their transition to adulthood without compromising their independence
- What is the agency doing to unpack the "no." (See Appendix 1, pg 2)
- What experience has the social worker or other workers in the agency had in achieving legal permanency for youth age 16 and above?
- Has the agency identified a supportive and committed nonrelative prospective parent(s) who is unable or unwilling to adopt or take legal guardianship because of exceptional circumstances, but is willing and capable of providing the youth with a stable and permanent family? If so, what exceptional circumstances prevent the prospective APPLA parent from adopting the youth or becoming the youth's legal guardian?
  - » What information has been given to them regarding the permanency options of legal guardianship and adoption? (See Appendix 9D, pg 33)
  - » Why is this placement is considered permanent. What indications does the agency have that the caregiver is committed to the youth for the rest of his/her time in foster care? Are there also indications that the caregiver is making a lifelong commitment to be the youth's forever family?
  - » Describe the living arrangement, services, and relationships that the youth has that will provide the elements of permanency.
  - » Is the family able to meet all of the youth's basic and special needs?
  - » Will the connections and relationships with the APPLA supporting adults exist beyond his/her transition from the child welfare system?
- What youth-specific reasonable efforts to achieve a permanent family has the agency provided?
- What specific intensive and ongoing efforts does the agency intend to provide if the court selects APPLA as the youth's permanent plan? (See Appendix 10A, pg 45 Post Permanency Hearing for Youth with APPLA as the Permanent Plan - Intensive and Ongoing Efforts)
- How, specifically, has the agency facilitated committed relationships and are the adults in those relationships prepared to support the child/youth into adulthood?
- Has the agency explored the cost-savings associated with investing in proven specialized permanency services shown to be effective in achieving permanence for children and youth with barriers to permanency?

Are you now able to make these findings?

- The youth is 16 years of age or older, or a nonminor dependent, and compelling reasons exist that no other permanent plan is in the best interest of the youth at the time of the hearing.

  ☐ Yes (if yes, state the compelling reasons for the record and make a judicial determination explaining why no other permanent plan is appropriate)

  ☐ No (if no, select and order a more appropriate plan and set interim review hearing to address)

- The agency has complied with the case plan in making reasonable efforts, or active efforts in the case of an Indian youth, to return the youth to a safe home and to complete any steps necessary to finalize a permanent family for the youth.

  ☐ Yes (if yes, the court may select another planned permanent living arrangement as the youth's permanent plan and order the agency to make intensive and ongoing efforts to return the child to the home of the parent, place the child for adoption, establish a legal guardianship, or placement with a fit and willing relative, as appropriate)

  ☐ No (if no, order the agency to make intensive and ongoing efforts and set interim review hearing to receive information)

Brandon's been here 3 years, he's nineteen years old. I will never forget when Brandon came to the home. His caseworker told me, "throw him in the GED program. He's never going to amount to nothing." And that really affected me. So I told her, "you don't come into my home and talk about no children like that."

So I put Brandon into a high school. He had problems, safety concerns. Got him into a better school, this past June Brandon graduated with his regent's diploma. Right now he's in Kings County Hospital Dental program.

When I met him in the hospital he was on 8 different medications. Brandon is not on no medications right now and just doing excellent.

—Adoptive mom

APPENDIX 10: POST-PERMANENCY HEARING FOR CHILDREN REMAINING IN FOSTER CARE AFTER TERMINATION OF REUNIFICATION SERVICES

Post-Permanency Hearings & Reviews

The status of the child must be reviewed every six months (WIC § 366.3(a)(1)) and must include all required IV-E findings. At each post-permanency review hearing the reviewing body must determine if sufficient efforts are being made to achieve a forever family for the child/youth. This includes concurrent planning (Appendix 4), ongoing family finding and prioritization of permanency with relatives (Appendix 5), specialized permanency services (Appendix 7), diligent efforts (active efforts for Indian children/youth, and intensive & ongoing efforts for youth age 16 and above and nonminor dependents in another planned permanent living arrangement (APPLA)) (Appendix 10A), inquiries of children/youth about who they miss and want to be connected to, who is currently part of their support network etc. (Appendices 1, 2, and 6).

Permanency Findings Required:

- Reasonable efforts to return the child/youth home or to complete whatever steps are necessary to make and finalize a permanent placement for the child/youth have been made. (WIC § 366.3(e)(4))
- The child/youth's placement is necessary and the current placement is appropriate. (WIC § 366.3(e)(1))
- Identification has been made of individuals other than the child's siblings who are important to a child who is 10 years of age or older and have been in out of home placement for six months or longer, and actions necessary to maintain the child/youth's relationship with those individuals, provided that those relationships are in the best interest of the child/youth. (WIC § 366.3(e)(2))
- The social worker has made efforts to identify other individuals who are important to the child, consistent with the child's/youth's best interest. (WIC § 366.3(e)(2))
- The permanent plan for the child/youth continues to be appropriate and the agency is in compliance with the permanent plan's efforts to maintain relationships and identify a prospective adoptive parent or legal guardian. (WIC § 366.3(e)(3))
- Efforts have been made to identify a prospective adoptive parent or legal guardian, including but not limited to child-specific recruitment efforts and listing on an adoption exchange. (WIC § 366.3(e)((3))
- There is/ is not clear and convincing evidence there is a compelling reason for determining that a hearing held pursuant to WIC § 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship as of the hearing date. (WIC § 366.3(h)(1))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask Regarding Children Remaining in Foster Care after Termination of Services

- Describe the specific activities/reasonable efforts (or active efforts for Indian child or intensive and ongoing efforts for youth age 16 and up and in APPLA) to take any steps necessary to make and finalize a forever family (permanent placement) for the child/youth. Which, if any, of the following efforts have been utilized?
  - » Utilizing the CFT to assist in identifying a family
  - » Extensive file mining

» Updated family finding

» Asking the child/youth to help identify potential adoptive families or legal guardians including his or her relatives, former foster parents, important connections and people whom they miss and would like to reconnect

» Providing child-specific, and targeted recruitment for the child/youth, including but not limited to empowerment and engagement of the child/youth to be the center of their child/youth-specific recruitment efforts

» Providing adoption/permanency competent mental health and/or other services to address the child/youth's history of trauma, separation, grief, and loss.

Are you now able to make these findings?

- Reasonable efforts to return the child/youth home or to complete whatever steps are necessary to make and finalize a permanent placement for the child have been made.

  ☐ Yes ☐ No (if no, make finding of no reasonable efforts and set for interim hearing to address)

- The child/youth's placement is necessary and the current placement is appropriate.

  ☐ Yes ☐ No

- Identification has been made of individuals other than the child/youth's siblings who are important to a child/youth who is 10 years of age or older and has been in out of home placement for six months or longer. Actions necessary to maintain his/her relationship with those individuals have been taken, provided that those relationships are in the best interest of the child

  ☐ Yes ☐ No (if no, order it be done and set for interim hearing to address)

- The social worker has made efforts to identify other individuals who are important to the child, consistent with the child's best interest.

  ☐ Yes ☐ No (if no, order it be done and set interim hearing to address)

- The permanent plan for the child/youth continues to be appropriate and the extent of compliance with the permanent plan is current.

  ☐ Yes ☐ No (if no, request the child/youth be moved to a more appropriate placement & compliance with permanent plan be made. Set for interim hearing to address)

- Efforts have been made to identify a prospective adoptive parent or legal guardian, including but not limited to child-specific recruitment efforts and listing on an adoption exchange.

  ☐ Yes ☐ No (If no, order efforts be made and set for interim hearing to address)

APPENDIX 10A: INTENSIVE AND ONGOING EFFORTS – POST-PERMANENCY HEARINGS FOR YOUTH LIVING IN ANOTHER PERMANENT LIVING ARRANGEMENT (APPLA)

Post-Permanency Hearings & Reviews

California and federal law specifically require a higher standard of effort to achieve a permanent family for youth age 16 and above, and nonminor dependents living in another planned permanent living arrangement (APPLA). Intensive and ongoing efforts are required and it would be expected that the agency has tried all possible efforts to achieve a permanent family, and tried them repeatedly.

APPLA will rarely be the best plan, and when used, the expectation is that the youth will stay in that family at least until they leave foster care. (See Appendix 9F, pg 39 – APPLA for more information)

Permanency Findings Required:

- Compelling reason(s) why it continues NOT to be in the best interest of the child to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, be placed with a legal guardian, or be placed with a fit and willing relative. (WIC § 366.3(h)(2)(C), 42 U.S.C. 675(2)(B))
- The agency has complied with the case plan in making intensive and ongoing efforts for a youth 16 years of age or older in another planned permanent living arrangement (APPLA) to return the youth to a safe home and to complete any steps necessary to finalize the permanent placement of the youth. (WIC § 366(a)(1)(B)), (42 U.S.C. §§ 675(1). List of specific ongoing and intensive efforts made. (JV form 466(19))
- Agency has documented the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the agency to return the youth home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children, and to complete any steps necessary to finalize the permanent placement of the child? (WIC §§ 366(a)(1)(B), 706.5, 16501.1(g)(15)(C), 42 U.S.C. § 675)
- Another planned permanent living arrangement is in the best interest of the youth as of the hearing date. (WIC § 366.3(h)(2)(B), 42 U.S.C. 675(2)(B)

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask to Determine if APPLA is the Best Permanent Plan for the Youth: (See Appendix 9F, pg 39)

Questions Part III: Ask to Determine if Intensive and Ongoing Efforts Have Been Provided and Documented:

- How has the agency ensured that the youth understands his or her permanency options? If the youth or the youth's counsel or CASA, is present, ask them as well?
- Some youth may say they don't want to be adopted for reasons underneath the surface – concerns, doubts, fears about what adoption means. Has this youth told the agency they do not want to have a family that belongs to them? If so what is the agency doing to unpack the "no"?; (See Appendix 1, pg 2)
- Has the agency talked to the youth to make sure the youth understands the available options?
- Is the youth aware that adoption and guardianship can include ongoing relationships with parents & siblings?

- How has the agency involved the youth in the design and implementation of intensive and ongoing permanency efforts on their behalf? If the youth is present, ask him/her as well.
- How does the agency's staff continue to engage youth in identification and development of a forever family?
- Ask the youth about his or her desired permanency outcome.
- Ask for copies of the written and/or electronic information provided to members of the youth's CFT describing services and activities, including specialized permanency services, shown to be effective in achieving and sustaining permanency for all children, youth, and nonminor dependents. (Note: Required for CFTs of children/youth placed in an STRTP, recommended for CFTs for all children/youth.)
- What efforts has the agency made to assure that the CFT members understand the promise specialized permanency services offer?
- Describe the agency's full array of intensive and ongoing permanency services, including, but not limited to, specialized permanency services as defined in WIC § 16501(a)(8) and the use of technology, including social media, to find biological family members of the child/youth.
  - » Have they all been provided to this youth? If not, why not? Have they been provided several times? How many times has the agency used these services? Are all of these documented in case plan?
- How does the agency stay informed about the cutting edge of effective permanency services for this population?
- How has the agency engaged the youth's counsel or CASA?
- If specialized permanency services, as defined in WIC § 16501(a)(8), were not used, ask the agency to provide the case plan documentation of why not.
- How does the agency train and evaluate staff or partner agencies' use of intensive and ongoing efforts, including specialized permanency services?
- What barriers does the agency have to successfully utilize proven effective services to a achieve permanent placement for the youth?
- If fiscal constraints are considered a barrier to utilizing proven effective intensive services, including specialized permanency services, has the agency compared the cost of the services to the cost of keeping the youth in care?,

Are you now able to make these findings?

- There is a compelling reason or reasons why it continues not to be in the best interest of the child to return home, be placed for adoption, be placed for tribal customary adoption in the case of an Indian child, be placed with a legal guardian, or be placed with a fit and willing relative.

  ☐ Yes (if yes, state the compelling reasons for the record and make a judicial determination explaining why no other permanent plan is appropriate)

  ☐ No (if no, select and order a more appropriate plan and set interim review hearing to address)
- Agency has complied with the case plan in making intensive and ongoing efforts to return the child to a safe home and to complete any steps necessary to finalize a permanent family for the youth.

  ☐ Yes ☐ No (if no, order the agency to make intensive and ongoing efforts and set interim review hearing to receive information)

Are you now able to make these findings?- continued

- Agency has documented the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the agency to return the youth home or secure a placement for the child with a fit and willing relative (including adult siblings), a legal guardian, or an adoptive parent, including through efforts that utilize search technology (including social media) to find biological family members for the children, and to complete any steps necessary to finalize the permanent placement of the child.

  ☐ Yes ☐ No (if no, order the agency to complete the required documentation and set interim review hearing to receive information)

- Another planned permanent living arrangement is in the best interest of the youth as of the hearing date.

  ☐ Yes ☐ No (if no, select and order a different permanent plan for the youth and set interim review hearing to address)

It is so amazing to be able to make a difference in the lives of children and families. It is an honor to be given the opportunity to be a part of kids' lives as they explore their identity, where they feel like they belong, and to develop meaningful connections that will last a lifetime. Every child deserves a forever family to be by their side through the good times and the bad to love them and guide them towards a brighter future.

— *Youth Permanency Worker*

APPENDIX 10B: CHILDREN/YOUTH IN PERMANENT PLACEMENT WITH A FIT AND WILLING RELATIVE

Post-Permanency Hearings & Review

Even when the child/youth is living with a relative family under the permanent plan of permanent placement with a fit and willing relative, the placement is subject to regular review, not to exceed every 6 months. Regardless of age, the child/youth shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child/youth because the child/youth has substantial psychological ties to the relative caregiver. (WIC § 366.26(c)(4)(B)(i))

Permanency Findings Required:

- Continuation of the child/youth's placement is necessary, and the continued placement with the relative is appropriate. (WIC § 366.3(e)(1))
- Removal of the child/youth would be seriously detrimental to the emotional well-being of the child/youth because of substantial psychological ties to the relative caregiver. (WIC § 366.26(c)(4)(B)(i))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Ask Regarding Permanent Placement with Fit and Willing Relatives

- Describe the bond between the relative and the child/youth. How long has the child/youth lived with the relative?
- How does the child/youth feel about this permanent plan?
- Does the relative caregiver have access to adoption/permanency-competent support and mental health services as may be periodically needed?
- Is there anything the court can do to support this family?
- Is the family interested in receiving information about becoming an adoptive or legal guardianship family? NOTE: Important not to make the family feel pressure to do so.

Are you now able to make these findings?

- Continuation of the child/youth's placement is necessary

  ☐ Yes ☐ No (if no, return child home or, as necessary, find a more appropriate placement and set for interim review hearing)
- The continued placement with the relative is appropriate

  ☐ Yes ☐ No (if no, select more appropriate plan & placement)
- Removal of the child/youth would be seriously detrimental to the emotional well-being of the child/youth because of substantial psychological ties to the relative caregiver. (WIC § 366.26(c)(4)(B)(i))

  ☐ Yes ☐ No (if no, consider a more legaly permanent placement)

"Having family helps with identity formation, a sense of belonging, and the security of knowing that no matter what, you will always have a place to go. Having family to care about them can be the single most healing experience for many youth in foster care."

—SARAH GREENBLATT,
Child Welfare Consultant

APPENDIX 10C: CONSIDERATION OF REINSTATEMENT OF REUNIFICATION SERVICES, RETURN TO PARENT, OR REINSTATEMENT OF PARENTAL RIGHTS

Post-Permanency Hearings & Review

Regular post-permanency reviews are required to continue to monitor reasonable efforts to make and finalize a forever family (permanent placement) for all children and youth after their parents' services have been terminated. Multiple statutes include consideration of return to a safe home of the child's/youth's parent. Requirements for these reviews are detailed in WIC § 366.3. Many children and youth remain in foster care for years – long enough to support the value of considering a changed circumstance of parents. In some cases, this consideration will indicate that there is a significant likelihood of the child's/youth's return to a safe home and result in a determination that a second period of reunification with specific reunification services, is in the child's/youth's best interest.

Likewise, a child/youth who has not been adopted after the passage of at least three years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan, may petition the juvenile court to reinstate his/her parent's parental rights pursuant to the procedure prescribed by WIC § 388. (WIC § 366.26(i)(3))

Questions Part I: Questions Children/Youth Want Judges to Ask (See Appendix 1, page 1)

Questions Part II: Consideration of Reinstatement of Reunification Services and/or Return to Parent

- When significant time has passed since reunification services were terminated:
  - Has the agency considered whether the circumstances of the parents have improved to allow consideration of additional reunification services? If yes, have circumstances changed for the better? Please describe.
  - How have the parents been helped or sought and received help for themselves? Have any Evidence-Based services been offered, obtained or accessed during this time frame and if so, what are the results?
  - Has the parent been involved in voluntary services? If so, which services?
  - Have previously identified risks been resolved? If so, please explain.

Visitation and Contact

- Has the parent been allowed visitation during this past time period?
- Has the child/youth had contact with the parent? (This question should be addressed to the child/youth since such contact may have been without authorization.)
- Does the child/youth want visitation or continued contact?
- Does the child/youth want reunification to be considered?
- Does the attorney for the child/youth have any updates?
- Has the attorney for the child/youth visited or spoken with the child/youth during the last review period?

Questions Part III: Ask When a 388 Has Been Filed - Consideration of Reinstatement of Parental Rights

- Has the child/youth not been adopted after the passage of at least three years from the date the court terminated parental rights?
  (Note: The child/youth may file the petition prior to expiration of this three-year period if the State Department of Social Services, county adoption agency, or licensed adoption agency that is responsible for custody and supervision of the child/youth, and the child/youth stipulate that the child/youth is no longer likely to be adopted).
- Has the court determined that adoption is no longer the permanent plan?
- Does it appear that the best interests of the child/youth may be promoted by reinstatement of parental rights?

One of the most important things is to involve the youth themselves because it's their life, they are old enough to have some understanding of what they want their life to be like.

—Pat Reynolds, Founder, California Permanency for Youth Project

It's horrifying to believe how many children, every day, leave our system without a permanent family. I strongly feel, that if we take kids away from the only family they know, good, bad or ugly, it's their family, we owe them another family. And we owe them to do whatever it takes to get them another family.

—*Dr Denise Goodman*