

IN THE CIRCUIT COURT OF THE STATE OF OREGON
TENTH JUDICIAL DISTRICT
FOR UNION AND WALLOWA COUNTIES

IN THE MATTER OF:) General Order 10-
) AGE APPROPRIATE
) CONSULTATION FOR CHILDREN
Juvenile Dependency Case Procedures) IN DEPENDENCY CASES AT
) REVIEW AND PERMANENCY
) HEARINGS

Federal rule that requires courts provide for an age appropriate consultation with children before review and permanency hearings in dependency cases. 42 U.S.C. Sec. 675(5)(iii)2 provides: "Procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults in an age-appropriate manner with the child regarding the proposed permanency or transition plan for the child."

In order to comply this law the following procedure is hereby ordered:

The child's lawyer should be the one to contact the child to determine if and how the child wishes to have input at the permanency hearing. The Oregon State Bar's Performance Standard for juvenile dependency cases requires a child's lawyer to contact the child or the child's caretaker within 24 hours of appointment and to conduct an interview where appropriate within 72 hours of appointment. In any event, no matter what the age, the child's attorney is required by the Oregon State Bar's Performance Standards to contact the child to observe the child.¹

At one of their meetings with the child, the lawyer for the child will present consultation options to the child. The five consultation options should be presented to the child not later than 20 days before the review or permanency hearing. Generally, if the child is seven years of age or older, the child will be presumed to be able to express their views and will be given the consultation options. Children under seven will not be given the consultation options unless in the lawyer's judgment, based on the child's developmental level, consultation would be appropriate.

It is the professional responsibility of the child's lawyer to prepare the child for court appearances, including helping the child to understand what to expect in court and to prepare the

¹ See Oregon State Bar's Performance Standard ofr Juvenile Dependency cases:

Section 3.5 requires the child's lawyer to: Counsel should comply with Standard 1.2, Implementations 1, 2 and 3, and Standard 1.3, supra, and in addition, upon being retained or appointed, counsel should make an initial contact with the client or the client's caretaker within 24 hours and, where appropriate conduct an initial interview within 72 hours.
Section 3.5 (4) provides: 4. All child clients should, at a minimum, be personally contacted by counsel and/or counsel's trained and qualified staff to determine the client's wishes, if possible, and to assess the client's well-being. It is important for counsel or counsel's staff to observe the child, the child's interactions with others in the home or foster home, and to assess the severity of the injuries and the child's general health and condition. Children four years of age or old enough to communicate should be personally interviewed in private by counsel. Interviews of children should occur away from court

child to speak to the judge. The child's attorney should also debrief their client after each court appearance.

The child has five options to express their concerns and wishes to the judge:

1. Appear in person at the review hearing and speak in open court about his or her feelings. The child will be allowed to leave early after expressing his or her concerns.
2. Appear at the review hearing and speak in chambers with the judge with the child's lawyer and the CASA present. This could be arranged a few days or weeks before the review hearing if necessary.
3. Appear at the hearing by telephone. The child will be allowed to hang up after stating his or her views.
4. Provide input to the judge in writing.
5. Provide input to the judge by telling his or her lawyer or DHS worker how the child feels.

No sooner than 60 days before or no later than 30 days before the review or permanency hearing, the DHS worker will contact the child's lawyer to remind the lawyer to get the input from the child and to offer to present the 5 consultation options to the child if the lawyer wishes. If the lawyer consents, the DHS worker will present the 5 consultation options to the child. If the lawyer objects, it will be the lawyer's duty to present the 5 consultation options to the child and solicit input. Once the child has indicated how they want to express their views, the lawyer will work with the DHS caseworker to facilitate a personal appearance or phone appearance if that is requested.

In any case in which the child is not present and does not provide any input, the Court should inquire why the child is not present or why the child did not give input. The court should confirm that the child's absence is not due to a failure to provide the child with timely notice or transportation.

DATED this _____ day of February, 2010.

Russell B. West
Presiding Judge

Cc: all lawyers in Tenth Judicial District
DHS