Need to Know Series:

About Family Court

Youth In Progress

New York State Foster Care
Youth Leadership Advisory Team

"The mission of Youth In Progress is to enhance and advance the lives of today's and tomorrow's youth by supporting their sense of self and responsibility. To do this, we pledge to educate everyone involved in the various systems Youth In Progress members represent to the realities of this experience."

Youth living in foster care have their cases heard in Family Court, a court which deals with issues of families, children, and youth. You, like many others, may have questions about Family Court, what to expect there, how to present yourself effectively and what the terms used there mean. This pamphlet was designed to help you understand Family Court. After you've read this pamphlet, you can talk to your caseworker or attorney regarding any questions you may have.

The Basics

Placement: When you are in foster care, you are placed with a child welfare agency. Upstate, the agency is usually the Local Department of Social Services (LDSS). In New York City, the child welfare agency is the Administration for Children's Services (ACS). Child welfare agencies often have contracts with private agencies that provide foster care services, so you may be living with a foster family or in a residential setting or group home operated by an agency other than your local LDSS or ACS.

Caseworker: This is someone working for the child welfare agency who works with you and your family to coordinate services to help you to achieve a long-term, stable living arrangement.

Permanency: This is the term used in Family Court to describe the long-term, stable living arrangement of a child. The goal that you are working toward is called your "permanency goal." Once you have reached your permanency goal, you may be able to leave foster care.

There are five permanency goals: return to parent, placement for adoption, referral for legal guardianship, permanent placement with a fit and willing relative, or placement in another planned permanent living arrangement.

Service Plan: When you are in foster care, your caseworker may arrange for services for you and/or your family members. These services are supposed to address the reasons why you came into placement and help you to reach your permanency goal.

> *“Get to know the people who are in your courtroom. My judge knew who I was and that was helpful.”*
> *– Youth in care*

Why am I in Family Court?

Reasons you may be in court:

- Voluntary placement
- Abuse and/or neglect
- Termination of Parental Rights (TPR)
- Person In Need of Supervision (PINS)
- Juvenile Delinquency (JD)

When will I go to Family Court?

You should expect to go to Family Court immediately before or soon after you enter foster care. This is an opportunity for you and your attorney to tell the judge what you would like to see happen in your case. After you are placed, there will be additional court hearings (known as “permanency hearings”) to determine whether your placement in foster care should continue and to discuss your permanency plan. Permanency hearings give the Family Court judge a way to monitor how you and the agency are doing in terms of meeting the permanency goal.

The permanency hearing report (PHR) is a document that is prepared by your caseworker to provide information about you to the judge and others involved in your case. You should get a copy of your PHR and read it carefully before you go to court to make sure it is accurate.

The PHR describes the services you and your family receive, the progress that has been made toward reaching your permanency goal, your health, the status of your parent(s), and how you are doing in school. It also describes the reasonable efforts of the agency working with you and your family to achieve the permanency plan. Finally, the PHR makes a recommendation about whether you should remain in placement and tells what your permanency goal is. You should be present at each of your permanency hearings so that you can share your wishes and concerns with the court.

If you have been in foster care for more than a month and have not gone to court, contact your caseworker.

"I feel as if my attorney can help me in my program, to try to figure out what I can and can't do. A lot of youth don't have parents or guardians in their life to make choices for them, so I feel that I need an attorney who would be in on a decision process with me…"

– Youth in care

Who's Who in the Courtroom?

Knowing the people present in the courtroom and what their role is can help you to better understand what is happening. A court **"proceeding"** is any appearance you make in Family Court, or any action taken on your behalf by the Family Court. Some or all of the people listed here may be in the courtroom with you. There may be an attorney for each of the different people or parties present. You can ask your attorney who someone is or why he or she is in the courtroom if you don't know.

The judge is in charge of the courtroom. He or she listens to witnesses, examines evidence, and makes decisions about what will happen in your case. The judge is always seated in the front of the courtroom, usually at a raised desk called the "bench."

The Court Clerk/Court Assistant sits near the judge and assists by completing paperwork and writing court orders. The clerk is also in charge of the court calendar and will schedule future appearances or hearings.

Assistant County Attorney/Corporation Counsel: In juvenile delinquency (JD) cases involving children over the age of 7, but under the age of 16, who are accused of committing certain acts that would be considered crimes if they were committed by adults, the Assistant County Attorney (upstate) or Corporation Counsel (New York City) presents the case to the Family Court judge. In some counties, the Assistant County Attorney also presents Persons in Need of Supervision (PINS) cases to the court. The Assistant County Attorney, LDSS Attorney, Corporation

Counsel or ACS Attorney presents child welfare cases, juvenile delinquency, and Persons in Need of Supervision cases to the Family Court.

The Attorney for the Child is your lawyer. He or she must protect your interests and express your wishes to the court. To do that, it is important that you talk with each other before you go to court. The best way to do this is to meet privately with your attorney before you go to court. Almost everything a client tells an attorney is confidential but there are some exceptions. At your first meeting, ask your attorney to go over the exceptions with you before you do anything else. You can go over the facts of your case together and talk about what to expect. You should feel free

to ask your attorney about any questions you might have. Remember to get your attorney's business card, so you know how to reach him or her between court appearances. Finally, your attorney will be seated next to you in the courtroom so that you can speak with him or her during the hearing.

Assigned Counsel: In some Family Court cases, the judge may assign a lawyer to represent an adult involved in the case who cannot afford to hire a lawyer.

Court Officers are assigned to every courtroom and hearing room. They are responsible for security throughout the building, and will call the people into the hearing rooms when the judge is ready to hear their case.

Interpreter: The court provides interpreters as needed for the hearing-impaired and for people who have difficulty speaking or understanding English.

The Probation Officer works for the Department of Probation and sometimes prepares reports for the judges about people involved in the case. These reports might include previous criminal history, convictions, arrests, foster care placements, etc.

Court Reporter: Records are kept of all of the evidence offered and statements made during court hearings. Court reporters may take notes during the hearing and/or record what is said.

Will I have an attorney?

Yes, an attorney will represent you in court. This person is called an Attorney for the Child and he or she is your attorney, assigned to work with you. They must protect your interests and express your wishes to the court. Your family may have their own attorney to help them to tell the court what they would like to see happen in your case. The Local Department of Social Services (LDSS) will also have their own attorney who will do the same on behalf of the agency.

> *"I need my attorney to explain the situation that's going to go on in court. My attorney needs to help me even if it's to get more visits with a family member or friend…"*
> *– Youth in care*

An attorney is assigned to you when:

- a parent/caregiver is accused of abuse and/or neglect.
- a parent/caregiver is seeking custody or visitation.
- you are placed in foster care by request of the parent/caregiver because they are unable to care for you.
- you are alleged to be a Person in Need of Supervision (PINS) because of behavior at home or at school.
- you are alleged to be a juvenile delinquent (this is also called a JD proceeding or Juvenile Delinquency).

Your attorney will:

- protect your interests.
- discuss your options and help you decide which option is best for you.
- tell the court what you want.

You have the right to call or write to your attorney whenever you want to. If you don't know who your attorney is, ask your caseworker. There is a place at the end of this pamphlet for you to write down his or her contact information.

How does a lawyer become an Attorney for the Child?

Every county in New York State has a list of lawyers who are Attorneys for Children and who can represent children and youth in Family Court. The Family Court judge decides which lawyer will be assigned to you. You may have the same attorney or you may have an attorney who is part of a group of attorneys to represent you. Talk to your attorney and find out if they will change or continue with your case. Every lawyer on the list is specially trained on how to be an attorney for a child. The attorney has to:

- be able to talk to you and understand your views and needs regarding the outcome of the case.
- be able to prepare your case for court.
- know the law.

> *“Court is somewhere I did not want to go to at first, but after I understood what was happening, it was someplace I knew I needed to be. It is my life and I needed to be there.”*
>
> *– Youth in care*

What are some simple rules I can follow when I am in court?

- Dress conservatively and respectfully. Don’t wear short pants, tank tops, torn jeans, short skirts, T-shirts with printing and/or logos, or hats. If you do not own clothes that would be appropriate for Family Court, speak with your caseworker for help in getting them.
- Address the judge as “Your Honor” or “judge.”
- Speak clearly and loudly enough to be heard. As the proceeding is being recorded, if you are asked a “yes” or “no” question, answer out loud. Do not nod or shake your head.
- Make every effort to find child care during your court appearance if you have a child. Some courts have a children’s center where you can bring your child if you have no safe place to leave him. In the event that there is no children’s center at your court and you cannot find child care, contact your caseworker and your attorney to help make a plan together.

> *"My judge would ask me how I felt about things and what I wanted. With the help of my attorney, I was able to achieve my goals."*
> *– Youth in care*

What do these words mean?

You may hear terms before or during court that you may not understand. The following glossary of commonly used terms should be helpful. Remember you can always ask your attorney or caseworker to help you understand what is happening.

Adoption

Adoption is a legal process that establishes a parent-child relationship between persons who are not related by birth, with the same mutual rights and obligations that exist between children and their birth parents. The relationship can only be termed "adoption" after the legal process is complete.

Another Planned Permanent Living Arrangement (APPLA)

A permanency planning goal (PPG) assists foster care youth, 14 and up, in their transition to self-sufficiency by connecting them to an adult who will guide and support them, help equip them with life skills, and link them with any needed resources in the community after discharge from foster care.

Appeal
When a person thinks that the court made a wrong decision in his or her case, he or she may ask a higher court to look at the decision to determine if it was correctly made according to the law.

Capacity/Competence
The ability to make good decisions and is based upon a person's age, maturity level, education, behavior, and attitude.

Confidentiality
What a client tells his or her attorney is private.

Consent
A competent person voluntarily agrees, approves, or permits some type of action. See the definition of capacity/competence above.

Hearing or Proceeding
A hearing or proceeding is a court appearance by you, your family member, your caseworker, and/or other people involved in your case. During a hearing, a judge may take testimony from witnesses, grant adjournments, or resolve specific legal issues.

Custody
Legal custody of a child means that the judge has determined that a certain person or agency is responsible for taking care of that child. The Commissioner of LDSS or ACS has legal custody of any youth placed in foster care.

Family Court
A court that works with families, children, and youth and deals primarily with issues of custody, child support, visitation, foster care placement, JD and PINS petitions, child abuse and maltreatment of children, and adoption.

Juvenile Delinquent (JD)
A person over the age of 7, but less than 16, who has committed an act, which, if committed by an adult, would be a crime.

Order
A verbal or written direction of a court or a judge.

Order of Protection
An order of the court for the purpose of protecting a person or party.

Permanency Goal

A plan developed for a child/youth placed in foster care to determine where the child will permanently live. There are five possible goals:

- Return to Parent
- Permanent Placement with a Fit and Willing Relative
- Another Planned Permanent Living Arrangement (APPLA)
- Guardianship
- Adoption, if parental rights are terminated or voluntarily surrendered

Petition
A formal written request to a court, which initiates a proceeding.

Petitioner
Someone who commences a formal written application requesting some action or relief, addressed to a court for determination. This may be your caseworker, a parent/guardian (for PINS and voluntary placements), a Child Protective Services worker, a probation officer, or the district attorney's office (JDs).

Person in Need of Supervision (PINS)
A person less than 18 years of age who does not attend school as required to do so under law or who is habitually disobedient and beyond the lawful control of his or her parent(s) or person legally responsible for his or her care.

Proceeding
A proceeding is a broad term that covers any event that takes place in Family Court. It could include trials, hearings, custody applications, responses to petitions (extension of placement, change in custody, etc.), and many other events.

Respondent
A person who formally answers the allegations stated in a petition which has been filed with the court.

Supervised Visitation
Visitation with a child that takes place in the presence of another adult or court-appointed supervisor to make sure that the child is safe. See also the definition of visiting plan below.

Trial Discharge

Trial discharge is required for at least six months for every child discharged to Another Planned Permanent Living Arrangement (APPLA). For youth 18 to 21, trial discharge may be extended at each scheduled permanency hearing until the youth reaches the age of 21, provided the youth consents to the extension. Trial discharge means the youth remains in the custody of the LDSS, the NYS Office of Children and Family Services, or ACS while living in the community.

Visiting Plan

A plan for visits between a youth in foster care and his or her family members. The plan will say how many visits will take place, how often they will occur, how long they will last, the location of visits, and any special circumstances that are to be observed, if the visits are to be supervised.

The Office of Attorneys for Children

The agency that helps make sure that attorneys for children get training and support so that children/youth in New York State get the best legal representation possible.

For more information about the NYS Court System, including the history, youth rights, and taking tours, visit:
www.nycourts.gov/youth

For more information about Attorneys for the Child, including more detailed information than provided
www.nycourts.gov/courts/ad2/AttorneyforChildHome.shtml

For Adolescent Services Resource Network contact information, including information about Youth In Progress, youth leadership opportunities, training for staff and foster parents, as well as an overview of NYS Adolescent Services, visit:
ocfs.ny.us.gov/main/ddps/adolescent/training.asp

For OCFS Regional Office contact information, as well as information about adoption, child abuse prevention and reporting, and the juvenile justice system, visit:
ocfs.ny.gov/main/regionaloffices_main.asp

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Who should I call if I need HELP or more information?

My attorney is:

Name: _____

Phone: _____

My caseworker is:

Name: _____

Phone: _____

Youth in Progress Statewide Team

Erika Leveillee (518) 956.7884
eleveillee@albany.edu

Region 1: Stand Up 4 Youth

Chris Flowers (518) 956.7886
cflowers@albany.edu

Peter Padilla (716) 847.4663
peter.padilla@ocfs.ny.gov

Region 2: Youth On The Move

Melissa Crocetta (518) 956.7897
mcrocetta@albany.edu

Dana Brown (585) 238.8282
Dana.brown@ocfs.ny.gov

Region 3: Voices United

Chris Flowers (518) 956.7886
cflowers@albany.edu

Shannon Gorman (315) 423.3743
shannon.gorman@ocfs.ny.gov

Region 4: Youth 4 Progress

AND

Region 3 and Region 4: North Country Youth in Progress

Michelle Ray (518) 956.7888
mray@albany.edu

Marie Limbach (518) 474.1168
Marie.Limbach@ocfs.ny.gov

Region 5: Youth of Mid-Hudson and Adolescent Leaders of Tomorrow

Kerri Calvano (631) 444-3693
kerri.calvano@stonybrook.edu

Nelson Lopes (845) 708.2449
Nelson.Lopes@ocfs.ny.gov

Region 6: The Movement

Melissa Rivera (212) 396.7619
M.Rivera@hunter.cuny.edu

Pamela Brown (212) 383.1797
Pamela.Brown@ocfs.ny.gov

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