

Rule 1120. Definitions.

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Comment:

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The definition of “family finding” is derived from 67 Pa.C.S. § **[3102] 7502**.

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See *also* 67 Pa.C.S. §§ **[3101] 7501** *et seq.* and 42 U.S.C. § 675 (Fostering Connections) to comply with state and federal regulations.

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Rule 1149. Family Finding.

A. Court's inquiry and determination.

- 1) The court shall inquire as to the efforts made by the county agency to comply with the family finding requirements pursuant to 67 Pa.C.S. §§ **[3101] 7501 et seq.**

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Comment:

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See 67 Pa.C.S. § **[3101] 7501** for legislative intent regarding family finding and promotion of kinship care.

Family finding is required for every child when a child is accepted for services by the county agency. See 67 Pa.C.S. § **[3103] 7503**. It is best practice to find as many kin as possible for each child. These kin may help with care or support for the child. The county agency should ask the guardian, the child, and siblings about relatives or other adults in the child's life, including key supporters of the child or guardians.

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Rule 1154. Duties of Guardian *Ad Litem*.

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Comment:

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Pursuant to **[paragraph] subdivision (7)**, the guardian *ad litem* is to make specific recommendations to the court regarding the appropriateness of the child's placement, giving consideration to the proximity and appropriateness of the child's school. See 42 Pa.C.S. § 6311(b)(7) and 42 U.S.C. § 675(1)(G). Inquiries into the child's education should include the right to: 1) educational stability, including the right to remain in the same school regardless of a change in placement when in the child's best interest and the right to immediate enrollment when a school change is in the child's best interest, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services, 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to **[independent living] successful adulthood**, 42 Pa.C.S. § 6351 if a child is **[sixteen] 14** or older; and 5) a transition plan that addresses the child's educational needs, 42 U.S.C. § 675(5)(H), if the child will age out of care in the next **[ninety] 90** days.

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[Official Note: Rule 1154 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended April 6, 2017, effective September 1, 2017.]

***Committee Explanatory Reports:* Final Report explaining the amendments to Rule 1154 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1154 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).]**

Rule 1242. Shelter Care Hearing.

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Comment:

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The court's order should address the child's educational stability, including the right to an educational decision maker. The order should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to **[independent living] successful adulthood** pursuant to 42 Pa.C.S. § 6351 if the child is **[sixteen] 14** or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within **[ninety] 90** days.

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[Official Note: Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended May 16, 2017, effective July 1, 2017.]

***Committee Explanatory Reports:* Final Report explaining the provisions of Rule 1242 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1242 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011). Final Report explaining the amendments to Rule 1242 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1242 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015). Final Report explaining the amendments to Rule 1242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).]**

Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.

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Comment:

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If a petition is filed after the county agency has discontinued family finding for non-court cases, the county agency is to aver reasons for the discontinuance in the petition. See 67 Pa.C.S. § **[3104(a)] 7503**.

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Rule 1409. Adjudication of Dependency and Court Order.

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Comment:

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See also **[Rules] Pa.R.J.C.P.** 1242(E)(3) and 1609(D), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1512, 1514, 1515, and 1608-1611.

Rule 1512. Dispositional Hearing.

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Comment:

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Pursuant to **[paragraph] subdivision** (D)(1)(i), the court is to address the child's educational stability, including the right to an educational decision maker, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519. The court's findings should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to **[independent living] successful adulthood** pursuant to 42 Pa.C.S. § 6351 if the child is **[sixteen] 14** or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within **[ninety] 90** days.

Pursuant to **[paragraph] subdivision** (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See *also* **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1514, 1515, and 1608-1611.

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Rule 1514. Dispositional Finding Before Removal from Home.

[A.] (a) Required [findings] Findings. Prior to entering a dispositional order removing a child from the home, the court shall state on the record in open court the following specific findings:

- (1) Continuation of the child in the home would be contrary to the welfare, safety, or health of the child;
- (2) The child's placement is the least restrictive placement that meets the needs of the child, supported by reasons why there is no less restrictive alternative available;
- (3) If the child has a sibling who is subject to removal from the home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling;
- (4) The county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding; **[and]**
- (5) One of the following:

[a] (i) Reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from the home, if the child has remained in the home pending such disposition; or

[b] (ii) If preventive services were not offered due to the necessity for emergency placement, whether such lack of services was reasonable under the circumstances; or

[c] (iii) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home~~].~~; **and**

(6) The county agency has provided a permanency plan and services pursuant to 67 Pa.C.S. § 7504.

[B.] (b) Aggravated [circumstances] Circumstances. If the court has previously found aggravated circumstances to exist and that reasonable efforts to

remove the child from the home or to preserve and reunify the family are not required, a finding **[under paragraphs (A)(5)(a) through (c) is not necessary] pursuant to subdivision (a)(5)(i)-(a)(5)(iii) is unnecessary.**

Comment: See 42 Pa.C.S. § 6351(b).

Pursuant to **[paragraph (A)(3)] subdivision (a)(3)**, the court is to utilize reasonable efforts in placing siblings together unless it is contrary to the safety or well-being of a child or sibling. **See** 42 U.S.C. § 675 (Fostering Connections).

Pursuant to **[paragraph (A)(4)] subdivision (a)(4)**, the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501 et seq.** See also **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1515, and 1608-1611.

Pursuant to subdivision (a)(6), specific requirements for a permanency plan and services exist when the court orders the temporary transfer of a child's legal custody pursuant to 42 Pa.C.S. § 6351(a)(2). See 67 Pa.C.S. § 7504.

Rule 1515. Dispositional Order.

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Comment:

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See *also* **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, and 1608-1611.

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Rule 1608. Permanency Hearing.

[A.] (a) Purpose and [timing of hearing] Timing of Hearing. For every case, the court shall conduct a permanency hearing at least every six months for purposes of determining or reviewing:

- (1) the permanency plan of the child;
- (2) the date by which the goal of permanency for the child might be achieved; and
- (3) whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

[B.] (b) Recording. The permanency hearing shall be recorded.

[C.] (c) Evidence.

- (1) Any evidence helpful in determining the appropriate course of action, including evidence that was not admissible at the adjudicatory hearing, shall be presented to the court.
- (2) If a report was submitted pursuant to Rule 1604, the court shall review and consider the report as it would consider all other evidence.

[D.] (d) Court's Findings.

- (1) **Findings at all Six-Month Hearings.** At each permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

[a] (i) the appropriateness of the placement;

[b] (ii) the appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child;

[c] (iii) the appropriateness and feasibility of the current permanency goal for the child provided that, at no time may a goal be changed from reunification unless notice has been provided in accordance with Rule 1601(B);

- [d)] (iv) the likely date by which the permanency goal for the child might be achieved;
- [e)] (v) whether reasonable efforts were made to finalize the permanency plan in effect;
- [f)] (vi) whether the county agency has made services available to the guardian, and if not, why those services have not been made available;
- [g)] (vii) the continued appropriateness of the permanency plan and the concurrent plan;
- [h)] (viii) whether the county agency has satisfied the requirements of Rule 1149 regarding family finding, and if not, the findings and conclusions of the court on why the requirements have not been met by the county agency;
- [i)] (ix) whether the child is safe;
- [j)] (x) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child;
- [k)] (xi) the services needed to assist a child who is **[fourteen] 14** years of age or older to make the transition to a successful adulthood, including:
 - (A) whether services are being provided as required under 67 Pa.C.S § 7505 (relating to transition plan and services);
 - [i)] (B) the specific independent living services or instructions that are currently being provided by the county agency or private provider;
 - [ii)] (C) the areas of need in independent living instruction that have been identified by the independent living assessment completed pursuant to the Chafee Act, 42 U.S.C. §§ 671 *et seq.*;

- [iii)] (D)** the independent living services that the child will receive prior to the next permanency review hearing;
 - [iv)] (E)** whether the child is in the least restrictive, most family-like setting that will enable him to develop independent living skills;
 - [v)] (F)** the efforts that have been made to develop and maintain connections with supportive adults regardless of placement type;
 - [vi)] (G)** whether the child is making adequate educational progress to graduate from high school or whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency;
 - [vii)] (H)** the job-readiness services that have been provided to the child and the employment/career goals that have been established;
 - [viii)] (I)** whether the child has physical health or behavioral health needs that will require continued services into adulthood; and
 - [ix)] (J)** the steps being taken to ensure that the youth will have stable housing or living arrangements when discharged from care;
- [l)] (xii)** any educational, health care, and disability needs of the child and the plan to ensure those needs are met;
- [m)] (xiii)** if a sibling of a child has been removed from the home and is in a different setting than the child, whether reasonable efforts have been made to place the child and sibling of the child together or whether such joint placement is contrary to the safety or well-being of the child or sibling;
- [n)] (xiv)** if the child has a sibling, whether visitation of the child with that sibling is occurring no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling;

- [o)] (xv) whether sufficient steps have been taken by the county agency to ensure the caregiver is exercising the reasonable and prudent parent standard;
- [p)] (xvi) whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including:
 - [i)] (A) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and
 - [ii)] (B) identifying and addressing any barriers to participation; and
- [q)] (xvii) whether the visitation schedule for the child with the child's guardian is adequate, unless a finding is made that visitation is contrary to the safety or well-being of the child.

(2) **Another Planned Permanent Living Arrangement (APPLA) for Children [Sixteen] 18 Years of Age or Older.** APPLA shall not be utilized for any child under the age of **[sixteen] 18**. At each permanency hearing for a child who is **[sixteen] 18** years or older and has a permanency goal of APPLA, the following additional considerations, inquiry, and findings shall be made by the court:

- [a)] (i) **Court's APPLA Considerations.** Before making its findings pursuant to **[paragraph (D)(2)(c)] subdivision (d)(2)(iii)**, the court shall consider evidence, which is obtained as of the date of the hearing, and entered into the record concerning:
 - [i)] (A) the intensive, ongoing, and unsuccessful efforts made to:
 - [A)] (I) return the child home; or
 - [B)] (II) secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent;
 - [ii)] (B) the specific services, including the use of search technology and social media to find biological family

members and kin, as well as permanency services that have been provided to the child that serve as the intensive ongoing, and unsuccessful efforts to achieve reunification, adoption, or placement with a guardian or a fit and willing relative;

[iii)] (C) the full namess of at least **[one] two** identified supportive adults with whom the child has significant connections;

[iv)] (D) how each identified supportive adult has formalized the connection with the child;

[v)] (E) the specific services that will be provided by the agency to support and maintain the connection between the child and identified supportive adult(s); and

[vi)] (F) the specific planned, permanent placement or living arrangement for the child that will provide the child with stability.

[b)] (ii) **Court's Inquiry of Child's Desired Permanency Outcome.** Before making its findings pursuant to **[paragraph (D)(2)(c)] subdivision (d)(2)(iii)**, the court shall ask the child about the child's desired permanency outcome.

[c)] (iii) **Court's APPLA Findings.** After making all the findings of **[paragraph (D)(1)] subdivision (d)(1)** and before assigning the permanency goal of APPLA, at each subsequent permanency hearing, based upon the considerations and inquiry provided in **[paragraph (D)(2)(a) & (b)] subdivision (d)(2)(i)-(ii)** and any other evidence deemed appropriate by the court, the court shall state in open court on the record the following:

[i)] (A) reasons why APPLA continues to be the best permanency plan for the child; and

[ii)] (B) compelling reasons why it continues not to be in the best interests of the child to:

[A)] (I) return home;

[B)] (II) be placed for adoption;

[C)] (III) be placed with a legal guardian;

[D)] (IV) be placed with a fit and willing relative; and

[(iii)] (C) the full names of at least **[one] two** identified supportive adults with whom the child has significant connections[.]; **and**

(D) **the identity of the specific APPLA approved by the court.**

(3) **Additional [findings for fifteen of last twenty-two months] Findings for 15 of Last 22 Months.** If the child has been in placement for **[fifteen] 15** of the last **[twenty-two] 22** months, the court may direct the county agency to file a petition **[to terminate] for involuntary termination of** parental rights.

[E.] (e) Advanced Communication Technology. Upon good cause shown, a court may utilize advanced communication technology pursuant to Rule 1129.

[F.] (f) Family Service Plan or Permanency Plan.

- (1) The county agency shall review the family service plan or permanency plan at least every six months, including all family finding efforts pursuant to Rule 1149.
- (2) The family service plan or permanency plan shall identify which relatives and kin were included in its development and the method of that inclusion.
- (3) If the plan is modified, the county agency shall follow the filing and service requirements pursuant to Rule 1345.
- (4) The parties and when requested, the court, shall be provided with the modified plan at least **[fifteen] 15** days prior to the permanency hearing.

Comment: See 42 Pa.C.S. §§ 6341, 6351.

Permanency planning is a concept whereby children are not relegated to the limbo of spending their childhood in foster homes, but instead, dedicated effort is made by the court and the county agency to rehabilitate and reunite the family in a reasonable time, and failing in this, to free the child for adoption. *In re M.B.*, 674 A.2d 702, 704 (Pa. Super. 1996) (*quoting In re Quick*, 559 A.2d 42 (Pa. 1989)).

To the extent practicable, the judge or juvenile court hearing officer who presided over the adjudicatory and original dispositional hearing for a child should preside over the permanency hearing for the same child.

Pursuant to **[paragraph (A)] subdivision (a)**, courts are to conduct a permanency hearing every six months. Courts are strongly encouraged to conduct more frequent permanency hearings, such as every three months, when possible.

The court may schedule a three-month hearing or conference. At the three-month hearing, the court should ensure that: 1) services ordered at the dispositional hearing pursuant to Rule 1512 are put into place by the county agency; 2) the guardian who is the subject of the petition is given access to the services ordered; 3) the guardian is cooperating with the court-ordered services; and 4) a concurrent plan is developed if the primary plan may not be achieved.

A three-month hearing or conference is considered best practice for dependency cases and is highly recommended. The court should not wait until six months has elapsed to determine if the case is progressing. Time to achieve permanency is critical in dependency cases. In order to seek reimbursement under Title IV-E of the Social Security Act, 42 U.S.C. §§ 601 *et seq.*, a full permanency hearing is to be conducted every six months, including required findings and conclusions of law on the record pursuant to **[paragraph (D)] subdivision (d)**.

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences that address specific issues based on the circumstances of the case and assist the court in ensuring timely permanency.

Every child should have a concurrent plan, which is a secondary plan to be pursued if the primary permanency plan for the child cannot be achieved. See **[Comment to Rule 1512] Pa.R.J.C.P. 1512, Comment**. For example, the primary plan may be reunification with the guardian. If the guardian does not substantially comply with the requirements of the court-ordered services, subsidized legal guardianship may be utilized as the concurrent plan. Because of time requirements, the concurrent plan is to be in place so that permanency may be achieved in a timely manner.

[Paragraph (D)(1)(c)] Subdivision (d)(1)(iii) is intended to provide adequate notice and the opportunity to be heard when a goal is being changed from reunification. If the court intends to change the child’s goal from reunification without a prior notice provided by a party pursuant to Rule 1601(B), then the court shall direct the county agency to provide such notice in accordance with Rule 1601(B).

Pursuant to **[paragraph (D)(1)(h)] subdivision (d)(1)(viii)**, the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ **[1301] 7501 et seq.** See also **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, 1515, 1609, and 1611.

When making its determination for reasonable efforts made by the county agency, the court is to consider family finding. See also **[Rules] Pa.R.J.C.P.** 1240(B)(6), **[1242(C)(2) & (3)(b) & (c)] 1242(C)(2), (C)(3)(b)-(c)**, and 1330(B)(6), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1330, 1409, 1515, 1609, and 1611 for reasonable efforts determinations.

See 42 U.S.C. § 675(5)(A)-(I) **and 67 Pa.C.S. § 7505** for development of a transition plan pursuant to **[paragraph (D)(1)(k)] subdivision (d)(1)(xi)**.

Pursuant to **[paragraph (D)(1)(o)] subdivision (d)(1)(xv)**, the county agency is to testify and enter evidence into the record on how it took sufficient steps to ensure the caregiver is exercising the reasonable and prudent parent standard. For the definition of “caregiver” and the “reasonable and prudent parent standard,” see Rule 1120. Pursuant to **[paragraph (D)(1)(p)] subdivision (d)(1)(xvi)**, when documenting its steps taken, the county agency is to include how it consulted with the child in an age-appropriate or developmentally-appropriate manner about the opportunities of the child to participate in activities. For the definition of “age-appropriate or developmentally-appropriate,” see Rule 1120. These additions have been made to help dependent children have a sense of normalcy in their lives. These children should be able to participate in extracurricular, enrichment, cultural, and social activities without having to consult caseworkers and ask the court’s permission many days prior to the event. See also Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), 42 U.S.C. §§ 675 and 675a (2014).

Pursuant to **[paragraph (D)(2)] subdivision (d)(2)**, there are additional considerations, inquiries, and findings when the court conducts a permanency hearing for a child, who is **[sixteen] 18** years of age or older and has a permanency plan of APPLA. APPLA should only be utilized as a permanency plan when all other alternatives have

been exhausted. Even after exhaustive efforts have been made, the county agency should identify at least **[one] two** supportive adults to be involved in the life of the child. Diligent efforts to search for relatives, guardians, adoptive parents, or kin are to be utilized. **[See] See** Rule 1149 on family finding. Independent living services should also be addressed. Under **[paragraph (D)(2)(a)(i)(B)] subdivision (d)(2)(i)(A)(II)**, a fit and willing relative may include adult siblings.

Pursuant to **[paragraph (D)(2)(b)] subdivision (d)(2)(ii)**, the court is to engage the child in conversation to ascertain the child's desired permanency outcome. The conversation is to be between the child and the court, not the guardian *ad litem* answering for the child.

After all the requirements of **[paragraph (D)(1) and (D)(2)(a) and (b)] subdivision (d)(1) and (d)(2)(i)-(ii)** have been made, the court is to state in open court on the record the specific reasons why APPLA continues to be the best permanency plan for the child, the compelling reasons why it continues not to be in the best interests of the child to return home or be placed for adoption, with a legal guardian, or with a fit and willing relative, and the full names of at least **[one] two** identified supportive adults with whom the child has significant connections. See **[paragraph (D)(2)(c)] subdivision (d)(2)(iii)**. The standards of this rule make choosing the plan of APPLA difficult to ensure that it is the last alternative available for the child. Additionally, this rule requires the court to state its finding in open court on the record. If the court takes a case under advisement, it is to continue the hearing until it is ready to make these findings. The time requirements of the Rules are to be followed when taking a case under advisement.

[Pursuant to paragraph (D)(3), a “petition to terminate parental rights” is a term of art used pursuant to 23 Pa.C.S. § 2511 and Pa. O.C. Rule 15.4 to describe the motion terminating parental rights. This does not refer to the “petition” as defined in Pa.R.J.C.P. 1120.] Concerning subdivision (d)(3), a petition for involuntary termination of parental rights is authorized by 23 Pa.C.S. §§ 2511-2514 and proceeds in accordance with Chapter 15 of the Pennsylvania Rules of Orphans’ Court Procedure.

The court is to move expeditiously towards permanency. A goal change motion may be filed at any time.

A President Judge may allow Common Pleas Judges to “wear multiple hats” during a proceeding by conducting a combined hearing on dependency and Orphans’ Court matters. See 42 Pa.C.S. § 6351(i); see also *In re Adoption of S.E.G.*, 901 A.2d 1017 (Pa. 2006), where involuntary termination occurred prior to a goal change by the county agency.

For family service plan requirements, see 55 Pa. Code §§ 3130.61 and 3130.63.

[See] See Rule 1136 regarding *ex parte* communications.

[See] See Rule 1610 for permanency hearing for children over the age of eighteen.

[Official Note: Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective October 1, 2016.

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Rule 1609. Permanency Hearing Orders.

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Comment:

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See also **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), and 1409(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1610, and 1611.

Pursuant to **[paragraph] subdivision** (E), the court's order is to address the child's educational stability, including the right to an educational decision maker. The order should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to **[independent living] successful adulthood** pursuant to 42 Pa.C.S. § 6351 if the child is **[sixteen] 14** or older; and 5) a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within **[ninety] 90** days.

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Rule 1610. Permanency Hearing for Children Over Eighteen.

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Comment:

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Pursuant to **[paragraph] subdivision** (D), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See also **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1611.

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Rule 1611. Permanency Hearing Orders for Children Over Eighteen.

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Comment:

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If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 67 Pa.C.S. §§ **[3101] 7501** *et seq.* See also **[Rules] Pa.R.J.C.P.** 1210(D)(8), 1242(E)(3), and 1409(C), and Comments to **[Rules] Pa.R.J.C.P.** 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, and 1610.

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Rule 1631. Termination of Court Supervision.

[(A)] (a) Concluding Supervision. Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- (1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;
- (2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;
- (3) the child **is under 18 years of age and** has been placed with a ready, willing, and able parent who was not previously identified by the county agency;
- (4) the child has been adopted and services from the county agency are no longer needed;
- (5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;
- (6) the child has been placed in the physical and legal custody of a fit and willing relative and services from the county agency are no longer needed;
- (7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed and a hearing has been held pursuant to **[paragraph (E)] subdivision (e)** for a child who is age eighteen or older;
- (8) the child has been adjudicated delinquent and services from the county agency are no longer needed because all dependency issues have been resolved;
- (9) the child has been emancipated by the court;
- (10) the child is **[eighteen] 18** years of age or older and a hearing has been held pursuant to **[paragraph (E)] subdivision (e)**;

- (11) the child has died;
- (12) a court in another county of this Commonwealth has accepted jurisdiction; or
- (13) a court in another state has accepted jurisdiction.

[(B)] (b) [Ready, willing, and able parent] Ready, Willing, and Able Parent. When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to **[paragraph (A)(3)] subdivision (a)(3)** because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to the **[Pa.R.C.P.] Pennsylvania Rules of Civil Procedure**.

[(C)] (c) Objection. Any party may object to a motion under **[paragraph (A)] subdivision (a)** and request a hearing.

[(D)] (d) Hearing. If objections have been made under **[paragraph (C)] subdivision (c)**, the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

[(E)] (e) Children [eighteen years of age or older] 18 Years of Age or Older.

- (1) Before the court can terminate its supervision of a child who is **[eighteen] 18** years of age or older, a hearing shall be held at least **[ninety] 90** days prior to the child turning **[eighteen] 18** years of age.
- (2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:

[a)] (i) the specific plans for housing;

[b)] (ii) a description of the child's source of income;

[c)] (iii) the specific plans for pursuing educational or vocational training goals;

[d)] (iv) the child's employment goals and whether the child is employed;

[e)] (v) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

[f)] (vi) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;

[g)] (vii) verification that all vital identification documents and records have been provided to the child;

[h)] (viii) a description of any other needed support services; **[and]**

(ix) a list, with contact information, of supportive adults and family members; and

[i)] (x) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns **[twenty-one] 21** years of age if specific conditions are met.

(3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of **[paragraph (E)(2)] subdivision (e)(2)** have been met, a subsequent hearing shall be scheduled.

(4) The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

[(F)] (f) Cessation of [services] Services. When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

Comment: For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under **[paragraph (A)] subdivision (a)**, see 42 Pa.C.S. §§ 6301(b) **[&] and** 6351(f.1).

Pursuant to **[paragraph (A)(8) subdivision (a)(8)]**, if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (**Pa. Super.** 1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

If dependency issues have not been resolved, the case should be kept open and services ordered. The court should ensure that services are not discontinued solely because the child was adjudicated delinquent. The county agency and the juvenile probation are to collaborate on the case and resolve all outstanding issues. If a child is in a delinquency placement, the court is to ensure that the county agency and the juvenile probation office have collaborated to ensure appropriate services are in place.

For procedures on emancipation pursuant to **[paragraph (A)(9) subdivision (a)(9)]**, see *Berks County Children and Youth Services v. Rowan*, [428 Pa. Super. 448,] 631 A.2d 615 (**Pa. Super.** 1993). See also[,] 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to **[paragraph (A)(10) subdivision (a)(10)]**, a child who was adjudicated dependent prior to reaching the age of **[eighteen] 18** and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of **[twenty-one] 21**. 42 Pa.C.S. § 6302. See also[,] 55 Pa. Code §§ 3103.5 **[&] and** 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. **[Ct.]** 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (**Pa. Super.** 1993).

[A] Pursuant to subdivision (b), a child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. **See** *In re M.L.*, [562 Pa. 646,] 757 A.2d 849 (**Pa.** 2000). **[See paragraph (B). Paragraph (B) Subdivision (b)** does not apply to resumption of jurisdiction cases.

[Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a] A court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. **See** 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, [375 Pa. Super. 88,] 543 A.2d 1192 (**Pa. Super.** 1988).

Pursuant to **[paragraph (E)(2) subdivision (e)(2)]**, the county agency is to assist the child and provide all the support necessary in developing a transition plan. See 42 U.S.C. § 675(5)(A)-(H); **67 Pa.C.S. § 7505**.

Pursuant to **[paragraph (E)(3)] subdivision (e)(3)**, the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of **[paragraph (E)] subdivision (e)** are to be followed. In no case is a juvenile over **[twenty-one] 21** to remain under juvenile court supervision. See **[Rule] Pa.R.J.C.P. 1635(E)**. **[See also] See also** Rule 1635(E) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

[Official Note: Rule 1613 adopted August 21, 2006, effective February 1, 2007. Amended July 29, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013 and renumbered from Rule 1613 to Rule 1631, effective December 1, 2013.]

***Committee Explanatory Reports:* Final Report explaining the provisions of Rule 1613 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1613 published with the Court's Order at 39 Pa.B. 4887 (August 15, 2009). Final Report explaining the amendments to Rule 1613 published with the Court's Order at 41 Pa.B. 2430 (May 14, 2011). Final Report explaining the amendments to Rule 1631 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013).]**