

Chapter 3 – The Role of Judges and Juvenile Court Hearing Officers

3.1 Role of Judges

The role of Judges in Dependency Court, as outlined in *The Mission and Guiding Principles for Pennsylvania’s Dependency System*, is to “Protect Children, Promote Strong Families, Promote Child Well-Being, and Provide Timely Permanency.” Children’s Roundtable Initiative, Office of Children and Families in the Courts, *The Mission and Guiding Principles for Pennsylvania’s Child Dependency System* (2009).

“Judging in juvenile and family court is specialized and complex, going beyond the traditional role of the judge. Juvenile court judges, as the gatekeepers to the foster care system and guardians of the original problem-solving court, must engage families, professionals, organizations, and communities to effectively support child safety, permanency, and well-being. Judges must encourage the court system to respond to children and their families with urgency and dignity. These key principles provide a foundation for courts to exercise the critical duties entrusted to them by the people and the laws of the land”. Gatowski, S. et al., *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* 14 (National Council of Juvenile and Family Court Judges 2016).

3.1.1 Oversight and Management of Individual Cases

As the *Enhanced Resource Guidelines* emphasize, child welfare cases involve the court in the lives of the parties and the operations of the child welfare agency to an extent unlike any other court case because of their length, complexity, and the continuous nature of the determinations they require. Because the decisions are “interlocking and sequential,” the court must perform a more managerial and directive function than in other litigation. *Id.* at 25, 27.


“Congress’s main purpose in involving judges in the oversight of child protection cases was to ensure that the social service agency was doing its job; that children were not removed from their family unless they were endangered, that the agency provided reasonable efforts to prevent removal, reasonable efforts to help parents reunify with their children, and reasonable efforts to achieve permanency for the child.” *Id.* at 25.

Subsequent sections of this Benchbook highlight various best practices related to judicial oversight of cases in the context of individual hearings, as well as overall operations. They include:

- **Communicating the expectations** of the court regarding adherence to a timely court process and the need for proper preparation by all parties for all court events, including providing information to all parties as to court expectations and movement of the case.

- **Establishing rigorous case flow management** policies and practices, such as timetables/deadlines for the various stages of case processing, strict continuance policies, setting the next hearing date, distributing orders at the conclusion of each hearing, and requiring that all reports be submitted and distributed to all parties in advance of hearings or in accordance with established timelines.
- **Front-loading** the court process in order to set the stage for expedited proceedings and avoid later delays. In practice, front-loading means doing all of the following at the earliest possible point: appointing counsel for the child and parents/guardians; conducting an inquiry into paternity issues; finding and notifying absent parents; identifying any domestic violence, substance abuse, and/or mental health issues; recognizing neurodiversity; identifying and involving the relative/kinship support network in service planning and delivery; creating a network of extended family support to remedy concerns; identifying potential relative and kinship placement options; considering the educational needs of the child; and establishing visitation schedules for parents, siblings, and/or extended family members or kinship resources as may be deemed appropriate.

Because there are so many interrelated parts to a dependency case, the assigned judge must be actively involved in each case. In effect, the judge must set and monitor the direction of case progress, including action and inaction that all other parties may recommend. For example, the court may have to ask questions like 1) why faster movement toward family reunification is not occurring; 2) why visitation has not increased; 3) how visitation with incarcerated parties is proceeding; 4) what are the steps being taken to progress from supervised to unsupervised visitation; 5) what services are being recommended and the status of scheduling services or recommended evaluations; 6) what is the status of family finding; and 7) what is the status of finding biological parents, if this is an issue.

If there are issues or the case is not progressing, the judicial officer should schedule a status review hearing as soon as possible to hear why progress is not occurring. A status review hearing allows the judicial officer to address one or two specific issues. i.e., monitor the cooperation of the parents with services, address any visitation issues, and inquire about the progress of family reunification, if appropriate, before the next permanency review hearing. Status review hearing findings and orders should be documented on the Common Pleas Case Management System (CPCMS) Status Review Order. Of course, the judicial officer may also schedule an early permanency review hearing. The judicial officer has the power and the responsibility to order vital changes, often sooner than bureaucratic rules and policies would allow. 

Unlike the child welfare agency, the court is not bound by agency rules, regulations, or bulletins. The judge should consider making orders to facilitate the permanency plan, including orders to increase visitation or amend visits from supervised to unsupervised. No one can guarantee with certainty that all risks to the child will be minimized or eliminated. A healthy balance must be achieved at the earliest possible time, and sometimes, only the judge has the power to so order.

- Conducting **expedited review hearings** at critical stages of the case. Most Pennsylvania courts hear dependency matters every three months at a minimum. This enhanced review helps ensure services are delivered in a timely manner and the case is progressing as envisioned by the parties. “Through frequent and thorough review, judges must exercise their authority to order and monitor the timelines, quantity, quality, and cultural responsiveness of services for children and families. Judges must oversee families’ progress and permanency progress for children.” Gatowski et al., *supra*, at 27.
- **Taking the initiative** to solicit pertinent information if it is not otherwise presented during the hearing. Unlike some other court proceedings, dependency judges and hearing officers have an obligation to solicit facts needed to ensure child safety, well-being, and permanence if the parties do not provide such facts. In practice, this means judges and hearing officers are free to ask questions and request additional information, reports, and testimony as they deem appropriate for the matter at hand. “In child welfare cases, the judge is not merely the arbiter of a dispute placed before the court; he or she also sets and repeatedly adjusts the direction for state intervention on behalf of each abused and neglected child.” *Id.* at 26.
- Setting aside **sufficient time for hearings** to ensure that all parties have an opportunity to be heard, all issues can be addressed, and findings and orders can be communicated immediately in open court. In the rare event that a case is taken under advisement, a date certain should be set to give the findings/decision. Given the complexities of the court schedule, it may be better to take a recess and consider the issue than take the entire case under advisement. In any event, a judge should be mindful of the urgency needed in dependency proceedings and make decisions as expeditiously as possible.

Best Practice — Court Scheduling

In dependency cases, it is important that court administration or the judge, not the child welfare agency, control the scheduling process and manage all court hearing dates and times. Special consideration should be taken when scheduling cases including the number of children in the family, as well as the complexity of issues to be decided. The Common Pleas Case Management System (CPCMS) Dependency Module allows this to be done easily.

The scheduling of multiple cases during a single large time slot (or “cattle calls”) is highly discouraged. Hearings should be scheduled based on “time-specific scheduling” or “block scheduling,” with sufficient time allotted for each hearing. The court should be sensitive to everyone’s time schedule with special consideration given to children and parents.

- Encouraging the use of **Family Group Decision Making** and other **alternative dispute resolution** methods to allow family members to become active participants in the decision-making process and provide any assistance to the family to help with reunification or resolution of the reasons for Court involvement.
- Ensuring that **case plans address the specific needs** of the child and family and hold the child welfare agency and other parties accountable for the delivery of services, including assuring that the agency is assisting with expedited appointments for services and that cultural considerations are being recognized and addressed by the agency.
- Identifying **Indian Child Welfare and Interstate Compact on the Placement of Children** issues at an early stage of the case to avoid delay and disruptions in efforts to achieve permanency.
- Ensuring the child welfare agency has reasonably engaged in **family finding**. Act 118 of 2022, Pennsylvania's family finding law, found at 67 Pa.C.S. §§ 7501-7509, requires a three-pronged analysis, which includes locating family/kin, involving them in service planning and delivery, and creating or strengthening the network of extended family support to assist in remedying the concerns that led the child to be involved with the county agency. All three elements should be sufficient for a finding of reasonable efforts. This issue is expanded upon in Chapter 2: Act 118 of 2022: Family Finding.
- **Recognizing and minimizing additional trauma.** Courts and judges are uniquely positioned to identify those suffering from traumatic stress, help create safe and engaging courts and court practices, and help coordinate and monitor the provision of effective treatment. Courts should also take into consideration those with neurodiversity, including but not limited to autism.

Best Practice — Trauma

Recognizing that the impact of words and expressions has become increasingly important to many judicial officers, some have fine-tuned their motivational interviewing skills. Some come off the bench and greet the child and family. Some look specifically for strengths and comment on such. Some insist on beginning and ending each hearing with strengths. Some employ court dogs. And others make a concerted effort to commend parties on a job well-done, when warranted.

Whatever technique is used, it must fit the individual personality and style of the judicial officer so as to be seen as supportive and authentic. Recognizing the impact of trauma, the court environment, the seriousness of the decisions being made, and the potential impact on all parties, it is incumbent upon each judicial officer to develop and employ strategies that minimize trauma and support a safe courtroom experience.

- Ensuring that a **proper record** is made at every hearing, starting with the emergency protective custody order or the shelter care hearing (whichever comes first) and throughout the life of the case. All written documents and reports introduced and admitted should be used as evidence during the hearing and given the proper weight as determined by the judicial officer.
- **Minimizing or eliminating the use of continuances.** “A child’s sense of time requires timely permanency decisions. Research supports that a child’s development of trust and security can be severely damaged by prolonged uncertainty in not knowing or understanding if they will be removed from the home or when and whether they will return home. The shorter the time a child spends in foster care, separated from his or her family, the less likely there will be prolonged damage to the child’s development of trust and security.” Gatowski et al., *supra*, at 15-16. One tool courts can use to monitor continuances is CPCMS report 3934, Continued Dependency Cases by Date, a **court-specific continuance report**. This report provides information regarding the number of continuances and the reasons for each continuance. In courts with multiple dependency judges or hearing officers, the report can be run by the judicial officer, creating a useful tool to help the lead dependency judge identify system strengths and challenges.

In addition to these managerial functions, the judge and hearing officer should ensure that (1) all parties are treated with courtesy and respect both inside and outside of the courtroom; (2) the family understands the judicial process and the timelines that apply to the case; (3) the court’s written findings of fact and conclusions of law are written in easily understandable language that allows the parents and all parties to understand the court’s order fully; and (4) the child(ren)’s wants and needs are voiced to the judge or hearing officer early in the process.

Finally, at the core of all dependency proceedings is the issue of safety. Judges and hearing officers have the ultimate responsibility for conducting a thorough analysis of child safety at each proceeding and making orders necessary to ensure safety. Judges and hearing officers should not base their safety determinations solely on the analysis of physical safety. **Special attention should also be given to a child's emotional well-being or safety.** A legal framework for making **safety** determinations and orders is presented in the following section.



3.1.2 Legal Safety Analysis for Judicial Decision-Making

Judges and hearing officers overseeing child dependency proceedings are responsible for child safety. This includes ensuring due process, evaluating evidence, asking questions when needed, and independently determining a child’s physical and emotional safety.

This focus on physical and emotional safety begins immediately upon the verbal or written request for court involvement and is re-visited at every subsequent judicial determination. It is the cornerstone issue for all dependency proceedings.

Judges and hearing officers must make findings regarding safety and order services to mitigate or eliminate safety threats. Even so, there can be confusion regarding what constitutes a real threat to a child's safety as opposed to what may be considered risk.

In life, every person experiences risk. Risk can never be eliminated entirely. When risk rises to a level where it immediately or within the foreseeable future seriously jeopardizes life, it becomes a safety threat. Ensuring that safety threats to children are eliminated or, at the very least, mitigated is the responsibility of the Juvenile Court.

While the Juvenile Act allows for an adjudication of dependency based upon factors that are more likely risk than safety (i.e., truancy, ungovernability, etc.), **decisions related to the removal and placement of a child should be based upon an analysis of a specific safety threat.** This is an important legal distinction. While removal and placement of children may mitigate a safety threat, it is likely to simultaneously create some level of emotional trauma for the child and parents. This potential for trauma necessitates a methodical legal safety analysis by the judge and hearing officer.



When a child's safety cannot reasonably be assured, placement is warranted. When out-of-home placement is necessary, one should assume potential emotional trauma for the child and the parent. The judge and hearing officer can take specific steps to minimize any potential emotional trauma experienced by the child and the parent as a result of removal and placement. The judge and hearing officer should consider orders that:

- Place the child with safe kin;
- Place siblings together or in close proximity;
- Ensure early, frequent, meaningful visitation and contact with parents and siblings (if not placed together);
- Maximize contact with other supportive persons within the child's network (i.e., aunts, uncles, grandparents, cousins, best friends, pastors, coaches, etc.);
- Secure special items for the child (i.e., blankets, toys, clothing, etc.);
- Minimize school disruption; and
- Minimize extra-curricular activity disruptions.

"If a threat of danger is present, presume the child is vulnerable and therefore unsafe. If, however, the child possesses certain strengths, then the child may not be vulnerable to that particular threat."

Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorneys* 11 (American Bar Association 2009).

Best Practice — Ice Breaker Meetings

Many counties have begun the practice of “ice breaker” meetings. These meetings occur within days of placement. The meeting brings together the parent or guardian and the current caregiver. During the meeting parents have an opportunity to share information regarding the child’s routine, likes/dislikes, activities, and other important information to minimize disruptions to their daily routine. Caregivers have an opportunity to ask questions and provide feedback. The meeting helps parents stay connected and involved with the care of their children while providing critical information to the caregivers, all aimed at minimizing trauma to the child.

Understanding the legal analysis that leads to the conclusion that a child is unsafe and must, therefore, be placed into out-of-home care is critically important. In this legal analysis, child safety rests upon three critical factors, which include the actual safety threat, the child’s level of vulnerability, and the parent or guardian’s protective capacity.

Threats of danger or “safety threats” are specific, observable or describable, out of control, immediate or likely to happen soon, and contain severe consequences. Because safety threats can increase or decrease over time, evidence regarding the current safety threat or threats should be presented at each hearing.

Several factors, including age, physical ability, cognitive ability, developmental status, emotional security, and family loyalty, impact a **child’s level of vulnerability**. Evidence regarding the child’s level of vulnerability should be provided at each hearing.

As outlined in *Child Safety: A Guide for Judges and Attorneys*, the following help determine or increase a child’s vulnerability:

- A child’s capacity to self-protect;
- A child’s susceptibility to harm based on size, mobility, and social/emotional state;
- Young children (0-6 years of age);
- A child’s physical or mental developmental disabilities;
- A child’s isolation from the community;
- A child’s inability to anticipate and judge the presence of danger;
- A child consciously or unknowingly provokes or stimulates threats and reactions;
- A child’s poor physical health, limited physical capacity, or frailty;
- A child’s emotional vulnerability;
- A child’s feelings toward the parent - attachment, fear, insecurity, or security
- A child’s ability to articulate problems or danger; and
- Impact of prior maltreatment.

Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorneys* 12 (American Bar Association 2009).

Finally, within the legal analysis, the issue of **parental protective capacity** must be considered. Judges and hearing officers need current information regarding the protective capacity of each parent or guardian. The judge or hearing officer can then use this information to weigh the level of capacity against the level of threat and child vulnerability. Protective capacities are those cognitive, behavioral, and emotional capabilities that help parents or guardians provide adequate safety and care for their child.

To accomplish this legal analysis, information is needed. This includes information regarding:

- the nature and extent of the maltreatment [or threat of maltreatment];
- the circumstances accompanying the maltreatment [or threat of maltreatment];
- how the child functions day-to-day;
- how the parent disciplines the child;
- the overall parenting practices; and
- how the parent manages their own life.

Id. at 3.

“Protective capacities are fundamental strengths preparing and empowering a person to protect”

Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorneys* 13 (American Bar Association 2009).

“If threats are present with a vulnerable child but sufficient protective capacity exists the child is safe...if threats are present, the child is vulnerable and protective capacity is insufficient, the child is unsafe”

Id. at 11.

As stated earlier, this legal analysis occurs during every dependency proceeding. The analysis helps identify the need for protective action by the agency and court.

Threat + Vulnerability – Protective Capacity = Unsafe Child

The safety analysis can also help in making judicial determinations related to reunification, other permanency options, and eventual termination of court supervision. For more information regarding this legal safety analysis framework, please see the *Pennsylvania Dependency Benchbook Resource Companion*, Chapter 10: Safety & Risk.

Finally, services ordered by the court or included in a Family Service Plan should aim to minimize an identified safety threat, reduce a child’s level of vulnerability, or increase a parent’s or guardian’s protective capacity. When ordering services aimed at reunifying a child and parent or guardian, the judge and hearing officer should be able to clearly link each service to one of these three child safety elements. Judicial determinations related to removal, reunification, and permanency should be governed by safety.

This is not to say that other court-ordered services are not warranted. Indeed, many services ordered by the court focus on child well-being and are very important. However,

completion of these well-being services, in most cases, is not generally the primary consideration as to when and whether safe reunification can occur.

3.1.3 Accountability

The judge and hearing officer are responsible for holding all parties accountable to the court's orders. This includes the child welfare agency and other providers of services, as well as children and parents receiving services. Judges and hearing officers must do this in a manner fitting the Judicial Code of Conduct, which highlights the expectation of judicial fairness, impartiality, and civility. What a judge and hearing officer says or does not say matters and will greatly impact what occurs pending the next proceeding. Judges and hearing officers should always be clear with their expectations, offer the ability for the parties to ask questions, and have patience when explaining expectations to the parties. A judge's or hearing officer's demeanor will go a long way in dictating the direction of the case. Finally, while there are many ways in which to encourage parties to comply with court orders, judges and hearing officers should **NEVER** use visitation as an accountability tool. **Visits between children and parents are a right, NOT a privilege.** The frequency and level of supervision should be based on safety, not compliance.



Best Practice — Eliminating/Reducing Sidebars

Because the court process needs to maintain integrity, fairness, and impartiality, many courts have reduced or eliminated their use of “sidebar” conversations. If a parent is unrepresented, the court cannot have a sidebar unless the parent is included in the sidebar.

3.2 Judicial Commitment and Leadership in System Improvement Efforts

“The leadership of the judiciary is a crucial and necessary component in implementing reforms...Judges must engage the community in meaningful partnerships to promote the safety, permanency, and well-being of children and to improve system responses to our most vulnerable citizens. The juvenile court must model and promote collaboration, mutual respect, and accountability among all participants in the child welfare system and the community at large.” Gatowski et al., *supra*, at 17.

Judicial impartiality does not preclude a judge from advocating for additional resources or more opportunities for training and education or serving as a convener of committees or working groups devoted to identifying systemic problems and developing solutions. In addition, as one of the key principles *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* points out, judges should “ensure that the court has the capacity to collect, analyze, and report aggregate data

relating to judicial performance,” including compliance with requirements related to outcomes for children and families, compliance with statutory timelines, overall compliance with goals, and historical trends. *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases 6* (National Council of Juvenile and Family Court Judges 2000). Such data provides useful information for ongoing monitoring of operations evaluating programs and other initiatives over time, and assessing the need for judicial and other resources. These analyses can be shared with other stakeholders to encourage progress toward common goals and identify areas needing improvement.

Judges can also play an important role in ensuring **competent representation for parents and children** who appear in dependency proceedings. “Judges are responsible for ensuring that parties, including each parent, are vigorously represented by well-trained, culturally responsive, and adequately compensated attorneys.” Gatowski et al., *supra*, at 42. They can join in efforts to establish initial training and experience thresholds, standards of practice, and ongoing specialized training requirements for court-appointed counsel.

Best Practice — Attorney Training

A number of Pennsylvania jurisdictions require specific, annual training sessions for all dependency attorneys within their jurisdiction. These training sessions are often created by the judge with input from others and are considered mandatory. If a listed attorney does not attend the session without exceptional circumstances preventing such attendance, the attorney is removed from further case assignments. In these jurisdictions, this enhanced requirement has led to clear expectations from the court and advanced attorney skills. Some jurisdictions compensate attorneys for their time, while some do not. However, all typically provide low-cost Continuing Legal Education (CLE) credits.

Other jurisdictions utilize strategies such as lunch & learn for CLE credits, which can be led by the local Bar Association, the local Children’s Roundtable, and/or the court.

Judges can encourage the training of attorneys and other system stakeholders by participating and staying actively involved in trainings, seminars, and conferences.

In addition, judges can communicate the expectation that hearings will proceed as scheduled, barring exceptional circumstances, and that all parties will be prepared to proceed.

Core One: An Attorney’s Introduction to Pennsylvania’s Dependency System is an online training offered to all dependency attorneys across the Commonwealth. The training provides content specifically regarding issues such as autism awareness, family finding, kinship care, and FGDM. It is also the required pre-service training for all Guardians *Ad Litem* so that the agency can receive federal reimbursement. Core One training can be accessed here:

[Core One: An Attorney’s Introduction to Pennsylvania’s Dependency System – Office of Children & Families in the Courts](#)

Best Practice — Legal Representative Practice Standards

In May 2014, the Pennsylvania State Roundtable unanimously approved and adopted dependency practice standards for Guardians *ad Litem* and Parent Attorneys. These best practice standards focus on enhancing legal representation and advocacy for parents and children in the dependency system. Areas of practice covered within the standards include:

- client contact
- expertise & knowledge
- case preparation
- collateral contacts & collaboration
- advocacy
- appellate advocacy
- ethical considerations

The standards can be utilized by judges and hearing officers to ensure competent legal representation for children and parents. A complete narrative of each standard can be found in the 2014 State Roundtable Legal Representation Workgroup Report at <https://ocfcpacourts.us/wp-content/uploads/2020/06/2014-Legal-Representation-Report2.pdf>.

Encourage the Guardian *Ad Litem*, Solicitor, child's legal counsel, and parent attorneys to communicate and review the case's progress prior to the hearing. Having good communication will narrow issues prior to the hearing and help arrive at stipulations.

Finally, judges and hearing officers should routinely examine their practices, thought processes, and actions to protect against bias. The *Enhanced Resource Guidelines* provide self-reflection questions designed to assist judicial officers in examining potential **implicit biases** that may affect their decisions. A list of these questions follows:

- What assumptions have I made about the cultural identity, gender, and background of this family?
- What is my understanding of this family's unique culture and circumstances?
- How is my decision specific to this child and this family?
- How has the court's past contact and involvement with this family influenced (or how might it influence) my decision-making process and findings?
- What evidence has supported every conclusion I have drawn, and how have I challenged unsupported assumptions?

- Am I convinced that reasonable efforts (or active efforts in ICWA cases) have been made in an individualized way to match the needs of the family?
- Am I considering relatives (kin) as a preferred placement option as long as they can protect the child and support the permanency plan?

Gatowski et al., *supra*, at 67.

In addition, judicial officers may also want to ask if they are assuring that the recommended services for the family consider their primary language and cultural differences.

Best Practice — Feedback Strategy

Feedback on performance is important in any profession. It is critically important for judicial officers, but finding ways to get honest, productive feedback may present challenges. To address this issue, judges and hearing officers are encouraged to take advantage of feedback from court observations conducted by the AOPC's Office of Children and Families in the Court's judicial analysts. The judicial analysts are knowledgeable in procedural rules, the *Dependency Benchbook*, and statewide judicial practice. In addition, some judges invite a trusted friend or family member to observe court with the permission of the parties, as dependency court proceedings are presumed closed. These trusted persons, who know the judicial officer personally, can provide feedback regarding demeanor, tone, and facial expressions.

3.3 Judicial Collaboration with the Child Welfare Agency and the Community

Judges should encourage and promote collaboration and mutual respect among all participants in the child welfare system. Gatowski et al., *supra* at 32. Judges should initiate or participate in meetings with child welfare agency representatives at the state and local levels. They should encourage greater cooperation in developing training, including multi-disciplinary training, which addresses issues of mutual interest, such as improving court reports and in-court testimony, expanding access to services, and making more efficient use of court time.

“Judges are uniquely positioned to motivate systems change. Because judges see cases from all perspectives, they can often provide a clear vision of how the child welfare system needs to be improved. Judges have the influence to bring all necessary stakeholders to the table to collaborate” *Id.* at 30. The Children’s Roundtable is an example of this collaborative effort to engage all stakeholders. Supported by the Office of Children and Families in the Courts (OCFC) within the Administrative Office of Pennsylvania Courts (AOPC), the Children’s Roundtable Initiative was established by the Supreme Court of Pennsylvania in 2006. The judge convenes the local Children’s

Roundtable and collaboratively led with the child welfare administrator. Judicial leadership in this area encompasses developing the mission/vision, setting the agenda, managing subcommittees/workgroups, effectuating the decisions made at meetings, and participating in Leadership Roundtables.

In addition, when appropriate, judicial leadership can include scheduling guest speakers to provide more information on community resources available to parties or to provide information on relevant issues affecting families and children.

The *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* encourage judges to help the community understand that child protection is a community responsibility. National Council of Juvenile and Family Court Judges at 17. This can be accomplished by appearing regularly in the community to inform citizens about the child welfare system and to encourage volunteer participation. The community can also be an effective partner in advocating for greater availability and access to services for children and families when there are gaps.

“Judges must convene and engage the community in meaningful partnerships to promote safety, permanency, and well-being of children and to improve system responses. The juvenile court must model and promote collaboration, mutual respect, and accountability among all participants in the child welfare system and the community at large.” Gatowski et al., *supra*, at 32.

3.4 Juvenile Court Hearing Officer Authority

Ideally, a judge should hear a dependency case at each stage of the proceeding, and all parties will be better served if the same judge presides over the case from start to finish. *Id.* at 34-35. However, in Pennsylvania, as in many other jurisdictions across the nation, judge-supervised judicial officers (referred to hereafter as “hearing officers”) are appointed to handle certain hearings or stages of a case. The *Pennsylvania Rules of Juvenile Court Procedure – Dependency Matters* view this as an acceptable practice and clearly articulate the authority of hearing officers. Pa.R.J.C.P. 1185. The judicious use of hearing officers has several potential advantages. It is generally more cost-effective and affords each case more time and focused attention, allowing for closer monitoring and fewer delays. Moreover, as long as there are clear policies and guidelines governing the handling of these cases, a judge/hearing officer team can maintain consistency in case processing and outcomes. Finally, a hearing officer appointed to hear dependency cases exclusively or predominantly can develop a level of specialization and expertise that would be difficult for a judge handling a general docket.

In Pennsylvania, the President Judge (or designee) may appoint hearing officers to hear designated dependency matters. Following their appointment, hearing officers may not practice before juvenile courts in the judicial districts where they preside over dependency matters. Pa.R.J.C.P. 1185. By rule, a hearing officer does not have the

authority to preside over termination of parental rights hearings, adoptions, or any hearing where any party seeks to establish a permanency goal of adoption or change a permanency goal to adoption. However, once a judge has approved a permanency goal of adoption, the hearing officer may hear all subsequent reviews or hearings unless a party objects. Hearing officers may not issue contempt orders or orders for emergency or protective custody. Pa.R.J.C.P. 1187. They may not issue warrants but may recommend that a judge do so if the circumstances make it necessary. The President Judge may place other restrictions on the classes of cases to be heard by the hearing officer.

The parties to a case retain the right to have a hearing before a judge rather than a hearing officer. Pa.R.J.C.P. 1187 directs the hearing officer to inform all parties of this right before beginning any hearing. If a party objects to having the matter heard by the hearing officer, the case should be scheduled for an immediate hearing before a judge.

"The Hearing Officer understands life and sees I am trying hard and I love my kids even though I'm not perfect."

- Pennsylvania Parent

Under Pa.R.J.C.P. 1190, hearing officers may accept stipulations in any class of cases that they are permitted to hear, subject to the usual stipulation requirements of Pa.R.J.C.P. 1405, including the requirement that the court take whatever additional corroborating evidence is necessary to support an independent determination that a child is dependent. At the conclusion of the hearing, Pa.R.J.C.P. 1191 requires that the hearing officer's findings and recommendation to the judge be announced in open court and on the record and submitted in written form to the juvenile court judge within two business days of the hearing. Upon request, a copy of the findings and recommendation is to be given to any party.

A party may contest the hearing officer's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation, requesting a rehearing before a judge, and stating the reasons for the challenge. A copy of the findings and recommendation may be attached to the motion for rehearing. Pa.R.J.C.P. 1191(C).

The hearing officer's decision is subject to timely analysis and approval by the judge. Within seven days of receipt of the hearing officer's findings and recommendation, the judge is to review the findings and recommendation of the hearing officer and (1) accept the recommendation by order, (2) reject the recommendation and issue an order with a different disposition; (3) send the recommendation back to the juvenile court hearing officer for more specific findings; or (4) conduct a rehearing. Pa.R.J.C.P. 1191(D). When the judge rejects the hearing officer's recommendation and modifies a factual determination, a rehearing is to be conducted. The judge may reject the hearing officer's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. Nothing in the rule prohibits the court from modifying conclusions of law made by the hearing officer. See comments to Pa.R.J.C.P. 1191.

3.5 Qualifications of Juvenile Court Hearing Officers

In order to preside as a hearing officer in dependency matters, an individual must be a member in good standing of the Pennsylvania Bar and have been licensed to practice law for at least five consecutive years. Pa.R.J.C.P. 1182(A)(1-2). A hearing officer must complete six hours of instruction approved by the Pennsylvania Continuing Legal Education Board prior to presiding over any hearings. This instruction must specifically address the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the Child Protective Services Law, evidence rules and methodology, and child and adolescent development. Pa. R.J.C.P. 1182(A)(3). While not required, an online Rule 1182 educational session is available to all newly appointed hearing officers. This course meets the initial six-hour instruction requirement for hearing officers outlined in Pa.R.J.C.P. 1182.

Once the initial six hours of instruction have been completed, a hearing officer must complete six hours of instruction in juvenile dependency law, policy, or related social science research designed by the Office of Children and Families in the Courts every two years. Pa. R.J.P.C. 1182(B). These requirements are in addition to the Pennsylvania Rules of Continuing Legal Education, as the mandate is for specific training in juvenile dependency law. The credit hours received count towards the total credits required under the Continuing Legal Education requirements. There are bi-annual Juvenile Court Hearing Officer Education Sessions provided by OCFC that meet these requirements.

It is the court's responsibility to ensure that the hearing officer meets these requirements initially and on an ongoing basis. The *Pennsylvania Rules of Juvenile Court Procedure – Dependency Matters* require hearing officers to submit an affidavit to the court confirming compliance with the mandated training. Pa.R.J.C.P. 1182(C). Courts should establish a local process for this.

(Page intentionally left blank)