

Rule Permanency Hearings

- (a) **Hearing.** The Court must hold timely permanency hearings for any child who is placed out of the home. Scheduling of the initial permanency hearing should occur at the dispositional hearing. The hearing may be scheduled by the Court or upon motion of any party.
- (b) **Notice.** For any permanency hearing, including modification under paragraph (d) and review under paragraph (e), the court must ensure that notice is provided pursuant to section 19-3-702(2). Placement providers must provide notice to the child of any upcoming hearings. The permanency hearing notice must be in substantial compliance with Form of the Appendix of Chapter 28.
- (c) **Adopting the Permanency Plan.** When proper notice has been provided pursuant to C.R.S. 19-3-702(2) and (7) and the court has timely received the petitioner's permanency plan and the Court has received recommendations or report from the persons present for the hearing, the Court must adopt a permanency plan, which may include concurrent planning pursuant to C.R.C. 19-3-508(7) for each child or set the matter for a hearing upon the request of any party. If the Court sets a hearing, the hearing must be held within 30 days. The burden of persuasion is on the Petitioner for the adoption of the permanency plan.
- (d) **Modification of a Permanency Plan.** After the Court adopts an initial permanency plan, if there is a change in circumstances, any party may later move to modify the plan. Written objections to a plan's modification are due within 14 days. If any request for modification is contested, the Court may, at its discretion, hold a hearing within 30 days of the filing of the objection. The moving party has the burden of persuasion.
- (e) **Review of a Permanency Plan.** The child's permanency plan must be reviewed at least once per year. However, the Court must review the child's permanency plan every six months when the Court determines that there is a substantial probability that the child will be returned to the physical custody of a child's parent, guardian or legal custodian.
- (f) **Consultation with the Child.** The Court must consult with the child in an age appropriate manner regarding the child's permanency plan.
- (1) Age appropriate consultation may include but not be limited to the following:
 - (I) Speaking directly with the Court in person, by phone, or in writing with a copy being provided to all parties, at the permanency hearing or at another scheduled court date;
 - (II) If direct consultation with the Court is not possible, the guardian ad litem must report either in writing with a copy being provided to all parties or orally at the permanency hearing whether the child was invited to speak directly with the Court, why the child is not doing so, and what the child's wishes are regarding permanency;
 - (III) The Court may find that consultation with the child is not possible due to the child's age or ability.

(2) Nothing in this rule limits the Court's ability upon motion demonstrating good cause to speak with a child separately pursuant to C.R.S. 19-1-106(5) under circumstances determined by the court to be in the best interests of the child and provide fairness to the parties.

(I) If the Court meets separately with a child, a record must be made and the record must be made available to any party upon request.

(II) If the Court relies upon any ex parte statements of a child, the Court must identify what statements it relied on and the weight given to such statements.

(g) Other Planned Permanent Living Arrangement Plan. Before adopting an Other Planned Permanent Living Arrangement (OPPLA) plan, the Court must inquire of the parties and require documentation of compelling reasons for not adopting a plan of reunification, adoption, or custody/guardianship.

Committee Comment

[1] Under paragraph (a), in cases where there is a deferred adjudication or an informal adjustment, scheduling the initial permanency hearing is not triggered by the dispositional hearing. In such cases, the initial permanency hearing should be scheduled within three months of the deferred adjudication or the informal adjustment.

[2] Under paragraph (b), the guardian ad litem must ensure the child receives developmentally appropriate notice of the permanency hearing.