

2018 Child Protection Summit – Caregiver Engagement in Court: Listening, Sharing & Acting

I. Introduction

A. Who We Are

1. Introduce Presenters
2. Audience Straw Poll
3. Handout Index Cards

B. Focus of Discussion

1. § 39.01(10), Fla. Stat. (2018): “‘Caregiver’ means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child’s welfare as defined in subsection (54).”
2. § 39.01(54), Fla. Stat. (2018): “‘Other person responsible for a child’s welfare’ includes the child’s legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice; or any other person legally responsible for the child’s welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child’s care.”

C. Learning Objectives

1. To equip stakeholders with a base of knowledge regarding foster parents/caregiver participation in child welfare.
2. To provide tools and ideas as to how to build and improve stakeholders' relationships with foster parents and caregivers.
3. To stimulate discussion regarding best practices for building and improving relationships with foster parents and caregivers.

II. Foster Parent & Caregiver Participation

A. Participation in Court

1. Legal Authority & Policy

a) § 39.01(57) and Rule 8.210(b)

b) § 39.402(8)(h)(7) and (9)

c) CFSR Performance Improvement Plan

(1) As part of this, CLS is making a statewide push to ensure caregivers are notified of proceedings, recognized in court, and offered an opportunity to be heard and provide input in court

(2) May notice that orders are now reflecting new language in this regard

2. Practice Tips

a) All

(1) Caregivers should NOT be dissuaded from attending court – See § 39.001(1)(b)(2)

b) CM/CPI

(1) Give Caregivers a copy of “A Caregiver’s Guide to Dependency Court”

(2) Tell CLS when caregiver is present and if they want to address the Court

c) CLS (& Possibly Other Attorneys)

(1) Encourage caregivers to reach out to you

(2) Incorporate the Caregiver into your trial preparation process – meet w/them before important hearings, review any testimony they may give (ex. Manifest best interest questions at TPR)

(3) Solicit the caregiver’s thoughts on child testimony (e.g. under what conditions, whether to testify at all, etc.)

(4) Consider asking for the caregiver to be present in court with the child when they

- testify (even in camera)
- d) Foster Parents & Caregivers
 - (1) Notify case manager, CPI, GAL, and/or CLS when you are present for Court
 - (2) Do not be afraid to be honest about how the child is doing and/or whether the child's needs are being met
- e) Judiciary
 - (1) Inquire of any caregiver's presence at every hearing (if not already notified by the parties)
- f) GAL & Others

B. Input for Case Plans & Judicial Reviews

1. Legal Authority & Policy

- a) § 409.145(2)(b)(1) and Rule 8.400(a) – must include caregiver in development & implementation of case plan
- b) § 39.701(2)(a) – court shall consider testimony from foster parent or any other person deemed appropriate
- c) § 39.701(2)(a)(6) & (10) – JRSSR must include a statement from the caregiver re: any maternal evidence concerning child's return to parent(s) & re: child's progress in acquiring independent living skills (if child is 13-17)

2. Practice Tips

- a) All
 - (1) Encourage caregivers to provide open, honest perspectives on the case as relates to the child
- b) CM/CPI
 - (1) Ensure caregivers are aware of what the case plan lists as their responsibilities (if anything)
 - (2) Discuss regarding bringing the child to court
 - (3) If caregiver can't attend, ensure caregiver has "Input Form" that gets filed w/Court and reviewed by the Judge (sample: <http://www.qpiflorida.org/pages/Documents/qpi1/docs/Court%20Caregiver%20Input.pdf>)
 - (4) Return their calls – COMMUNICATE – text and email caregivers
 - (5) Ensure caregivers have the info, services, training, and support needed to improve their skills in parenting trauma-exposed children, meeting these children's special needs, and to advocate effectively with agencies, courts, schools, etc. – § 409.145(2)(b)(2); see also CFOP 170-17 2-3(a); § 39.5086 (Kinship Navigator Program)
- c) CLS (& Possibly Other Attorneys)
 - (1) Ensure caregiver input is noted in the JRSSR
 - (2) Double check your certificates of services to ensure the caregivers are included
- d) Foster Parents & Caregivers
 - (1) Contact the case manager or CLS if you are not receiving these documents or being given the opportunity for input
 - (2) CFOP 170-17 2-3(a) – Caregivers must take the lead in various activities demonstrating quality parenting such as assisting youth in mastering age appropriate life skills
- e) Judiciary
 - (1) Review & assess these documents for caregiver input and inquire if such input is not documented or provided at the hearing
- f) GAL & Others

C. Notice of Court Hearings & Meetings for the Case

1. Legal Authority & Policy

- a) § 39.502(6) and Rule 8.225(f)(3)
- b) § 39.502(17) and Rule 8.225(f)(3)
- c) § 39.402(8)(h)(7) and (9)
- d) § 39.506(9)
- e) § 39.701(1)(f) and Rule 8.415(b)(2)
- f) § 409.145(2)(b)(1) – Caregivers can participate in all team meetings related to child’s care and future plans & participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation if caregiver can’t be physically present
- g) F.A.C. 65C-28.006(4)(b) – Permanency Staffings

2. Practice Tips

- a) All
 - (1) Providing sufficient notice to caregivers requires a systemwide effort toward caregiver inclusion in the process
- b) CM/CPI
 - (1) ACT: Respond to their concerns where appropriate – do not make promises you can’t keep
 - (2) If caregiver can’t attend permanency staffing, could also use an input form (Sample: <http://www.qpiflorida.org/pages/Documents/qpi1/docs/Permanency%20Caregiver%20Input.pdf>)
- c) CLS (& Possibly Other Attorneys)
 - (1) Ensure the caregivers are listed on the certificates of service for hearing
- d) Foster Parents & Caregivers
 - (1) Contact the case manager or CLS if you are not receiving sufficient notice of hearings or meetings
- e) Judiciary
 - (1) Sample notices of hearings on cases to ensure caregivers are being noticed consistently
- f) GAL & Others

D. Addressing the Court

1. Legal Authority & Policy

- a) § 39.701(2)(b)(3)
- b) § 39.402(8)(h)(9)
- c) ASFA

2. Practice Tips

- a) All
 - (1) Hold each other accountable in providing the space and time for caregivers to offer meaningful input to the court at all hearings
- b) CM/CPI
 - (1) ACT: Respond to their concerns where appropriate – do not make promises you can’t keep
 - (2) Bring in your supervisor if you are running into issues – be careful before labeling a caregiver as difficult, meddling, etc.
 - (3) Inform Caregivers of the Department’s need to vet placement with relatives such as via family finding (see § 39.4015) or to place siblings together (see § 39.001(1)(k); § 39.402(8)(h)(6) and Rule 8.305(c)(3); and § 39.701(2)(c)(7) and Rule 8.415(f)(1))

- c) CLS (& Possibly Other Attorneys)
 - (1) When announcing the case, state whether caregivers are present and whether they wish to address the court (if known)
- d) Foster Parents & Caregivers
 - (1) Don't be afraid to stand up if your presence isn't recognized
- e) Judiciary
- f) GAL & Others

E. Receiving Copies of (Some) Documents

1. Legal Authority & Policy
 - a) § 39.701(2)(b)(1) – JRSSRs, GAL Reports
 - b) § 39.801(3)(a)(4) and Rule 8.505(a)(4) – TPR Petitions
 - c) § 409.145(2)(d) – Health Records, School records, Birth Certificate, Parent Consents, CBHA, Orders, Visit & CPs, GAL Reports, Staffing Forms, JRSSRs minus confidential docs for any but the child)
 - d) § 409.145(2)(b)(3) – all info related to services & other benefits available to child
 - e) F.A.C. 65C-30.011(4) – Child's Resource Record w/health care history and services, treatment consent, key court documents (orders, case plan, JRSSR), Medicaid card, school records, recent photo, birth certificate, staff contact info, etc.
 - f) CFOP 170-1 5.8(c) – copy of signed home study
2. Practice Tips
 - a) All
 - (1) All parties need to ensure caregivers are adequately informed to provide the best care for our children, within the bounds of confidentiality and the law
 - b) CM/CPI
 - (1) ACT: Respond to their concerns where appropriate – do not make promises you can't keep
 - (2) Ensure caregivers have all info related to services/benefits available to child
 - (3) F.A.C. 65C-30.011 – Ensure transportation of child to placement, advise caregiver why placement made, provide/update Child Resource Record, review Partnership Plan w/Caregiver, etc.
 - c) CLS (& Possibly Other Attorneys)
 - (1) Regularly check your court filings to ensure copies of the appropriate documents are being sent to caregivers
 - d) Foster Parents & Caregivers
 - (1) F.A.C. 65C-30.011(4)(a) and (f) – Maintain confidentiality of Child's Resource Record documents & update the record
 - e) Judiciary
 - (1) Inquire when and whether caregivers have received documents they should have
 - f) GAL & Others

F. Caregiver Participation on Special Cases

1. Early Childhood Court – Caregiver Participation is Essential in All Parts of this Process – Staffings, Co-Parenting & Bonding, Court Hearings, Visitation, etc.
2. Child in Residential Treatment
 - a) Participate in treatment plan development where you can
 - b) Visit with the child & prepare for the transition home
 - c) Provide the child emotional support
 - d) Discuss respite options if needed to sustain placement

III. Visitation

A. The Importance of Visitation – Frequency > Duration

B. Legal Authority

1. Parents

- a) § 39.402(9)(a) and Rule 8.305(b)(8) – Court determines visitation rights unless clear and convincing evidence visitation is not in the child’s best interest – see also § 39.506(6)
- b) § 39.4085(16) – Goal for parental visitation is at least 1x/month

2. Siblings

- a) § 39.402(9)(b) and Rule 8.305(c)(4) – If not placed together, DCF to provide recommendation for frequent visitation or other ongoing interaction unless contrary to a sibling’s safety or well-being
- b) § 39.4085(15) – Goal for sibling visitation is at least 1x/week

3. Grandparents

- a) § 39.509 – they have a right to reasonable visitation when child out of home unless not in child’s best interest or affects case plan goal

C. Practice Tips

1. All

- a) Ask for reviews of visitation at Judicial Review (among other hearings) – § 39.701(2)(a)(7)

2. CM/CPI

- a) ACT – Respond to their concerns where appropriate – do not make promises you can’t keep
- b) ASK NOT TELL – what foster parents can assist with in relation to visitation, ex. supervising visits

3. CLS (& Possibly Other Attorneys)

- a) Encourage caregivers to voice their thoughts on the practicalities of the visitation plan ordered by the Court

4. Foster Parents & Caregivers

- a) § 409.145(2)(a)(3) – A caregiver shall: “Respect and support the child’s ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.” – see also F.A.C. 65C-28.019(2)(c)
- b) Provide input on how the child is doing before and after visitation & offer suggestions on how to improve the visitations for the child
- c) F.A.C. 65C-30.011(5) – “Transportation. The caregiver shall have the primary responsibility for ensuring the transportation of children in out-of-home care to and from hearings, visitation and other activities. If the caregiver cannot arrange or provide transportation, he or she shall contact the child welfare professional who shall be responsible for developing contingency transportation plans. When the licensed caregiver refuses to perform these required transportation responsibilities, the child welfare professional shall notify licensing staff of the refusal.”
- d) Comfort Calls – post shelter – visitation is an excellent time to co-parent! (see F.A.C. 65C-28.019(2)(b))

5. Judiciary

- a) Be cognizant of the practical difficulties in scheduling visitation BUT hold the parties accountable for following the visitation ordered by the Court

6. GAL & Others

IV. Normalcy

A. Legal Authority & Policy

1. What is the Law? – § 39.4091(3)(a): “Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.”
 2. How do we determine this? – § 39.4091(3)(b): “Caregivers must use a reasonable and prudent parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities.”
 3. The Standard – § 39.4091(2)(c): “‘Reasonable and prudent parent standard’ means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety, and best interests while at the same time encouraging the child’s emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.”
 4. What Considerations Should be Considered? – § 39.4091(3)(b):
 - a) The child’s age, maturity and developmental level
 - b) Risks of activity
 - c) Best interest of child
 - d) Importance of child’s emotional & developmental growth
 - e) Importance most family-like living experience
 - f) Behavioral history of the child & child’s ability to safely participate in activity
 5. Who decides?
 - a) § 39.4091(2)(b): “‘Caregiver’ means a person with whom the child is placed in out-of-home care, or a designated official for group care facilities licensed by the Department of Children and Families pursuant to s. 409.175.”
 - b) THAT MEANS THE FOSTER PARENT OR CAREGIVER
 6. What protections are there?
 - a) § 39.4091(3)(c): “The department and community-based care lead agencies are required to verify that private agencies providing out-of-home services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.”
 - b) § 39.4091(3)(d): “A caregiver as defined in this section is not liable for harm caused to a child in care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent parent. This section does not remove or limit any existing liability protection afforded by statute.”
 7. Other Resources
 - a) F.A.C. 65C-28.019
 - b) CFOP 170-11: http://centerforchildwelfare.org/kb/DCF_Pol/CFOP_170/CFOP170-11.pdf
- B. Examples in Practice
1. Employment
 2. Driving
 - a) Keys to Independence Program can help
 - b) All the more important now that required to report on these efforts at JRs for children 15+ years old – § 39.701(2)(c)(12)
 3. Overnight Stays / Babysitting
 4. Haircuts – normal cuts okay but if drastic change, check court/parent approval beforehand
 5. Vacations – see standard travel language in most orders
 6. Dating
 7. Religion – make arrangements for child’s own faith
 8. Social Media
- C. Practice Tips
1. All
 - a) Children in the dependency system deserve to have normal lives just like any other

children!

2. CM/CPI
 - a) ACT: Respond to their concerns where appropriate – do not make promises you can't keep
 - b) Attend Foster Parent Association meetings – provide child care for these meetings, invite case workers and other CBC staff
3. CLS (& Possibly Other Attorneys)
 - a) Verify case manager are encouraging this in their visits with the child
4. Foster Parents & Caregivers
 - a) Point out barriers for the child's normal participation in activities
5. Judiciary
6. GAL & Others

V. Transition Planning

A. Legal Authority

1. It is a basic tenet of child welfare practice and the law that transitions are critical to protecting the child's well-being. See §§ 409.145(2)(c)(2); 39.0016(2)(b)(3)(f); 39.6012(3)(c); 39.6035; 39.6251(3); 39.701(3)-(4); 63.082(6)(d).
2. § 409.145(2)(c)(2): "In the absence of an emergency, if a child leaves the caregiver's home for a reason provided under subparagraph 1., the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home and, if possible, for continued contact with the caregiver after the child leaves."

B. Practice Tips

1. All
 - a) Notify the caregiver of important transitions
 - b) Minimize trauma – be flexible but predictable
2. CM/CPI
 - a) Set Meetings / Facilitations / Staffings to develop the transitions – calendars are a great tool to ensure everyone is on the same page
 - b) Reduce transition plan / schedule / agreement to writing (signed by the parties and the caregiver(s)) & file it with the Court & incorporate it into court order(s)
3. CLS (& Possibly Other Attorneys)
 - a) Object to placement changes w/o transition plan
4. Foster Parents & Caregivers
 - a) Share information to ensure continuity of care / schooling / etc. – example form <http://www.qpiflorida.org/pages/Documents/qpi1/docs/Transitions%20Child%20Information%20Sheet.pdf>
 - b) F.A.C. 65C-28.019(2)(i) – "Be supportive of transitions, including reunification, another adoptive placement, or any other changes in placement."
5. Judiciary
 - a) Mandate transition periods whenever appropriate – especially at reunification
6. GAL & Others

VI. Care & Overall Support

A. Foster Parent Grieving

1. Acknowledge and be attuned to foster parent grieving – <http://centervideo.forest.usf.edu/video/qpi/griefloss/start.html>
2. Encourage self-care – <http://centervideo.forest.usf.edu/video/qpi/selfcare/start.html>

- 3. Utilize the foster parent liaison, licensing, client relations – provide accountability
- B. Comparisons to other stakeholders – utilize the GAL – as analogs and colleagues
- C. Investigations – FAST – Foster Allegation Support Team: <http://floridafapa.org/fast-allegation-support/>
- D. Inform Caregivers and Foster Parents of Other Benefits Available & Pending Changes
 - 1. Foster Parent Mentoring Program
 - 2. Foster Parent Appreciation Week
 - 3. State Park Access
 - 4. Guardianship Assistance Program will change how assistance is funded – <http://centervideo.forest.usf.edu/video/center/gap/start.html>
- E. Thank Them!

VII. What We've Learned & What We Have Seen Work

- A. Trainings
 - 1. Court Participation – training for stakeholders (like this one!)
 - 2. QPI/GAL Talk – exposing them to other stakeholders and their roles
 - 3. Speak at Trainings – FAPA, MAPP, Q&A – especially, new law changes
- B. Work Groups
 - 1. Invite them to Stakeholder Workgroups such as FLAG, Unified Family Court, etc.
 - 2. CBC Recruitment – goals, marketing, etc.
- C. Leadership Buy In & Collaboration
 - 1. FAPA liaison/leadership
 - 2. Judicial recognition of caregivers in court & participation in trainings and work groups
 - 3. CBC Leadership buy in – example FAPA Q & A

VIII. Q&A and Closing – Where to Go from Here

- A. Questions
- B. Take this to your own communities & reach out to your stakeholders
- C. Our contact info for future questions
- D. Resources