

Child Welfare Pre-Service Training

Court Preparation and Participation

Participant Guide

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Court Preparation and Participation

Objectives

Court Preparation and Participation

- Describe your roles and responsibilities and other participants in the dependency court process.
- Describe how to facilitate teamwork with children's legal services.
- Identify your responsibilities to review and prepare files before court.
- Recognize appropriate courtroom demeanor.
- List the elements of providing effective court testimony and being a credible witness.

Court Preparation Checklist

Preparing for Review Hearings

- Follow region/circuit protocol about bringing files to court for every hearing.
- Review the file before each hearing. Prepare summary notes and case chronology.
- Number the pages of the case plan or any lengthy document going into a court file.
- Know the names, ages, and dates of birth of all children.
- Monitor the child's trust account and report the status to the court.
- Prepare to answer questions about the child's placement or anything else pertaining to the case.
- Prepare to answer questions about reasonable efforts.
- Prepare to provide information about relatives and efforts to locate alternative placements.
- Prepare a written report that includes:
 - a statement that the parents either substantially complied, or did not comply, with the case plan and be prepared to discuss it; or
 - a statement that the parents partially complied with the case plan and a summary of additional progress needed and agency recommendations; and
 - copies of all medical, psychological, and educational records concerning the child and the parents.
- Provide all expert reports to CLS as soon as you receive them.

Checklist for Preparing for Trials

- Bring all volumes of the file to court. (Follow agency protocol).
- Review the file before the trial. Prepare summary notes and case chronology.
- Number the pages of the case plan or any lengthy document going into a court file.
- Know the names, ages and dates of birth of the children.
- Review your testimony with CLS before the trial.
- Review all prior testimony, including your deposition, to avoid contradiction.
- Prepare to answer questions about the child's placement or anything else pertaining to the case.
- Prepare to answer questions about reasonable efforts.
- Prepare to provide information about relatives and efforts to locate alternative placements.
- Provide CLS with all evidence and witnesses in advance of the trial date.
- Provide all expert reports to CLS as soon as you receive them.

How to be a Good Witness

Follow the Basic Rules

- **Always tell the truth, even if it hurts.**

Tell the truth. Pure and simple. Let the chips fall where they may. Don't try to color your answers to fit the outcome of the case that you believe is most fair or just. It's natural to feel like an advocate for a certain outcome, but you are a better witness when you are impartial. A slight shift in emphasis on cross-examination to try to advocate a certain outcome can backfire and give opposing counsel a basis to argue that you are biased. This can damage your credibility. The lawyer is there to argue the case—you are there to report facts impartially to the judge.

- **Don't be afraid to admit you didn't hear or understand a question.**

Answer all of the questions you are asked and answer only the questions that you are asked. Do not rush into an answer. Think for a few seconds about the questions and your answer. Do not hesitate to ask for clarification or restatement of a question if you do not fully understand it. Your duty is solely to answer the questions asked and not to volunteer information.

- **Stop talking when someone says "Objection."**

If an objection* is made by one of the attorneys, or if the judge speaks, stop* your testimony immediately. Don't try to complete your answer. The judge will tell you whether to answer the question.

- **Don't forget: always tell the truth.**

Make a Good Impression

- **Dress appropriately.**

Your appearance and demeanor can make a strong and positive impression on the judge, and boost your own confidence. Courts are conservative. Wear professional, conservative clothes. If you are unsure about what to wear, ask your attorney.

- **Behave properly.**

Always conduct yourself in a businesslike and professional manner. Do not enter the courtroom eating, drinking or chewing gum. Turn off your cell phone. While you are waiting for your case to be called, be attentive, quiet, and respectful. Also be aware of how you are conducting yourself when you are not in the courtroom—laughing and joking in the halls can be viewed in a negative light. Keep the seriousness of the situation in mind.

- **Body language is key.**

Stand and sit tall in the courtroom. Your body language can exude confidence or weakness. When you are testifying, be careful not to let your shoulders slump or to let your body slide down in the chair. If you begin the slumping and sliding process, the natural desire you have to get out of the spotlight will keep you slumping and sliding. Start out straight and you have a better chance of staying that way. Eye contact should be made with the individual asking the questions. Purposeless gestures, like hand wringing or nail biting, must be kept at a minimum.

- **Speak to the court with respect.**

Even if you do not respect the judge on a given day, give the court (and other court the respect it deserves. Absolute self control is essential. Be cautious of what you say. There is no room for humor, sarcasm, slang or swearing in the courtroom. Do not appear defensive and avoid all off-hand responses.

Prepare for Court

- **Do good work.**

You begin preparing your testimony the moment you begin working with a family. The best method for having good testimony is to follow best practices in your work. You will feel more confident and secure knowing that your work is thorough, and can withstand the scrutiny of the opposing party.

- **Know your case.**

Being prepared is your best ally in the courtroom. Have a complete knowledge of the case record. Refresh your memory and recall events. Do not memorize, though, or you will sound rehearsed and insincere. Spontaneous responses are more believable and less likely to be shaken on cross examination. Reviewing your file and taking notes helps you internalize information and keep it fresh. Large note cards are easier to use on the witness stand than large pieces of bulky paper. But don't expect to use your notes extensively—you can only use your notes to refresh your memory, and you must first ask permission from the court. Once you are permitted to look at your notes, read them to yourself briefly, then close them and answer the question from personal knowledge.

How to be Nervous and Not Show It

You will probably feel anxious when you are called into the courtroom from the corridor. The judge and the lawyers watch all witnesses as they approach the witness stand—you may feel stared down at this point. Prepare for this, and focus on the fact that this is how judges and lawyers view every witness—it has nothing to do with you. Look directly back at the judge and lawyers, just as you would if you were speaking to them. Don't avoid their glance.

- **Control Your Voice.**

Everyone has a tendency to lower their voice and talk faster when on the witness stand.

Make an effort to speak louder and slower than you may think is necessary. Concentrate on making each word heard, but avoid long pauses between your words, phrases or sentences. Moderation is the key word when you try to overcome nervousness.

- **Speak Clearly and Distinctly.**

The judge and the attorneys have to hear your response. So does the court reporter if a record is made of the hearing. A low tone of voice* may detract from the value of your testimony, and make it seem that you are unsure about what you are saying. So speak clearly and distinctly, using a voice that is probably louder than the one you use in ordinary conversation. Talk at a moderate rate, and don't slur or mumble your words.

- **Give Spoken Answers and Use Plain English.**

You must give a spoken answer. Nodding or shaking your head, gesturing or any other non-verbal communications will not be accepted. Use ordinary English words that you are comfortable using. Avoid slang, jargon, and words that you don't know or that can be misinterpreted. Do not smile or laugh at inappropriate moments, even if you are nervous.

How to Answer Questions

- **Let the Attorney Develop Your Testimony.**

For example: if the attorney asks "Do you remember an interview with Mary Jones on Monday April 15, at 10:15 a.m.?" your best response is yes or no. In the next question, the examining attorney may ask you to explain the substance or circumstances of the interview. The first question may be meant to prepare a foundation before introducing the significant part of your testimony. This is the attorney's job. Don't jump ahead. Likewise, you do not have the right to object or refuse to answer a question. It is your attorneys role to make objections and argue the points to the court.

- **Tell the Truth, If You Don't Know, Say So.**

Never try to guess the answer to a question. If you are confronted with a question for which you do not know the answer, the only truthful answer is "I don't know." Don't guess. If you cannot remember, it's better to say so than to speculate. If you remember the answer later during your testimony, the attorney questioning you may ask the question again. But don't use "I don't remember" or "I don't know" to avoid answering difficult or delicate questions. If you are an eyewitness of child abuse, you will not be an effective witness unless you can provide details.

- **Don't Try to Make Your Testimony Conform to Other Testimony You Have Heard.**

You are called to testify about what you observed or what your opinion is. Different eyewitnesses can have different impressions of the same event. You are not expected to agree with or parrot someone else's testimony. The other person may be wrong. You can discuss discrepancies with your attorney, but this is done outside the courtroom.

- **Look at the Person Asking the Questions or the Judge.**

You are testifying in order to impart information to the judge who will use it to make a decision. If you always look over at your lawyer before answering another attorney's question, it will look like you are waiting to be coached. You are an impartial witness. You are not supposed to "win" the case for either side.