

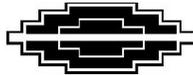
A Handbook for Parents
and Guardians in Child
Abuse & Neglect Cases

What you need to know about the
Court process and the people helping
you with your case

Being involved in a child abuse and neglect case can be very confusing and stressful for a family. Not knowing what to expect can make it even harder. This handbook will help you understand what will happen. Keep this handbook with you so you can write the names of the people who will be helping you and the dates of meetings and Court hearings.

Why Do You Have To Go To Court?

- The purpose of Children’s Court is to keep children safe and to help families create a safe home for their children. The Children’s Court is not designed to punish parents.
- The judge can require you and your family to get help. Also, the judge can order that your child be temporarily placed in the custody of the New Mexico Children, Youth and Families Department (CYFD). This means that, for the time being, CYFD is legally responsible for your child. CYFD, with the approval of the Court, can make decisions about where your child should live and what you need to do to have your child returned to you.
- The same problems that brought you to the Children’s Court could result in criminal charges against you, your partner, or someone else in your family. In that case, you may have to go to another Court and see another judge. This handbook does not deal with criminal cases. It is about proceedings (meetings and hearings) in Children’s Court.



What Happens When Your Child Is Removed From Home?

- If your child is removed from your home, you will be notified in writing and you will receive a copy of the paperwork that has been filed with the Court. One of the forms you will receive is called a ***petition***. The petition was written after a report was received and investigated by CYFD.
- The petition names you as a ***respondent***. This is the term used by the Children’s Court for the parent or guardian in a child abuse and neglect case.
- The petition lists one or more ***allegations*** - statements of what is believed to have happened and reasons why your child may need to be in the State’s custody.
- If you do not understand the petition or any other paperwork, talk to your attorney or the CYFD caseworker.

Who Will Help?

Your CYFD Worker

When your child is removed from your home, you will be given the name and phone number of a **CYFD Worker**. Your CYFD Worker should:

- contact you to give you more information and ask you some questions
- visit you and your child regularly
- help you understand the problems that brought you to Court
- help you work on your **case plan**, which lists the steps you must take to have your child returned to you

If you do not hear from your CYFD Worker for a while, or if you have questions or problems, call him or her.

Your CYFD Worker's name, address, email, and phone number are:



Name:

Address:

Phone:

Email:

Best Time to Call:

Your Attorney

You will receive a notice from the Court telling you that you have the right to a **Respondent's Attorney**. If you cannot afford to pay for an attorney, the Court will appoint one for you. Your attorney should:

- meet with you before every hearing and speak for you in Court
- help you understand your rights and tell you about the hearings you will attend and what to expect at each hearing

If you do not hear from your Attorney for a while, or if you have questions or problems, call him or her.

Your Attorney's name, address, email and phone number are:



Name:

Address:

Phone:

Email:

Best Time to Call:

Who Else Might Be Involved in Your Case?

The Guardian ad Litem (GAL) or the Youth Attorney

If your child is under age 14, the Court will appoint a **Guardian ad Litem (GAL)**. The GAL's job is to represent the child's best interest, in other words, to tell the Court what is best for the child. If your child is age 14 or older, the Court will appoint a **Youth Attorney**. This attorney will meet with your child and represent him or her in Court.

The Children's Court Attorney

The Children, Youth and Families Department (CYFD) also has an attorney, called the **Children's Court Attorney**. The Children's Court Attorney puts the basic facts of the case into writing and gives them to the judge. In Court, the Children's Court Attorney represents CYFD, who must prove why your child should be in CYFD custody, at least for the time being.

The Court Appointed Special Advocate (CASA)

The judge may also appoint a **Court Appointed Special Advocate (CASA)**. The CASA is a trained volunteer who will meet with your child (and sometimes with you), as well as others involved in this case. The CASA reports to the Court about how your child is doing and what is believed to be in your child's best interests.

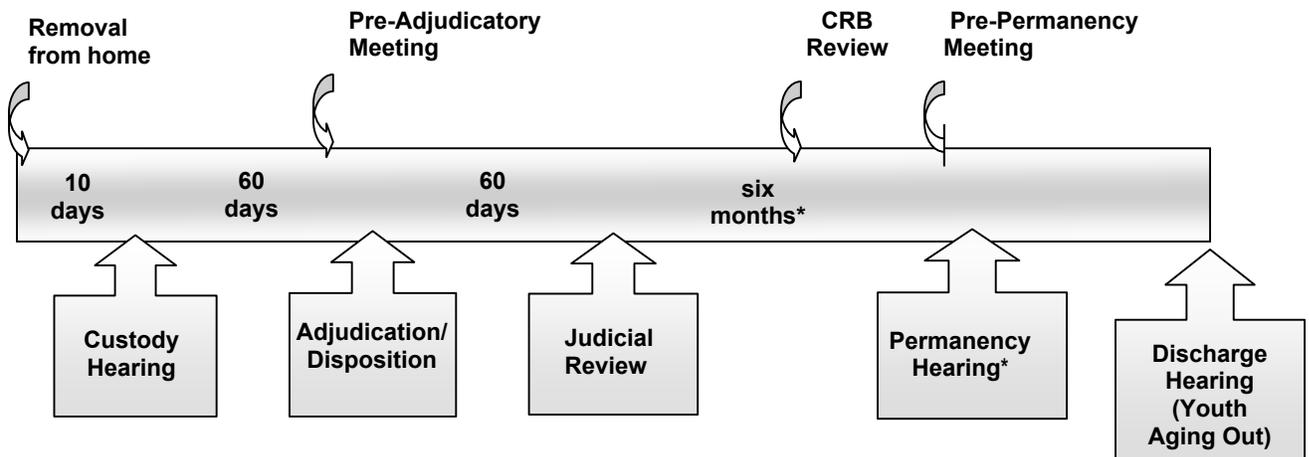
The Citizen Review Board (CRB)

The **Citizen Review Board (CRB)** is a group of trained volunteers from your community. If your case stays in Court long enough to have a Permanency Hearing, the CRB will meet to review the case and make recommendations to the judge. Everyone involved with the case, including you and your attorney, will be invited to talk to the CRB at that review.

When Will You Have to Go to Court?

You may be asked to attend several Court hearings and other meetings so that the judge and others can listen to all sides and decide how to help your family. Most child abuse and neglect cases have at least four different Court hearings and meetings during the first year.

Each Court hearing and meeting has a different purpose. They are all described in this handbook so that you know what to expect at each hearing or meeting, when and where it will be held, and why it is important for you to attend.



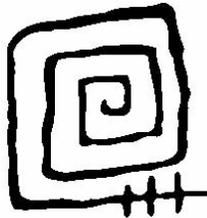
*The law requires a Permanency Hearing within six months of the initial judicial review of a child's dispositional order or within twelve months of a child entering foster care.

Remember, the purpose of the Children's Court is to keep children safe and to help families create a safe home for their children. If you do not understand the purpose of any of the hearings you are asked to attend, talk to your attorney.

The Custody Hearing

- The **Custody Hearing** will be held within ten working days of when the petition is filed in Children's Court.
- At the Custody Hearing, the judge will decide if your child should stay in the temporary custody of CYFD until the trial (Adjudicatory Hearing) is held.
- The attorney for the Children, Youth and Families Department will present information about the case to the judge.
- Your attorney will also be able to present information. **It is very important that you be there too.**

The time and place of your **Custody Hearing** is:



Time & Date:

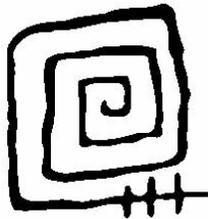
Place:

Things I want to discuss or ask about:

The Pre-Adjudicatory Meeting

- The **Pre-Adjudicatory Meeting** is held before the Court trial, which is called the Adjudicatory Hearing. All the people who are involved in the case, including the attorneys, must be there.
- The purpose of this meeting is to talk about why your children were removed from your home and discuss whether you will admit or deny the allegations in the petition. The other purpose of this meeting is to come up with a case plan for your child and your family that will help get your family together again, or whatever is best for your children. That case plan will be presented to the Children's Court.
- In some judicial districts these pre-adjudicatory meetings may be **mediated**. This means a trained professional who is not involved in your case will work with you and the others in the case to come up with a plan that is best for your child and your family.
- **It is very important that you attend the Pre-Adjudicatory Meeting so that your ideas can be heard about what is best for your family and what can be done to make sure your child is safe.**

The time and place of your **Pre-Adjudicatory Meeting** is:



Time & Date:

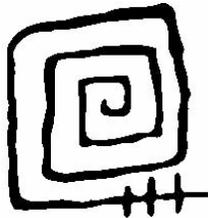
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Things I want to discuss or ask about:

The Adjudicatory Hearing

- You have the right to a trial before a judge on the allegations which were listed in the petition. This trial is called the **Adjudicatory Hearing**. It will be held within 60 days of when you receive the petition.
- At the Adjudicatory Hearing, the judge will listen to the evidence and decide if your child has been abused or neglected.
- If it is determined that there was abuse or neglect, the judge will decide what needs to happen for you and your child in order to have your child returned to you. This decision is called the *disposition* and this takes place at the Dispositional Hearing. This Hearing usually happens at the same time as the Adjudicatory Hearing.
- **It is very important that you attend the Adjudicatory Hearing.**

The time and place of your **Adjudicatory Hearing** is:



Time & Date:

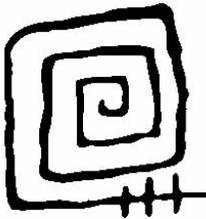
Place:

Things I want to discuss or ask about:

The Dispositional Hearing

- The **Dispositional Hearing** is usually held at the same time as the Adjudicatory Hearing. If not, it will be held within 30 days.
- At the Dispositional Hearing, the judge will order a case plan for you and your child.
- You need to cooperate with your case plan because it spells out what is best for you and your child. If you don't cooperate, it could take longer for your child to be returned to you. In fact, if you don't cooperate, you could even lose your rights to your child.
- **It is very important that you attend the Dispositional Hearing so that you completely understand what you need to do in order to have your child returned.**

The time and place of your **Dispositional Hearing** is:



Time & Date:

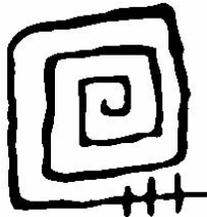
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Things I want to discuss or ask about:

The Judicial Review

- Within 60 days of the Dispositional Hearing (which usually takes place at the same time as the Adjudicatory Hearing), there will be a **Judicial Review** in Court. The judge will review your case to make sure that the case plan is being followed and that you are doing what is ordered in the plan. The judge will also make sure that CYFD and others are doing what is ordered in the plan.
- If everyone agrees that the case plan needs to be changed, the judge will order those changes.
- The judge will also explain what will happen at the Permanency Hearing that will be held in about six months.
- The judge may schedule your Judicial Review sooner than 60 days after the Dispositional Hearing. Additional reviews may be scheduled before and after the Permanency Hearing to look at progress with the Court-ordered case plan.
- **It is very important that you attend all your Judicial Reviews.**

The time and place of your **Judicial Review** is:



Time & Date:

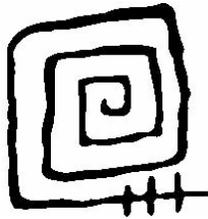
Place:

Things I want to discuss or ask about:

The Citizen Review Board (CRB) Meeting

- Before the Permanency Hearing, which is when the judge will decide whether or not your child can safely return home, there will be a **Citizen Review Board (CRB) Meeting**. At the CRB Meeting, trained volunteers will review your case.
- The CRB will decide if they agree with the case plan for you and your child. They will also decide if they agree with the permanency goal that has been set for your child. The permanency goal means whether your child will return home or whether some other permanent arrangement needs to be made.
- Everyone involved with the case will be invited to talk to the Board. You will receive an invitation to this meeting from the CRB office. The meeting will be held in your community.
- **It is very important that you attend the CRB Meeting so your opinions can be heard.**

The time and place of your **CRB Meeting** is:



Time & Date:

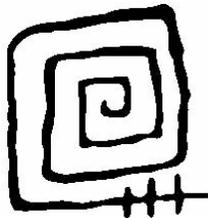
Place:

Things I want to discuss or ask about:

The Pre-Permanency Meeting

- The **Pre-Permanency Meeting** is held before the Permanency Hearing, which is when the judge decides whether or not your child will be returned home. All the people involved in the case, including the attorneys, must attend the Pre-Permanency Meeting.
- One reason for this meeting is to talk about how much progress your family has made in following the Court-ordered case plan.
- The most important reason for the Pre-Permanency Hearing Meeting is to decide whether the *permanency plan* that will be recommended to the judge at the Permanency Hearing will be to return your child home or to begin making plans for adoption or some other permanent arrangement outside of your home.
- **It is very important that you attend the Pre-Permanency Meeting.**

The time and place of your **Pre-Permanency Meeting** is:



Time & Date:

Place:

Things I want to discuss or ask about:

The Permanency Hearing

- The **Permanency Hearing** will be held within six months of the initial judicial review or no later than 12 months after your child was removed from your home, whichever comes first. The Permanency Hearing is when the judge will decide whether or not your child can be safely returned home.
- If the judge decides that the permanency plan should be reunification (return home), the judge will approve a plan to return your child home and set a **Permanency Review Hearing** in three months. If your child is returned home in those three months, you may not need another hearing. If the review hearing takes place, the judge can: dismiss your case, give more time for returning the child home, or change the plan to adoption or some other permanent arrangement outside of your home.
- **It is very important that you attend the Permanency Hearing and the Permanency Review Hearing.**

The time and place of your **Permanency Hearing** is:



Time & Date:

Place:

Things I want to discuss or ask about:

The time and place of your **Permanency Review Hearing** is:



Time & Date:

Place:

Things I want to discuss or ask about:

The Discharge Hearing

At the last judicial review or permanency hearing held prior to a youth's eighteenth birthday, the court reviews the youth's transition plan and determines whether CYFD has made reasonable efforts to implement various requirements, including providing the youth with written information about the family as well as official documents like a birth certificate and social security card, arranging for Medicaid, and setting up a guardianship if the youth is incapacitated. If the court determines that reasonable efforts to meet these requirements have not been made, and that termination of jurisdiction would be harmful to the youth, the court may continue jurisdiction for a up to a year from the youths eighteenth birthday if the youth agrees.

What Is Mediation?

Some District Courts in New Mexico are now offering **mediation** at different points in child abuse or neglect cases. In mediation, a trained person who is not personally involved in your case meets with you, your attorney, CYFD, the GAL or Youth Attorney, and others. During the meeting, the mediator will make sure that everyone has a chance to talk and that everyone is listened to. All of you have a chance to discuss your case and come up with ideas for your child and your family.

In some Courts, mediation takes place before the Adjudicatory Hearing, as part of the Pre-Adjudicatory Meeting. Here you would focus on a case plan for your child and your family. Mediation might also happen before the Permanency Hearing, perhaps as part of the Pre-Permanency Meeting. This session would focus on what will be best for your child in the long term and what the permanency should be.

It is very important that you attend the mediation, so that your ideas about what is best for you and your family can be heard.

There is a booklet like this one available on mediation. You can download a copy from http://www.nmcourts.com/CourtImprovement/info_booklets/index.php or call the Administrative Office of the Courts in Santa Fe (505-827-4800) and ask for a copy.



What Is Concurrent Planning?

Some children placed in CYFD custody participate in **Concurrent Planning**. If appropriate for your child, Concurrent Planning allows CYFD to work on an alternative permanency plan **at the same time** as they are working to return your child home. Your child may be placed in a concurrent planning home, which is a specific kind of foster home. The concurrent planning foster parents will work on both permanency plans. They will support your family reunification efforts, including helping to make it possible for you to visit your child.

These are your rights:

- You have the right to an attorney. If you cannot afford to pay for an attorney, the Court will appoint one for you.
- You have the right to admit or deny the allegations made about you and your family.
- You have the right to be notified of all Court hearings and related meetings.
- You have the right to an interpreter in Court if you do not understand English.
- You have the right to talk to your CYFD Worker and your attorney. But remember, they may be busy with someone else when you call. Be sure to leave a message with a phone number where you can be reached or try to call them again. Keep track of the best times to call them.

These are your responsibilities:

- You should take this seriously.
- You should attend the Court hearings and meetings.
- You should cooperate with your case plan.
- You should stay in touch with your attorney and your CYFD Case Worker. Be sure they always have a current address and phone number for you.
- You should be sure you know what you are supposed to do and when, and then do it. It could make the difference in whether your child is returned to you or not.
- You may be required to provide financial support to help cover the cost of foster care if your child is removed from your home.

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For more information about the New Mexico Court Improvement Project, go to <http://www.nmcourts.gov/CourtImprovement/> or contact the Administrative Office of the Courts, 505-827-4800.