

# Permanency Hearing Guiding Questions





These Guiding Questions are issued as part of a statewide effort to enhance the quality of permanency hearings in New York. The New York State Child Welfare Court Improvement Project has been working to assess and enhance existing legal, judicial and child welfare practices in permanency hearings around the state. The Guiding Questions support the requirements of Article 10-A of the New York State Family Court Act; encourage the use of best practices as informed by the National Council for Juvenile and Family Court Judges' Resource Guidelines; and were informed by a series of interdisciplinary workgroup conversations which occurred during 2015 by members of the New York City Executive Committee for Child Welfare Legal Practice.

Membership in the New York City Executive Committee for Child Welfare Legal Practice included representatives from Children's Services, the Family Court, parent attorney groups, attorney for the children groups, provider agencies, and mental health services. The conversations were facilitated by Casey Family Programs and the NYS Child Welfare Court Improvement Project.

## Preface

**The family courts, supported by the NYS Child Welfare Court Improvement Project and Casey Family Programs, and in participation with those who practice in the courts seek to improve permanency outcomes for children and families, by supporting high quality permanency hearings.**

Elements of a high quality permanency hearing include:

- thorough preparation by all parties,
- timely submission of permanency hearing reports that contain current and accurate information,
- timely provision of discovery when necessary,
- notice to and appearance by all parties, including children and youth as appropriate,
- opportunity to be heard from all parties to the case including children and youth,
- a focus on the key issues of the case, including enough time to hold a meaningful hearing if requested by a party,
- well-crafted orders that will guide the actions of the parties,
- a thorough examination of the reasonable efforts made to effectuate permanency and other determinations required by the law,
- proceeding with a sense of urgency about achieving permanency for the child.

Included is a set of questions developed to guide judges, judicial officers and practitioners alike. The questions are designed to maintain a sense of urgency in moving the child towards achieving permanency while at the same time examine whether the needs of the child, and of the family, are being met in a way that will promote permanency. They are also meant to give greater consistency to the process so that everyone knows what to expect at each and every permanency hearing. The goal in developing these questions is that every hearing will be substantive as well as efficient.

The questions are organized in a format that includes sections applicable to all permanency hearings and sections that relate to specific permanency goals.

### Format:

- **Opening Statements and Questions**  
frames the proceeding by explaining the purpose of the proceeding, exploring that everything and everyone required for the hearing is available, and reinforcing the urgency of the proceedings.
- **Specific Goal Questions**  
explores topics relevant to the specific permanency goal(s) that are being pursued in the particular case, including that all reasonable efforts have been and will be taken toward the permanency goal, and these efforts have taken into account the needs, perspectives, and input of the child, parent or caretaker and family.
- **Common Issue Questions**  
explores topics that are relevant to all permanency hearings regardless of goal, and that are required by law to be determined, including child well-being, appropriateness of placement, intra-familial visiting, and reasonable efforts.
- **Closing Statements and Questions**  
summarizes the proceeding so that all participants (including parents, caretakers and children) understand what happened during the proceeding, what the next steps are, and who is responsible for taking those steps.

## Opening Statements/Questions for use by Judges and Judicial Officers

We are on today for a permanency hearing. The purpose of this permanency hearing is to make sure that there is an appropriate permanency goal for each child, that everyone is doing their part to achieve the goal, that the right steps are being taken to achieve the goal as quickly as possible, and if not what changes are necessary.

- Does everyone have a copy of the Permanency Hearing Report and did they have time to read it?
- Is the report up-to-date and if not is the agency prepared to provide an oral update?
- Was discovery requested and if so, provided prior to the hearing with enough time to review?

For Missing Parties:	Common Issue Questions:
<p><b>Children/Youth—To Agency and Attorney for the Child (AFC):</b></p> <ul style="list-style-type: none"> <li>■ Were children age 10 or over notified of the proceeding and told that he or she has a right to attend?</li> <li>■ Did they have an opportunity to discuss participating in the hearing with his/her attorney?</li> <li>■ [To AFC] When was the last time you spoke to your client?</li> <li>■ Is he or she coming, requesting to appear by alternate means or waiving the right to appear?</li> </ul> <p><b>Parents/Respondents—To Parents' Counsel:</b></p> <ul style="list-style-type: none"> <li>■ When is the last time you saw your client?</li> <li>■ Did you discuss today's court date?</li> <li>■ Are they coming?</li> <li>■ Is the parent(s)/respondents whereabouts known?</li> </ul> <p><b>Foster Parent—To Agency:</b></p> <ul style="list-style-type: none"> <li>■ Were the foster parents given notice?</li> <li>■ Were the foster parents encouraged to attend?</li> </ul>	<ul style="list-style-type: none"> <li>■ The child/ren has/have been in care _____ days in this current episode.*</li> <li>■ Is any party to the case of Native American or Alaskan Native descent or ancestry? <ul style="list-style-type: none"> <li>• If yes, discuss notification and other procedures required by ICWA.</li> </ul> </li> <li>■ Are the children placed together? If not, what is being done to secure one placement? What is the goal for each child/youth?</li> <li>■ [Not applicable for first permanency hearing] The goal approved (for each child) at the last Permanency Hearing was _____.</li> <li>■ This has been the goal since _____.</li> <li>■ Has there been any change in goal in the past 6 months?</li> <li>■ Is the agency requesting a change in goal?</li> <li>■ What is the goal requested to be approved for this child/youth? (for first permanency hearing)</li> <li>■ Is the parent or caretaker and/or child in agreement with this goal?</li> <li>■ Who are the relatives or friends of the family who have been identified by anyone in the case? <ul style="list-style-type: none"> <li>• Did the child identify anyone further?</li> </ul> </li> <li>■ Have these relatives been explored?</li> <li>■ What has been the result of this exploration?</li> </ul>

\*contained in permanency report and available in UCMS

## For All Children and Youth With a Goal of Return to Parent/Caretaker

IF CURRENT GOAL IS NOT RETURN TO PARENT/CARETAKER,  
TURN TO TAB WITH CURRENT GOAL.

### QUESTION: Why can't the child be returned safely home today?

Information from professionals should include discussion of:

#### Remaining Obstacles

- The obstacles to returning the child to the home which would cause a risk of further abuse or neglect including the safety factors that prompted the removal and whether that has been resolved and new safety factors that have arisen since the last Permanency Hearing.

#### Order of Protection

- Whether the removal of a person from the home will eliminate the safety concerns.

#### Parental Behavior

- Any behaviors of the parent or caretaker that are preventing children from returning home (excluding attendance/compliance with services)

#### Protective Capacity

- The protective capacities of the parent or caretaker that exists or have been developed and any positive behavior changes

#### Safety Elements

- The specific services in place or that need to be in place that are related to eliminating the existing safety threat or preventing future safety threats so that the child can return home sooner and the efforts to identify and implement those services.

#### Parental Engagement in Services

- Have the parents or caretakers participated in the offered services? If not, why (include any barriers identified by the parents or caretakers)

#### Foster Parent/Biological Parent Support

- Is the foster parent working with the birth parent or caretaker to support the child returning home? Is the foster care agency helping the foster parent to engage in this way?

#### Non-Safety Obstacles

- Other obstacles other than safety preventing return of the child and what is being done to resolve those obstacles including whether the child would be at risk of abuse or neglect if returned to the parent or caretaker and in what way.

#### Parents Awareness of Necessary Conditions for Return

- Describe the conditions necessary for return and if parents or caretakers have been advised of those conditions

STATE THE DATE BY WHEN IT IS ANTICIPATED THE CHILD CAN BE RETURNED HOME.

Date should be a reasonably calculated date to occur in less than six months—date should not coincide with the next date certain for permanency planning hearing

**For All Children and Youth with a Goal of Custody/Guardianship  
(Not KinGAP)**

**QUESTION: Describe the status of finalizing the child or youth’s goal of custody or guardianship.**

Information from professionals should include discussion of:

**Custody Investigation**

- Detailed description of identified individual(s) and how they were identified including relationship to the child or youth

**Relationship of Child and Prospective Custodian**

- Current contact between proposed custodian and child or youth

**Preparation by Custodian**

- How the proposed custodian is prepared to provide for any of the child or youth’s medical, emotional, educational, or other special needs and what supports are in place to help the proposed custodian including whether the proposed custodian expressed any concerns about the child or youth’s special needs

**Understanding of Commitment**

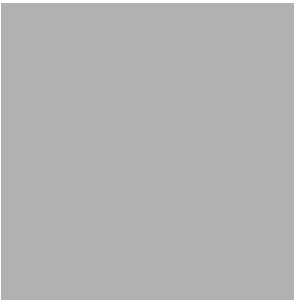
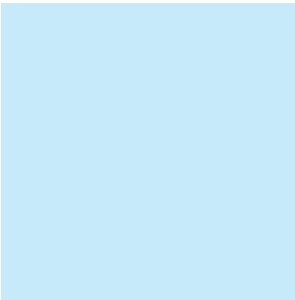
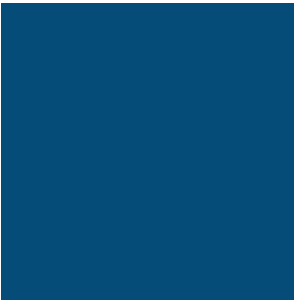
- Describe the proposed custodian’s understanding of their commitment if granted custody and whether the proposed custodian is willing to come to court

**Sibling Visitation**

- If siblings are not together, whether the proposed custodian will facilitate visits between siblings and if not, why not? How is proposed custodian currently facilitating visits?

**STATE THE DATE BY WHEN IT IS ANTICIPATED THE CHILD CAN ACHIEVE PERMANENCY BY CUSTODY/GUARDIANSHIP**

**Date should be a reasonably calculated date to occur in less than six months – date should not coincide with the next date certain for permanency planning hearing**



## For All Children and Youth with a Goal of Subsidized Kinship Guardianship (KinGAP)

**QUESTION: Why is KinGAP the most appropriate goal for this child?  
Describe the status of finalizing this goal for the child or youth?**

Information from professionals should include discussion of:

### **Status as Foster Parent**

- Relative has been certified or approved as a relative foster parent

### **Length of Time in Foster Care with Relative**

- Relative has or will be caring for the child for a continuous period of a minimum of 6 months

### **Subsidy Status**

- Relative has applied to be a subsidized kinship guardian and has been approved and the subsidy has been approved

### **Compelling Reasons Regarding Other Preferred Goals**

- There are compelling reasons that adoption or reunification are not in the child's best interest (explained)

### **Attachment and Commitment**

- The child is strongly attached to the relative and the relative is committed to permanently care for the child
- Subsidized Kinship Guardianship is in the Child's Best Interest

### **Child's Wishes**

- If child is over age 18, child's consent to KinGAP has been received (court must have consent). If child's age is 14-17, court must consult with the child

### **Records Checks**

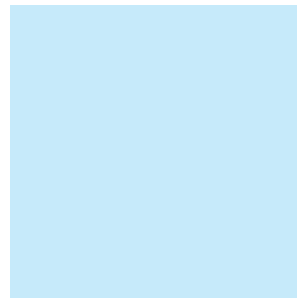
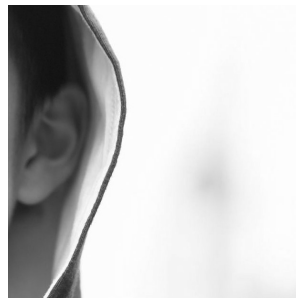
- SCR & Criminal records checks have been completed – or will be completed by a certain date

### **Differences between Adoption and KinGAP**

- Have the differences, legal and otherwise, between adoption and Kinship Guardianship been fully explained to the prospective guardians?

**STATE THE DATE BY WHEN IT IS ANTICIPATED THE CHILD CAN ACHIEVE PERMANENCY BY SUBSIDIZED KINGAP GUARDIANSHIP**

**Date should be a reasonably calculated date to occur in less than six months – date should not coincide with the next date certain for permanency planning hearing**



## For All Children and Youth with a Goal of Adoption

**QUESTION: Describe the status of finalizing the child or youth's goal of adoption.**

Information from professionals should include discussion of:

### Efforts at Terminating/Surrender of Parental Rights

- Explain the status of the TPR if not finalized; filing, service, identification of all parties, ICWA, surrender discussions

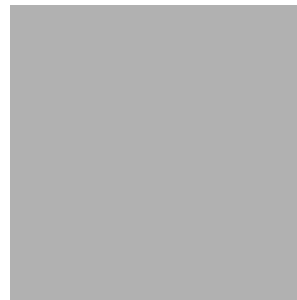
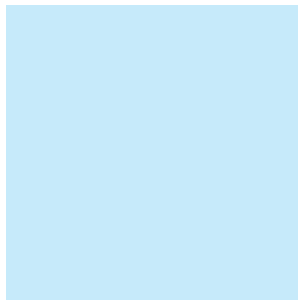
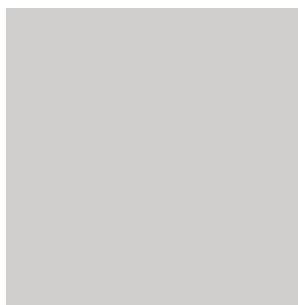
### Post-Freing Efforts

Where the child or youth is freed:

- status of pre-adoptive home or efforts to locate
- status of adoption home study and full adoptive packet including status of subsidy
- relationship between child/youth and pre-adoptive family
- child/youth response to adoption
- pre-adoptive parents' steps taken toward adoption
- needs of pre-adoptive family and child to ensure stability
- how pre-adoptive family will meet any special needs and provide for family and/or sibling contact as outlined previously
- if pre-adoptive is a relative, is KinGAP a better option and have relatives been advised of difference

**STATE THE DATE BY WHEN IT IS ANTICIPATED THE CHILD'S ADOPTION CAN BE FINALIZED.**

**Date should be a reasonably calculated date to occur in less than six months – date should not coincide with the next date certain for permanency planning hearing**





## For All Youth with a Goal of APPLA

**\*IF THE YOUNG PERSON IS UNDER THE AGE OF 16, THE GOAL CANNOT BE APPLA.**

### **QUESTION: Why should this young person age out of foster care without achieving permanency?**

Information from professionals should include discussion of:

#### **Discussion with Youth about APPLA Goal**

- Describe the discussions that have occurred with young person about all other permanency goals

#### **Other Goals**

- Describe in detail why the other preferred goals are not appropriate for this young person. Including the intensive, ongoing but unsuccessful efforts to return the youth home, to place the youth with a relative either pursuant to KinGAP or as a custodian, including adult siblings, or to place the youth for adoption.

#### **Significant Adult**

- Describe the young person's significant adult connection. If none identified, describe the efforts made towards identifying one and assisting the young person in cultivating a relationship with that person.

#### **Residential Care Discussion**

- For APPLA/Adult Residential Care, the Agency's progress in submitting an application to OPWDD, OMH and/or ARC

**IF GOAL OF APPLA IS CONSIDERED AFTER THOROUGHLY REVIEWING ALL OTHER PERMANENCY OPTIONS, THEN ANOTHER DATE NEEDS TO BE SET AFTER COMPLETION OF THE INSTANT PERMANENCY HEARING TO DISCUSS ALL OF THE ITEMS/SERVICES/ DOCUMENTS/LIFE SKILLS ETC. THAT THE YOUTH MUST HAVE UPON AGING OUT OF CARE. AN EXAMPLE OF THESE QUESTIONS IS IN THE NYC FAMILY COURT'S TRANSITION PLANNING COURT PROTOCOLS.**



## Common Issues Questions: For All Children and Youth

### **QUESTION: If the parent or caretaker is receiving supervised visiting:**

- **Is the child unsafe if allowed to visit unsupervised?**
- **What is the plan to move to unsupervised visiting?**

Information from professionals should include discussion of:

- Whether continuing supervised visits is necessary based upon the safety of children
  - The indicators of risk contained in the agency's visiting policy
  - The frequency of need for intervention by the supervisor or other adults
  - Whether existing orders of protection are still required and if so, the reason
  - Is a visit host or coach being used? Would this be appropriate?

### **QUESTION: Tell me more about the current visiting plan including parents, caretakers, siblings and important persons.**

Information from professionals should include discussion of:

- Current visiting plan – participants, frequency, duration, and restrictions (include out of state placements and incarcerated parents)
  - [If visits are less frequent than bi-weekly] plans for or barriers to implementing bi-weekly visits
  - Does the visiting plan include a planned progression so that the parent or caretaker can see how visits will increase and be less restrictive over time assuming visits go well?
  - How the plan is appropriate to the family's interests and the children's ages
  - Logistical challenges for the family or child in meeting the plan
  - How does visiting simulate family life?
  - Describe community based visits or describe why visits are not community based
  - The overall quality of visiting including what activities are occurring, what is the interaction between parent or caretaker and child, etc.
  - Attendance at visits and if not regularly attended what remedies have been attempted
  - Family interaction
- How the visiting plan supports the permanency goal
- Sibling visits
  - included in family visits or
  - Separate sibling visits - detail frequency, duration, restrictions (include out of state placements) and quality of contact (in community, interaction between sibs, supported by existing caregivers)
  - For older siblings if they are allowed to contact each other on their own without permission and if so if that has been communicated to the siblings
- Other family members or important persons who are or should be included in visits
- Placement resource supports and/or facilitates the child's involvement in visits
- Strengths in parental capacity shown during the visits including whether
  - Parent or caretaker recognizes and is attentive to the child's needs and interests
  - Parent or caretaker manages the child's, and his or her own, behavior and interactions with others
- Proposed change to visiting plan or terms within next 6 months

**QUESTION: What is the concurrent plan for the child and what efforts have been made toward that plan?**

Information from professionals should include discussion of:

- State the concurrent plan for the child and the efforts made at effectuating that plan and the efforts that are intended to be made going forward
- Would the parent consider a conditional surrender or open adoption?
- Whether KinGAP has been explored
- (Children not freed) If child has been in care for 15 out of the last 22 months, are there compelling reasons that exist to not file a termination of parental rights

**QUESTION: Tell me about the child's current placement including sibling placement, relative options and how the current placement is meeting all of the child's needs.**

Information from professionals should include discussion of:

- Adjustment to being placed, and to the current environment
- Siblings placed together or, if not, efforts made to place siblings together
- If an out-of-state placement, interstate compact approval
- Placement is or is not meeting all of the child's physical, emotional and educational needs
  - If not, what is being done including working with the placement resource to recognize and attend to the child's physical, emotional, and educational needs and facilitate the child's involvement in services
- Cooperation with the permanency goal by the placement resource
- Assistance the placement resource is receiving from the agency in general
- Any medical or social service needs of placement resource and how those needs are met.
- If a non-kinship care placement, whether that remains the best placement
  - support for the child's connection to family and community
  - support for the child's cultural and linguistic identity
- Continuing work to identify and work with kinship resources, including paternal family members as well as non-kin resources who have a relationship with the child (e.g., teacher, coach, neighbor) for both placement resources or supportive resources to assist with reunification and provide "relational permanency"
- For kinship care placements, steps taken to ensure the relative is linked with all available training, services, and financial support

**QUESTION: Has the agency offered other services or otherwise engaged in additional efforts that relate to achieving the permanency goal?**

Information from professionals should include discussion of:

- Additional services not discussed above and why these services/interventions and supports were chosen considering the needs of the family and building on family strengths and specifically tailored to the culture and needs of this child and family
- Services for any incarcerated parents in the context of child's permanency plan
- Describe how the parents or caretakers, extended family and children are being engaged in the development and implementation of the plan including access/transportation issues
- Any additional services necessary to assist with effectuating the plan

**QUESTION: Judge or Judicial Officer asks (of the family members present): Are there any additional services or other needs that you have that have not been provided to you?**

## Child and Youth Well-Being Questions:

**QUESTION: Tell me about the physical and developmental status of the child including well-checks, diagnosis, assessments and health care coverage now and ongoing.**

Information from professionals should include discussion of:

- Health care coverage - current and upon discharge
- Comprehensive physical examinations (within 72-hours of removal and annually thereafter)
- Well care visits, including eye, dental, and immunizations
- The child's achievement of early developmental milestones and if Early Intervention is in place or anticipated
- Youth achievement of developmental milestones such as independent reasoning and decision making, ability to think abstractly, achievement of puberty etc.
- Any intellectual/developmental disabilities and if so, the interventions the child receives (including school-based)
- Diagnosed medical conditions or physical disabilities and medications to address any conditions identified above
- Age-appropriate education/assessment/ services relating to sexuality, gender identity, and reproductive health

**QUESTION: Tell me about the child's behavioral and emotional functioning including any evaluations/assessments, diagnosis and how the child is adjusting to being placed outside his or her home.**

Information from professionals should include discussion of:

- Mental health screenings and evaluations (initial screening within 72 hours of removal; subsequent requirements) including trauma-informed screening/assessment
- Family or environmental stressors or trauma that impact the child's functioning and the interventions and supports provided to address these.
- Any significant mental health, behavioral, or substance use problems, including any formal diagnoses and whether these meet criteria for SMI or SED
  - Medication/therapy/services recommended or provided
  - Involvement of caretakers, parents, significant others in these interventions
- Child's strengths and personal priorities- Including who encourages these
- Relationship with:
  - Parent(s) including attachment and bonding
  - siblings,
  - extended family,
  - current caretaker and household, and/or
  - emotionally significant and supportive adults available from the community, including possible visit hosts

**QUESTION: Are there other items about the child of a confidential nature that we need to address?**

Caseworker's response should be yes if one of the following items needs to be discussed and the parent or caretaker is unaware of the issue.

- Pregnant or parenting teen
- Needs related to identification as LGBTQ
- A significant other that should be considered in planning
- Possible sexual exploitation
- The services and supports available to the child concerning any of these issues

**QUESTION: Tell me about the child's cognitive and educational functioning including current educational setting, whether the child remains in their school of origin, if not why not, any IEP, extracurricular or other services to the child.**

Information from professionals should include discussion of:

Any needed supports for Parent/Caretaker individuals to enhance their capacity to meet the child's educational needs and take an active role with the school.

- Appropriateness of school placement/ educational setting (considering age and other child specific factors )
  - School of origin (removal, discharge, in between)
  - Number of educational placements
  - Child's cognitive, cultural/linguistic, school-safety, and other needs
  - Sufficient academic resources and extra-curricular activities/after-school programs
- Pre-school age: if the child is enrolled in an early education program
- High school age: plan for post-secondary career planning, study, training, and/or employment. What supports are in place to assist the youth in moving forward with his/her plans?
- Current school location relative to current neighborhood and transportation
- Attendance, academic performance and participation in extracurricular activities including any interventions to address excessive absences
- Evaluations completed or needed for learning disability or conduct problems including the description of any IEP and whether it is being followed
- Suspensions or safety transfers

**QUESTION: Tell me about this child's social functioning?**

Information from professionals should include discussion of:

- Describe the child's personality: gregarious, isolated, bullied etc.
- The quantity and quality of relationships with peers
- Whether the peers are positive or negative influences
- Formal or informal social/recreational activities the child participates in including those that have been encouraged
- The child's interactions with adult neighbors, strangers, civil authority

**QUESTION WHERE MORE INFORMATION IS SOUGHT: What is being done to address X? (X is any issue the judge determines requires more inquiry)**

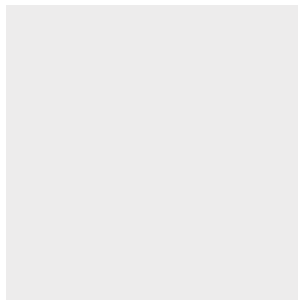
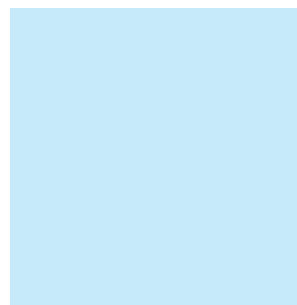
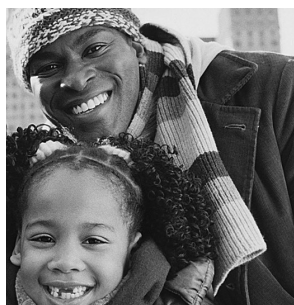
## Closing Statements/Questions

### By Judge or Judicial Officer

- The permanency goal of \_\_\_\_\_ is approved (or not approved) for the child.
- If goal not approved – statement of the goal as determined by the Judge.
- Reasonable efforts were/were not made to effectuate the prior plan (specify in detail which efforts were made to effectuate the plan.)
- The following reasonable efforts should be made before the next permanency hearing \_\_\_\_\_ (specify in detail.)
- The visiting plan for the (each) child is \_\_\_\_\_.
- The child's placement is continued until the completion of the next permanency hearing however the child's permanency is expected to be achieved by \_\_\_\_\_ (date identified above) and if so achieved, no permanency planning hearing will be required.
- (Where the goal is return to parent and the Court is satisfied sufficient progress has been made) The Agency is authorized to discharge the child without returning to court.
- The next Permanency Hearing is scheduled to take place (where) on (date/time.)
- If a Review Hearing is scheduled prior to the next Permanency Hearing:
  - The specific purpose of that hearing will be (x).
  - The people who should come to that hearing are (x).
  - The specific tasks that should be completed by that hearing and by whom are (x).

### To parents/caretakers/relatives/children & youth:

- Do you understand what happened here today?
- Do you understand what the next steps are and who is responsible for taking them?
- Do you have any questions for the court?





## Permanency Planning Hearing Guiding Questions

During the hearing there are several questions common to all permanency hearings, and key questions to ask depending on the permanency goal for the child. Those key questions are:

### Reunification

- Why can't the child be returned safely home today?

### Custody/Guardianship

- Describe the status of finalizing the child or youth's goal of custody or guardianship.

### Adoption

- Describe the status of finalizing the child's or youth's goal of adoption

### Kinship Guardianship/KinGAP

- Why is Kinship Guardianship the most appropriate goal for this child and describe the status of finalizing this goal for the child or youth?

### Another Planned Permanent Living Arrangement (APPLA) with a significant connection to an adult

- Why should this child age out of foster care without achieving permanency?

## Questions common to all permanency goals:

### If the parent or caretaker is receiving supervised visiting:

- Is the child unsafe if allowed to visit unsupervised?
- What is the plan to move to unsupervised visiting?

### Tell me more about the current visiting plan including parents, caretakers, siblings and important persons?

### What is the concurrent plan for the child and what efforts have been made toward that plan?

### Tell me about the child's current placement including sibling placement, relative options and how the current placement is meeting all of the child's needs?

### Has the agency offered other services or otherwise engaged in additional efforts that relate to achieving the permanency goal?

### Judge or Judicial Officer asks (of the family members present): Are there any additional services or other needs that you have that have not been provided to you?

### Tell me about the physical and developmental status of the child including well-checks, diagnosis, assessments and health care coverage now and ongoing.

### Tell me about the child's behavioral and emotional functioning including any evaluations/assessments, diagnoses and how the child is adjusting to being placed outside his or her home?

### Are there other items about the child of a confidential nature that we need to address?

### Tell me about the child's cognitive and educational functioning including current educational setting, whether the child remains in their school of origin, if not why not, any IEP, extracurricular or other services to the child.

### Tell me about this child's social functioning?

### Where more information is sought:

- What is being done to address x ?
- (x is any issue the judge determines requires more inquiry)

The responses to these questions should cover the subject matter described in each section of the Permanency Hearing questions guide.







**NEW YORK STATE**  
**Unified Court System**

Child Welfare Court Improvement Project  
200 Elizabeth Street  
Utica, New York 13501

