

# 16

## JUDICIAL HEARINGS AND MANDATED FOSTER CARE REVIEWS

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# 16

## JUDICIAL AND MANDATED FOSTER CARE REVIEWS

### 16.1 Introduction

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The Code of Virginia requires that foster care plans for children in custody or foster care placement be reviewed to assure the effectiveness of permanency planning for every child. Procedures for review are described below ([§§ 63.2-907](#) and [16.1-282](#)). The types of reviews are foster care review hearings, permanency planning hearings, administrative panel reviews, and supervisory reviews. These review dates shall be entered into OASIS. Every LDSS shall ensure that, unless it interferes with the safety of the child, the child or youth is available for the judge or hearing authority to meet with and discuss the child or youth's proposed permanency plan. The court system also plays a critical role in meeting the eligibility requirements of federal funding sources. Service workers and supervisors should review all court orders for appropriate language including but not limited to "contrary to the welfare" and "reasonable efforts" consistent with requirements for each order in each case.

### 16.2 Reassessments and reviews

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#### 16.2.1 Types of reviews and hearings

- **Foster care review hearing** ([§ 16.1-282](#)). This is a court hearing to review progress made on the foster care plan. This hearing is held within four (4) months of the 60-day dispositional hearing or the hearing approving the entrustment agreement and continues to be held in certain instances.
- **Permanency planning hearing** ([§ 16.2-282.1](#)). This is a court hearing where action is to be taken by the court to achieve permanency for a child. Although state code permits the permanency planning hearing to be scheduled within six (6) months of the foster care review or within ten (10) months of the dispositional hearing, the courts are routinely scheduling the first permanency

planning hearing within five (5) months of the review hearing. This allows a grace period of 30 days prior to the 12 month federal requirement that the permanency planning hearing be held in the event that the case cannot be heard as scheduled. This hearing is held for every child:

- Within five (5) months of the first foster care review hearing.
- Within nine (9) months of the dispositional hearing.

A permanency planning hearing should be held earlier if permanency can be achieved for the child earlier. If a permanent plan cannot be achieved at this hearing, a second permanency planning hearing shall be held within six (6) months. The court shall make a judicial determination that reasonable efforts have been made. (See [Section 16.4](#) for a basic timeline of the court hearing dates and requirements.)

If the court determines that reasonable efforts do not need to be made to reunite the child with the parent at a hearing other than a permanency planning hearing, a permanency planning hearing shall be held **within 30 days** of that determination.

- **Administrative Panel Reviews (APR).** Federal law requires reviews every six (6) months. These may be court reviews or a court review alternating with an APR. APRs are not court hearings, but reviews held by LDSS instead of court reviews for children who have a permanency goal of adoption, or permanent foster care. They are held within six (6) months of the permanency planning hearing where a permanency goal is approved and yearly thereafter, alternating with court reviews as appropriate. APRs are also held for those youth assigned the goal of independent living or permanent foster care and are in the Fostering Futures Program. The APR for these young adults shall occur every six (6) months while they are in the program unless the court requires a court review instead.
- **Local Supervisory Reviews.** These are reviews for youth that turned age 18 prior to July 1, 2016 and who continue to receive independent living services. Court hearings are not required for these youth. These reviews are held every six (6) months.

### 16.2.2 Parents' and foster parents' attendance at court hearings

Parents are to be provided notice of each hearing by the court. At each hearing, they will be given notice of the next hearing. If they are not present, they shall be summoned to the next hearing. If they have been given proper notice, or the court determines they cannot be found after diligent efforts to locate the parent(s) have been made on the part of the LDSS, the hearing may be held without parents present. The intent of this requirement is to ensure all possible efforts are made to

find and involve the parent(s) in planning for the child. Parents whose rights have been terminated do not receive notice.

Foster parents and pre-adoptive parents are to be notified of every hearing in writing. Their names shall be included on the foster care plan transmittal submitted to the court. Service workers should also discuss upcoming hearings with the parents and foster and adoptive parents and encourage their attendance.

The service worker should provide and discuss with the foster parent, pre-adoptive parent, or relative caregiver a copy of the brochure [Adoption and Safe Families Act: Applying the Notice and Right to Be Heard Provision in Virginia's Juvenile and Domestic Relations District Courts](#). This brochure explains the requirements that they must be provided with timely notice of and an opportunity to be heard in six month review hearings and permanency hearings held with respect to the child in their care. It explains they do not have the right to standing as a party to the case. It also describes the participants in the case and what they may expect by way of notice and "a right to be heard."

The foster parent, pre-adoptive parent, or relative caregiver should be encouraged to attend and speak at the hearing, when recognized by the judge, with respect to the child during the time the child is in their care.

### **16.2.3 Scheduling of court hearings**

At each court hearing, the court places the next court hearing on the docket. The court shall also provide notice to those present who need to attend the next hearing. If the court establishes the next court date on the docket, the LDSS will not have to ask the court to set a court date.

### **16.2.4 Completing the Foster Care Plan Review Form**

Prior to the foster care review hearing, the permanency planning hearing, or the APR, the worker should reassess the progress that has been made toward meeting the permanency goal in the foster care plan. The worker records the results of that reassessment on the Foster Care Review Form developed in accordance with the requirements below. The review form provides a description of what has happened in the case since the foster care plan was developed. For children with a goal of adoption, the Foster Care Review Form and the Adoption Progress Report shall be submitted to the court whenever a hearing is held. However, only the Adoption Progress Report shall be submitted to court for the APR.

Input from the birth family or prior custodian, foster parents, or other providers, the child, and other individuals involved with, or significant to, the child and family such as therapists, friends, relatives, and teachers, shall be sought in completing this reassessment.

The Service Plan Review Form shall be signed by the worker and supervisor, and includes:

- The services which were offered to the child and family to meet the needs identified in the last service plan.
- The appropriateness of services, and the barriers to goal achievement, including identification of resources that are needed by the family that are not available in the community.
- A discussion of the effectiveness of the services provided.
- Any changes in the service plan, such as changes in services, placement, or visitation.
- The reasons for retaining the child in care, including efforts to return the child home, when the child is expected to return home and when appropriate, an assessment of the risk to the child should the child return home or be placed with relatives.
- Efforts made to work towards the identified concurrent goal and how it might be achieved if the primary goal, usually return home, is ruled out.
- If the child is not going to return home, the service plan review shall document the continued intensive on-going efforts to achieve permanency. The service plan shall state another goal for the child, when that goal is anticipated to be achieved; and in the case of placement in an adoptive home, when the LDSS will file for TPR. The foster care plan shall also indicate when out-of-state placements were considered and why; and if the child is placed out-of-state the foster care plan shall include how this placement is in the best interest of the child and continues to be the most appropriate placement for the child.
- For youth who have attained age 14, the services needed to transition from foster care to independent living. This is addressed by attaching the youth's transition plan to the foster care plan for submission to court.
- The birth family's or prior custodian's current situation.
  - The frequency, duration, location, and results of any visitation.
- Information about the child's relationship with the birth family, including relatives.
- Information regarding the child's current relationship with siblings and, if siblings are not placed together, the communication or visitation plan describing the plan for maintaining contact between the siblings and services being provided to achieve reunification.

- Pertinent information about birth, medical, and developmental history of the child, if not available in prior assessments.
- Information on current health and physical development and recommendations for any necessary follow-up treatment or further checkup with specialists.
- The child's health report from OASIS shall be attached to the foster care review document and be submitted to court.
- Current information on psychological, social, and educational functioning with specific descriptions and recommendations regarding peer relationships, coping mechanisms, learning disabilities, emotional symptoms, or behavior problems, and the current educational status of the child.
- The child's education screen from OASIS shall be printed and attached to the foster care plan to address the child's educational status.
- Information from the foster parents or other providers about the child's adjustment to foster care, efforts to implement normalcy in the placement, and the child's current level of social and emotional functioning. Information about the child's relationship with the foster parents or other providers shall be included to assess the degree of attachment with the child.
- Any changes in identified needs and services to be provided during the next six (6) months for children and their families.
- A statement that parents with residual parental rights or prior custodians have been notified in writing of any change in placement, visitation privileges, and provided with **ten (10) days advanced notice** of the review.

### 16.2.5 First Foster Care Review Hearing

The purpose of the first foster care review hearing is to review the progress made on the initial foster care plan or make changes in the plan pursuant to [§ 16.1-282](#).

The first foster care review hearing is scheduled to be held within four (4) months after the 60-day dispositional hearing or the hearing at which the foster care plan is initially reviewed.

**Thirty (30) days prior** to the scheduled hearing, the LDSS will submit to the court:

- A petition for a Foster Care Review Hearing.
- A Foster Care Plan Review Form which shall include any updates to the initial Foster Care Service Plan.

- An updated Client Education Report printed from OASIS.
- An updated Client Health Report printed from OASIS.
- A Transition Plan and signature page, signed at least annually by the youth age 14 and older, acknowledging receipt of his/her rights.
- A Foster Care Plan Transmittal listing individuals who should receive a copy of the petition and/or be notified of the hearing. These include the child, if age 12 or over, the parents, foster, pre-adoptive, and relative caregivers, guardian or prior custodian, the Guardian ad Litem, the LDSS, and any other interested parties the court directs.
- A new foster care plan is not required unless the goal changes.

The court will review progress toward meeting the foster care goal, approve changes to the plan, enter any appropriate orders, and determine whether reasonable efforts have been made to return the child home if that is the goal or to finalize another permanent placement.

The service worker shall verify that the judge has correctly checked the box that indicates reasonable efforts have been made.

### **16.2.6 Permanency Planning Hearing**

The Code of Virginia [§ 16.1-282.1](#) describes the permanency planning hearing.

#### **16.2.6.1 Purpose of the Permanency Planning Hearing**

The purpose of this hearing is to establish a permanent goal for a child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child. Because timely permanency is critical for healthy development and a sense of security and safety for children, all efforts to achieve the permanency plan and avoid a continuation of foster care placement shall be made. The court shall ask the child, in an age-appropriate manner, about the child's permanency goal and make a judicial determination this is in the best interest of the child.

#### **16.2.6.2 Scheduling of the Permanency Planning Hearing**

This hearing should be scheduled at the previous foster care review hearing. The first permanency planning hearing shall occur within five (5) months of the foster care review hearing and within 11 months of the date of placement.



### 16.2.6.3 Materials submitted to the court

**Thirty (30) days prior** to the hearing, the service worker submits to the court a Permanency Planning Hearing Petition, a Foster Care Plan Transmittal Form, a new Foster Care Plan Review Form, and a new Foster Care Service Plan. A new Foster Care Service Plan is not required if the petition filed by the LDSS will result in permanency being achieved. If the child has been in the custody of the LDSS for 15 out of the last 22 months and no TPR petition has been filed, the LDSS must state in its petition for permanency planning the reasons why a TPR petition has not been filed (see [Section 16.2.6.5](#)) and the reasonable efforts made towards reunification or transfer of custody to a relative and the timeline of such efforts ([§ 16.1-282.1](#)). The LDSS shall petition the court to take one of the following actions:

- Return custody to parents or prior custodians;
- Transfer custody to relatives;
- Dissolve the non-custodial foster care agreement and return the child home;
- Terminate parental residual rights pursuant to [§16.1-283](#). The LDSS shall file a foster care plan changing the goal to Adoption;
- Place the child in permanent foster care (child shall be at least 16 years of age). The LDSS shall identify the permanent foster parents with whom the child:
  - Has a significant bond.
  - Is living.
- Approve the goal of Another Planned Permanent Living Arrangement (APPLA) for children at least 16 years of age or older;
- Continue custody with the LDSS; or
- Transfer custody to the LDSS of a child in non-custodial foster care.

### 16.2.6.4 Submitting new Foster Care Service Plan

The plan submitted at the permanency planning hearing shall include:

- An updated Client Education Report printed from OASIS
- An updated Client Health Report printed from OASIS,

- An updated Transition Plan and signature page, signed at least annually by the youth age 14 and older, acknowledging receipt of his/her rights

The plan shall address additional issues and the services to be provided related to achieving permanency for the child when permanency is not achieved by this hearing. Issues to address include:

- If the LDSS decides that it is in the best interests of the child to ask for continued custody and the goal is Return Home or Placement with Relatives, the foster care plan shall describe how the LDSS intends to accomplish the goal of Return Home or Placement with Relatives in the next six (6) months.
- The LDSS shall explain in the foster care plan part B, why the child could not be returned home, adopted, or placed with relatives and custody transferred.
- If the LDSS petitions the court to transfer custody to parents, prior custodians, or relatives, the LDSS does not have to submit a new foster care plan to the court at the permanency hearing. It will describe the reunification services that will be provided to the family in the Foster Care Plan Review Form. If the court does not approve the transfer of custody, the LDSS will need to develop a new foster care plan identifying how it will achieve the goal for the child in the next six (6) months.

The LDSS shall determine whether it will petition for termination of parental rights.

- If the LDSS determines it will not petition for termination of parental rights at the permanency planning hearing, it shall document in the foster care plan or the permanency plan (Part B) one of the exceptions detailed in Section 16.2.6.5.
- If the LDSS determines it will petition for TPR at this hearing, it shall:
  - File a petition which states termination of parental rights is in the best interests of the child.
  - File a foster care plan with the goal of adoption.
  - File petition(s) for termination of parental rights if it is ready to do so.
- If the LDSS determines it will petition for TPR but not at this hearing, it should petition **within 30 days** of the hearing to assure that federal requirements are met. A foster care plan with the goal of adoption and

petition which states termination of parental rights is in the best interest of the child will still need to be filed for this hearing.

- Federal law requires that the LDSS petition for TPR by the end of the 15<sup>th</sup> month of placement for children adjudicated abused and neglected, who have been in care 15 of the last 22 months and by the end of the 15<sup>th</sup> month of placement for all other children who have been in care 15 out of the last 22 months unless an exception cited below exists.
- If the court does not approve the request of the LDSS to change the goal to Adoption or seek termination of parental rights, the LDSS will not be required to petition for TPR since the court has determined that another course of action is in the best interests of the child.

The LDSS may submit to the court a written Post-Adoption Contact and Communication Agreement (PACCA), if appropriate (see [Section 9.11](#)).

See [Section 9.4](#) for additional information on termination of parental rights.

#### **16.2.6.5 Exceptions to the requirement to file for TPR**

As stated above, federal law requires that the LDSS petition for TPR by the end of the 15 month of foster care for children who have been in care 15 out of 22 months unless an exception exists. **Thus, the LDSS must determine whether it will file for TPR or claim an exception in the 30 days prior to the child reaching the 15 month mark.** This will ensure that the LDSS will be able to timely file for termination of parental rights or complete and submit to VDSS and the court an exception to the requirement to file as listed below. If the LDSS determines it will not petition for termination of parental rights at the permanency planning hearing, it must document in the foster care plan (Part B) one of the following exceptions:

- 1) The child is being cared for by a relative and the relative is pursuing custody of the child and does not want to adopt (document the following):
  - Where the child is placed;
  - Length of time in the home;
  - Adjustment of the child to the placement;
  - Stability of the placement;
  - Fitness and capability of the relative;

- Safety and quality of care the child receives;
  - Commitment of the relative to the child (present and future); and
  - That adoption has been discussed with the relative.
- 2) The LDSS has not provided services to the parents deemed necessary for the safe return of the child (document the following):
- The specific reunification services not provided, but considered necessary for the child's safe return;
  - The reason such services are delayed or have not been provided within the time frames outlined in the case plan;
  - Steps to remedy the failure to provide services;
  - If services are provided the likelihood it will bring about safe reunification within a specified time (indicate that time frame).
- 3) TPR is not in the best interests of the child. The law requires that the LDSS document a compelling reason explaining why termination is not in the best interests of the child.

Determinations regarding compelling reasons must be made on a case-by-case basis.

Examples of compelling reasons for not petitioning for TPR include (but are not limited to):

- A parent has made substantial progress toward eliminating the problem that caused the child's placement in foster care; it is possible for the child to safely return home within six months, and the child's return home will be in the child's best interest;
  - If this is selected as a compelling reason, the LDSS shall document in the foster care plan what services the parents must still complete and the timeframe for completion. The LDSS must provide specific reasons as to why the services have not been completed in 15 months. The LDSS must also document a specific plan to initiate a trial home visit prior to the next court hearing.
- Another permanency plan is better suited to meet the health and safety needs of the child. The following situations are examples of when an alternative permanency plan may be in the child's best interest:

- The child is 14 years of age or older, objects to the TPR (§ [16.1-283](#) G), and does not wish to be adopted after documented efforts, including therapeutic interventions have been provided. The LDSS must make continuous efforts towards achieving permanency. (See [Section 9.5 and 9.5](#) regarding preparing and involving youth regarding adoption)
  - The parent and child have a significant bond, but the parent is unable to care for the child because of an emotional or physical disability and the child's relative caregiver or permanent foster parent has committed to raising the child to adulthood and facilitating visits with the parent;
  - The child is 16 years old, has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment, and meets the criteria for a goal of Another Planned Permanent Living Arrangement (APPLA).
  - The child entered foster care due to reasons other than abuse and neglect; their parent, guardian or legal custodian has cooperated with referrals, visitation, family conferences and therapy; the child is uncooperative or inconsistent with services or referrals; and the child continues to require placement to address reason for entry.
  - A relative has shown the will and ability to care for the child and has petitioned the court for custody of the child.
  - The parent's incarceration or participation in a court-ordered residential substance abuse treatment program constitutes the primary factor in the child's placement in foster care and termination of parental rights is not in the child's best interests.
- If the LDSS has questions regarding appropriate use of a compelling reason not to file for termination of parental rights, they may reach out to their regional practice consultant to discuss the specific, unique circumstances that exist in their case.

If the LDSS does not file for termination of parental rights when a child has been in care for 15 out of the last 22 months, they must submit a report to their regional practice consultant that includes a clear description of the reasons why such a petition has not been filed and the reasonable efforts made regarding reunification or placement of the child with a relative. The LDSS must submit the report, using the [Summary of Decision to Not File TPR Form](#), to their regional practice consultant within **five business days** of their decision to not file for termination of parental rights. This summary form must also be attached

to the child's next permanency planning petition and foster care plan for documentation of the date the agency determined it would not file for TPR.

#### **16.2.6.6 Court-ordered permanency actions**

The court will order one of the following permanency actions, documenting its findings on the permanency plan order:

- Approve the LDSS plan for the child, which transfers custody to parents, prior custodians, or relatives;
- Approve a plan for return home or placement with relative and continue the child in care;
- Change the goal to Adoption and begin the termination of parental rights process;
- Place the child in permanent foster care; or

Approve the goal of APPLA and schedule a foster care review hearing to be held within six (6) months to review the child's placement. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six (6) months from the date of the permanency planning hearing. These six-month reviews shall continue as long as the child continues to have a severe disabling condition for which the child requires residential treatment and remains in the legal custody or placement authority of the LDSS. ([§ 16.1-282.1](#)) The court shall ask the child about the child's permanency outcome and make a judicial determination this is in the best interest of the child. The court order shall document that reasonable efforts to achieve a permanency plan are being made.

Hearings may end for children whose custody is transferred to parents, prior custodians, or relatives. In those cases where hearings will continue, the court will schedule the next appropriate hearing and provide notice to all present.

The court shall incorporate the written Post-Adoption Contact and Communication Agreement (PACCA) into an order entered at the conclusion of the hearing, if appropriate, and all requirements have been met ([§ 16.1-283.1 B](#)) (see [Section 9.11](#)).

Permanency planning hearings shall be documented on the Court/Hearing Details screen and the Hearing Detail Results screen in OASIS.

#### **16.2.7 Subsequent Permanency Planning Hearing**

This hearing will occur within six (6) months of the first permanency planning hearing should a permanency goal or plan not be achieved by the first permanency planning

hearing. The same requirements apply to this hearing as apply to the first permanency planning hearing. The court order shall document that reasonable efforts are being made to return the child home or achieve another permanency plan.

### **16.2.8 Foster care review hearings after permanency goal approved**

Where the goals of adoption and permanent foster care are approved, the foster care review hearings are held annually after the permanency planning hearing. The purpose of these hearings is to review the child's progress. For cases where the goal of adoption has been approved, the court may require hearings every six (6) months.

Administrative panel reviews are held at six-month intervals between these yearly court reviews. These court hearings and reviews are discontinued once the final order of adoption is issued or the child is discharged at age 18, except in the circumstance where IV-E funding is used for completion of an educational/vocational program by the age of 19 years old. (Where the goal of permanent foster care has been approved, see [Section 16.3](#) regarding annual foster care review hearings.)

When a youth in foster care is being paid through title IV-E because he is to complete an educational/vocational program by his 19<sup>th</sup> birthday, there shall be an annual judicial review. That means, for example, if the youth has a hearing two months before he turns 17, there shall be another hearing within the next 365 days if the youth is to continue with title IV-E funding. If the same youth leaves care or his funding stream shifts to CSA before the 365 days elapses, then no court hearing is required to meet federal requirements.

Where the goal of APPLA is approved, foster care review hearings are held every six (6) months.

**Thirty (30) days prior** to a scheduled hearing, the LDSS submits a Petition for Foster Care Review, an Adoption Progress Report if the goal is Adoption, the foster Care Plan Transmittal, Foster Care Plan Review Form, and a new Foster Care Plan if there is a change in goal.

The court reviews progress in the case, approves the foster care plan, and enters appropriate orders documenting findings on reasonable efforts to achieve a permanency plan. For children with the goal of adoption who meet the criteria for restoration of parental rights (§ [16.1-283.2](#)), the court shall inquire of the LDSS and GAL whether the child has expressed a preference that the possibility of restoring parental rights be investigated. The court may then direct the LDSS or GAL to assess the appropriateness of pursuing the restoration of parental rights and file the appropriate petitions.

### 16.3 Permanent foster care and reviews

Once children are placed in a court-approved permanent foster care placement with a permanent foster family named in the court order, they are to have annual foster care review hearings scheduled at the conclusion of the hearing where the permanent foster care order was entered (§ 16.1-282.2). Annual court reviews are intended to allow the court to consider the appropriateness of the services provided, changes in circumstances that led to the court placing the child in permanent foster care, and continued efforts to achieve permanency for the child.

Permanent foster care cases shall have an APR which will occur every six (6) months between the annual judicial reviews.

### 16.4 Basic timeline

TIMING	STATUTE	HEARING TYPE	FORMS
Immediately	§ 16.1-251 § 16.1-253	Emergency Removal Order (ERO)	Petition DC – 511 Emergency Removal Order DC-526 Preliminary Child Protective Order, if necessary, DC-527
Within 5 Days	§ 16.1-252 § 16.1-253	Preliminary Removal Order (PRO) & Adjudication	Petition DC – 511 Preliminary Removal Order DC – 528 Preliminary Child Protective Order, if necessary, DC – 527
Within 30 Days	§ 16.1-252 § 16.1-253	Adjudication, only if no adjudication at PRO	Petition DC – 511 Adjudicatory Order-561
Within 45 Days	§ 16.1-281	Submission of Foster Care Service Plan. No court hearing at this time	Foster Care Service Plan Foster Care Plan Transmittal DC – 552 Client Education Report from OASIS Client Health Report from OASIS Transition Plan including the Youth Rights Acknowledgement page



<b>TIMING</b>	<b>STATUTE</b>	<b>HEARING TYPE</b>	<b>FORMS</b>
Within 60 Days of Preliminary Removal Order Hearing	<a href="#">§ 16.1-277.01</a> <a href="#">§ 16.1-277.02</a> <a href="#">§ 16.1-278.2</a> <a href="#">§ 16.1-278.3</a> <a href="#">§ 16.1-281</a>	Disposition – Initial Foster Care Service Plan Reviewed	Child protective Order DC-532 Foster Care Plan Transmittal DC - 552 Foster Care Plan Part A Permanency Plan Part B, if initial goal is not return home Dispositional Order for Petition DC – 553 Client Education Report from OASIS Client Health Report from OASIS Transition Plan including the Youth Rights Acknowledgement page
Within 4 Months of Disposition	<a href="#">§ 16.1-282.1</a>	Foster Care Review Hearing	Petition for Foster Care Review Hearing DC – 554 Foster Care Plan Transmittal DC – 552 Foster Care Plan Review Foster Care Review Order DC – 555 Client Education Report from OASIS Client Health Report from OASIS Transition Plan including the Youth Rights Acknowledgement page
Within 5 Months of Foster Care Review Hearing	<a href="#">§ 16.1-282.1</a> <a href="#">§ 16.1-283</a>	Initial Permanency Planning Hearing	Petition for Permanency Planning Hearing DC – 556 Foster Care Service Plan Transmittal DC – 552 New Foster Care Plan Part A & B (unless the petition being filed results in permanency being achieved) Foster Care Plan Review Permanency Planning Order DC – 557 Client Education Report from OASIS Client Health Report from OASIS Transition Plan including the Youth Rights Acknowledgement page

TIMING	STATUTE	HEARING TYPE	FORMS
<p>Within 6 Months of Initial Permanency Planning Hearing or Second Permanency Planning Hearing</p>	<p><a href="#">§ 16.1-282.1</a></p>	<p>Subsequent Permanency Planning Hearing for goals of Return Home, Placement with Relatives, (If interim plan approved at Initial PPH)</p>	<p>Petition for Permanency Planning Hearing DC – 556                      Foster Care Plan Transmittal                      Foster Care Plan Part A &amp; B (unless the petition being filed results in permanency being achieved)                      Foster Care Plan Review                      Permanency Planning Order DC – 557                      Client Education Report from OASIS                      Client Health Report from OASIS                      Transition Plan including the Youth Rights Acknowledgement page                      Summary of Decision Not to File for TPR (if TPR has not been filed)</p>
<p>Within 6 Months of Second Permanency Planning Hearing and Every 12 Months Thereafter</p>	<p><a href="#">§ 63.2-907</a>  <a href="#">§ 16.1-282.1</a></p>	<p>Administrative Panel Review</p>	<p>Foster Care Plan Review Form and Adoption Progress Report (if goal is adoption)                      APR Form                      Client Education Report from OASIS                      Client Health Report from OASIS                      Transition Plan including the Youth Rights Acknowledgement page</p>

TIMING	STATUTE	HEARING TYPE	FORMS
6 Months from Date of Approval of Another Planned Permanent Living Arrangement (APPLA)  or  12 Months from Last Permanency Planning Hearing for Adoption Prior to Final Order, or Permanent Foster Care	<a href="#">§ 16.1-282.1</a>	Foster Care Review Hearing	Petition for Foster Care Review DC – 554 Foster Care Review Order DC – 555 Foster Care Plan Transmittal DC – 552 Foster Care Plan Review Foster Care Review Order DC – 555 Client Education Report from OASIS Client Health Report from OASIS Transition Plan including the Youth Rights Acknowledgement page
		Foster Care Review Hearing	
Filed Every 6 Months from the date of the court order approving the goal of adoption		Adoption Progress Report Filed until final order of adoption is issued; the court may not hold a hearing	Adoption Progress Report (DSS Form)

## **16.5 The Adoption Progress Report**

If the goal for the child is Adoption, the LDSS shall submit the Adoption Progress Report to the court documenting progress toward adoption within six (6) months of the permanency planning hearing changing the goal to adoption ([22VAC40-201-110](#)). The court has the option to schedule a hearing to review this report. The court will hold annual foster care review hearings after termination of parental rights until the final order of adoption is issued. The court order shall document reasonable efforts to finalize a permanency plan. The LDSS shall continue to submit the Adoption Progress Report

every six (6) months to the court until the adoption is finalized. Following the termination of parental rights, the LDSS should sync the adoption progress report with the annual hearing. The adoption progress report may need to be filed earlier than six (6) months in order for this to happen. The adoption progress report shall always coincide with either the APR or the annual court review.

The court will provide a copy of the Adoption Progress Report to the Guardian ad Litem (GAL) for the child.

The LDSS should email the Adoption and Family Recruitment Consultant to advise that an adoption progress report has been completed. The email should provide to the consultants the case number and client ID so that the report may be reviewed.

The Adoption Progress Report is completed and filed every six (6) months from the date the goal of adoption is approved in Juvenile Domestic and Relations Court, until the adoption has been finalized. The service worker should use the adoption progress report to notify the court when the adoption is finalized within ten (10) business days of receiving the final order of adoption.

## **16.6 Administrative Panel Reviews (APR)**

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APRs are held for children in foster care who have a foster care goal of:

- Adoption.
- Permanent Foster Care.
- Independent Living

APRs begin six (6) months after a permanency planning hearing when one of the above referenced goals is approved by the court. The child will continue to have APRs alternating with annual foster care review hearings until a final order of adoption is issued or the child reaches age 18.

Once the child reaches the age of 18, and enters the Fostering Futures Program, APRs shall occur every six (6) months, unless the court chooses to schedule a court review. Court hearings are no longer required.

### **16.6.1 Function and purpose of the APR**

The function of the APR is advisory. Recommendations made as a result of the APR process should be considered in planning services for the child and family. These reviews provide a forum for consideration, discussion, and planning for the care of the child as well as for a review of the effectiveness of service provision for the child and family. These reviews provide an opportunity to ensure that children, parents, the LDSS, and other team members involved with the family remain committed to and are making every reasonable effort to achieve the goal identified for the child.

### 16.6.2 Composition of the Review Panel and notification

The APR shall be conducted by a panel of appropriate persons at least one of whom is not responsible for the case management or delivery of services to either the child or the parent(s).

The following individuals shall be invited to participate in the APR and shall be provided with written notice of the meeting **at least 30 days** in advance:

- Parents who have not had parental rights terminated.
- Foster and adoptive parents.
- Youth who is 12 years of age or older and up to two members of the planning team who are chosen by the child and are not the service worker or foster parent.
- A child/youth who is under 12 years of age may be involved in the APR if such involvement is consistent with the best interest of the child.
- Staff from child-placing agencies and residential placements when applicable.
- The child unless it is determined to be detrimental to the child's well-being.
- Guardian ad Litem (GAL).
- Any professional providing services to the child and parents.
- An outside objective panel member.

Attorneys representing parents and the LDSS may be invited when determined appropriate by the LDSS.

Outside objective panel members participating in the review may be, but are not limited to:

- Court service workers;
- Private citizens;
- Staff of other services agencies;
- Multi-discipline team members;
- Other LDSS workers;
- FAPT team members; or

- Placement providers not involved in the case being reviewed.

Confidentiality of case records shall be maintained and all panel members shall sign a confidentiality statement such as those contained in the APR form or the Individual Family and Service Plan (IFSP).

Input from all panel members should be considered, and the LDSS is the responsible agency to ultimately decide how all input is used in the planning for the child.

The Family Assessment and Planning Team (FAPT) staffing may substitute for an APR as long as the requirements for the APR are met.

### **16.6.3 Preparation and planning for APR**

Panel Reviews are an administrative review mechanism and should be planned and prepared for with the same diligence as workers would for a court hearing. It is the service worker and administration of the LDSS who establishes an atmosphere that conveys the importance of the APR and sets the expectation for all involved. By thoroughly documenting the child and family's well-being and progress, preparing written material well in advance of the meeting, extending invitations to participate **30 days in advance** of the review, and facilitating the meeting in a manner that encourages active participation, the service worker creates a forum that promotes engagement of all parties.

Invitation letters to parents, previous caretakers, foster and pre-adoptive parents, and any other individuals identified by the child or family as having a significant positive role in their lives shall communicate information in understandable terms and in the family's primary language. Specifically, invitation letters should inform the invited party of the reason for the meeting and stress the LDSS' desire to include those individuals as part of the team that is planning for the child.

Since it is critical that all individuals who are significantly connected to the life of the child are invited to the review, LDSS staff should make active and ongoing efforts to encourage their attendance and participation. Telephone follow-up to the invited party after the invitation letter is sent to discuss the review and the reason their attendance is valuable is one simple step workers should make to further encourage involvement. Offers to assist in transportation, scheduling the review at times conducive to the family and other parties' schedule, and consideration of holding the meeting at a location that provides easier access for these members are additional best practices to facilitate involvement.

### **16.6.4 Conducting and documenting the APR**

The Foster Care Plan Review Form and the Adoption Progress Report, if the goal is adoption, shall be completed prior to the APR. However, only the Adoption Progress Report shall be filed with the court.

During the APR, the panel shall address and make recommendations when needed concerning the following:

- How the services provided during the preceding six (6) months met the needs of the child as defined in the foster care plan.
- In what ways the child's current placement is appropriate, meeting his need for normalcy and safety as well as all other needs.
- The parent(s)', child's, and foster care or pre-adoptive provider's or other attending family members issues and concerns regarding planning for the child.
- The LDSS, parent(s)', child's, and foster care or pre-adoptive provider's engagement in services and activities identified in the foster care plan.
- Any barriers to progress.
- Appropriateness of the program goal for the child and of the date for goal achievement.
- Continuing need for placement.
- Continued efforts to help the child achieve permanency.
- The child's wishes regarding the permanency plan.

The findings of the panel and any recommendations made by the panel, including changes to the foster care plan, shall be recorded on the APR Form. Recommendations from the APR that result in a change from the existing foster care plan should be documented. The LDSS should consult with their attorney regarding the appropriate process for communicating these changes to the court.

The birth parent(s)/prior custodians, foster parents, or pre-adoptive parent(s) not in attendance should be given a copy of the final report from the APR.

## **16.7 Additional information regarding required reviews**

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### **16.7.1 Hearings when cases are on appeal**

When a case is on appeal for TPR, the Juvenile and Domestic Relations District Court retains jurisdiction on all matters not on appeal and shall continue to hold reviews. The appeal hearing may substitute for a review hearing if the appeal court adjudicates the future status of the child.

### 16.7.2 Children committed to the Department of Juvenile Justice

Children formerly in the custody of the LDSS who have been committed to the Department of Juvenile Justice (DJJ) shall be discharged from foster care and no court hearings or reviews apply. (§ [16.1-278.7](#)). The case shall remain open in OASIS with the case type “Former Foster Care-Committed to DJJ” and the service worker shall continue to be involved with case planning and visiting the child monthly. The Court Service Unit’s video conference technology may be used to conduct the visit every other month. The Memorandum of Understanding between VDSS and DJJ, as well as the joint guidance, can be found [here](#). See section [3.9.3 and 3.9.4](#) for more information regarding youth committed to DJJ custody.

### 16.7.3 Foster Care Plan change to Adoption

At the permanency planning hearing, or at any other hearing that results in the decision to change the child's goal to Adoption, the LDSS may also file a petition to terminate parental rights, along with the foster care plan. For more information on developing the foster care plan when the goal is changed to adoption, see [Section 15.10](#).

## 16.8 Restoration of parental rights

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### 16.8.1 Requirements for a petition

If the child is in the custody of an LDSS and pre-adoptive parent(s) have not been identified and approved for the child, the child’s guardian ad litem or the local board of social services may file a petition to restore the previously terminated parental rights of the child’s parent consistent with § [16.1-283.2](#) when all of the following circumstances are established:

- The child is at least 14 years of age.
- The child was previously adjudicated to be an abused or neglected child, child in need of services, child in need of supervision, or a delinquent child.
- The parent’s rights were terminated under a final order pursuant to subsection B, C, or D of [§16.1-283](#) at least two years prior to the filing of the petition to restore parental rights.
- The child has not achieved his permanency goal or the permanency goal was achieved and not sustained.
- The child, if he is 14 years of age or older, and the parent whose rights are to be reinstated consent to the restoration of parental rights.

The court may accept a petition involving a child younger than 14 years of age if:



- The child is the sibling of a child for whom a petition for restoration of parental rights has been filed and the child who is younger than 14 years of age meets all other criteria for restoration of parental rights set forth in § [16.1-283.2](#) of the Code of Virginia; or
- The child's guardian ad litem and the local department jointly file the petition for restoration;
- The court may also accept a petition filed before the expiration of the two-year period following termination of parental rights if the child will turn 18 before the expiration of the two-year period, and the court finds that accepting such a petition is in the best interest of the child.

The court shall set a hearing on the petition and serve notice of the hearing along with a copy of the petition on the former parent of the child whose rights are the subject of the petition, any other parent who maintains legal rights to the child, the child's court appointed special advocate (if one has been appointed), and either the guardian ad litem or the local board of social services, whichever is not the petitioner.

### **16.8.2 Placement plan**

Within 60 days of the filing of the petition for restoration of parental rights, and prior to the entry of an order, pursuant to [16.1-283.2 D](#), the LDSS shall develop a placement plan for the child to include the following:

- Descriptions of the programs, services, and other supports that will be offered to the child and the former parent with whom the child is to be placed.
- Requirements for parental participation in programs, supports and services when the child is placed.
- Conduct expectations of the child's former parent with whom the child has been placed.

### **16.8.3 Hearing of the petition**

At the hearing the court may find upon clear and convincing evidence that:

- The parent is willing and able to:
  - Receive and care for the child.
  - Have a positive, continuous relationship with the child.
  - Provide a permanent suitable home for the child.

- Protect the child from abuse and neglect.

The court may enter an order allowing the LDSS to place the child with the former parent whose rights have been terminated subject to the placement plan and LDSS visitation.

#### **16.8.4 Supervision of the placement**

Once the court has given approval for the child or youth to be placed with his former parent, the director of the LDSS shall cause the child to be visited at least three (3) times within the six month period immediately following the placement of the child or youth in the former parent's home. Visitation shall be no less than 90 days between the first and last visit and at least one of the visits shall be conducted in the home of the former parent.

The purpose of this visitation shall be the following:

- Evaluate the suitability of the placement for the child or youth.
- Progress of the former parent toward remedying the factors and conditions that led to or required the continuation of the child's foster care placement.
- Evaluate the suitability and progress of the parent and the child in programs, services or supports as defined in the placement plan.

#### **16.8.5 Report of visitation**

At the conclusion of the required visitation with the child or youth and the former parent, the LDSS Director shall make a written Report of Visitation and submit it to the court.

The components of the written report of visitation shall address those issues identified in [16.9.4](#) which include but are not limited to:

- The suitability of the placement for the child or youth.
- The progress of the former parent toward remedying the factors and conditions that led to or required the continuation of the child's foster care placement.
- Evaluation of the compliance with programs, services or supports as defined in the placement plan for the parent and the child.

#### **16.8.6 Hearing for restoration of parental rights**

Once the court has received the report of visitation, a hearing date shall be scheduled for the restoration of parental rights with notice of the hearing and a copy

of the report provided to the former parent of the child whose rights are the subject of the petition, any other parent who retains legal rights to the child, the child's court appointed special advocate (if appointed) and the child's guardian ad litem. At this hearing, the judge shall consider the following:

- Whether the parent whose rights are to be reinstated agrees to the reinstatement of parental rights.
- That the parent whose rights are to be reinstated has substantially remedied the conditions that lead to or required continuation of the child's foster care placement.
- The age and maturity of the child and if age 14 years or older, if the child consents to the restoration of parental rights.
- If the child is younger than 14 years old, the child's preference in regard to the restoration of parental rights.
- If the restoration of parental rights will present a risk to the child's life, health, or development.
- Evaluate how the restoration of parental rights will affect benefits to the child.
- Other material changes in circumstances, if any, that would impact the restoration of parental rights.

Upon hearing clear and convincing evidence that the restoration of parental rights is in the best interest of the child, the court shall restore the parental rights of the former parent to the child placed in the home.

#### **16.8.7 Other stipulations for the restoration of parental rights**

At any time prior to the hearing on the restoration of parental rights, the court may revoke its order permitting the placement of the child with the former parent on its own motion, or on the motion of the child's guardian ad litem, or the LDSS.

A petition for restoration of parental rights filed while the child is younger than 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of an order restoring parental rights. Any order entered after a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect of if the child was under the age of 18 years when the order was filed.

The granting of the petition for restoration of parental rights does not vacate the findings of fact or conclusions of law contained in the original order that terminated the rights of the child's parent.

### 16.8.8 Restoration of parental rights

When parental rights are restored and custody is returned to the parent whose rights are restored, the child's foster care episode ends. The service worker should follow guidance consistent with closing a foster care case in [Section 19](#) of this chapter.