

**DRAFT PROTOCOLS RELATIVE TO
RSA 169-C POST- PERMANENCY HEARINGS FOR OLDER YOUTH
WITH A PERMANENCY PLAN OF
ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)**

FOR USE IN THE NEW HAMPSHIRE CIRCUIT COURTS



**DEVELOPED BY THE FRANKLIN AND CONCORD MODEL COURT PROJECT
IN COOPERATION WITH THE
NEW HAMPSHIRE COURT IMPROVEMENT PROJECT**

August 2013

INTRODUCTION AND ACKNOWLEDGMENTS

In 2008, the National Council of Juvenile and Family Court Judges (NCJFCJ), selected the Franklin and Concord courts to become a Model Court, part of a national grant program designed to promote innovative and positive change in abuse and neglect proceedings. Model Courts act as laboratories, developing and implementing best practices to improve outcomes for children and youth. The Franklin and Concord Model Court is operated by an interdepartmental team and is supported by the New Hampshire Court Improvement Project (CIP).

The Model Court in New Hampshire has worked on several projects, including the development of protocols designed to reduce the time to permanency for children in placement and to increase the participation of children and youth in court proceedings. In 2010, the Concord and Franklin Model Court Project and CIP recognized a need to develop protocols for post-permanency hearings for youth with a permanency plan of another planned permanent living arrangement (APPLA). That need arose from uncertainty about the purpose and content of an APPLA permanency plan and from a lack of direction on how courts should conduct post-permanency hearings in APPLA cases.

APPLA has been the least favored of the permanency outcomes. In some respects it may be viewed as a failure to reunify, adopt or establish a guardianship. As a result, it seems that less thought has been put into designing and implementing quality APPLA permanency plans. The Model Court Project recognized that, despite the best efforts of all involved, there will always be some older youth who will fall within the realm of APPLA and for whom APPLA is the most appropriate permanency plan. That being the case, these cases should not be perceived as failures within the system. APPLA permanency plans should be meaningful and planned and address the well-being of every youth involved, including a youth's education, healthcare, potential employment and living arrangements.

These draft protocols will be piloted in the Franklin and Concord Model Court Project for all current and new abuse and neglect cases. As with the *Protocols Relative to Children and Youth in Court*, these protocols will be evaluated and changes made before they are implemented statewide in the Circuit Courts.

Insofar as these protocols suggest any interpretation of the law, the reader should bear in mind that the interpretation of the law, as it applies to any given case, is within the sole province of the trial judge, subject to the ultimate review by the New Hampshire Supreme Court. These protocols do not create substantive rights that do not currently exist and should not be considered as superseding any constitutional or statutory rights of parties to proceedings related to abuse and neglect.

The *Protocols Relative to RSA 169-C Post-Permanency Hearings for Older Youth with a Permanency Plan of APPLA* are the result of a significant and continued collaboration of the Franklin and Concord Circuit Courts and the Court Improvement Project, representatives from CASA of New Hampshire, the Division for Children, Youth and Families (DCYF), the New Hampshire Bar Association and members of the Franklin and Concord communities. Our gratitude is owed to them and all who have participated in this important endeavor.

Special thanks go to Kristy Lamont, who has kept the engine of the Model Court Project running smoothly. Special thanks are also extended to the CIP's consultant, David Sandberg, who has helped guide the project's development of these protocols, and to Marge Therrien from the Court Improvement Project, who worked patiently with us as we drafted and edited these protocols. A grateful thank you also goes to DCYF's Gail Snow, who chaired the APPLA Protocol Committee, and the following other members of the Model Court's Executive Committee and Protocol Committee, who gave countless hours of their time to make this initiative happen:

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These protocols were developed over two years and are intended to assist courts in their handling of post-permanency hearings in APPLA cases. There may be challenges for all of us as we adapt to how courts schedule and conduct post-permanency hearings. But it is expected that compliance with the protocols will produce better outcomes for older youth in APPLA cases.



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TABLE OF CONTENTS

RSA 169-C POST-PERMANENCY HEARINGS FOR OLDER YOUTH WITH A PERMANENCY PLAN OF ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA)

	Page
PROTOCOL 1 - DEFINING ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA) AS A PERMANENCY PLAN FOR OLDER YOUTH.....	10
PROTOCOL 2 - UNDERSTANDING THE FOUR (4) PARTS OF AN APPLA PERMANENCY PLAN FOR OLDER YOUTH	11
PROTOCOL 3 - SCHEDULING POST-PERMANENCY HEARINGS FOR OLDER YOUTH WITH AN APPLA PERMANENCY PLAN.....	14
PROTOCOL 4 - COURT REPORTS FOR POST-PERMANENCY HEARINGS IN APPLA CASES	16
PROTOCOL 5 - CONDUCTING A POST-PERMANENCY HEARING FOR APPLA CASES AND THE COURT'S ORDER	18

**RSA 169-C POST- PERMANENCY HEARINGS FOR OLDER YOUTH
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INTRODUCTION

The initial motivation for the Concord and Franklin Model Court Project, in cooperation with the New Hampshire Court Improvement Project, to develop post-permanency hearing protocols for APPLA cases was uncertainty about what an APPLA permanency plan is or is supposed to be and how courts should conduct post-permanency hearings in these cases. Seemingly, post-permanency hearings for youth with APPLA permanency plans typically were in the nature of brief review hearings, with the court's focus often on the current status of the youth's schooling and foster or other placement. These protocols shift the emphasis to a primary caring adult and family and other supportive relationships for the youth, and a safe, stable place for the youth to live, currently and following case closure.

As this APPLA initiative got underway in 2010, the multidisciplinary Model Court Project and its members were moved by national studies that have been conducted over the past twenty years which have uniformly found depressing outcomes for many former foster youth who were provided little more than an "independent living" curriculum before aging out. These outcomes included high rates of homelessness, substance abuse, and unemployment. See e.g. R. Avery, "An Examination of Theory and Promising Practice For Achieving Permanency for Teens Before They Age Out of Foster Care" (Oct. 2009).

In response to this, it was heartening to learn that a growing number of states have made or are making significant changes in practice based on recognition that these youth need families to live with and primary and supportive adults to guide and support them. In most cases, this has meant finding ways to reunify youth with parents or re-visiting reunification, better preparing them for adoption, including "unpacking the 'no'", or placing them with a relative guardian. In 2011, New Hampshire became one of these states with valuable assistance from the Casey Family Program, a national leader in the movement away from APPLA as a permanency plan.

Notwithstanding these very encouraging developments, the Model Court Project recognized that despite the best efforts of all involved there will always be some older youth in RSA 169-C cases with the permanency plan of APPLA. In a few instances, APPLA may actually be the most appropriate plan for a particular youth. In other instances, it may simply not be possible to provide a youth with a more permanent permanency plan of reunification, adoption or guardianship.

In light of this, the Model Court Project developed a definition of an APPLA

permanency plan for older youth that includes the youth's foremost needs and that effectively focuses the efforts of all involved, including the court at post-permanency hearings.

In addition, the Model Court Project addressed related best practices for these older youth, including the youth being a key participant at all RSA 169-C post-permanency hearings and the court championing the collaborative efforts of DCYF, the CASA GAL or GAL and other primary and supportive adults working with and on behalf of the youth.

The heart of the work of the Concord and Franklin Model Court Project is found in Protocol 1, which defines APPLA as a permanency plan for an older youth, Protocol 2, which explains the four parts of an APPLA permanency plan for older youth, and Protocol 5, which guides the court in conducting RSA 169-C post-permanency hearings for older youth with an APPLA permanency plan. These protocols are for use in Circuit Courts in current and new RSA 169-C abuse and neglect cases.

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PROTOCOL 1 DEFINING ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT (APPLA) AS A PERMANENCY PLAN FOR OLDER YOUTH

Another Planned Permanent Living Arrangement (APPLA) as a permanency plan is intended to be planned and permanent and limited to a small number of youth sixteen years of age and older at the time of the permanency hearing. APPLA as a permanency plan consists of four (4) parts:

- Part 1** Identifying a Primary Caring Adult (with whom the older youth may or may not live);
- Part 2** Identifying Important Family Relationships and Other Supportive Adults;
- Part 3** Preparing the Youth for Adulthood (education, employment/job training, and health); and
- Part 4** Exploring a More Permanent Permanency Plan with Interested Youth.

Each of the four parts is integral to an APPLA permanency plan for an older youth, and each should be addressed concurrently with the other parts.

COMMENTS

Although neither the Adoption and Safe Families Act of 1997 (ASFA) nor federal regulations define APPLA as a permanency plan, Congress clearly intended this least preferred permanency option to be a planned and permanent living arrangement that will endure for a youth. **Consequently, these protocols emphasize significant and supportive adult relationships for the youth, and a safe and stable place for the youth to live following case closure.**

Although these protocols are intended to limit APPLA as a permanency plan to youth 16 years of age and older, on occasion APPLA may be the permanency plan for a 14 or 15 year old, such as in cases involving profound mental health needs, safety considerations or when a youth is strongly opposed to being adopted. (A youth 14 years of age or older must assent to his/her adoption unless the court determines that it is not in the best interests of the adoptee to require an assent, pursuant to RSA 170-B:3,I.) In rare instances, similar circumstances may necessitate APPLA as a permanency plan for a child younger than 14.

These protocols also apply when APPLA is the concurrent plan for an older youth in the pre-permanency hearing phase of a 169-C case, most commonly for a youth who is 17 years of age or older when the abuse or neglect petition is filed.

PROTOCOL 2 UNDERSTANDING THE FOUR (4) PARTS OF AN APPLA PERMANENCY PLAN FOR OLDER YOUTH

The four parts of APPLA as a permanency plan, as identified in Protocol 1, provide a framework within which the youth, supported and assisted by the court, interested parents, DCYF, and the CASA GAL/GAL, can and should play a key role in shaping the specifics of each part.

Providing greater permanency for older youth calls for involving and listening to these youth. Conversely, a “top down” approach is not viable with most older youth, who need a sense of personal ownership of their permanency plan if the plan is to be of lasting value to the youth.

The four parts of APPLA as a permanency plan include the following:

A. IDENTIFYING A PRIMARY CARING ADULT (WITH WHOM THE OLDER YOUTH MAY OR MAY NOT LIVE)

“Youth who have aged out of the system tell us that the single most important thing they needed was someone they could count on, someone who cared about what happened to them and who would always be there for them when they had questions.”¹

A **primary caring adult**, sometimes referred to as an older youth’s “go to” person, is an adult who:

- the youth wants to serve as his/her primary caring adult;
- makes a commitment to serve as the youth’s primary source of guidance and support upon the youth aging out of the child protection system, including but not limited to playing an important role in the youth having a safe and stable place to live, which may or may not include the youth living with the primary caring adult, depending upon the primary caring adult’s circumstances and/or the youth’s preference; and
- further commits that his/her relationship with the youth is lasting and will endure over time.

COMMENT

A primary caring adult is usually someone known to the youth, and may be a family member (e.g. older sibling, aunt/uncle, grandparent) or non-family member (e.g. current or former foster parent, a high school teacher, counselor, coach, social worker, or neighbor). For cases in which the court and/or parties want to identify a parent as a youth’s primary caring adult, the permanency plan should be discussed

¹ Kelly Lynn Beck with Judge Leonard Edwards (ret.) et al., Child Law Practice, (Oct. 2008)

and reunification as a plan re-visited.

B. IDENTIFYING IMPORTANT FAMILY RELATIONSHIPS AND OTHER SUPPORTIVE ADULTS

“The most promising practices actively seek to identify all the adults in a youth’s natural network of relationships (family members, teachers, coaches, employers, former foster parents, former child care staff or social workers, mentors, etc.) interested in participating in joint planning for the youth’s future and willing to play some role in his or her life.”²

“One of the greatest senses of connection for most youth, regardless of placement status, is siblings...Finding various ways to help youth reconnect and maintain these connections provides a critical opportunity for them to maintain these relationships that contribute to their sense of love and belonging.”³

In addition to having a primary caring adult with whom the youth may or may not live and whom the youth can count on and can contact without hesitation in a time of need or simply to talk with, youth greatly benefit from having positive family relationships as well as connections with other supportive adults who take a special interest in the youth and are able to provide the youth with support, guidance and assistance.

For these reasons and consistent with a youth’s wishes, it is important that DCYF, the CASA GAL/GAL and interested parents assist the youth in developing or re-establishing relationships with family and/or other supportive, non-family members who care about the youth and want to support the youth in one or more capacities, currently and after the case closes.

C. PREPARING THE YOUTH FOR ADULTHOOD (Education, Employment/Job Training and Health)

“The phrase ‘preparation for adulthood’ offers an alternative to the common language of the past [“emancipation”, “independent living”] and more readily guides us to consider opportunities, skills, and resources necessary to be successful in the adult world.”⁴

² L. Frey, “Merging Permanency and Independent Living: Lifelong Family Relationships and Life Skills for Older Youth”, Nat. Resource Center for Youth Development (2004)

³ K. Jarboe and J. Agosti, “Independent Living Program Transformation in California: Lessons Learned About Working With Older Youth and Implications for Permanency” in Love and Belonging For a Lifetime: Youth Permanency in Child Welfare, American Humane Association, Vol. 26 (2011)

⁴ Casey Family Services in collaboration with California Permanency for Youth Project, “A Call to Action: An Integrated Approach to Youth permanence and Preparation for Adulthood” (2005)

Preparing the older youth for adulthood includes the court and parties discussing at post-permanency hearings the current status and, especially, future plans for the youth as they relate to the following three (3) topics:

- Education;
- Employment/Job Training; and
- Health.

A fourth preparation – where the youth will live upon aging out – should be addressed by the court and parties in their discussion of the primary caring adult (Protocol 1, Part 1) and important family relationships and other supportive adults (Protocol 1, Part 2) for the youth.

COMMENTS

Preparing a youth for adulthood as it relates to his/her health should include a discussion by the court and parties about how any mental health services will be provided after case closure, including but not limited to intake or transfer to an area mental health or area agency.

DCYF's practice, in concert with all youth 14 years of age and older, is to develop an Adult Living Preparation Plan (ALPP) which addresses specific preparations for adulthood, including practical skills/needs such as money management, transportation, and safety as well as education, employment, job training, and health. **Except as requested by the court, DCYF will no longer attach a copy of the youth's Adult Living Preparation Plan (ALPP) to its court report, and, instead, will address the youth's education, employment/job training, and health in the DCYF court report.**

In view of the emphasis these protocols place on a collaborative effort, interested parents and the CASA GAL/GAL will also be expected to be involved in preparing the youth for adulthood and reporting to the court on these preparations as they relate to the youth's education, employment/job training, and health.

D. EXPLORING A MORE PERMANENT PERMANENCY PLAN WITH INTERESTED YOUTH

*"...participants [former foster youth] highlighted the need to continue to revisit permanency planning for youth, as attitudes towards permanency are fluid and can change during a young person's time in care."*⁵

The parties and court should explore a more permanent permanency plan with interested youth due to the uncertainties that frequently accompany an

⁵ "Former Foster Youth Discuss Permanency on Capitol Hill", U.S. Senate Caucus on Foster Youth (2012)

APPLA permanency plan, foremost being whether the youth will be able to be part of and reside with a family upon case closure. Exploring and re-visiting other more permanent plans should always be an option for an interested youth.

In some instances, however, APPLA may be the most appropriate permanency plan for a youth and the plan with which the youth is the most comfortable. In such cases, there would be no reason to continue to explore and re-visit other permanency plans other than periodically checking with the youth to determine if the youth still feels the same way.

COMMENTS

DCYF's practice is to conduct permanency meetings involving interested youth, the CASA GAL/GAL, parents and other interested adults to determine whether all leads for a more permanent permanency plan have been identified and/or adequately pursued. Additionally, re-visiting other permanency plans, when appropriate, often involves offering youth the opportunity to talk with a treatment provider or other significant people in their lives about such matters as "unpacking the no" which could, potentially, lead to the permanency plan being changed from APPLA to a different permanency plan of reunification, adoption or guardianship.

Best practice regarding the court and parties re-visiting **reunification** would not take place in most cases until a significant amount of time has elapsed since the permanency hearing at which reunification was ruled out and APPLA identified in the court order as the permanency plan, or unless there has been a significant change in family circumstances since the permanency hearing and order.

While **guardianship** is a more permanent plan for a youth than APPLA and establishes a legal relationship between a youth and his/her guardian, the court and parties should, whenever re-visiting a **guardianship** for a youth, consider that New Hampshire's guardianship over minors law automatically terminates the guardianship when the youth becomes eighteen years of age.

PROTOCOL 3 SCHEDULING POST-PERMANENCY HEARINGS FOR YOUTH WITH AN APPLA PERMANENCY PLAN

The court should schedule and hold frequent post-permanency hearings for youth with APPLA as a permanency plan and should schedule these hearings so as to allow older youth to attend all post-permanency hearings.

To provide sufficient time to adequately address the four parts of an APPLA permanency plan, the court **should allot 30-45 minutes** for each post-permanency hearing in APPLA cases.

These hearings should be scheduled as follows:

1. Initial Post-Permanency Hearing within 45 days of the Permanency

Hearing

The court should schedule and hold an initial post-permanency hearing within 45 calendar days of the permanency hearing.

To accomplish this, **the court should, at all 9-month review hearings, schedule this initial 45-day post-permanency hearing.** For cases involving older youth (16 years of age and older), this initial post-permanency hearing should be, to the extent possible, scheduled when the youth will be available to attend.

COMMENTS

These frequent post-permanency hearings should be scheduled, notwithstanding the requirement of RSA 169-C:24-c,1, which requires the court to hold and complete a post-permanency hearing within 12 months of the permanency hearing and every 12 months thereafter as long as the child remains in an out-of-home placement.

In view of post-permanency hearings in APPLA cases being about an older youth, following the court's issuance of a permanency order identifying APPLA as a youth's permanency plan, if the **youth will be unable to attend the initial 45-day post-permanency hearing the CASA GAL/GAL should promptly advise the court in writing**, such as filing a motion, and request a new hearing date. In such cases, **the court should re-schedule the 45-day post-permanency hearing** on a date and time that will allow the youth to attend.

Guidance for Court Staff

*For cases in which APPLA is NOT identified in the permanency order as the plan and, instead, a **TPR petition is filed at or shortly after the permanency hearing**, court staff should handle the matter as follows:*

- *the initial 45-day post-permanency hearing should be re-captioned by the court as the preliminary hearing in the TPR case, to be held at the same date and time as the selected 45-day post-permanency hearing;*
- *the date, time and place should be re-stated in the court's orders of notice for the TPR case; and*
- *the RSA 169-C 45-day post-permanency hearing should be cancelled.*

*Further, if the TPR is subsequently granted, the court has continuing jurisdiction pursuant to RSA 170-C:11,VI, which requires the court to review such cases until the adoption decree for the child has been finalized. Notwithstanding that the court will also have open a related RSA 169-C case, **all post-termination review hearings should be scheduled and held as part of the RSA 170-C proceeding when a TPR petition has been granted, DCYF has been appointed guardian of the child and vested with legal custody, pursuant to RSA 170-***

C,11,II, and an adoption pending. The RSA 170-C case shall remain open until a final decree of adoption is issued. The RSA 169-C case should be closed only when the permanency plan of adoption has been achieved, which will occur once the final decree of adoption is issued.

2. Subsequent 3-Month Post-Permanency Hearings

Following the initial 45-day post-permanency hearing the court should schedule and hold post-permanency hearings within three months of the prior post-permanency hearing **EXCEPT** where a **youth is 17 years of age**. When a youth is 17 years of age or older, the court should hold the next post-permanency hearing **sooner than three months**.

3. Post-Permanency Hearing within 30 days of a Youth Becoming 18

The court should schedule and hold a post-permanency hearing within 30 days of a youth becoming 18 years of age.

PROTOCOL 4 COURT REPORTS FOR POST-PERMANENCY HEARINGS IN APPLA CASES

Court reports submitted to the court and all parties for post-permanency hearings in which APPLA is the permanency plan should include the following:

A. DCYF AND CASA GAL/GAL REPORTS

1. Initial 45-Day Post-Permanency Hearing and Subsequent 3-Month Post-Permanency Hearings

The court's expectation is that the DCYF and CASA GAL/GAL court reports for all post-permanency hearings in APPLA cases should be concise and, except as provided for below in Section 2, limited to:

- the youth's current age, date of birth and how much time remains before the youth will be 18 years of age; and
- the status of the four parts of the APPLA permanency plan, as described in Protocols 1 and 2, and for DCYF, its reasonable efforts to date to finalize the permanency plan of APPLA, as required by RSA 169-C:24-c,II.

COMMENTS

DCYF and the CASA GAL/GAL should limit their discussion of preparing the youth for adulthood (Part 3) to education, employment/job training and health unless otherwise requested by the court. **Except as requested by the court, DCYF will not attach a copy of the youth's Adult Living Preparation Plan (ALPP) to its court report**, and, instead, will address the youth's education,

employment/job training, and health in the DCYF court report.

The DCYF and CASA GAL/GAL court reports may include additional information concerning the youth's current and/or future well-being that DCYF and the CASA GAL/GAL believe is essential for the court to be aware of and/or that needs to be discussed at the hearing.

The CASA GAL/GAL should attach a standard cover sheet to its court reports for all post-permanency hearings, as provided for in the *September 2012 Protocols Relative to Children and Youth in Court, RSA 169-C Child Protection Cases*.

2. Post-Permanency Hearing Held within 30 Days of the Youth Becoming 18

The DCYF and CASA GAL/GAL court reports for the post-permanency hearing **within 30 days of the youth becoming 18** should additionally include:

- Whether the youth will consent to the court's jurisdiction extending beyond 18 years of age, as provided for in RSA 169-C:4,II and II-a, and, if not, the reasons for this.

COMMENT

Federal law requires completion of a transition plan within 90 days of a youth becoming 18, and DCYF should include a copy of the youth's transition plan with its court report for the post-permanency hearing that is held within 30 days of the youth becoming 18.

B. LETTER FROM THE OLDER YOUTH TO THE COURT AND PARTIES

If a youth elects to submit a letter to the court and parties, the youth may express any thoughts or feelings he/she has about one or more of the four parts of an APPLA permanency plan, and anything else the youth may want the court to know. Copies of a youth's letter shall be provided to all parties to the case, including the youth's parent(s).

C. LETTER OR REPORT FROM FOSTER PARENTS OR RELATIVE CAREGIVER

If a foster parent or relative caregiver elects to submit a letter or report to the court as allowed for by the Adoption and Safe Families Act (ASFA) and as further provided for in the *Protocols Relative to Abuse and Neglect Cases*, the letter or report may address anything that, in a foster parent or relative caregiver's opinion, has a significant bearing on the youth's current and, especially, future well-being. A copy of any letter or report should be filed with the court at least fourteen (14) days in advance of the hearing. The court may mail a copy to all parties or direct one of the parties to distribute a copy to all other parties.

PROTOCOL 5 CONDUCTING A POST-PERMANENCY HEARING FOR APPLA CASES AND THE COURT'S ORDER

When conducting a post-permanency hearing when APPLA is the permanency plan, the court should take into account the following:

A. GENERAL CONSIDERATIONS FOR THE COURT

1. Expect and Support the Older Youth's Participation

A core tenet in child welfare practice is an older youth being a central and active participant at important meetings and court hearings concerning the youth's current and post-aging out well-being. Therefore, the court should expect these youth to be a participant at all post-permanency hearings, with the court providing whatever support and encouragement a youth (typically, alone in a courtroom of adults) may need to be able to participate in a way that is comfortable and satisfying to the youth and beneficial to the court.

COMMENT

An older youth's attendance at post-permanency hearings in APPLA cases is sufficiently important to warrant departure from the *2012 Protocols Relative to Children and Youth in Court, RSA 169-C Child Protection Cases*, which place a premium on children and youth only appearing at specified hearings that they choose to attend. Here, the goal is to have older youth with APPLA as the permanency plan attend all post-permanency hearings **EXCEPT** in a small number of cases. In such cases, a youth may be experiencing severe difficulties, such that his/her appearance at a post-permanency hearing would not be productive for the youth and the court, and could exacerbate the youth's condition.

2. Establish a "Roundtable" Atmosphere

In the post-permanency hearing phase of the proceedings in APPLA cases, greater informality is strongly encouraged. At such hearings, the court's discussion with the youth, parent(s), DCYF, CASA GAL/GAL and other invited persons, such as the youth's primary

caring adult and/or foster parent, may be more beneficial if the court conducts the hearing in the nature of a meeting. This includes, for example, the court inviting all in attendance to sit at a table in the courtroom.

3. Encourage a Collaborative Effort

The needs of an older youth with an APPLA permanency plan are great, and require a team effort, not just DCYF's efforts. Consequently, the court should encourage DCYF, CASA GAL/GAL and other interested persons, including parent(s), foster parents and relative caregivers, to work in collaboration with the youth and each other in carrying out the work associated with the four (4) parts of an APPLA permanency plan.

B. THE COURT CONDUCTING A POST-PERMANENCY HEARING WITH APPLA AS THE PERMANENCY PLAN

When conducting a post-permanency hearing when APPLA is the permanency plan, the court should take into account the following at the hearing and include in its post-permanency order:

1. Assess the Status of the Four (4) Parts of An Older Youth's APPLA Permanency Plan

In view of the youth's considerable needs, the clock ticking toward case closure, and the limited time available for post-permanency hearings in these cases (30-45 minutes), the court is strongly encouraged **at every post-permanency hearing** to assess the status of the four (4) parts of an older youth's APPLA permanency plan, as identified in Protocol 1 and explained in Protocol 2:

- Part 1** Identifying a Primary Caring Adult (with whom the older youth may or may not live);
- Part 2** Identifying Important Family Relationships and Other Supportive Adults;
- Part 3** Preparing the Youth for Adulthood (education, employment/job training, and health); and
- Part 4** Exploring a More Permanent Permanency Plan with Interested Youth.

Each of the four parts is integral to an APPLA permanency plan for an older youth, and each should be addressed concurrently with the other parts.

COMMENTS

Prior to the advent of these protocols, post-permanency hearings for youth with APPLA permanency plans typically were in the nature of brief review hearings, with the court's focus often on the current status of the youth's schooling and foster or other placement. **These protocols shift the emphasis to a primary caring adult and family and other supportive relationships for the youth, and a safe, stable place for the youth to live, currently and following case closure.**

2. Make a Reasonable Efforts Finding

Pursuant to RSA 169-C:24-c,II, and consistent with the Adoption and Safe Families Act, the court is required at each post-permanency hearing to determine whether DCYF has made reasonable efforts to finalize the permanency plan that is in effect.

In APPLA cases, this determination should be based on an assessment of DCYF's efforts relative to all four parts of an APPLA permanency plan as described in Protocols 1 and 2. In some cases, the identification of a primary caring adult (Part 1) may not yet have happened or be possible and the court should base its reasonable efforts finding on DCYF's efforts to identify this adult rather than on the outcome of these efforts.

COMMENT

The Circuit Court's standard Post-Permanency Hearing Order includes a reasonable efforts finding.

C. THE OLDER YOUTH AGING OUT

1. Make Adjustments As a Youth Gets Closer to 18 Years of Age

The stakes are especially high for 17 year old youth who are nearing the age of 18 and a primary caring adult (in particular) and important family relationships and other supportive adults have not yet been identified for the youth.

In such cases, the court should consider conducting after the initial post-permanency hearing subsequent post-permanency hearings more frequently than every three (3) months to:

- brainstorm with the older youth and other parties concerning any adult(s) who might be willing to play a supportive role upon the youth aging out, and where or with whom the youth will reside;
- increase the sense of urgency concerning the older youth's need for supportive adults and a safe, stable place for the youth to live upon aging out; and
- encourage the older youth to give serious consideration to the court's continued

jurisdiction upon the youth becoming 18 as provided for in RSA 169-C:4,II-a, and ensure that a hearing is held within 30 days of the youth becoming 18 so that the court can further discuss the matter with the youth. If a youth declines to consent to the court's continued jurisdiction, the court should ask the youth if there is anything the court or DCYF can do that would enable the youth to consent.

COMMENTS

A youth's consent to continued jurisdiction terminates when the youth "completes" high school or until his/her becoming 21, whichever occurs first (RSA 169-C:4,II). A youth who has consented to continued jurisdiction may revoke his/her consent as provided for in RSA 169-C:4, III.

Although the court's continued jurisdiction is especially important in cases where a youth with an APPLA permanency plan continues to be without adequate adult supports, continued jurisdiction is also, in most instances, an important consideration for youth with such supports.

Additionally, the court should consider whether the parties, and ultimately DCYF, are proceeding with an appropriate sense of urgency, depending upon the time remaining before the youth is 18, and the extent to which the youth has the support and preparation he/she will need upon case closure including a safe and stable place to live.

2. Consider the Older Youth's Life Experiences and Perspective

As addressed at the outset of Protocol 2, most older youth need a sense of personal "ownership" of their permanency plan if the plan is to be successfully carried out upon case closure. Therefore, the court should consider that a youth's input is not only extremely important but is apt to be uniquely shaped by his/her extraordinary life experiences and perspectives.

3. Wish an Older Youth Well

Regardless of an older youth's particular vision of his/her future upon aging out or whether the youth will consent to the court's continued jurisdiction, the court and the parties well-serve these youth by wishing them well. This is apt to have special meaning to an older youth as his/her case comes to an end, and the court may want to schedule one final hearing before case closure.