

Chapter 11 – Modification of Placement

11.1 Overview

Placement changes impact children in many ways and almost always result in some level of loss. As such, the court must guard against changes made for reasons that are not absolutely necessary and in the child's best interest. A change of placement causes a child to be uprooted from a familiar environment to an unknown environment. It can disrupt relationships with friends, teachers, and other supportive persons and, in so doing, impact a child's sense of well-being and security. Minimizing the negative impact of emergency moves and ensuring the thoughtful implementation of a non-emergency move can help children cope and adjust to the change.

***Best Practice — Minimizing Unnecessary Moves ***

While it is sometimes necessary to move a child from one placement to another, the first step in minimizing trauma is to move only when absolutely necessary. To strengthen placements, judges and hearing officers should oversee the provision of services to the child to make sure that they are adequate to deal with the child's needs.

Additionally, children who have been traumatized, especially those with multiple traumas, should have services from providers who have had specific training in addressing trauma and trauma related behaviors.

Adequately addressing a child's needs upon their entry into care, may help to decrease the likelihood of future moves related to the child's behavior or unresolved trauma issues.

11.2 Disposition of the Motion

The stability of the child's placement is critical. Pa.R.J.C.P. 1606 requires prior court approval of any change in the child's placement except in cases of emergency. In non-emergent cases, the agency must file a motion requesting the change of placement, which shall also include receipt of notice of same as demonstrated by the signature of all parties and an averment, if available, as to whether each party agrees or objects to the change of placement. Any party may oppose the change in placement by filing an objection within three days of the filing of the motion to change placement.

If an emergency exists and a judge cannot be contacted, the county agency may place a child temporarily in a shelter care facility or other appropriate care. However, the county agency must notify the court and all parties of the emergency change in placement and file a written motion seeking the court's approval of this emergency placement by the next business day.

Any motion for modification of placement must include:

- a) the specific reasons for the necessity of the change;
- b) the proposed placement;
- c) the current location of the child;
- d) the manner in which any educational, health care, and disability needs of the child will be addressed;
- e) an averment as to whether each party concurs or objects to the proposal, including the child's wishes if ascertainable; and
- f) the signatures of all parties.

Pa.R.J.C.P. 1606(B).

The court, in disposing of the motion, may do any of the following:

- a) schedule a prompt hearing to determine whether there will be a modification of the child's placement;
- b) enter an appropriate order to modify the child's placement; or
- c) enter an order denying the motion.

Pa.R.J.C.P. 1606(D).

Best Practice — Using a Trauma-Informed Perspective

When the modification of placement request is being presented as a result of the child's behavior, shifting to a trauma informed perspective can be particularly helpful. To accomplish this, the judge or hearing officer should ask what has happened to the child instead of what did the child do. This subtle shift in questioning will likely provide better information to help with decision-making and planning.

In light of the potential for increasing trauma and diminishing a child's sense of security, judges and hearing officers should use extreme caution when authorizing a modification of placement. In addition to asking any questions necessary to clearly understand the reason for the request for modification of placement, the judge or hearing officer should ascertain what has been done to stabilize the placement prior to reaching any decisions. If the kinship caregiver, foster parent, or facility representative is in the courtroom, the judge or hearing officer should inquire what has been and is being done to stabilize the placement. Talk to the child about his/her wishes related to placement.

For placements involving kin or foster care providers, supportive services such as respite, family therapy, and tangible resources may assist. Judges and hearing officers can order a multitude of services that may resolve the issues that led to the placement modification request and, in so doing, may dramatically reduce potential trauma for the child.

Ongoing family finding efforts provide a network of connections to support children and families during difficult times. Especially in the case of kinship placements, family members and kin may be able to step in and provide the support necessary to stabilize a placement. A family's plan for placement, like those created via FGDM, can anticipate the need for such and build in preventative measures as well as a contingency plan if the need for modification of placement becomes necessary.

Best Practice — Minimizing Trauma

When a child must be moved from one placement to another, judges and hearing officers should consider the following in court orders authorizing placement modifications:

- Pre-placement visits between the child and the potential caregiver. During the visit, both the child and the caregiver could discuss concerns and other important information in advance of the actual placement.
- Allowing the child to remain in the same school. Remaining in the same school would allow the child to keep their friends and teachers and be on target for academic progress.
- Allowing the child to remain in the activities that he or she participated in prior to the move. Continuing karate lessons or dance classes will bring a sense of normalcy and keep important community ties.
- Ensuring the child receives all of their belongings from their previous placement. Personal possessions and security objects (like special stuffed animals or pillows) become tangible sources of comfort when children are scared.

The court, in reaching its modification of the placement decision, should consider the reasons for the move, whether the new placement is more restrictive, the permanency plan goal, and whether the move will enhance the opportunity to realize that goal, the educational and health needs of the child, especially considering the impact of a change in school placement, the trauma and sense of loss that the child may experience, the continued opportunity for parents, guardians, siblings, and/or significant individuals in the child's life to visit, and any other relevant factors that the court deems appropriate. In addition, judges and hearing officers should revisit the issue of safety at each modification of placement request. Revisiting the legal safety analysis may reveal that the circumstances necessitating placement have been alleviated and that the child can safely return home with or without a safety plan in place.

When the court grants a motion for modification of the child's placement, the court should also consider whether there needs to be a change in services such as a new visitation provider, new mental health or trauma specialists, physicians, etc. The court should ask about potential changes in education/school placement; school stability should be carefully considered. Care should be taken to ensure that quality visits are continued between the parent and child and the child and siblings if not placed together. The court should ensure the court order reflects any needed modifications to services. (See Common Pleas Case Management System order regarding modification of child's placement).

Finally, while some moves are unexpected, others are the result of hard work on the part of a child or the positive progression of effective treatment. Judges and hearing officers should consider that trauma may still exist even in these positive moves.