

CHAPTER 18: LAWYERS, COURT, AND CASE PLANNING

Introduction: To have a say in what happens in your case and your future, it is important that you be part of the meetings and discussions where important decisions are made. Court and case planning meetings are two of the most important places where big decisions are made. One of your champions and advocates is your lawyer. This chapter gives you information about your right to participate in your case planning meetings and in court. It also gives you information about your lawyer, his or her role, and tips for how to work with you lawyer to help achieve your goals.

I. Your Lawyer

Do I have a lawyer?

- YES.
- All youth in the dependency system have a lawyer who is appointed to represent them in court at no cost.¹
- Sometimes your lawyer is called a Guardian ad Litem (GAL) or child advocate.
- Your lawyer represents you and is your advocate.
- Your lawyer does not work for the county child welfare agency or for your parent(s).

What is my lawyer's role?

- Your lawyer works to help you get to permanency and family, to make sure your needs are met, and to make sure you get help in setting and meeting all your goals.
- Lawyers are “zealous advocates” for their clients. A zealous advocate is someone who is committed to you and dedicated to supporting you as a champion by using the law.
- Your lawyer may represent you in one of two ways. This depends on why you came into care.
 1. If you came into foster care because of abuse or neglect, your lawyer has the role of **Guardian ad Litem (GAL)**.² Abuse or neglect generally means that you were harmed or not taken care of properly. Your GAL should tell the court what he/she feels is in your best interest, but also should tell the court what you want to happen in your case.
 - If what you want and what your lawyer thinks is best for you is very different and in opposition, your lawyer may have what is called a “conflict” and can ask that another lawyer be appointed to represent you. If that is the case, you would have one lawyer representing what you want and one lawyer acting as a GAL and telling the judge what he/she thinks is in your best interest.³
 2. If you came into care because of not attending school (truancy), not following your parents' rules, or running away, then your lawyer is called **counsel**.⁴ Your

lawyer should focus on representing what you want to happen in the case and following your direction after providing you advice and guidance.

- If you are not sure whether you have a GAL or counsel, call your lawyer and ask.

What should my lawyer be doing to represent me?

- Here are some of the things that the law requires that your lawyer do when they are appointed to represent you in dependency court. Whether they are a GAL or counsel, your lawyer should:
 - Meet with you as soon as possible after they are appointed and then regularly as long as they are on the case.
 - Have access to your records just for the purpose of understanding your needs and to make sure you are getting what you need.
 - Participate in all of your court hearings and meetings.
 - Do any investigation necessary, and talk to witnesses and other people in your life to be able to represent you well in court.
 - Be told if there are plans to move your placement and have the opportunity to respond.
 - Make recommendations to the court about whether you are safe, the services you need, what should happen in your case, and your goals.
 - Explain the court proceedings to you in a way that you can understand.
 - Tell the court about what you want to happen in the case and present any evidence that supports what you want.⁵

What should I tell my lawyer?

- You should tell your lawyer how you are doing in your placement and what kind of placement you want for the future—if you want to go home, be placed with a relative, or be adopted.
- You should tell your lawyer how things are going for you, if things are going well in school, if you are in need of medical care or counseling, if you are visiting with your sibling(s) and parents, and anything else that is important to you. Almost everything you tell your lawyer is confidential. Your lawyer will tell you when they cannot keep things confidential, and you should ask if you are not sure.
- You should tell your lawyer if you feel safe and have any concerns about your safety.
- Some lawyers are required to tell the children and youth agency if you report to them that you have been neglected or abused.⁶

What is the best way to communicate with my lawyer?

- Meeting with your lawyer in person is good so you can get to know each other, but texting, talking on the phone, emailing, and even writing letters are good too.

- It is really important to let your lawyer know how you like to communicate and the best times to talk, meet, or text with you.
 - Let your lawyer know if:
 - You have a working telephone or device to communicate on.
 - Talking on the phone or meeting between 9 and 5 on weekdays does not work for you.
 - You like texting rather than phone calls.
 - There are times that are bad for you to talk or meet.
 - Other options like using social media are ways to contact you.
- Your lawyer wants to work with you and their job is to assist and represent you. They appreciate when you let them know the best ways to do this.

How do I find out who my lawyer is?

- The Children in Foster Care Act requires that you are given the contact information of the key people involved in your case, including your lawyer. (You should also have the contact information for your court-appointed special advocate (CASA) if you have one, and members of your case planning team.)⁷
- Ask your county child welfare agency case worker if you do not know who your lawyer is. If you are not able to find this information, you can call Juvenile Law Center at 1-800-875- 8887. If you live in Allegheny County, you can call KidsVoice at 412-391-3100.

What do I do if I think my lawyer isn't doing their job?

Your lawyer is appointed to help you and work for you. If you do not think your lawyer is doing their job, don't be afraid to let someone know.

- If you do not think your lawyer is doing their job, you should try to talk to them about your concerns.
- Make sure you leave messages and write letters to your lawyer to give them a chance to respond.
- If you still feel your lawyer is not doing their job, you should then contact their supervisor or boss.
- You can also tell the judge when you go to court. You should let them know what you think your lawyer is doing wrong or how they are not meeting your needs, such as if your lawyer is not returning your calls, not talking to you, or not telling the judge what you want.
- You can also file a complaint about your lawyer with the Disciplinary Board of the Supreme Court. You can get to the form and learn about the process at <https://www.padisciplinaryboard.org/for-the-public/file-complaint>.

II. Courts and Hearings

What happens in court when my case is reviewed?

- Once you enter the foster care system, you have court hearings at least once every six months.⁸ These are called permanency reviews.
- At hearings, the judge should be making sure you are safe, your needs are met, and that work is being done so you can go back to your family or find family in another way like adoption or guardianship.⁹
- The goal of court is to help move your case along so you can leave the system and go to family, to make sure you are making progress in the goals you are setting for yourself, and to make sure you have support. If things are not happening that should or progress is not being made, court is a time to discuss these issues, and the judge can help make sure that actions are taken to improve the situation.
- Important decisions are made about your case in court, so it is important for you to be there so you know what is happening and so that your voice can be considered.

Should I go to court for my permanency review hearings?

- YES.
- Pennsylvania court rules require that you be at your court hearings unless the judge excuses you.¹⁰ This is because the hearings are about your life and important decisions are being made about your future. You should have a say and understand what is going on.
- You should always try to attend! If you are not there, you will not be able to give input on important decisions or correct mistakes.
- It is important for you to go. Court only happens once every three to six months. Court is still worth attending even though it can be boring and you may have to wait for your case to be heard. If you are always there, you can make sure you get what you need and that decisions about you are made with your involvement!

I want to go to court, but I need help to get there and want help to prepare. What should I do?

- Your caseworker should help you arrange for transportation to court. You should contact your lawyer and let them know if you are not getting help with transportation.
- If you want to make sure you are present for all hearings, contact your lawyer before the hearing. Your lawyer will be able to ask the court to order your placement to transport you to the hearing.
- You should ask your lawyer and caseworker to help you prepare for court. Preparation could include explaining the process to you and helping you prepare to say or write something to the judge.

- If it would make you feel more comfortable to have someone you trust or who is a support to you attend court, ask your caseworker and lawyer. This is something that can be arranged.

What should the judge be asking me about when I go to court?

- The judge in your case will want to talk with you about many different issues so they have your views on what is happening in your case. For example, the judge will want to hear from you about how you are doing, if you are safe, and if you need anything.
- Specifically, the law does require that the judge ask you about the following:
 - How you feel about your permanency and transition plan goals and services.¹¹
 - If your permanency plan is APPLA, what you think about this plan and what permanency plan you would like to have.¹²
 - If you are participating in activities in the community and at school on a regular basis, any barriers to participation that you are facing.¹³
- If there are things that you want the judge in your case to know about you, let your lawyer know so they can help you share that information. Your judge's role is to make sure the law is followed and that you get what you need. Your voice and opinions are important to this process.

Are there ways that I can share my views in court other than speaking at the hearing?

- There is a lot your lawyer, caseworker, and judge can do to make it easier for you to speak in court and make you feel comfortable in general.
 - You could speak first or have a specific time that you know you can share your views.
 - You can have your lawyer ask you specific questions that you are prepared to answer.
 - You can have a support person in the room.
- If you would rather not speak in the courtroom or are not ready to, here are some ideas for how you can get your views heard:
 - Ask your lawyer to speak for you.
 - Write a letter to the judge.
 - Ask to speak to the judge in his or her chambers (office).
 - Always have notes prepared of what you want to cover in court for each hearing.
- **When you speak to the judge in his or her chambers or write a letter, that information may be shared with the other people involved in your case, so make sure you understand who will know about the information you share.

What happens if I do not like the decisions that the judge makes in court?

- When a judge makes a decision in your case that you do not like or agree with, you can ask your attorney to appeal it. Appealing a decision means that you are saying that you

disagree with it and are asking the judge or a court above your judge to change the decision.

- One of the duties of your lawyer is to provide you information about the opportunity to appeal and give you advice on whether you can appeal a decision and whether it is a good idea to do so.
- Talk to your lawyer when you do not agree with a decision and ask him or her to talk with you about taking an appeal.
- One of the reasons it is important to attend your court hearings is so you can have input and also so that changes can happen in your case. There is an opportunity for changes to be made in your case every time you go to court. If you are not there, these changes may not happen.

As I get older, what are some of the most important issues I should raise when I go to court?

- The beauty of going to court is that you can highlight any issue that is most important to you based on your needs and goals.
- Here are a few issues that seem especially important to youth as they get older and that are worth raising in court and sharing your views on:
 - Are you being notified of and provided support to attend/participate in your transition/discharge planning meetings?
 - Do the goals in your transition to adulthood plan fit your needs and strengths, or do you need help picking new ones?
 - Are you getting the transition to adulthood services that are helping you achieve your goals, or do you need more or different services?
 - Are you still getting help with permanency and connecting with your family and brothers and sisters?
 - Are you getting help with being eligible for extended foster care if you want to stay in care?
 - Are you getting help developing a good transition/discharge plan that you feel meets your needs and is specific and realistic, especially as it relates to your housing plan?
 - Do you feel your concerns and what you want included in your transition/discharge plan are being included?
 - Are there things that you are worried about as you plan for the transition from foster care that you want help with?

Here are a few tools that can help you prepare for court:

- YOUTH EMPOWERMENT CARD: YOUTH RIGHTS IN PA COURTS, JUVENILE LAW CENTER, <https://jlc.org/sites/default/files/attachments/2018-02/YFC-CourtRightsCard-PRINT-FINALv2.pdf>.

- YOUTH-DEVELOPED DISCHARGE HEARING FORM, JUVENILE LAW CENTER, <https://jlc.org/sites/default/files/attachments/2018-02/Youth-Developed%20Discharge%20Hearing%20Form.pdf>.

What is a Court Appointed Special Advocate (CASA)?

- A CASA is someone who can be an advocate for you in your case and works to make sure your needs are met.
- A court can appoint a CASA to a case, but not everyone has a CASA.¹⁴
- If you have a CASA, they will meet with you, gather information about you, and make recommendations to the court about what you need.
- CASAs can be very helpful in your case and are great advocates and champions for youth.
- A CASA has a different role than your lawyer but is another great support to you and an advocate for you in court and case planning meetings.

III. Case Planning

What are cases plans?

- Case plans generally are plans that are created for and with you and your family when you come into the foster care system. A case plan should include information about the issues that need to be addressed so you can be with your family, services you need to meet your needs, and goals that your family set and that you set on your own.¹⁵
- Your case plan should include your permanency goal and what is being done to help you achieve the goal.
- Once you turn age 14, your case plan should also include information about your transition to adulthood goals and the services you will receive to achieve those goals.¹⁶
- Your transition/discharge plan should also be included in your case plan.
- Case plans sometimes are called by different names like: permanency plans, family service plans, and individual service plans. There may be some differences in these plans, but they should generally cover the same issues. Your county child welfare agency must develop a case plan for and with you, but other agencies and programs may also have case plans.

What is a case planning meeting and why should I attend?

- Case planning meetings are where goals and the progress needed to meet goals are set and talked about. What happens in the case and the services you receive depend on what is in the case plan, so it is important for you to be part of the process so you can voice your views and ideas.
- Case planning meetings happen at least once every six months¹⁷ and provide you an opportunity to advocate for yourself and your family. Like court, they are a place where

decisions are made, so you should be there if you want to have a role in making these decisions.

Do I have a right to participate in my case planning meetings?

- Yes.
- You must be given the opportunity to participate in your case planning meetings.¹⁸ It should be documented in the case plan itself that you were consulted in the development of your case plan once you turn age 14.¹⁹
- If you are age 14 or older, you should be given the opportunity to sign your case plan.²⁰
- You should be given notice of your case planning meetings so you can make plans to attend, or so you have time to ask for the meeting to be rescheduled if you cannot attend because of another obligation. Talk to your caseworker and lawyer if you are having a hard time making arrangements to participate in your case planning meeting. They should help you figure things out so you can attend and be ready to participate.

Can I invite support people or people who are important to me to a case planning meeting?

- Yes.
- You should always let your case planning team know who is important in your life and who you would like to be part of planning so they can be invited to the case planning meeting. If the team thinks someone should not be invited, they should tell you why.
- At any age and at any time, you can suggest that people be invited to your case planning meeting. Beginning at age 14, you have a right to involve two individuals in case planning who are not a foster parent or part of the casework staff, and one of these individuals can be an advocate on issues related to your participation in activities.²¹

Should I get a list of my rights as part of the case planning process?

- Yes.
- Federal law requires that all youth age 14 and older get a list of their rights at each case planning meeting and that it be explained in an age-appropriate way. This should be documented in the case plan.²²
- State law—the Children in Foster Care Act—requires that all youth be provided with a list of their rights.²³

What if I do not agree with what is put in my case plan for a goal or service?

- It is important for you to go to your case planning meeting so that you can have a say in what is in the plan. The plan is where you set goals and plans for services to achieve the goals. If you want a service—like help preparing and getting a job or transportation to visit with a brother or sister—you want to make sure it is in your case plan to be sure that it will happen.
- You can file a grievance if you do not agree with something in your case plan.
- You can raise the issue with your judge in court.
- You can appeal what you do not agree with in the case plan. Appeal means you do not agree and want something changed. You appeal what is in your case plan by taking an appeal through the Office of Hearings and Appeals of the Department of Human Services.²⁴ You will need help to file an appeal with the Office of Hearings and Appeals. Please ask your lawyer for help to do this.

TOP FIVE REASONS TO GO TO YOUR PERMANENCY REVIEW HEARINGS

1. Your voice matters.
2. You have a right to be there and speak.
3. The hearing is about you, so you want to make sure everyone gets all information correct.
4. It is a place where you are able to tell people about what is going well in your life or what is going wrong and what you want to change.
5. The judge has the final word on what happens in your case. The judge can make sure things happen and that problems are fixed.

¹ Pa.R.J.C.P. 1151.

² Pa.R.J.C.P. 1151(A).

³ Pa.R.J.C.P. 1151 cmt. (“The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem* when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child.”).

⁴ Pa.R.J.C.P. 1151(B).

⁵ 42 Pa.C.S.A. § 6311(b); Pa.R.J.C.P. 1154.

⁶ 23 Pa.C.S.A. § 6311(a)(14) (Mandated reporters include “[a]n attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.”).

⁷ 11 P.S. § 2633(11).

⁸ Pa.R.J.C.P. 1608(A).

⁹ Pa.R.J.C.P. 1608(D).

¹⁰ Pa.R.J.C.P. 1128(A)–(B)(1) (All parties, including the dependent child, “shall be present at any proceeding” unless “good cause [is] shown.”).

¹¹ 42 Pa.C.S.A. § 6351(e)(1) (The court should consult with the child in an age-appropriate manner regarding the proposed permanency and transition plans.).

¹² Pa.R.J.C.P. 1608(D)(2)(b) (Before approving the plan of APPLA, the judge must “ask the child about the child’s desired permanency outcome.”).

¹³ Pa.R.J.C.P. 1608(D)(1)(p) (The judge must make findings as to “whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate

or developmentally-appropriate activities, including: (i) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and (ii) identifying and addressing any barriers to participation.”).

¹⁴ 42 Pa.C.S.A. § 6342(a).

¹⁵ 55 Pa. Code § 3130.61 (family service plans).

¹⁶ 42 U.S.C.A. § 675(1)(D) (Beginning at age 14, the case plan must contain “a written description of the programs and services which will help such child prepare for the transition from foster care to a successful adulthood.”).

¹⁷ 55 Pa. Code § 3130.63(a) (review of family service plans).

¹⁸ 55 Pa. Code § 3130.61(d) (“The county agency shall provide family members, *including the child*, their representatives and service providers, the opportunity to participate in the development and amendment of the service plan”) (emphasis added).

¹⁹ 42 U.S.C.S. § 675(5)(C)(iv).

²⁰ 55 Pa. Code § 3130.61(c).

²¹ 42 U.S.C.S. § 675(5)(C)(iv).

²² 42 U.S.C.S. § 675a(b) (Beginning at age 14, youth must be provided a list of their rights as part of the case-planning process. The list of rights must be part of the case plan and should address “education, health, visitation, and court participation,” the right to discharge documents, and “the right to stay safe and avoid exploitation[.]” The case plan must include a signed acknowledgement that the list of rights has been received and “explained to the child in an age-appropriate way.”).

²³ 11 P.S. § 2635(a).

²⁴ Children, like parents, have a right to challenge a service, benefit, or procedure under state and federal child welfare laws. Children, like parents, have a due process right to appeal through the Office of Hearings and Appeals. See 42 U.S.C.A. § 671(a)(12) (The state’s Title IV-E plan must “provide[] for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness[.]” (citation omitted)); 55 Pa. Code § 3130.6 (parent appeals and fair hearings); PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES, BUREAU OF HEARING AND APPEALS, <https://www.dhs.pa.gov/contact/DHS-Offices/Pages/OA-Bureau%20of%20Hearings%20and%20Appeals.aspx> (the issues under the Bureau’s jurisdiction includes the “[e]stablishment of family service plans for persons receiving services through the local children and youth agency.”).