

New Hampshire Court Improvement Project (CIP)

Kristy Lamont, Esq., Director, NH CIP
Hon. Susan Ashley, Circuit Court Deputy Administrative Judge
May 23, 2023

Funding U. S. Department of Health & Human Services, Administration for Children and Families

Purpose To improve child welfare outcomes, by:

- 1. Collaboration between the judicial branch and child welfare agency (tribes)**
- 2. Efforts related to child protection court hearings**

Court protocols & trainings for judges & RSA 169-C stakeholders

- Federal and State Law
- New Hampshire Case Law
- Best Practice
- Sample Court Forms
 - ✓ Notice to Petitioned Parent in RSA 169-C Cases
 - ✓ DCYF's Affidavit to Identify and/or Locate a Parent, Guardian or Putative Father
- Sample Survey Results

- 3. Support of legal representation for parents, children/youth and the child welfare agency**

Listserv & high-quality legal representation training for RSA 169-C parent attorneys

- National Association of Counsel for Children (NACC)
- 2-day, 8-hour training - October 6 & December 1

Recent CIP Initiatives In response to legislation/case law:

- RSA 463 Guardianship Petition Filed During Open RSA 169-C Case
- Service by Publication in RSA 169-C Cases
- Orders of Protection/Jade's Law
- Extension of Foster Care Beyond 18 Years of Age
- RSA 169-C Permanency Hearings

Questions?



Home > Our Courts > Circuit Court > Family Division > Abuse/Neglect of Children

Abuse/Neglect of Children

The Family Division handles cases filed by the state involving abused or neglected children. The purpose of this process is to protect children, keep families together when possible, provide assistance to parents so they can raise healthy and safe children, and to provide treatment and services to children who are placed outside their home.

[Abuse/Neglect Forms](#)

Protocols

- [Protocols Relative to Abuse and Neglect Cases and Permanency Planning](#)
- [Protocols Relative to Abuse and Neglect Cases and Permanency Planning – Legal Updates and NH Supreme Court Summaries 2003-2018](#)
- [Protocols Relative to RSA 169-C Post-Permanency Hearings for Older Youth with a Permanency Plan of Another Planned Permanent Living Arrangement \(APPLA\)](#)
- [Protocols Relative to Children and Youth in Court RSA 169-C Child Protection Cases](#)

Training Videos

Chapter 1A, Parental Fitness Hearing

- [11-minute overview of the protocols featuring the Circuit Court, DCYF, CASA and the Judicial Council.](#)
- [20-minute PowerPoint presentation about the protocols featuring the Circuit Court.](#)

Chapter 1B, Missing Parent

- [21-minute overview of the protocols featuring the Circuit Court, DCYF, CASA and the Judicial Council.](#)
- [30-minute PowerPoint presentation about the protocols featuring the Circuit Court.](#)



Chapter 11, Permanency Hearings and Post-Permanency Hearings

- [50-minute PowerPoint presentation about the protocols featuring the Circuit Court.](#)

Chapters 12, 13, 14 and 15, Termination of Parental Rights, Surrender, Voluntary Mediation and Adoption

- [10-minute overview of the protocols featuring the Circuit Court and DCYF.](#)

2015 Protocols Relative to RSA 169-C Post-Permanency Hearings for Older Youth with a Permanency Plan of Another Planned Permanent Living Arrangement (APPLA)

- [11-minute overview of the protocols, and a mock APPLA post-permanency hearing, featuring the Circuit Court, CASA and DCYF.](#)
- [6-minute video \("How to Become a Primary Caring Adult \(PCA\) for a Youth 16 and Older in the Custody of DCYF"\) that explains the important role a PCA plays in an older youth's life, including during a youth's time in foster care and after a youth ages out and exits the system. Features DCYF as well as New Hampshire youth and a Primary Caring Adult.](#)

2012 Protocols Relative to Children and Youth in Court

- [8-minute video \("Court... I'm Going"\) about the protocols and what children and youth should expect when attending a court hearing. Features the Circuit Court, CASA and DCYF.](#)

Surveys

- [CASA GAL or GAL Survey \(Print Copy\)](#)
- [Youth Survey \(Print Copy\)](#) - This survey is for youth to tell us about their experience going to court. It should take a minute or two to complete. We'd like feedback if a youth's permanency plan is APPLA and the youth recently attended a Post-Permanency Hearing in an abuse/neglect case (excluding 45-day Orientation Post-Permanency Hearing).
- [Foster Parent and Relative Caregiver \(Print Copy\)](#)



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NOTICE TO PETITIONED PARENT IN RSA 169-C CASES
PLEASE READ CAREFULLY AND BRING TO THE SCHEDULED COURT HEARING

I. ABUSE AND/OR NEGLECT PETITION FILED AND COURT HEARING SCHEDULED

A petition has been filed alleging that your child(ren) has(have) been abused and/or neglected. As a result of the petition, **the Court has scheduled a hearing, the date and time of which are provided on the bottom of the petition.** If you do not attend this hearing, you may be held in contempt of Court and you may lose your chance to be heard on your case by a judge.

Please remember the seriousness of the petition that has been filed. If the judge determines that there is evidence that you have abused and/or neglected your child(ren), the judge's orders will affect you and your child(ren). This includes, but is not limited to, the possibility that the judge may award protective supervision or legal custody to the Division for Children, Youth and Families (DCYF), which would give DCYF the right to temporarily remove your child(ren) from parental care and custody and determine where and with whom your child(ren) will live. This may include placement of your child(ren) in a foster home(s). The judge may also award legal supervision to DCYF, which would permit your child(ren) to remain in your home, or with another parent, under the supervision of DCYF subject to further Court order.

Abuse and neglect cases under State Law RSA 169-C are intended to protect the health, safety and well-being of children and are handled through a series of Court hearings. **At every point in the case, and at every Court hearing, you have a right to an attorney.**

As a parent, you must complete and file the attached Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit (NHJB-2660-DFPS) with the court on or before the day of the hearing. You must forward a copy of the UCCJEA Affidavit to the Petitioner or the Petitioner's Attorney.

II. YOUR FINANCIAL RESPONSIBILITY

With limited exception, the department of health and human services shall be responsible for the cost of services provided under RSA 169-C. RSA 186-C, regarding children with disabilities, grants children and their parents certain rights to services from school districts, at public expense, and to appeal school district decisions regarding services to be provided.

III. YOUR RIGHT TO AN ATTORNEY

As the parent named in the abuse and/or neglect petition, you have a right to have an attorney represent you. You may hire an attorney to represent you, or, if you cannot afford an attorney, an attorney will be appointed by the Court.

IV. THE COURT'S APPOINTMENT OF A GUARDIAN AD LITEM FOR YOUR CHILD

The Court will appoint a guardian *ad litem* (GAL) for your child(ren). The GAL will report to the Court and will make a recommendation about what is in the best interest of your child(ren). You will have a chance throughout the case to talk to the GAL.

V. REQUEST BY A NON-PETITIONED PARENT FOR A PARENTAL FITNESS HEARING AND CUSTODY OF YOUR CHILD

A non-petitioned parent has a right to request a parental fitness hearing, pursuant to RSA 169-C:19-e. The request may be made orally at a RSA 169-C court hearing or by filing a written request, including the court form Request for a Parental Fitness Hearing Pursuant to RSA 169-C:19-e (NHJB-3169-F). Pursuant to RSA 169-C:19-e, I, a parent shall be awarded custody unless DCYF demonstrates, by a preponderance of the evidence, that the parent has abused or neglected the child or is otherwise unfit to perform their parental duties. Pursuant to *In re Bill F.*, 145 NH 267, 274 (2000), a parental fitness hearing addresses physical custody only. Pursuant to RSA 169-C:19-e, I, at a parental fitness hearing the parent shall be provided the opportunity to present evidence pertaining to his/her ability to provide care for the child. A court order in a RSA 169-C case vesting a fit parent with physical custody is not a permanent order of custody, and will expire upon closure of the RSA 169-C case.

VI. AN EXPLANATION OF THE COURT HEARINGS AND PROCESS

Outlined below is a brief overview of the Court hearings that are held when an abuse and/or neglect petition is filed. **Please read this information carefully and review it with your attorney.** Your attorney will be able to provide you with more information about these hearings and the court process.

All Court hearings and records of abuse and neglect cases are confidential. The hearings are not open to the public and only people involved in the case, or invited by the parties and approved by the Court, will be admitted to the Court hearings.

1. 48-HOUR PROTECTIVE CUSTODY HEARING

If your child(ren) has(have) already been removed from home by law enforcement, the first hearing the judge will conduct will be a 48-hour protective custody hearing. At this hearing, the judge will determine whether there is reasonable cause to believe that your child's circumstances or surroundings present an immediate danger to your child's health or life. If the judge makes such a determination, a preliminary hearing will be scheduled.

2. PRELIMINARY HEARING

If your child(ren) has(have) either been removed from home by DCYF through an *ex parte*, or emergency order, or have not been removed from the home, the first hearing the judge will conduct will be the preliminary hearing. At this hearing, the judge will determine whether your child's circumstances or surroundings present an immediate danger to your child's health or life or whether there is reasonable cause to believe that your child has been abused and/or neglected. If such a determination is made, the Court will schedule an adjudicatory hearing. If not, the petition will be dismissed.

3. NOTIFICATION OF RIGHTS AND CONSEQUENCES HEARING (FOR A MISSING PARENT WHO HAS BEEN IDENTIFIED AND/OR LOCATED)

A "missing parent" in a RSA 169-C case is a parent who is named in a RSA 169-C petition involving their child(ren) but whose address/location is unknown. This parent may be a petitioned parent (alleged to have abused or neglected the child(ren)) or a non-petitioned parent (not alleged to have abused or neglected the child(ren)); a parent who is unnamed in a RSA 169-C petition involving the petitioned parent and their child(ren); or a putative father who is known to DCYF when a RSA 169-C petition is filed or who becomes known to DCYF after a petition is filed.

The court will schedule and conduct a Notification of Rights and Consequences hearing for the non-petitioned parent who has been identified and/or located. All parties have a right to attend this hearing. At the hearing, the judge will review the Acknowledgment of Possible Consequences to Parental Rights in Abuse and Neglect Cases (NHJB-2209-F) with the non-petitioned parent. Additionally, the court should, if applicable, discuss the following with the non-petitioned parent: visitation; evaluation, examination and treatment for the child(ren), parent(s), guardian, custodian, and/or household member subject to the petition; services for the child(ren) and/or parent(s); financial affidavit for a parent(s); the social study, case plan, and dispositional order.

4. ADJUDICATORY HEARING OR CONSENT ORDER

ADJUDICATORY HEARING	CONSENT ORDER
<p>At the adjudicatory hearing, or trial, the judge will listen to evidence from your attorney and DCYF (or the individual who filed the petition). DCYF must present evidence and prove, by a preponderance of the evidence, that the abuse or neglect occurred, as stated in the petition. The standard "preponderance of the evidence" means more probable than not.</p> <p>If the judge determines that your child(ren) has(have) not been abused and/or neglected, the judge will dismiss the petition.</p> <p>If the judge determines that your child(ren) has(have) been abused or neglected, a <u>finding of "TRUE"</u> will be entered and a dispositional hearing will be scheduled. The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family.</p> <p>If your child is in an out-of-home placement, the court will also schedule a 12-month permanency hearing. (See Section 7 below.)</p>	<p>If you choose not to have an adjudicatory hearing, you may waive the adjudicatory hearing and file a consent decree with the Court. If the judge approves the consent decree, and it includes a finding of "TRUE," it will have the same force and effect as if the judge had entered a finding of "TRUE" and determined at an adjudicatory hearing that your child(ren) has(have) been abused and/or neglected.</p> <p>A dispositional hearing, and 12-month permanency hearing if applicable, will be scheduled. The judge will also order DCYF to compile a social study consisting of, but not limited to, the home conditions, family background, financial assessment, school record, mental and physical and social history of your family.</p> <p>You will be asked to sign the consent decree. Before you sign a consent, you should carefully review the form entitled The Effect of a Consent Order on Your Constitutionally and Statutorily Protected Rights, Including Parental Rights (NHJB-2270-F).</p>

IT IS IMPORTANT THAT YOU UNDERSTAND THAT A FINDING OF "TRUE" MAY BE THE BASIS, AT A FUTURE TIME, FOR A PETITION TO TERMINATE YOUR PARENTAL RIGHTS.
(See Section 8 below.)

5. DISPOSITIONAL HEARING

If there is a finding of "TRUE," the judge will hold a dispositional hearing within thirty (30) days of the finding of "TRUE." At this hearing, the judge will review the social study of the child's family, consider recommendations from the parties and approve a case plan that will outline what you must do to correct the conditions that led to the finding of "TRUE" that your child(ren) has(have) been abused and/or neglected.

If you want to appeal the Court's decision, you must notify the Supreme Court within thirty (30) days of the final dispositional order.

Please note that at any point during this case, the judge may order that your child(ren) be removed from your care and custody on a temporary basis and placed in an out-of-home placement, including but not limited to a foster home.

Additionally, if the judge determines, pursuant to RSA 169-C:23, that you have not met the standard for return of your child, your child may be removed from you permanently if DCYF files a petition to terminate your parental rights, pursuant to RSA 170-C, and the petition is granted.

6. REVIEW HEARINGS

Following the finding of abuse/neglect, the judge will hold periodic review hearings, pursuant to RSA 169-C:24. At these hearings, the judge will review the status of the case and will examine, since the last hearing, your compliance with respect to outstanding dispositional orders, the case plan and the standard for return of a child in placement, pursuant to RSA 169-C:23. During this review hearing phase of a case, DCYF will be required to make reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan for your child(ren), the court will consider whether services to your family have been accessible, available, and appropriate, pursuant to RSA 169-C:24, II.

7. PERMANENCY HEARING

12-month permanency hearing: If there is a finding of abuse and/or neglect and your child(ren) has(have) been removed from the home and been in an out-of-home placement for twelve or more months, the judge will hold a 12-month permanency hearing, pursuant to RSA 169-C:24-b. At this hearing, the judge will determine if, pursuant to RSA 169-C:23, you have demonstrated that you have met the standard for return of your child(ren) and if so, when your child(ren) will be reunified. If the standard is not met, the judge will identify a permanency plan other than reunification for your child(ren), including adoption through termination of your parental rights, guardianship or another planned permanent living arrangement (APPLA).

Possibility for early permanency hearing—before 12-month permanency hearing: If, after a finding of abuse and/or neglect and removal of a child from his/her home, parents are making no effort or only negligible efforts to comply with dispositional orders, or for some other compelling reason, DCYF may request, and the court may schedule, an early permanency hearing, pursuant to RSA 169-C:24-b, II(b). This hearing may not be requested sooner than 14 days prior to the 6-month review hearing, pursuant to RSA 169-C:24-b, I(f). At this early permanency hearing, the court may order that reunification be maintained as the permanency plan for your child(ren) or may identify a permanency plan other than reunification for your child(ren), including adoption through termination of your parental rights, guardianship or another planned permanent living arrangement (APPLA).

8. PETITION TO TERMINATE PARENTAL RIGHTS

In New Hampshire, there are several ways that a parent's rights can be terminated; one of them is a finding of abuse or neglect and a parent's failure after twelve (12) months to correct the conditions that led to the finding, whether the petitioned or non-petitioned parent in the abuse and/or neglect case; another is a finding of abuse or neglect and parents' failure, after at least six (6) months, to correct the conditions that led to the finding prior to an early permanency hearing held pursuant to RSA 169-C:24-b, II(b) at which the court changed the child's permanency plan due to a compelling reason such as parents making no effort or only negligible efforts to comply with dispositional orders.

In the event a petition is filed to terminate your rights as a parent, you will be notified of any Court hearings. You will have the right to an attorney. If you cannot afford one, the Court will appoint one for you. A guardian *ad litem* (GAL) will be appointed for your child(ren).

At a hearing, both sides will present evidence to the Court concerning the reasons why your rights should or should not be terminated. The Court will make a decision based on the evidence it hears as well as any reports or examinations offered to the Court.

If your parental rights are terminated, you will no longer have any legal rights, privileges, duties or obligations regarding your child(ren).

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
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Court Name: _____

Case Number: _____

IN THE MATTER OF: _____ DOB: _____
 IN THE MATTER OF: _____ DOB: _____
 IN THE MATTER OF: _____ DOB: _____
 IN THE MATTER OF: _____ DOB: _____

**DCYF'S AFFIDAVIT TO IDENTIFY AND/OR
 LOCATE A PARENT, GUARDIAN OR PUTATIVE FATHER**

FOR USE WHEN: DCYF will submit this form in a RSA 169-C case when there is a missing parent, guardian or putative father who is not identified and/or located. A separate form is needed for each missing parent, guardian and/or putative father(s). This Affidavit will be completed by DCYF for every such person in this case until the person is identified and/or located.

A. INTRODUCTION

1. The name and birth date (if known) of the person who is the subject of this affidavit is as follows:

Name _____ DOB _____

2. The last known address for this person is:

3. This person is:

- petitioned parent non-petitioned, non-household parent
 non-petitioned, household parent guardian putative father

B. DCYF EFFORTS TO IDENTIFY AND/OR LOCATE

Since the last RSA 169-C court hearing, the following efforts have been made by DCYF to identify and/or locate the missing parent, guardian or putative father.

Please Note: If a date is included in **Column 2** and/or a person is named in **Column 3**, an explanation of the efforts and outcome should be described with specificity in **Column 4**. Additionally, whenever DCYF has had contact (orally or in writing) about a missing parent, guardian or putative father, the person contacted should be named in **Column 3**. These efforts will be discussed at the hearing in the court's colloquy with DCYF.

Resource	Date(s) Checked Since Last RSA 169-C Hearing	Name of Person Contacted, if Applicable	Explanation of Efforts and Outcome, including Pending Requests
1) Checked N.H. Bridges and New Heights			
2) Submitted a Request to the Bureau of Child Support Services (BCSS)			
3) Conducted Criminal Records Check			
4) Contacted (telephone and/or in writing) known relatives and friends about this person's identity and/or location			

Case Number: _____

AFFIDAVIT OF EFFORTS TO IDENTIFY AND/OR LOCATE PARENT

Resource	Date(s) Checked Since Last RSA 169-C Hearing	Name of Person Contacted, if Applicable	Explanation of Efforts and Outcome, including Pending Requests
5) Spoke with the other parent about this person's identity and/or location (including contact through social media)			
6) Contacted (telephone and/or in writing) current and prior employers about this person's location			
7) Checked telephone book/directory assistance (Please include city(ies) and area code(s))			
8) Conducted internet searches (including social media)			
9) Contacted (telephone and/or in writing) police departments (local & state – please specify/identify) about this person's location			
10) Contacted (telephone and/or in writing) school attended by the child(ren) in the family about this person's identity and/or location			
11) Contacted Social Security Administration			
12) Inmate Locator Checked the federal and state system to determine whether the person is incarcerated			
13) Contacted County House of Corrections			
14) Checked the federal Parent Locator Search			
15) Checked N.H. Putative Father Registry			
16) Personal visit / sent mail to last known address			
17) Searched Service members Civil Relief Act (SCRA) database to certify military status			
18) Other Attempts (Please specify)			

I swear or affirm that the foregoing information is true and correct to the best of my knowledge.

Date

Signature of Affiant

Printed Name of Affiant

Case Number: _____

AFFIDAVIT OF EFFORTS TO IDENTIFY AND/OR LOCATE PARENT

State of _____, County of _____

This instrument was acknowledged before me on _____ by _____

My Commission Expires _____

Affix Seal, if any

Signature of Notarial Officer / Title

- C:
- Mother
 - Father
 - Petitioner
 - Attorney(s) of Record

- Guardian *ad Litem*
- Receiving School District
- Sending School District
- Other: _____

New Hampshire Court Improvement Project

Did you feel today's court hearing was a positive experience, and why?

Answer Choices	Responses	
Yes	78.57%	22
No	0.00%	0
I'm not sure	21.43%	6

Why?
1. Cleared up confusion
2. Because I was comfortable.
3. She listened
4. Made a lot of progress and everyone has recognized it
5. Almost done with DCYF
6. It was okay, not much went on
7. My voice was heard
8. We talked about what's been going on with me and my plans and we celebrated my 18th birthday coming up a little early
9. I was able to say what I felt.
10. The judge made it easy for me to talk
11. It's always a positive experience when we attend court.
12. All good news
13. Because I was able to speak to the judge about everything I needed to talk to her about
14. I this it was positive because I got approved for the hope program.
15. I have direction
16. I got to know what the next steps are.
17. Because it wasn't negative
18. I don't know.
19. I felt that i was able to talk about things
20. Felt positive
21. I don't know.
22. Because I got good news

New Hampshire Court Improvement Project

Do you plan to attend the next court hearing and why?

Answer Choices	Responses	
Yes	96.43%	27
No	3.57%	1
I'm not sure	0.00%	0

Why?
1. To continue making progress
2. Because it's about me.
3. Because I want to advocate for myself
4. Yes I like to be in person and talk to the judge
5. Last one before 18
6. Just to see whats going on
7. I like court and my judge.
8. No reason I shouldn't. I enjoy catching up with Judge Ashley
9. I am suppose to
10. I go to all my court hearings
11. Because it is about me.
12. I am expected to
13. Of course, court will be right before my birthday and it's going to be an important one lots to figure out before I turn 18.
14. I like court
15. To hear what the judge has to say
16. Because I like to know what is going on in my life and my case
17. I will be attending the next court hearing because it will be good to get my whole team together and make sure I am doing good. Also to make sure that I do not need help with anything.
18. I would like to be involved.
19. It's the last one
20. Because I have to.
21. So i know what is going on with my own life
22. It is important to me
23. Because I want to know what is said about me.
24. Because I want to

NACC/New Hampshire Training
High-Quality Legal Representation for Parents in the Child Welfare System
2023 Training Series

This webinar series is designed for New Hampshire attorneys representing parents in abuse and neglect cases. The series will address the nuts and bolts of handling abuse and neglect cases and the fundamental skills and best practices that constitute high-quality legal representation of parents. Each webinar will cover the practical application of the provisions of RSA 169-C and New Hampshire case law, as well as attorney obligations pursuant to the Protocols Relative to Abuse and Neglect Cases and Permanency Planning. Each webinar will also help attorneys understand and integrate DCYF policies, processes, and procedure into their advocacy.

**This series is sponsored by the New Hampshire Court Improvement Project. It was developed based on feedback from brainstorming sessions with Circuit Court judges, local New Hampshire attorneys who represent parents, and in consultation with attorneys Sarah Christie and Cassandra Brown.*

Presented by:

- **Christina Lewis, JD, CWLS – NACC Staff Attorney**
- **Kristen Pisani-Jacques, JD, CWLS – NACC Training Director**

Day 1: Friday, October 6, 2023, 10am-3pm ET

- **10-12pm ET: Who is my Client, and What do they Need?**
 - This session will help attendees understand and address common issues impacting parents in abuse and neglect cases, including trauma, substance use, and mental health. This section will cover Adverse Childhood Experiences (ACES), generational trauma, trauma-informed practice, the impact of trauma on engagement with the attorney and/or the case, and identifying and understanding resources and services in the community to address these needs.
 - This session will give attendees concrete skills for building the attorney-client relationship and authentically engaging their clients in the case. Presenters will discuss handling the first client interview, building trust through zealous advocacy, best practices in client interviewing and counseling, and addressing common client challenges.
- **12pm-1pm ET: Lunch Break**
- **1pm-3pm ET: Adjudication and Trial Skills**
 - This session will address effectively preparing for adjudication, engaging in independent investigation (including moving for investigatory services), and using stipulation and collaboration effectively.
 - Attendees will also learn concrete trial skills to incorporate into their advocacy, including preparing and counseling clients around testifying, witness and exhibit identification and preparation, objections and preserving the record, effective argument, direct examination, and cross examination.

Day 2: Friday, December 1, 2023, 10am-3pm ET

- **10am-12pm ET: Dispositional and Review Hearings, and Reasonable Efforts Advocacy**
 - o This session will address best practices in out-of-court and in-court advocacy around dispositional and review hearings. Attendees will learn about accessing and ensuring supportive services for parents, advocating for kinship placement, and supporting clients' compliance with services and case plans. Presenters will address reasonable efforts law, exceptions, practice, and advocacy, as well as effective written advocacy and motions practice. Attendees will leave this session with concrete tips for effective advocacy at review hearings to make the record for compliance and reunification as the permanency plan, including holding DCYF accountable and carefully reviewing and objecting to court orders.

- **12pm-1pm ET: Lunch Break**

- **1pm-3pm ET: Reunification and Permanency Advocacy Throughout the Case**
 - o This session will emphasize advocacy for reunification and permanency early and throughout the case, to prevent a change in the court-ordered permanency plan of reunification to adoption. Attendees will learn how to effectively prepare for the permanency hearing, including gathering and presenting documentary evidence and ensuring and advocating that a client has met the standard of RSA 169-C:23, including compliance with outstanding dispositional orders. Attendees will also understand and learn how to apply the permanency hearing statute, including preparing to present a case-in-chief when the burden shifts. This session will also address concurrent planning (adoption and guardianship) and voluntary mediated agreements (VMAs).



RSA 169-C:24-b Permanency Hearings

As of January 1, 2022

I. A permanency hearing may be scheduled as follows:

- (a) For a child who has been in an out-of-home placement for 12 or more months, the court shall hold a permanency hearing 12 months from the finding pursuant to RSA 169-C:17 and/or RSA 169-C:18. For a child who enters an out-of-home placement subsequent to a finding pursuant to RSA 169-C:17 and/or RSA 169-C:18, the court shall hold a permanency hearing 12 months from the date the child enters the out-of-home placement.
- (b) If the court at the 12-month permanency hearing grants an extension pursuant to RSA 169-C:24-b, IV, the court shall hold a subsequent permanency hearing no later than 90 days from the 12-month permanency hearing.
- (c) If a termination of parental rights petition is withdrawn or dismissed, the court shall hold a subsequent permanency hearing no later than 90 days from the withdrawal or dismissal of the termination of parental rights petition.
- (d) If a child has been reunified at or following a permanency hearing, and is thereafter removed from parental care prior to closure of the RSA 169-C case, the court may hold a subsequent permanency hearing.
- (e) For a child in an out-of-home placement pursuant to RSA 169-C:24-b, V, the court may hold another permanency hearing upon request of any party at any time.
- (f) For a child in an out-of-home placement, at any time 14 days prior to the 6-month review hearing and before the 12-month permanency hearing, the department may request an early permanency hearing for the child. The court may schedule an early permanency hearing if the department alleges sufficient facts to satisfy the standard set forth in RSA 169-C:24-b, II(b).

6 categories of
Permanency
Hearings—
Protocol 4

II.(a) At a permanency hearing pursuant to subparagraph I(a), (b), (c), (d), or (e), the court shall determine whether and, if applicable, when the child will be returned to the parent or parents, pursuant to RSA 169-C:23. Except as provided for in RSA 169-C:24-b, IV, if the standard for return pursuant to RSA 169-C:23 is not met, the court shall identify a permanency plan other than reunification for the child. Other options for a permanency plan include:

- (1) Adoption through termination of parental rights or parental surrender when an adoption is contemplated;
- (2) Guardianship with a fit and willing relative or another appropriate party; or
- (3) Another planned permanent living arrangement.

Basics for all
Permanency
Hearings—
Protocols 6-8

**Early
Permanency
Hearing—
Protocol 13**

II. (b) At an early permanency hearing pursuant to subparagraph I(f), the court shall determine whether the department has proven by clear and convincing evidence that both parents, or only one parent if the other parent is deceased or not identified, cannot currently satisfy the standard of return of the child under RSA 169-C:23 and would be highly unlikely to satisfy such standard at the time of a 12-month permanency hearing such that permanency should be assessed early, based on parents making no effort or only negligible efforts to comply with dispositional orders or based on another compelling reason. If the department does not satisfy its burden, the court shall hold, within 90 days, a periodic review hearing or the 12-month permanency hearing. If the department satisfies its burden, the court shall determine whether it is in the child's best interest to:

- (1) Identify a permanency plan other than reunification for the child, as set forth in RSA 169-C:24-b, II(a), and hold a post-permanency hearing within 60 days; or
- (2) Maintain reunification as the permanency plan, providing parents additional time to meet the requirements of RSA 169-C:23, and hold, within 90 days, another early permanency hearing or the 12-month permanency hearing.

**Reasonable
Efforts—
Protocol 9**

III. At a permanency hearing the court shall determine whether the department has made reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan that is in effect, the court shall consider whether services to the family have been accessible, available, and appropriate.

**One 90-day
Extension—
Protocol 10**

IV. At a 12-month permanency hearing for both parents, or only one parent if the other parent is deceased or not identified, the court may grant one extension of time that shall not exceed 90 days, and hold a subsequent permanency hearing for both parents pursuant to RSA 169-C:24-b, I(b). Such extension may be granted if the court finds a parent to be in substantial compliance with the outstanding dispositional orders and if the parent establishes, by clear and convincing evidence, that:

- (a) The parent is diligently working toward reunification, which is expected to occur within 90 days;
- (b) It is probable the parent will be able to demonstrate, after the extension and at a subsequent permanency hearing held pursuant to RSA 169-C:24-b, I(b), that the parent has met the 3 requirements of RSA 169-C:23; and
- (c) The extension is in the best interest of the child.

**Unique Needs
of Child—
Protocol 11**

V. If the standard for return of the child pursuant to RSA 169-C:23 is met, but, due to the unique needs of the child, the child is not returned to the custody of the parent, the court may maintain reunification as the permanency plan, and the court shall provide a written explanation as to what circumstances warrant the continued out-of-home placement for the child. In such cases, the court shall schedule subsequent post-permanency hearings pursuant to RSA 169-C:24-c, I, until the child may be returned to the custody of the parent. Upon the request of any party at any time, based on a material change in circumstances, the court may schedule another permanency hearing at which the court may review, modify, and/or implement the permanency plan, or adopt the concurrent plan.