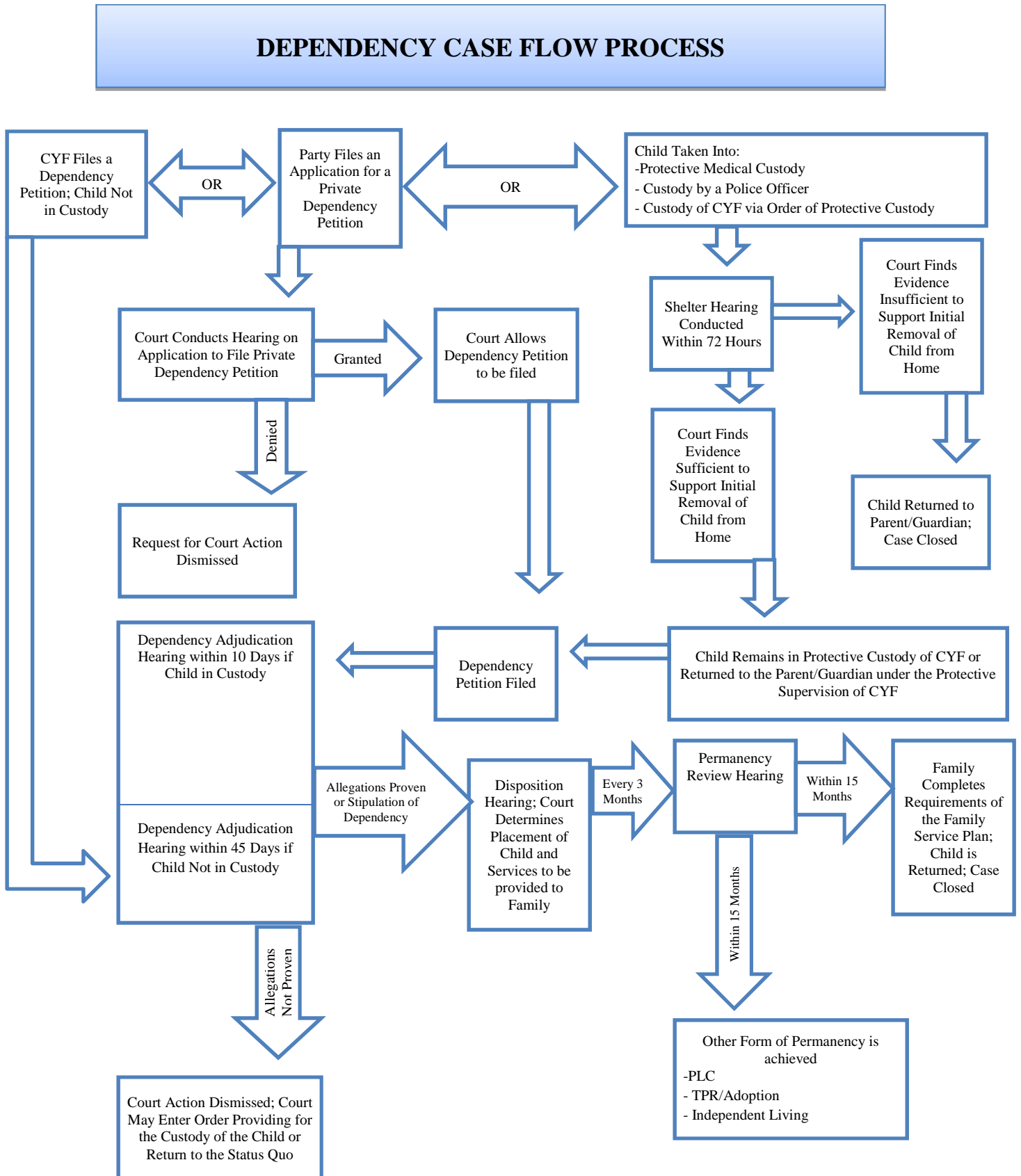


SECTION II – CHILD PROTECTION AND PERMANENCY

A. Dependency Case Flow Chart



B. Scheduling of Dependency Cases

1. *General Information and Scheduling Guidelines*

New cases not subject to a shelter hearing are scheduled electronically after the filing of a dependency petition by Allegheny County Office of Children, Youth and Families (CYF), or following approval by a hearing officer or judge of an application to file a private petition. In cases where a shelter hearing is required, a Shelter Hearing Request form must be electronically submitted to the court by 3:00 p.m. on the day before the requested hearing date. Shelter hearings can be heard on a walk-in basis with approval by the presiding hearing officer. See Section II. E. for more information on shelter hearings.

In most instances, scheduling of dependency cases occurs in court at the end of each hearing. At the time of the shelter hearing and each subsequent hearing, the court clerk will schedule the next hearing. The next hearing is usually either a shelter review hearing or a dependency petition hearing. If a child is adjudicated dependent, review hearings are customarily scheduled every three months.

2. *Specific Scheduling Rules and Guidelines*

Requests for postponements or continuances should be made before the date of the hearing. Requests for postponement made on the date of the hearing are scrutinized carefully and rarely granted. When a case is postponed, it is normally rescheduled within 30 days. Under no circumstances where a child is in shelter or foster care, are cases continued for more than 30 days.

Following a shelter hearing on a new case, the dependency petition will be scheduled for an initial hearing within 10-14 days. When a new case is commenced without a shelter hearing, the initial hearing will be scheduled within 14-21 days of the petition's filing. Only the caseworker, the parents (or guardians who are alleged to have caused the dependency) and the children (at the discretion of their advocates) are required to appear at the initial hearing. If the parties do not agree to a stipulation of dependency, or additional time and/or witnesses are required, the initial hearing will serve as a pre-hearing conference for a full petition hearing, which will be scheduled within the following 2 weeks.

The Court reserves special "dual days" to hear cases that involve both a dependency and a delinquency matter for a child.

C. Motions Practice in Dependency Matters

1. *Motions Presented to Judges*

The court utilizes the Common Pleas Case Management System (CPCMS), an electronic scheduling and docketing system for filing and docketing all court orders, petitions, motions and notices. Attorneys practicing in Juvenile Court are required to use the PA Courts eFiling System (PACFile), an electronic filing system that contains a portal to the CPCMS Juvenile Court docket. All motions prepared by an attorney must

be electronically filed in advance of presentation to the judge of record. All motions requiring a hearing shall be presented in person to the judge to whom the case has been assigned or will be assigned. These motions shall be noticed for presentation at 8:30 a.m. on a day when the judge is sitting in Juvenile Court. It is the responsibility of the moving party to ensure that the judge is sitting on the day and time scheduled for presentation of the motion. It is also the responsibility of the moving party to ascertain through consultation with the Family Court Scheduling Department, the judge to whom the case is assigned or will be assigned.

If the assigned judge cannot be determined, or if the assigned judge is unavailable and an emergency situation exists, the motion may be presented at 8:30 a.m. to the judge listed in the master court schedule as the Juvenile Court motions judge for the day. The court will call for miscellaneous motions at 8:30 a.m. Absent emergency circumstances, the court will not entertain motions at other times.

Pursuant to the mandate of Rules 1320 and 1321 of the Pennsylvania Rules of Juvenile Court Procedure, a private applicant or law enforcement officer who wishes to file a dependency petition shall prepare an application to file a petition, which will be scheduled for a hearing before the assigned hearing officer or judge. See Section II. F. 2. for more information on private dependency applications and petitions.

If a self-represented incarcerated individual wishes to present a motion, the addresses of all parties and a telephone number where the incarcerated individual can be contacted must be provided. The court will set the date and time for presentation of the motion and notify all parties. The court will also arrange for the incarcerated individual to appear via video-conferencing when possible.

By agreement of all parties, a motion may be presented on a day when the judge is not hearing dependency matters. The court will not entertain motions for continuance on the day of a hearing without good cause shown.

2. Motions Presented to Hearing Officers

Court-appointed dependency hearing officers are permitted to hear all motions relative to cases to which they have been assigned, except those matters which involve the following issues: removal of a child from his/her home, suspension of visitation rights, and calendar control issues relative to a judge's docket.

Dependency hearing officers hear motions regarding their assigned cases commencing at 9:00 a.m. on their regularly scheduled hearing days. It is the responsibility of the moving party to ensure that the hearing officer is sitting on the day, time and location scheduled for presentation. Decisions rendered by hearing officers shall be made in the form of a "recommendation," which operates as a temporary order pending subsequent action by a judge and while a challenge to the hearing officer's recommendation is pending. A party may request that the judge of record review the recommendation in the same manner as other recommendations of hearing officers may be reviewed. See Rule 1191 of the Pennsylvania Rules of Juvenile Court Procedure.

3. *General Requirements for Motions*

All attorney motions must be electronically filed before presentation. All motions must have a completed notice of presentation and certificate of service unless the motion is consented to in writing. All motions shall include a proposed order setting forth the relief sought through the motion. At least 7 days notice shall be provided in the absence of an emergency or the consent of the opposing party or counsel. Motions will not be granted in the absence of appropriate notice, unless there is an emergency.

All motions that are electronically filed through PACFile are electronically served on the following persons:

- County Solicitor
- Guardian Ad Litem and/or counsel for child (KidsVoice and Office of Conflict Counsel)
- Parent Advocate Attorney (Juvenile Court Project)
- Private counsel for any party (if applicable and they have filed an electronic notice of appearance)
- CASA (if applicable)
- The CYF caseworker and caseworker supervisor
- Juvenile Probation Officer (if the case is active with the Juvenile Probation Department)

The following persons are generally not served by electronic filing through PACFile and must be served by conventional means as provided in the Pennsylvania Rules of Juvenile Court Procedure:

- The parent(s) and/or legal guardian(s) of each child to which the motion is applicable (if they have not otherwise filed an electronic notice of appearance)
- Foster parents (if applicable)
- Any other individual or attorney who has not filed an electronic notice of appearance

Generally, witnesses should not be brought to the courtroom for motions nor should testimony be taken. If the Court believes a hearing is necessary, the matter may be scheduled for hearing.

If a hearing is required as a result of a motion that is presented to the Court, the party who presents the motion to the judge must obtain the hearing date from the courtroom clerk or court scheduling clerk and thereafter serve an appropriate notice of hearing on all parties or counsel.

Orders not electronically docketed through CPCMS will be retained by the Court and manually filed in the Juvenile Court docket.

D. Protective Custody Authorizations, Attachment Orders and Other Emergency Requests

1. *Protective Custody Authorizations*

In Pennsylvania, Protective Custody Authorizations are governed by Rule 1210 of the Pennsylvania Rules of Juvenile Court Procedure. In Allegheny County, a request for protective custody is known as an Emergency Custody Authorization (ECA). The purpose of an ECA is to allow a child to be taken into protective custody when the court determines that removal of the child from his or her home is necessary to protect the welfare and best interests of the child. If a child is removed from his or her home pursuant to an ECA, a shelter hearing must occur within 72 hours.

During normal business hours from 8:30 a.m. to 4:00 p.m. ECA requests are electronically filed through PACFile and subsequently reviewed by a judge. An authorized person(s) employed by CYF will make these requests. Upon approval by a judge, a signed ECA order is e-mailed to CYF and filed in the juvenile docket. During evening hours, weekends and court holidays, CYF will contact the on-call judge directly, who will either verbally approve or deny the request. On the next business day, the judge's signature will be affixed to ECA Orders that have been verbally approved and the order will be filed.

2. *Requests for Attachment Orders and Requests to Vacate Attachment Orders*

The court will accept requests for attachment orders and requests to vacate attachment orders from CYF during regular court business hours, 8:30 a.m. to 4:00 p.m. Requests are to be e-mailed to the following e-mail address:

attachment_request@court.allegheny.pa.us

CYF caseworkers must use the approved attachment form (**Form II-4**). Caseworkers must type the name of the judge of record, the child's name and docket number in the subject line in order to assist the court clerks in identifying which judge should review the attachment request. E-mails received after 4:00 p.m. will be processed the next business day.

The judge will sign and electronically file the attachment order or order to vacate attachment on the same day.

If a caseworker is present in the courthouse and is in need of an immediate attachment, (e.g., child flees from courthouse), the caseworker should ask the judge, if available, if the courtroom clerk will issue the attachment or if the caseworker should complete a written attachment request and submit it directly to the Family Court Scheduling Department.

E. Shelter Hearings

1. *Shelter Schedule*

Shelter hearings before a hearing officer are conducted at 8:30 a.m. every Monday, Wednesday and Friday when the courthouse is open, and on such other days as specially set (e.g., if a Monday is a court holiday, shelter hearings are heard on Tuesday). A hearing officer can hear shelters in all cases where the assigned judge is unavailable to hear the shelter in a timely manner. A hearing officer may take any appropriate action authorized by the Pennsylvania Rules of Juvenile Court Procedure. Shelter Hearings before a judge are scheduled at 8:30 a.m.

The offices of the Allegheny County Solicitor, KidsVoice, Juvenile Court Project, Conflict Counsel and Court Reporters are required to have sufficient staff in Children's Court to cover every courtroom as necessary so that all cases begin on time. Caseworkers, children, other parties, and witnesses are required to be present fifteen minutes prior to the time the case is scheduled to be heard, or they may be sanctioned. Cases may proceed without parents, children or third parties at the judge's or hearing officer's discretion. The moving party shall provide testimony concerning notice and/or the reasons for unavailability of those who are not present.

2. *Obtaining Shelter Hearings*

A party may request a shelter hearing by electronically filing through PACFile an application for shelter care. All requests must be received by 3:00 p.m. the day before the requested hearing date. A hearing officer reviews the facts contained in the application to determine the legal sufficiency of the request. An approval or denial of the application will then be electronically filed. If approved, a date and time for the shelter hearing will be provided. If parents are unrepresented, actual notice must be served upon them. The case will be scheduled before the judge of record if he or she is sitting on that day. If not, the case will be scheduled before the hearing officer assigned to preside over shelters.

Shelter hearings must occur within 72 hours of the removal of a child from their parent or guardian, pursuant to 42 Pa.C.S. § 6332. When CYF takes an action after 3:00 p.m. that requires a shelter hearing, the caseworker must electronically file the application, but may also "walk-in" the request on Mondays or Fridays and present it to the hearing officer assigned to preside over shelter hearings. This includes shelter hearings that, if approved, will ultimately be heard by a judge. Walk-in requests will not be accepted on Wednesdays as the 72-hour hearing time frame of 42 Pa.C.S. § 6332 can be met without convening a walk-in shelter hearing.

F. Dependency Petitions

1. *Petitions filed by CYF*

In Pennsylvania, dependency petitions are governed by Rule 1330 of the Pennsylvania Rules of Juvenile Court Procedure. In Allegheny County, CYF files

dependency petitions through PACFile and remains responsible for service of the original petition on the proper parties to the action.

2. Application for a Private Dependency Petition

In Pennsylvania, an application to file a private dependency petition is governed by Rule 1320 of the Pennsylvania Rules of Juvenile Court Procedure. The applicant must 1) file a pleading that substantially conforms to the Pennsylvania Rules of Juvenile Court Procedure; or 2) complete the Family Division's application to file private dependency petition and private dependency petition form. In Allegheny County, an application to file a private dependency petition and the private dependency petition form are incorporated into one document. **(FORM II-1)** A separate form is available for those cases where a judge is also being asked to make findings of special immigrant juvenile status pursuant to 8 U.S.C. § 1101(a)(27)(J). **(FORM II-2)**

The form may be faxed to 412-350-3853, or presented in person at the Self Help Center located on the first floor of the courthouse Monday through Friday from 8:00 a.m. to 2:00 p.m., where a representative of the Child Protection and Permanency Department is available for assistance. The application and petition will be scheduled for a hearing before the assigned hearing officer or judge within 14 days, pursuant to Rule 1321 of the Rules of Juvenile Court Procedure. The applicant is responsible for making service on the parties. A certificate of service form is available. **(FORM II-3)**

Where applications and petitions filed by police departments or other private persons are scheduled before a hearing officer, the hearing officer will first hear the application to determine: (1) if there are sufficient facts alleged to support a petition of dependency; and (2) whether the person applying for the petition is a proper party to the proceedings.

If the hearing officer finds sufficient facts to support a petition of dependency and that the applicant is a proper party to the proceedings, an order will be entered allowing the petition to be filed pursuant to Rule 1321(B) (1) of the Rules of Juvenile Court Procedure. A pre-hearing conference regarding the petition will be conducted immediately thereafter. The case may then be scheduled in front of the appropriate judge for a dependency adjudication hearing.

In those instances where a party is represented by counsel, the application and petition may be electronically filed through PACFile and presented to the assigned judge (if known) or the juvenile motions judge of the day, who may set the matter for a hearing. Counsel is responsible for serving the application and petition on the parties.

G. Dependency Adjudication and Disposition Hearings

In Pennsylvania, dependency adjudication and disposition hearings are governed by Rules 1402, 1404, 1405, 1406, 1408, 1409, 1500 and 1501 of the Pennsylvania Rules of Juvenile Court Procedure and by the Juvenile Act, 42 Pa.C.S. Section 6301, *et seq.* In Allegheny County, if a child has been removed from the home, the adjudicatory hearing is usually held within 30 days of the removal. If specifically requested by a party, the court will schedule the adjudicatory hearing within the 10-day limitation required by Rule 1404.

In cases where a private person, not CYF, is the petitioner (see Section II F. 2. above), and their application has been approved by a hearing officer and an order issued allowing the petition to be filed, the case is generally scheduled before the assigned judge within 30 to 45 days after the hearing on the application.

In Allegheny County, the adjudicatory and dispositional hearings are generally held on the same day. If the child has been removed from the home, the dispositional hearing shall be held no later than 20 days after the findings on the petition pursuant to Rule 1510 of the Pennsylvania Rules of Juvenile Court Procedure.

H. Permanency Review Hearings

In Pennsylvania, permanency review hearings on dependency cases are governed by Rules 1607, 1608, 1609 and 1613 of the Pennsylvania Rules of Juvenile Court Procedure and by 42 Pa. C.S.A. § 6351 (e) (F) & (F.1) In Allegheny County, permanency review hearings are generally conducted every three months. In many instances, permanency review hearings are conducted by hearing officers appointed by the Administrative Judge.

The purpose of a permanency review hearing is to allow the parties in the case the opportunity to update the court on the facts and circumstances pertaining to the progress the family is making on completing the requirements of their Family Service Plan. Pursuant to Rule 1608(A), the court must review the following issues:

- The permanency plan for the child;
- The date by which the goal of permanency for the child might be achieved; and
- Whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

The court must make findings on the following matters:

- the appropriateness of the placement;
- the appropriateness, feasibility and extent of compliance with the permanency plan;
- the appropriateness and feasibility of the current placement goal;
- the likely date when the goal may be reached;
- whether reasonable efforts were made to finalize the permanency plan;
- whether CYF has made services available to the guardian;
- the continued appropriateness of the permanency plan and the concurrent plan;
- whether CYF has satisfied the requirements of Rule 1149 regarding family finding;
- whether the child is safe;

- if a child is placed outside the Commonwealth, whether placement continues to meet the child's needs;
- whether services to assist a child who is age 14 or older to make the transition to a successful adulthood have been provided;
- whether any educational, health care, and disability needs of the child are met;
- whether, if appropriate, reasonable efforts have been made to place siblings together;
- whether, if appropriate, sibling visitation is occurring;
- whether CYF has taken sufficient steps to ensure the caregiver is exercising the reasonable and prudent parent standard;
- whether the child has been provided regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities;
- whether a goal of Another Planned Permanent Living Arrangement for children age 16 or older continues to be appropriate; and
- if the child has been in placement for 15 of the last 22 months, the judge may direct CYF to file a petition to terminate parental rights.

Pursuant to Rule 1604 of the Pennsylvania Rules of Juvenile Court Procedure, a foster parent, pre-adoptive parent or relative providing care for a child may submit a report regarding the child's adjustment, progress, and condition for review by the court. The report must be submitted to the court's designee at least 7 days prior to the permanency review hearing. In Allegheny County, the court's designee is the Child Protection and Permanency Department Case Management Supervisor. Within 1 business day of receiving the report, the court's designee will electronically file a copy of the report. Reports should be submitted to:

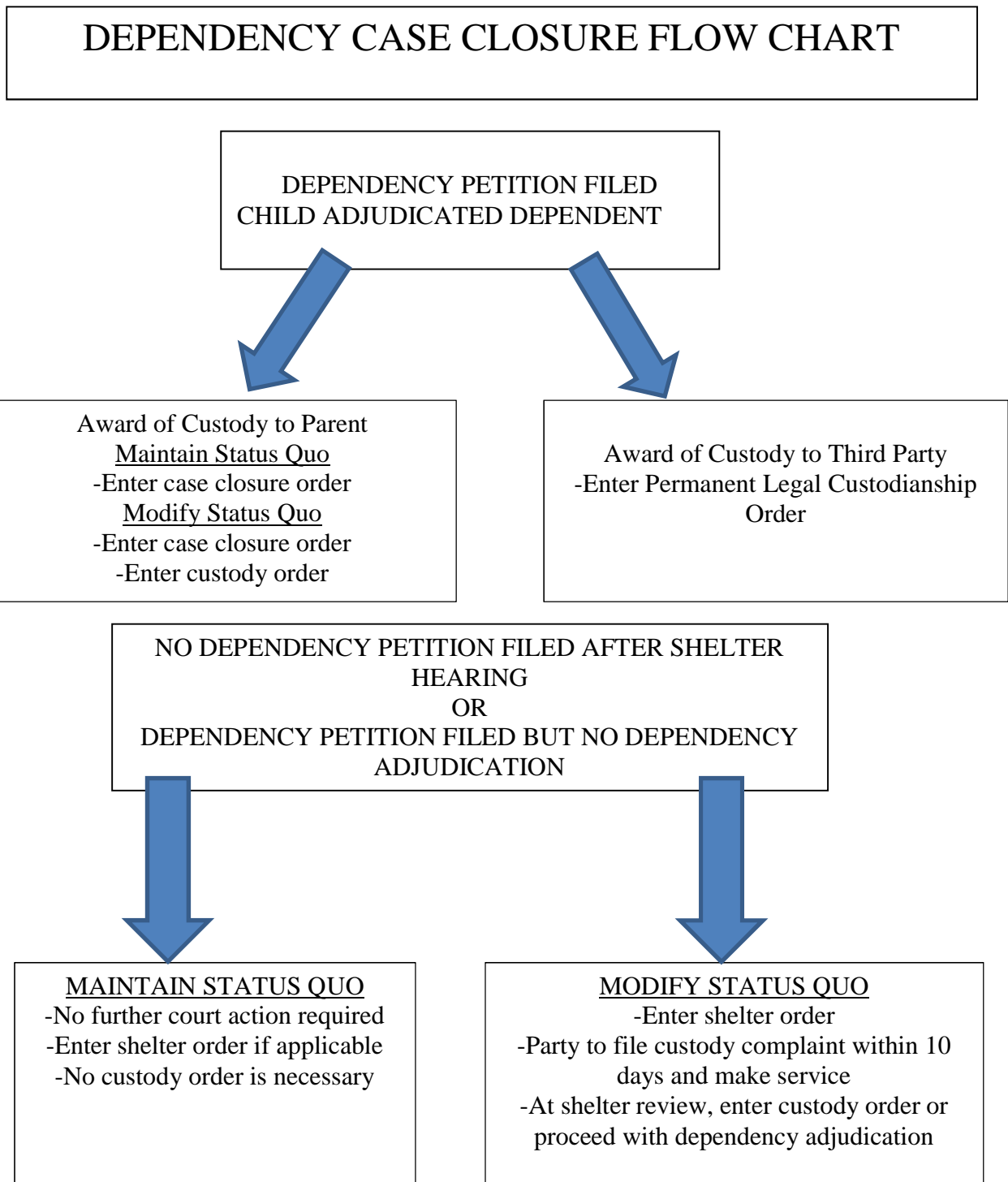
Child Protection and Permanency Department Case Management Supervisor
Allegheny County Children's Court
440 Ross Street
Pittsburgh, PA 15219
Facsimile: 412-350-3853

Permanency review hearings are conducted in an informal manner and are recorded. At the end of a permanency review hearing, a permanency review order is issued summarizing the progress of the family or otherwise disposing of the case. If necessary, cases that have been heard by a hearing officer may be subsequently scheduled before the assigned judge for further proceedings.

I. Dependency Case Closure

1. *Introduction*

A child whose non-custodial parent is ready, willing and able to provide adequate care to the child cannot be found dependent. See In re M.L., 757 A. 2d 849 (Pa. 2000). CYF or any other petitioner may withdraw their dependency petition where there is a parent, grandparent or third party with standing ready, willing and able to care for the child. In cases where the dependency petition is withdrawn by the petitioner or dismissed by the Court, the Court may proceed to enter a custody order. The following chart demonstrates the process:



2. Case Closure when the Child has been Adjudicated Dependent

a.) Award of Custody to a Parent

Following adjudication of dependency and upon closing the case, where the child is placed in the custody of a parent(s) without a change in the status quo that existed prior to the dependency matter, a dependency case closure order will be entered to close the dependency case. Where there is a change in the status quo, a Family Division, Adult Section docket number may be assigned and both a dependency case closure order and an adult section custody order entered. The custody case may be assigned to the dependency judge for further proceedings.

The custody order may specify custody of the child and partial custody of the non-custodial parent or a third party with standing. The court may make findings of fact in the custody order explaining the award of custody including detailing outstanding safety concerns with regard to the non-custodial parent. Any further modifications or enforcement requests may be addressed in accordance with procedures to modify or enforce a custody order. See Section 1. R.

b.) Award of Custody to a Third Party – Permanent Legal Custodianship

In cases where the child has been adjudicated dependent and upon case closure the judge awards custody to a third party, a Permanent Legal Custodianship (PLC) order may be entered. When a PLC order is entered by the court, no underlying custody complaint is necessary.

Custody of the child and partial custody of the non-custodial parent or other party with standing may be outlined in the PLC order. The court may make findings of fact in the PLC order explaining the basis for the PLC award including detailing outstanding safety concerns with regard to the parent(s). Any further modification or enforcement requests may be addressed according to the court's PLC procedures. See Section II. L. 3.

3. Case Closure when the Child has not been Adjudicated Dependent

If the dependency judge determines that the child would be dependent but for the availability of another parent who is ready, willing and able to assume custody, the court may dismiss the dependency petition and enter a custody order modifying the existing status quo by placing the child in the primary custody of the available parent, provided there is an existing custody action in the Family Division, Adult Section. The dependency dismissal order may specify the findings that the child would be dependent in the current custodian's care but is not dependent due to the availability of the other parent.

If there is no Adult Section action, the dependency matter shall be continued and the available parent must file a complaint for custody with the Department of Court Records and make service. **(FORM II-5 & II-6)** The custody case will be given an Adult Section docket number and assigned to the dependency judge for further proceedings. The court may waive the filing fee.

At the continued dependency hearing, if the custody action has not been initiated, the judge may proceed on the dependency matter. If the custody action has been filed, the court may dismiss the dependency action and enter a custody order, which shall be filed with the Department of Court Records.

The custody order may specify custody of the child and partial custody of the non-custodial parent or a party with standing. The court may make findings of fact in the custody order explaining the award of custody including detailing outstanding safety concerns with regard to the non-custodial parent.

Any further modification or enforcement requests may be addressed in accordance with procedures to modify or enforce a custody order. See Section I. R.

J. Goal Change in Dependency Cases

In most instances, the goal of the family service plan is to reunify a child with his or her parents or guardian. When that goal is not possible, a party may ask the court to change the goal of the case. When such a request is made, the court will conduct a hearing to determine whether it is in the best interests of the child to change the goal of the case.

If the court determines that it is in the best interests of the child to change the goal to something other than reunification, the court may then proceed to finalize the child's case. Examples of goals other than reunification include permanent legal custodianship, legal custody to a fit and willing relative, or adoption.

A court order changing the goal of a case is a final appealable order. An aggrieved party may appeal directly to the Pennsylvania Superior Court within 30 days of the docket entry of the order. In the Interest of A.L.D., 797 A.2d 326 (Pa. Superior 2002).

In Allegheny County, where the child is placed with an adoptive resource and CYF is seeking both a permanency goal change to adoption and a termination of parental rights (TPR), the permanency hearing and initial TPR hearing may be consolidated. If the TPR is contested by one of the parties at the consolidated hearing, the matter of the goal change may be continued and heard at the contested TPR hearing, but the Court may also proceed as to any other permanency review matters (e.g., visitation, reasonable efforts).

K. Termination of Parental Rights and Adoption

1. *Introduction*

In Allegheny County, any dependency case that results in the filing of a termination of parental rights (TPR) petition is assigned to the judge who presided over the dependency proceedings. A file separate from the dependency matter is kept by the Orphans' Court section of the Department of Court Records for the TPR case. The matter continues to be reviewed every three months on the dependency docket until such time that the child is adopted or the child is placed in another permanent placement and the dependency case is closed. TPR petitions and other pleadings, motions, notices and other documents must be electronically filed through PACFile.

2. Involuntary Termination of Parental Rights

The Allegheny County Department of Children, Youth and Families (CYF) has standing to file for termination of parental rights (TPR) for children in its care who are under 18 years old. Child advocates also have standing to file for TPR for dependent children they represent. 23 Pa. C.S. § 2512 (a). TPR petitions must contain the grounds for termination, an averment that the agency will assume custody until the child is adopted, and other factual information about the parties. When a termination petition contains an “unknown father” it must state whether a claim of paternity has been filed. 23 Pa. C.S. § 2512 (b) (c).

A TPR decree extinguishes parental rights, including the right to be notified of adoption proceedings. 23 Pa. C.S. § 2521. Previous involuntary TPRs are grounds to support a finding of “aggravated circumstances” against the biological parent with respect to future children, pursuant to the Juvenile Act. 42 Pa. C.S. §§ 6302, 6341.

3. Confirmation of Consent to Terminate Parental Rights

If a biological parent agrees to consent to a voluntary termination of parental rights, it is called a confirmation of consent to terminate parental rights. A confirmed consent must be executed in writing, must be executed no sooner than 72 hours after the child’s birth, must be witnessed by two people and must contain specific statutory language. 23 Pa. C.S. § 2711 (c) and (d). If a biological parent’s consent does not disclose the identity of the adoptive parents, it must contain a statement that the biological parent executed the consent voluntarily in the absence of this disclosure. When 30 days have elapsed and the biological parent has not revoked consent or proceeded with a voluntary relinquishment, a petition to confirm the consent and terminate parental rights must be filed. The original consent must be attached and the petition must contain factual information about the parties. 23 Pa. C.S. § 2504 (a)

The court must offer counseling to any parent present in court before entering a termination order pursuant to a confirmation of consent. Parents may also apply for counseling. 23 Pa. C.S. § 2505.

4. Notice to Biological Parents for Termination Hearings

After a termination or confirmation of consent petition is presented to the court, the court must schedule a hearing to occur not less than 10 days after filing. 23 Pa. C.S. §§ 2504 (b), 2513 (a). For a hearing to confirm a parent’s consent, the petitioner must appear as well as the two witnesses to the consent unless the consent is witnessed by a CYF caseworker. Biological parents, alleged father, and the parent or guardian of a minor whose rights may be terminated must be notified of the date, time and location of their termination or confirmation of consent hearing by personal service, by registered mail, or by other means as the court requires. 23 Pa. C.S. §§ 2504 (b), 2513 (b). Proof of service must be filed with the court at least 5 days before the scheduled hearing. Current practice in Allegheny County also allows notice documents to be presented to the court at the time of the termination hearing. See Allegheny County Orphans’ Court Division Rule 15.

Parents whose rights are subject to involuntary termination have the right to counsel, which the court must provide if the parent is indigent. 23 Pa. C.S. § 2313 (a.1). Children are also entitled to representation in these proceedings. 23 Pa. C.S. § 2313 (a). When a termination order has been entered, the court must send the order to the parents and advise them in writing of their continuing right to place medical information on file with the Department of Human Services 23 Pa. C.S. § 2504 (d).

5. Adoption Petition and Hearings

The required contents of an adoption petition are specified in 23 Pa.C.S. § 2701. Required exhibits to the adoption petition are specified in 23 Pa.C.S. § 2702. A certified copy or original marriage certificate for the adopting parents must be attached to the adoption petition, as well as the adoptive parents' previous divorce decrees and death certificates of previous spouses, if applicable. Applicable consents listed in 23 Pa.C.S. § 2711 must also be attached to the adoption petition. See Allegheny County Orphans' Court Division Rule 15.

Parties who must consent to an adoption must be notified of the date, place and time of the adoption hearing by personal service, registered mail or other means as the court directs. The adoptive parent, child, and CYF caseworker are required to attend the adoption hearing. 23 Pa. C.S. § 2721. Other parties may be required to attend if the court deems their testimony helpful. 23 Pa. C.S. § 2721.

Unless the court for cause shown determines otherwise, the court cannot enter an adoption decree until all requirements have been met, pursuant to 23 Pa. C.S. § 2901. The contents of the adoption decree are specified in 23 Pa.C.S. § 2902 and Allegheny County Orphans' Court Rule 15. The adoption decree may specify the child's new name, if desired. 23 Pa. C.S. § 2904. A report of costs incident to the adoption must be presented at the adoption hearing. 23 Pa. C.S. § 2724.

6. Report of Intermediary

Within 6 months after the report of intention to adopt is filed, the intermediary who arranged the child's placement with the adoptive family must file a report which contains factual information about the child, the biological parents, any money received by the intermediary and other items. 23 Pa. C.S. § 2533. The report of intermediary must attach exhibits specified in 23 Pa.C.S. § 2534. CYF is considered the intermediary in cases that result from a dependency adjudication.

7. Report of Intention to Adopt

The adoptive parents are required to file a report of intention to adopt with the court. The contents of the report of intention to adopt are specified in 23 Pa.C.S. § 2531 (b). The adoption petition, report of intermediary, and report of intention to adopt are all filed simultaneously in Allegheny County by CYF.

8. Adoptive Family Profiles and Related Documents

A home study or pre-placement report on the adoptive family, also known in Pennsylvania as a “family profile” is required by 23 Pa.C.S. § 2530. The family profile must contain all pertinent information about the fitness of the adoptive family. 23 Pa. C.S. § 2530 (b). The family profile must also include information required by the Child Protective Services Law (CPSL) relating to background checks for prospective adoptive parents. 23 Pa. C.S. § 2530 (b). In addition to the family profile, child abuse and criminal checks, and four references for the adoptive family are required.

9. Investigations of Adoptive Homes

After a report of intention to adopt has been filed, the court must cause an investigation to be made and a report to be filed. The investigation may be conducted by a public agency, a private agency, or by an appropriate person designated by the court. The court may rely on the written family profile for this investigation. 23 Pa. C.S. § 2535 (a). The investigation must cover all pertinent information regarding the child’s eligibility for adoption and the suitability of the adoptive family to meet the needs and welfare of the child. 23 Pa. C.S. § 2535 (b).

10. Confidentiality

The court shall take such steps as are reasonably necessary to assure that the identity of the adoptive parent(s) is not disclosed without their consent. 23 Pa.C.S. § 2504.1.

11. Scheduling of Termination of Parental Rights and Adoption Hearings

All TPR and adoption hearings are electronically scheduled through CPCMS. Unlike dependency hearings, there is no court clerk present in the courtroom during TPR and adoption hearings. The Child Protection and Permanency Department’s TPR and adoption clerk handles scheduling of all hearings using a master calendar and specific instructions from the judge of record on each case. Schedules of judges, attorneys and caseworkers are consulted as much as possible to avoid continuances and delays in permanency.

12. Filing of Documents in Termination of Parental Rights and Adoption Cases

All pleadings, motions, notices and any other documents in TPR and adoption cases must be electronically filed through PACFile. All filings must have a cover sheet indicating the case name and case number. Parties must file documents at least 3 business days in advance of the hearing at which they intend to present the document.

13. *Motions and Pretrial Practice in Contested TPR Cases*

The Termination of Parental Rights (TPR) pretrial order governs pretrial practice in contested TPR cases. **(Form II-7)**. The order requires filing and service of pretrial statements. Pretrial statements must include: The name of each person whom the party intends to call at trial as a witness, including expert witnesses. The attachment of the entire report of each expert witness listed in the pre-trial statement is required. The pretrial statement must describe the expert witness's qualifications and experience and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

In addition to pretrial statements, the order requires that the testimony of any person who is not identified in a timely filed pre-trial statement may be excluded at trial and that the testimony of an expert witness may not be inconsistent with or go beyond the fair scope of his or her report.

The order requires that the testimony of any witness that the proponent wishes to provide by telephone shall be noted on the pretrial statement. Any objections to the presentation of the testimony by telephone must be made in writing at least 8 days before trial, or the telephone testimony will not be permitted at trial absent extraordinary circumstances without an order of court. A party seeking such an order must petition the court at least five days prior to the trial.

The order requires that the parties must file a list of all of the exhibits that the party expects to offer in evidence, containing an identifying mark for the exhibit. Petitioners must use number exhibits and respondents must use lettered exhibits. Any exhibits that do not exceed three pages must be attached to the pretrial statement, and all exhibits not attached to the pretrial statement must be described. All exhibits must be available for inspection by any opposing party at any time after the filing of the pretrial statement.

In addition to a listing of exhibits, the order requires that those portions of the CYF record which are to be relied on at trial shall be described with sufficient specificity so as to enable all counsel to readily identify those portions of the record. Unless otherwise precluded by law, statute or court order, the order requires that the entire CYF record shall be made available for inspection by any opposing party at any time after the filing of the pretrial statement. Only documents or other writings and portions of the CYF record listed in the pretrial statement may be offered in evidence at trial except as rebuttal evidence.

Finally, the order provides that no pretrial statement or any modifications thereafter may be filed beyond the deadline for filing without an order of court permitting the late filing. The parties are required to enter into stipulations to the fullest extent possible and absent compelling circumstances, no continuances of a contested TPR hearing will be granted on the day of trial.

14. *Termination of Parental Rights Hearings*

The burden of proof in termination of parental rights (TPR) cases is on the petitioning party to prove its case by clear and convincing evidence. The rules of evidence apply in TPR hearings. The petitioning party has the burden of going forward

with evidence to prove its case. Rebuttal evidence is allowed. At the end of the hearing the judge may announce a decision and issue an order, take the case under advisement, and/or prepare separate findings of fact. If the court grants the TPR petition, an order granting TPR is issued and the adoption and TPR clerk issues a notice to birth parents apprising them of their right to appeal and a right to voluntarily submit certain medical information. **(Form II-8)**

15. Appeal Procedure in Termination of Parental Rights Cases

Once the assigned judge has rendered a decision in a termination of parental rights (TPR) case, there is a 30-day appeal period during which any party to the case may file an appeal with the Superior Court.

If the Superior Court affirms the termination of parental rights, the next action by the adoption and TPR clerk is typically the scheduling of an adoption hearing. If the Superior Court reverses the termination of parental rights, the case is scheduled for a permanency review hearing.

16. Adoption Hearings

After the appeal period has elapsed or the case has been returned from the Superior Court affirming the decision of trial court judge, an adoption hearing is scheduled. The adoption and TPR clerk schedules the adoption hearing.

a.) Monthly Adoption Days

The court conducts adoption hearings generally every other month. All adoption hearings are scheduled on the same day of the in the afternoon. After the hearing, the families are invited to celebrate with the other families. Snacks, beverages and entertainment for children are provided.

b.) National Adoption Day

National Adoption Day is celebrated each year on the Saturday before Thanksgiving. Courts across the country open their doors on this special day to conduct final adoption hearings while recognizing the need for adoptive families. Allegheny County participates in National Adoption Day with a special celebration that includes balloon and caricature artists, local sports mascots and Disney Princesses.

17. Timely Processing of TPR/Adoption Matters

At the conclusion of a contested TPR proceeding, the judge who heard the matter will generally issue an order within 15 days of the date upon which the contested TPR proceeding was concluded, but may be extended for a period of up to 45 days upon good cause.

If an appeal is filed, the Orphans' Court action shall remain open pending a final decision on appeal. Once the TPR decision becomes final (either the 30-day appeal

period has passed or the Superior Court has entered an order upholding the termination order), the judge will issue a closing order as to the Orphans' Court action, unless CYF has filed an adoption petition.

If the court enters an order closing the Orphans' Court action, the case may continue to be reviewed on the dependency docket. Upon the filing of an adoption petition, the Orphans' Court case will be reopened and scheduled for an adoption hearing. Notice will be sent to all parties. CYF shall file an original or certified copy of any final out of county/out of state adoption with the Department of Court Records.

L. Other Dependency Related Issues

1. *Practice before Dependency Hearing Officers*

Each hearing officer is assigned to a judge(s) in furtherance of the one judge, one family unified court policy. Cases will be heard only by the judge to whom the case is assigned and the hearing officer assigned to that judge, absent exigent circumstances.

Decisions rendered by hearing officers are made in the form of a "recommendation," which operates as a temporary order pending subsequent action by a judge and while a challenge to the hearing officer's recommendation is pending. Any party wishing to challenge a recommendation by a hearing officer must serve upon the judge of record a copy of the motion requesting a rehearing, in addition to the specific requirements set forth in Pa.R.J.C.P. 1191 (C).

The first hearing officer review shall be between 30 days and 3 months after the child has been adjudicated dependent, unless scheduled for an earlier or later date by the judge hearing the petition. Thereafter, cases shall be generally reviewed every 3 months, and shall be reviewed no less frequently than every 6 months. Hearing officers may, in their discretion, or upon motion of any party, schedule reviews more often as appropriate in individual cases. At every hearing, the hearing officer shall conduct a review of the permanency plan for every child.

Permanency review hearings may proceed without parents or third parties. CYF shall be prepared to testify concerning notice and/or the reasons for unavailability of parents or third parties who are not present at the permanency review hearing.

Any matter which is not prepared to proceed at its scheduled time may be rescheduled to a different day, or may be heard later on the same day, at a time set by the presiding hearing officer. If the case is to be heard on the same day, parties and counsel shall wait until the case is heard.

Hearing officers shall set any case for a hearing before the judge with whom they collaborate and recommend contempt or other sanctions. All hearings shall be recorded on the court's digital audio recording system. Hearing officers may hear all matters except those matters exclusively reserved for judges by statute, rule or local practice. See, 42 Pa.C.S. § 6305; Pa.R.J.C.P. 1187.

In Allegheny County, hearing officers do not hear contested cases involving removal of children from their homes or suspension of parental visitation, or petitions for dependency, terminations of parental rights or adoptions. Notwithstanding the above, a

request for relief or, if necessary, a request for a hearing before a judge, regarding any matter, may be sought at any time through motions court.

Court summaries prepared by CYF shall be distributed to judges and/or hearing officers, all counsel and unrepresented parties at least 20 days in advance of every hearing. All court summaries so distributed shall be deemed admitted into evidence at every hearing where they are presented, subject to specific proper objection. Immediately at the conclusion of every hearing, the hearing officer shall announce their decision in open court and provide all parties with a printed recommendation with their signature affixed thereto, if requested.

Dependency hearing officers hear CYF **East Regional cases at the Family Law Center downtown courthouse** and are also located in the following three regional courtrooms:

North Regional Courtroom

1975 Clayton Avenue
Pittsburgh, PA 15214

Mon Valley Regional Courtroom

120 Fifth Avenue
McKeesport, PA 15132

South Regional & Central Regional Courtroom

1700 East Carson Street
Pittsburgh, PA 15203

2. Forms of Permanency for Children Adjudicated Dependent

In 1998 the Adoption and Safe Families Act (ASFA) became law. Under ASFA a number of permanency options for children who are adjudicated dependent are recognized. The basic hierarchy is as follows: 1. Return the child to the parent, whenever this course is best suited to the safety, protection and physical, mental and moral welfare of the child; 2. Place the child for adoption where reunification is not best suited to the child's safety and welfare; 3. Place the child with a permanent legal custodian, where adoption is not best suited to the child's safety and welfare; 4. Place the child with a fit and willing relative, where legal custodianship is not best suited to the child's safety and welfare; and 5. Place the child in some other court-approved and permanent living arrangement, in instances where the agency has shown a compelling reason for ruling out all of the other four options.

3. Permanent Legal Custodianship

Permanent Legal Custodianship (PLC) is a form of permanency recognized by the Adoption and Safe Families Act. When reunification or adoption is not in the best interests of a dependent child, a PLC may be considered by the court. Prior to entering a PLC order, the court must first determine if the goal of PLC is appropriate. If the

answer is yes, the court must enter an order changing the permanency goal to PLC. For a PLC to be appropriate, the prospective custodian must have a long-standing and beneficial relationship with the child.

CYF is obligated to make the court aware of the existence of any PLC subsidy agreement at the time of the PLC hearing. Details of the subsidy are not put in the PLC order. PLC orders are electronically filed in the juvenile docket and cross-filed in the Family Division, Adult Section.

Parties to a PLC order may seek modification or enforcement of the order. The petitioner must 1) file a pleading that substantially conforms to the Pennsylvania Rules of Civil Procedure Actions for Custody, Partial Custody and Visitation of Minor Children; or 2) complete the Family Division's petition for modification and/or enforcement of a permanent legal custodianship order form. **(FORM II-9)** This may be returned to the Family Division Self-Help Center on the first floor of the courthouse. Child Protection and Permanency Department staff is available Monday through Friday from 8:00 a.m. to 2:00 p.m. to assist with the completion of the form and the scheduling of a hearing. Petitioners must also complete a criminal record/abuse history verification form **(FORM II-10)** and make service on the parties. A certificate of service form is available. **(FORM II-11)** PLC modification or enforcement hearings are generally scheduled within 60 days.

4. Referrals for Mental Health Evaluations

When a child or other party in a dependency case is in need of an evaluation, the court issues a referral order to Allegheny Forensic Associates. AFA can be contacted as follows:

**Allegheny Forensic Associates
211 North Whitfield Street
Medical Center East, Suite 500
Pittsburgh, PA 15206
(412) 361-1575**

5. Referrals for Drug and Alcohol Screening

The drug and alcohol screening department is administered by the Allegheny County Health Department. Hours of operation are Monday through Friday: 9:00 a.m. to 4:45 p.m. For the initial drug screening, a CYF caseworker must escort the client to the screening area, along with a copy of the court order. The client must show photo identification or identification must be verified by the CYF caseworker. The screener will take the client's picture.

The screener will supervise the test. The results will be recorded and distributed to the appropriate regional office director at the end of the business day.

Upon request, a copy of the results will be transmitted to the judge/hearing officer and CYF caseworker. The screener will maintain the original screening form.

Results of any on-going tests must be transmitted to the CYF regional office director at the end of every business day. If a specimen is sent for outside testing, results will be returned to CYF and the judge/hearing officer of record.

If the judge/hearing officer requires ongoing testing, the court order should indicate the nature and duration of the testing to be done. For ongoing testing, the CYF caseworker is not required to be present after the initial drug screening.

Contact Information for the drug-screening department is as follows:

Allegheny County Court of Common Pleas, Family Division
440 Ross Street
1st Floor, Room 1002
Pittsburgh, PA 15219
(412) 350-5808
(412) 350-0230 - fax

Email: sepps@court.allegheny.pa.us

6. *Dually Adjudicated Youth*

The court has adopted special review procedures for children who are adjudicated both dependent and delinquent. Both the assigned CYF caseworker and the assigned juvenile probation officer are expected to be present and provide the court with relevant review information regarding the child. In every dual case, primary responsibility for the child is designated by the court to either CYF or the Juvenile Probation Department. CYF caseworkers and juvenile probation officers are expected to communicate in advance of review hearings in order to coordinate the provision of services to the child and/or their family.

7. *Conflict Parent Advocate Attorneys*

The court appoints contracted attorneys to represent parents in dependency and termination of parental rights proceedings where there is a conflict of interest with representation from the Juvenile Court Project. Any questions or concerns regarding conflict counsel should be directed to the Child Protection and Permanency Department at (412) 350-0377.

8. *Complex Dependency Matters*

Cases identified as complex must meet one or more of the following criteria:

- Four or more siblings;
- Allegations of sexual abuse;
- Physical abuse involving serious bodily injury;
- Aggravated physical neglect

For cases meeting the above criteria, any party may request the assigned judge to designate a dependency matter as complex and request that the judge schedule the matter for a pre-hearing conference.

Only the attorneys on the case are required to attend the pre-hearing conference unless otherwise specified by the judge. The pre-hearing conference may include entry of stipulations, identification of witnesses, proposed or final resolutions. If no final resolution is reached, the case may be scheduled for a complex hearing on the assigned judge's complex day.

9. *Websites Pertaining to Child Welfare Issues*

Office of Children and Families in the Court

<http://www.ocfpcourts.us>

**Allegheny County Department of Human Services
Office of Children, Youth and Families**

<http://www.alleghenycounty.us/dhs/children.aspx>

KidsVoice

(Guardian *ad litem* and counsel for dependent children)

<http://www.kidsvoice.org>

Juvenile Court Project

(Parent Advocate attorneys for indigent parents in dependency and TPR cases)

<http://www.acbparentadvocates.org>

Allegheny County CASA

(Court appointed special advocates for dependent children)

<http://www.pgh-casa.org>