

# EFFECTIVE COURT PRACTICE: What Judges Need from Attorneys, Social Workers, and Guardians ad Litem

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Minnesota Judicial Branch

Minnesota Department of Human Services

CJI

Children's Justice Initiative

# Disposition Review Hearings

## What is Disposition?

**Disposition is the order made following a finding that the child is in need of protection or services, whether or not that finding is entered or withheld.**

# Disposition Review Hearings

Orders for disposition are listed under *Minn. Stat. 260C.201, subd. 1* and *R. 41.05* including:

1. legal custody to the county agency;
2. protective supervision in the home of a parent (custodial or noncustodial, adjudicated, presumed, or alleged);
3. trial home visit (but only after an award of custody to the agency);
4. special services for child;
5. independent living when authorized by the county board

# Disposition Review Hearings

**Disposition also includes the court's ordering of the case plan:**

- 1. out-of-home placement plan when the child is in foster care; or**
- 2. another case plan when the child is with a parent**

# Quiz

## Question 1. T/F

**When a county agency has legal custody of a child, the court must conduct a hearing to review the disposition of the matter at least every 90 days.**

**ANSWER: T**

# Explanation

- The agency has legal custody of a child when the child is adjudicated CHIPS and the court orders custody to the agency (child is in foster care);
- The out-of-home placement plan is ordered as part of disposition

Every 90 days, the court reviews both the continuing necessity of the placement and progress on the case plan.

- *Reference: R. 41.06*

# Quiz

## Question 2. T/F

The purpose of a hearing to review the disposition is to redraft the out-of-home placement plan and decide what additional services the agency should be providing.

**ANSWER: F**

**Also acceptable, partly T**

# Explanation

- **The purpose of the disposition review hearing is to determine whether:**
  - continuing the child in foster care is necessary;  
or
  - the child should be returned to the home of the parent from whom the child was removed
- **The goal of the hearings is to ensure progress on the case plan and that the child spends the shortest amount of time possible in temporary placement.**



# More explanation

## Court considers:

1. relevance of the plan to the safety & best interests of the child;
2. agency's reasonable, or in the case of an Indian child active, efforts;
3. progress toward alleviating or mitigating the need for placement;
4. visitation between parents and child – and what barrier there are to visits, if any;
5. whether **both** parents are involved in the plan;
6. services for the child;
7. sibling visitation or placement together, as appropriate;
8. relative search and consideration for placement;
9. concurrent permanency planning efforts, when appropriate.

# Even more explanation

- Reviewed items help to ensure
  - the adequacy of the government’s response to the child’s need for protection or services;
  - keep focus on maintaining the parent-child-sibling relationships;
  - reinforce/establish what the parent must change to have the child return home
- The out-of-home placement plan is the roadmap for resolving the issues that led to the placement.
- If the plan is not working, then the court should address the reasons including whether there are portions of the plan that need to be changed (redrafted).
- *Reference for explanation: R. 41.06 subd. 2 and Resource Guidelines, VI Review Hearings*

# Quiz

## Question 3. T/F

*When the court has scheduled a hearing to review disposition, both the social worker and the GAL must submit written reports to the court 5 business days before the hearing.*

**ANSWER: T**

# Explanation

- Once the court “approves” or “orders” the case plan, the agency has the responsibility to report on the progress on the plan. The court “approves the plan under *R.37.02* and orders it under *R. 41.05 subd. 2 (b)*.
- The GAL has the duty to submit periodic written reports for every hearing except the EPC. See *R. 38.05 subd. 3*.
- When reports by the agency or GAL are required, they must be submitted 5 days business days before the hearing.
- Reference for explanation: *R. 38.01* and *38.05*

# Quiz

## Question 4. T/F

**When a child is in foster care, the agency must report to the court on visitation at every disposition review hearing.**

**ANSWER: T**

# Explanation

- When the agency has custody of the child and the child is in foster care, the agency must report on visits and the court will review visitation.
- The report and the disposition review hearing should address visitation between the parent and child and between the child and siblings when siblings are placed in a different foster home at each hearing.
- Reference for explanation: *R. 38.02(b)* and *R. 41.06*

# Quiz

**Question 5. T/F**

**Alleged fathers have no right to be notified of CHIPS proceedings.**

**ANSWER: F**

**Question 6. T/F**

**Fathers cannot be present at disposition review hearings**

**ANSWER: F**

# Explanation

**Alleged fathers have the right to notice of CHIPS proceedings:**

- **They are participants in CHIPS proceedings (*R. 22*)**
- **Right to notice, as well as other statutory obligations of agency to fathers of children in foster care, provide the opportunity for alleged fathers to demonstrate concern and interest for the child through cooperation with the agency:**
  - **in paternity establishment proceedings; &**
  - **to obtain services, if necessary, to enable him to provide day-to day of his child**
- **It also affords the opportunity to tell the court about any problems the alleged father may be encountering with accessing services or information about his child, or about visiting the child.**
- **Reference for explanation: *R. 22.01* and *Minn. Stat. 260C.151 subd. 2.***



# Quiz

**Question 7. T/F: Foster parents of a child have the right to be present and to be heard at hearings to review the disposition.**

**ANSWER: T**

# Explanation

- **Federal law requires that states give foster parents the right to be heard in any review hearing regarding a child in their care.**
- **Minnesota requires foster parents to be given notice and an opportunity to be heard**
  - also:
    - preadoptive parents
    - relative caretakers
    - other relatives who ask
- **This requirement was amended this legislative session to match federal requirement of “right to be heard”**
- **Reference for explanation: *R. 22.02* and *Minn. Stat. 260C.152 subd. 5***

# Quiz

**Question 8. T/F: Parents can file written reports with the court.**

**ANSWER: T, if parent is a party**

# Explanation

**While “reports” by parents are not specifically provided by court rule or statute, parties (including custodial parents or parents who have intervened) have the right to:**

- present evidence
- request review of the court’s disposition

**A parent may present information through the parent’s attorney and on the record at the hearing; information may be under oath or not (except at trial, where it must be under oath)**

**A parent could certainly file a report with the court. Further, if the parent objects to the agency’s or GAL’s report, the parent can file a written objection with a certified statement about the basis for the objection**

- **Reference for explanation: *R. 21.02 and R. 38.04***

# Judicial Oversight in Child Protection Cases

**Court decisions shape agency actions by identifying dangers and defining the agency's approach to each case, and related delivery of services to the child and family. Regular court review of each case refines and redefines agency involvement.**

*Resource Guidelines, NCJFCJ, page 15*

**The court's judgment is based on the information available in each and every hearing. What stakeholders tell the court or fail to tell the court shapes the court's oversight and the outcome of the case for the child and family.**

*CJI Judges Benshoof, Miles, and Rodenberg, Spring 2007*