

CHIPS Hearings Requirements: Timelines, Discussions, Reports, and Findings

October 2018

_____ County Action Plan

Team Contact Person: _____ Phone: _____ Email: _____

Instructions: County CJI Teams should review each of the hearing requirements or best practices listed below, identify practice areas needing improvement in your county, and develop an action for implementing change. The action plan should identify the person(s) responsible for implementing each practice change (e.g., county attorney, judge, etc.) and the target date for implementing the change. The CJI Team should also discuss how all stakeholders (i.e., judges, court administration staff, county attorneys, social workers, attorneys for parents and children, GALs, tribes, and others) in the county will be informed of the revised practice requirements. CJI teams should also determine how to monitor whether the revised practices have been implemented and sustained and what to do if additional change is required.

		ACTION PLAN				
		Check one			Responsible Entity or Individual	Target implementation Date
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Courtroom Facilities						
1	Courtrooms have space within the "courtroom well" for county attorney/agency worker, attorney/parent, GAL, attorney/child, and tribe					
2	Courtrooms and waiting areas are child-friendly					
3	Courtrooms have telephone, ITV, or other electronic options to connect those not present in person					
Calendaring						
4	Court calendaring is respectful of the family's and stakeholders' time: a. hearings are scheduled to minimize waiting time; b. hearings are scheduled as close to time-certain as possible					
5	Court sets sufficient time for each case: a. hearings are at least 30 minutes in length to fully address all issues required under rules; b. if necessary, add CHIPS day to master calendar to accommodate increased hearing length					
4	Calendaring of CHIPS hearings and trials takes precedent over calendaring of other case types pursuant to statute and Judicial Branch policy					

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5	Court has and enforces a “no continuance” policy: a. hearings occur the date they are first scheduled; b. hearings are not rescheduled by request to court administration; hearings are rescheduled only if a motion is filed pursuant to <i>RJPP 15</i> and the court makes findings on the record as required in <i>RJPP 5</i> ; c. parties document to the court emergency circumstances requiring continuance					
6	Court establishes specific days/times for EPC hearings so that counsel for parents and child, GAL, and others may be “on call” to attend					
7	Court schedules settlement conference to increase ability to resolve issues and case prior to pretrial hearing					
8	Child’s tribe’s or parents’ request for additional 20 days to prepare for proceeding as required by <i>ICWA</i> and <i>RJPP 32.06</i> is honored					
Case Assignment						
9	Case assignment and calendaring practices ensure strong judicial oversight of child protection cases including: a. one judge is assigned to hear the matter from CHIPS petition through final permanency order; b. courts have uniform way of recording judge’s notes and expectations regarding next steps for parties and the status of the case to ensure continuity of judicial oversight from one hearing to the next in the event a second judge must share oversight of the case					
10	Vertical representation: same judge, county attorney, GAL, and counsel for parents and child handles case from CHIPS petition through permanency					
11	Agency ensures: a. family friendly transition of case between intake and field workers; b. transition of case from one worker to another does not delay development or delivery of services to child or family; c. continuity of planning occurs when more than one worker has responsibility for a case					
12	Cases are assigned based upon reasonable caseload standards					
13	Judge rotation in juvenile court is for no less than three years (longer if possible)					
Petitions						
14	Petitions include all content required under Rules of Juvenile Protection Procedure, including name and address of all parents, children, and foster parents (confidential info placed on form 11.4)					
15	Personally served on all parties, participants, and attorneys or before EPC Hearing					

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Notice of Hearings						
16	Court has established procedure for informing custodial parents, non-custodial parents, children, county attorneys, SWs, GALs, counsel for parents and child, child's tribe, foster parents, grandparents, and others of EPC hearings; contacts made or attempted are documented using EPC Hearing Checklist					
17	Process for early identification and location of absent non-custodial parents and for assessing the appropriateness of a non-custodial parent to provide day-to-day care for the child and the necessity of a case plan for the non-custodial parent					
18	Parties, participants, and attorneys bring calendars to every hearing so that date of next hearing may be set at end of existing hearing					
19	Written notice of the next hearing date is distributed to those present in court; notice is sent to parties and participants, including foster parents and child(ren), who are not present					
EPC Hearings						
20	"EPC Hearing Contact List" filed by court administration prior to every case					
21	Judge reviews "EPC Hearing Contact List" to determine who has and has not been notified of hearing and what more needs to be done to notify those absent of next hearing					
22	Court discussed legal and physical custody status of both parents and directs paternity testing when necessary					
23	During the EPC hearing the judge provides a summary of the factual allegations and statutory grounds included in the petition and ensures parent understands both					
24	During EPC hearing judge makes prima facie determination regarding sufficiency of CHIPS petition (factual allegations rise to the level of one of the statutory grounds and a child is the subject of the petition)					
25	During EPC hearing judge makes determination regarding endangerment and whether safe for child to return home					
26	During EPC judge makes determination about whether agency made reasonable/active efforts to prevent child's removal from home					
Scheduling Orders						
27	Issued in every case within 15 days of admit/deny hearing, even if no trial					
28	Court uses scheduling orders in every case so parties and attorneys are frequently reminded of timelines and critical dates					
29	Each scheduling order includes specific dates for permanency progress review hearing, filing of permanency petition, and admit/deny hearing on permanency petition					

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Out-of-Home Placement Plan						
30	Case plan filed within 30 days of child's removal from home					
31	Each case plan: a. is developed jointly with social worker and parent; b. is developed in consultation with the child's GAL, child's tribe, and the child's foster parent; c. reflects a family-centered approach including the parents and, where appropriate, the child in its development; d. identifies changes parent must make and sustain for a specified period of time; e. describes how compliance will be measured; f. is reviewed in court or through administrative process at least every 6 months as long as the child remains in foster care; g. documents the agency's consideration of the 8 factors set out at <i>Minn. Stat. § 260C.212, subd. 2</i> , in determining how the particular placement meets the child's best interests; h. includes the plan for visitation between the child and parents and the child and siblings who are not placed together					
32	Case plan is reviewed and, if appropriate, modified, and the court orders compliance by all parties and professionals					
Assessments and Evaluations						
33	At EPC, judge orders assessments as appropriate for mental health, substance use, and parenting capacity, as well as assessments for the child(ren)					
34	Agency has procedure to promptly schedule necessary assessment and service appointments and follow-up procedures to ensure parents attendance at appointments					
Relative Searches						
35	Very early in the child's placement, the agency conducts a thorough relative search: a. the search includes both paternal and maternal relatives; b. the search gives consideration to placement of the child with a fit and willing relative who is willing to commit to being the permanent placement for the child in the event reunification cannot occur; c. if a parent refuses consent to relative search, the agency recommends to the court whether the parents refusal is in the best interests of the child, and if the parent's withholding of consent is not in the child's best interests, the court orders the search and the parent's disclosure of necessary information					

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Children in Court						
36	Court has policy for when children appear in court and who decides when they should be there, taking into consideration: a. age and child's preference b. disability c. nature of case and issues to be discussed at hearing d. whether child must be removed from school or treatment to be present					
37	If children are not in court, judge is provided with a photo of child					
38	Children are in court and admit/deny petition when the matter involves truancy, runaway, sexual exploitation					
Foster Parents						
39	Foster parents receive special "foster parent notice" of every hearing along with copy of foster parent report to court					
40	If present in court, foster parents are called upon to share information (if they wish)					
41	Agency files "notice of change of child's location" and serves on all parties with 72 hours of child's move					
ICWA						
42	Petitioner's "ICWA notices" are served on all parents, Indian custodians, child's tribe and BIA Regional Office, and filed with the court together with the returned registered mail receipts					
43	Admit/Deny Hearing in ICWA case not held until at least 10 days after all notices and return receipts are filed in court file					
44	Notice of request for transfer of jurisdiction to tribal court is promptly decided by district court; district court has a protocol for transferring case and case record to tribal court including: a. if a party requests a hearing regarding the tribe's request, the matter is timely calendared for hearing; b. upon the tribal court's filing of a notice or letter of acceptance of jurisdiction, the court administrator completes the transfer of jurisdiction by forwarding copies of the court file and other information in a timely manner to the receiving tribal court					
Hearing Quality						
45	All hearings are in court – no paper reviews					
46	At the first hearing, the judge provides an on-the-record advisory for all parties and participants regarding purpose of hearing, rights, and responsibilities					
47	If anyone is in audience, judge asks if anyone is a relative, foster parent, or other person interested in the child or family					

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48	At every hearing the judge: a. States type and purpose of the hearing; b. Identifies all parties, participants, and attorneys present; c. Identifies audience members present and their relationship to the case; d. Identifies missing parties and participants and process for providing future notice; e. States required findings of fact, including reasonable efforts/active efforts; f. States decision/order and inquires of parent/child understanding of the order; g. States findings and orders address: (1) Placement; (2) visitation between parent and child and child and siblings; (3) parent's tasks before next hearing; (4) agency's tasks, including services which must be offered, before next hearing; (5) GAL services/tasks required before next hearing					
49	Hearings are of sufficient length to fully discuss all issues required under the Rules and ensure parents and professionals understand outcome of the hearing and the court's order					
50	Social worker with hands-on knowledge of the current status of the case attends all hearings					
51	Date and time of next hearing is scheduled before parties and participants leave the courtroom; written notice of such date/time is provided to everyone present and mailed to those absent					
52	Active tribal participation in ICWA cases is supported, including permitting tribe to appear by telephone					
Orders						
53	Orders are stated on the record, reduced to writing, and distributed to parties and attorneys at end of hearing except for orders after trial					
54	If written order cannot be issued at end of hearing, then order is distributed within 15 days of hearing					
55	Findings and orders are case specific and address reasonable/active efforts and the child's need for placement at appropriate hearings including: a. <u>EPC</u> : reasonable/active efforts to prevent placement at the time or before the child is removed or such reasonable efforts were not required; b. <u>EPC</u> : placement is in the child's best interest or continued custody of the child by the parent is contrary to the welfare of the child; c. <u>disposition and permanency</u> : reasonable/active efforts are made to reunify the child when such efforts are required; and d. <u>annually at post-TPR and foster care review hearings</u> : reasonable/active efforts are made to finalize a permanent placement for the child when the child cannot reunify with the parent					

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56	As an ongoing reminder, every order includes the date for permanency progress review hearing, filing of permanency petition, and admit/deny hearing on permanency petition					
57	Orders include correct usage of "dismissed," "termination of jurisdiction," and reunified					
GAL and SW Reports						
58	GAL and SW reports are served and filed at least 5 business days before each hearing					
59	Agency and GAL have policy for providing copies of service provider reports (e.g., medical, CD assessment, psychological evaluations) to parties					
60	Agency and GAL comply with requirements for content of reports outlined in Rule 38					
Legal Representation of Children (McKenna's Law)						
61	Court has procedure for appointing counsel for children so attorney appears at EPC or Admit/Deny Hearing, whichever is first					
62	Court has procedure for child to be present in court to waive appointment of counsel					
63	Attorneys meet with clients prior to date of each hearing, including EPC hearing, whenever possible					
64	Attorneys actively participate at every stage of the proceedings from EPC through permanency					
65	Court-appointed attorneys not discharged until time for filing and resolution of post-trial motions has elapsed					
66	Attorneys regularly consult and counsel client at every stage of the proceeding, including the following as appropriate: a. investigate what contacts the agency has made; b. interview client and key witnesses; c. review agency file and law enforcement reports; d. obtain necessary medical, mental health, school and other records; e. monitor client's case plan progress, if child has case plan; f. call and cross-examine witnesses; g. file and argue motions; h. develop alternative dispositional proposals; i. file post-trial motions and appeals					
Legal Representation of Parents						
67	Court has procedure for appointing counsel for children so attorney appears at EPC or Admit/Deny Hearing, whichever is first					

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68	Attorneys meet with clients prior to date of each hearing, including EPC hearing, whenever possible					
69	Attorneys recognize the significant counseling role they have in assisting parents to achieve safety and stability for their children					
70	Attorneys actively participate at every stage of the proceedings from EPC through permanency					
71	Court-appointed attorneys not discharged until time for filing and resolution of post-trial motions has elapsed					
72	Attorneys regularly consult and counsel client at every stage of the proceeding, including the following as appropriate: j. investigate what contacts the agency has made; k. interview client and key witnesses; l. review agency file and law enforcement reports; m. obtain necessary medical, mental health, school and other records; n. monitor client's case plan progress; o. call and cross-examine witnesses; p. file and argue motions; q. develop alternative dispositional proposals; r. file post-trial motions and appeals					
Guardian Ad Litem Advocacy						
73	Court has procedure for appointing GAL so GAL appears at EPC hearing or admit/deny hearing, whichever is first					
74	GAL meets with (and/or observes) child prior to date of each hearing (except EPC)					
75	GAL actively participates at every stage of the proceedings from EPC through permanency					
76	GAL conducts independent investigation and makes independent recommendations					
Disposition Orders						
77	If case plan is not available for review, identify the child's and family's needs, the services necessary to meet those needs, and order examinations, evaluations, and services for the child and/or parent; order date for submission of case plan					
78	When child remains at home, review services needed to keep child safely at home and whether those services are sufficient to avoid placement					
79	When child is in placement, review whether the agency has made reasonable or active efforts to reunify the child and why those efforts have not eliminated the necessity of removal					
80	When the case is a concurrent permanency planning case, review the agency's efforts to place the child with a family, including a relative, committed to permanent placement of the child in the event reunification cannot be achieved					

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Intermediate Disposition Review Hearing (IDH)						
81	Review parent's progress on the case plan, including the extent of progress the parent has made toward alleviating or mitigating the conditions that caused out of home placement					
82	Review the services being received by the child and determine what more is needed					
83	Review whether the agency is making reasonable efforts, or active efforts in the case of an Indian child, to rehabilitate the parent and eliminate the need for the child's placement, including whether: <ul style="list-style-type: none"> a. out-of-home placement is necessary and continues to be appropriate; b. the Out-of-Home Placement Plan is relevant to the safety and best interests of the child including: <ul style="list-style-type: none"> (1) the specific services offered to the parent and child by the agency and the cultural appropriateness of identified services; (2) identification of any barriers to service delivery and agency's plan to reduce or eliminate such barriers; (3) the agency's efforts to support the parent in making progress on the case plan including the number of times the worker has visited with the parent; (4) the agency's efforts to support the child in placement including the number of time the worker has visited the child in placement; c. the child is placed with a relative and, if not, whether the agency has completed an adequate relative search; in <i>ICWA</i> cases, whether the child is placed according to the placement preferences 					
84	Determine whether the services in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances					
85	Review parent and child contact, including frequency and nature of visitation and modify visitation order as necessary					
86	Review child and sibling contact, including efforts to place siblings together and frequency and nature of contact, and modify order as necessary					
Permanency Progress Review Hearing						
87	Permanency Progress Review Hearing commences within 6-months (180 days) of child's out-of-home placement (only one PPRH per case and only in CHIPS file not permanency file)					
88	Permanency Progress Review Hearing includes discussion of: <ul style="list-style-type: none"> a. parents' progress on the Out-of-Home Placement Plan; if the parent is not making progress on the plan, why not; b. whether the parents have maintained regular contact with the child, and if not, why not; c. the sufficiency services provided by the responsible agency; and d. whether child would benefit from ongoing relationship with parent 					

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89	Within 15 days of the conclusion of the Permanency Progress Review Hearing the court issues an order: a. continuing the proceeding for up to a total of 6 additional months because the parent is making sufficient progress on the case plan and is visiting the child or the agency has not provided appropriate services to the parent; b. discontinuing the CHIPS proceeding and directing the agency to file a permanency petition					
Permanency Petition						
90	Permanency petition filed and served within 11 months (335 days of) child's out-of-home placement					
91	Petition is personally served on all parents and served on all other parties, participants, and attorneys					
Permanency Admit/Deny Hearing						
92	Except for children in placement due solely to their disability, court commences Permanency Admit/Deny Hearing within 12 months (365 days) of child's out-of-home placement					
94	Adoptions are finalized within 12 months of an order terminating the rights of both parents or the only known parent of a child					
95	Tribe is involved in permanency planning for the child from the very beginning of the child's placement					
96	Qualified expert testimony required to order termination of parental rights in ICWA cases is presented					
97	Standard of proof beyond a reasonable doubt is met in cases where termination of parental rights is ordered and the matter is governed by ICWA					
Review Post-Permanency Hearing						
98	If the permanency decision was TPR, a hearing must take place every 90 days for the purpose of monitoring progress toward adoption					
99	If the permanency decision was permanent custody to agency, a hearing must take place at least annually for the purpose of determining whether the agency is making "reasonable efforts" to finalize the permanent plan for the child including whether foster care is still the best permanent plan for the child and monitoring whether child's physical, emotional, and educational needs are being met and, if not, ordering services to meet those needs					
100	If a child, age 16 or older, is in foster care, the court at least annual reviews the child's Out-of-Home Placement Plan to ensure the child is receiving appropriate services for independent living					
101	If the permanency decision was transfer of permanent legal and physical custody to a relative and jurisdiction is not terminated, the hearing must take place as ordered by the court					
102	In appropriate cases, the court monitors provision of services to the child and family after an order reunifying the child with the parent					