



WORKSHOP P.

Moving Towards Civil Gideon

*2014 Legal Assistance
Partnership Conference*

Hosted by:

The New York State Bar Association
and The Committee on Legal Aid



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New York State Bar Association**

NEW YORK STATE BAR ASSOCIATION 2014 PARTNERSHIP CONFERENCE

P. CORNERSTONE ADVOCACY: AN INTERDISCIPLINARY APPROACH TO WORKING WITH FAMILIES

AGENDA

**September 11, 2014
10:00 a.m. – 11:30 a.m.**

1.5 Transitional CLE Credits in Professional Practice

*Under New York's MCLE rule, this program has been approved for all attorneys,
including newly admitted.*

Panelists:

Richard Barinbaum, LMSW, Social Work Supervisor, Center for Family Representation, Inc.

Christine Zielinski, Esq., Litigation Supervisor, Center for Family Representation, Inc.

- | | |
|---|----------------------------|
| I. Introduction | 10:00 am – 10:05 am |
| II. Current Outcomes | 10:05 am – 10:10 am |
| III. Roles of Social Workers | 10:10am – 10:30 am |
| IV. Four Cornerstones | 10:30 am – 11:00 am |
| a. Placement | |
| b. Services | |
| c. Conferences | |
| d. Visits | |
| V. Legal Architecture | 11:00 am – 11:15 am |
| a. Reasonable Efforts | |
| i. Pertinent Regulations | |
| ii. Pertinent Policies | |
| iii. Examples | |
| VI. Small Adjustments In Your Practice | 11:15 am – 11:30 am |
| a. Advocacy Strategies | |

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Substantive Outline

P. CORNERSTONE ADVOCACY: AN INTERDISCIPLINARY APPROACH TO WORKING WITH FAMILIES OUTLINE

I. INTRODUCTION

- A. What we do: Direct representation to parents against whom ACS files abuse/neglect cases, whose children are about to be removed or are already removed**
- B. Team model-in court and out of court advocacy**
 - 1. Attorneys
 - 2. Social Workers/Family advocates
 - 3. Parent advocates: Parents who successfully reunited with their children and now work with us to help our clients navigate system
 - 4. Paralegals
- C. Started by attorneys who represents foster care agencies and children and saw many missed opportunities for reunification**
 - 1. children do better when their families are supported/helped
- D. Training & Technical Assistance**
 - 1. Shares our expertise and experience with child welfare practitioners throughout the city, state, and country. Through our [Policy & Advocacy](#) work, CFR positively impacts the child welfare system
- E. Always try to answer important questions:**
 - 1. Will this parent be able to parent safely?
 - 2. How and when a child can go home safely?

II. OUR RESULTS

- A.** 50% of our clients children do not enter care
- B.** Median LOS/FC of 7.5 months (average over 7 years) compared to 11.5 months (city) prior to becoming the primary defender
- C.** 37% of kids returned within six months compared to 28% ; 52% within one year compared to 43% (state)
- D.** Re-entry 8% compared to 15% (state)
- E.** Dismissal rate of 33% compared to 11% (ACD)

III. SOCIAL WORKERS' ROLES IN TEAMS

- A.** Intake, Ongoing Assessment and Support
- B.** Connect Clients to Services
- C.** Out of Court Advocacy

IV. FOUR CORNERSTONES

- A. Placement, Services, Conferences, Visits**
 - 1. They all build on each other and are interrelated to answer that question, can parent parent safely

B. Why first 60 days is important (refer to PowerPoint)

C. Placement

1. Kinship placements prioritized
2. Important for finding permanent homes because is a person related or who at least is known to the child
3. Keep in mind maintaining normalcy for child-loose tooth, school concerts, person who is comfortable allowing child to call their parent, allows parent to visit in their home, willing to travel for visits without excuses
 - a. Proximity to school/activities
 - i. Examples: Neighbor in same building, available to take children to therapy and arts programs
 - b. Siblings placed together or sibling visits-person willing to endure a bit more inconvenience (turning living into bedroom) for someone they know/relative
4. Keep in mind reunification and motivates parents
5. Sometimes it's a person you don't expect (example: paternal aunt in a DV case) so important to cast wide net and ask on initial meeting and constantly reassess

D. Services

1. Must be tailored to family's needs and allegations in petition
2. Knowledgeable social work staff essential here
3. Service plan important because if not appropriate service, children likely to be removed again and that = harmful to parent and child
4. If not appropriate, agency and services in general lose legitimacy for parents and can cause them to disengage
5. If a service doesn't exist and agency unfamiliar, CFR social work staff will make referrals/educate agency
 - a. Services in client's language
 - b. Appropriate services are NOT parenting class and anger management and random drug tests for everyone
 - i. Example: One time excessive corporal punishment with special needs child, at her wit's end and used excessive corp, this mother should have parenting class for children with special needs and family therapy NOT anger management
 - ii. Example: Social worker there even with "difficult clients" and just because client is angry or emotional does not mean they need MH eval
6. Being creative: client incarcerated or out of state –builds on placement cornerstone

E. Conferences

1. ACS Conferencing model-strength based
 - a. Parent to parent-within 72 hours
 - b. Transition conference
 - c. Child safety conference before removal
 - d. Goal change conference
2. Preparing client for conference

3. During the conference
 - a. What's the first thing discussed? ASFA. Imagine how parents feels
 - b. So many decisions made outside of court and attorneys must be connected/informed
 - c. Social work staff essential here to assist in developing effective service plan
 - i. Example: Cognitive delays v. mental illness
 - ii. Example: suicide by OD on heroin and never drug use before, service plan should be MH NOT drug treatment
 - d. Social Work staff and parent advocates essential to point out strengths of parents
 - e. There to say "no" to help client advocate for him or herself and not to agree to everything ACS suggests because of fear of looking noncompliant
 - f. Creates relationships with caseworkers and after that's accomplished, help to maintain calm in chaotic environment
4. Debriefing after a conference

F. Visiting

1. Directly linked to reunification/improving parents' relationships with their children
2. Single best predictor of safe and lasting reunification
3. Visit hosts: when children can see their parents in comfort and with frequency, continue relationship – talk about important events, parents can attend them with supervisor if necessary
4. Keep in mind requesting more than standard duration and frequency
5. Depends on case by case basis and client's capacity
6. Asking for specific orders
7. Often topic for motion practice

V. LEGAL ARCHITECTURE

A. Reasonable efforts under ASFA and FCA 1089 and sometimes ACS's own policies (refer to PP)

1. Reasonable Efforts Language (FCA §1027, §1028, §1052, §1089)
2. FCA §1015-a (“...court may order a social services official to provide or arrange for the provision of services or assistance to the child, and his or her family to facilitate the protection of the child, the rehabilitation of the family and, as appropriate, the discharge of the child from foster care...”) and/or
3. FCA §255 (“family courtmay order any ...county, municipal....officer and employee to render such assistance and cooperation as may be within his legal authority...to further the objects of this act....”)
4. and/or other applicable statutes, i.e. 1017 (all through placement) and/or
5. Pertinent Regulations
 - a. **18 NYCRR 427.3**
 - i. Agency can be reimbursed for the costs of long distance travel for visits to children in foster care from birth parents, siblings and relatives

- ii. Agency can be reimbursed for the cost of long distance telephone communications between children and parents or siblings
- b. **18 NYCRR 428.6**
 - i. Family assessment and service plans must include visiting plans for children with parents, siblings, relatives, any potential permanency resource and persons of significance to child
 - ii. Service plans must include the family's views of its needs and concerns; plans should be based on a family's strengths as well as its needs
- c. **18 NYCRR 430.11**
 - i. Placement should permit child to maintain connections with people and institutions from which child was removed, including school
 - ii. First Visiting Plan must include plan for visits with parents and at least biweekly visits with "significant others."
- d. **18 NYCRR 430.12**
 - i. Visiting should take place in a manner that assures comfort, safety and privacy
 - ii. Child over the age of 10 must be included in Family Team Conferences (SPR); Parents can bring supports
 - iii. "Adult Permanency Resource" is committed to providing emotional support, advice and guidance to the youth
- 6. Pertinent Policies
 - a. O4-OCFS-INF-04: Family Visiting for Children in Out-of-Home Care
 - b. Preparing Youth for Success: Services for Foster Care Youth and former Foster Care Youth (published by OCFS and Center for Development of Human Services)
 - c. 12-OCFS-ADM-03 (educ. stability for children in care)
 - d. 11-OCFS-ADM-04 (religious affiliation of child placed in care)
 - e. 98-OCFS-INF-03: ASFA (Compelling Reasons)
 - f. ACS Visiting Guidelines #2013/02: Determining the Least Restrictive Level of Supervision Needed
 - g. ACS "A Bridge Back Home" (Visit Hosts)
- 7. Examples:
 - a. Visit Host
 - b. Placement with Godparent

VI. SMALL ADJUSTMENTS IN YOUR PRACTICE

- A.** Always ask WHY?
- B.** Learn to REFRAME
- C.** ARGUE from Common Sense and Compassion
- D.** LEARN a few regulations or policy directives
- E.** Develop Reasonable Efforts "scripts"

OUTLINE:
Cornerstone Advocacy

F. Do an ‘internal’ survey of your own perspective/gather with people who may want to try something new....put Cornerstones on the agenda

Cornerstone Advocacy: Interdisciplinary Approach to Working with Families



Cornerstone Advocacy: Interdisciplinary Approach to Working with Families

Christine Zielinski, Esq.

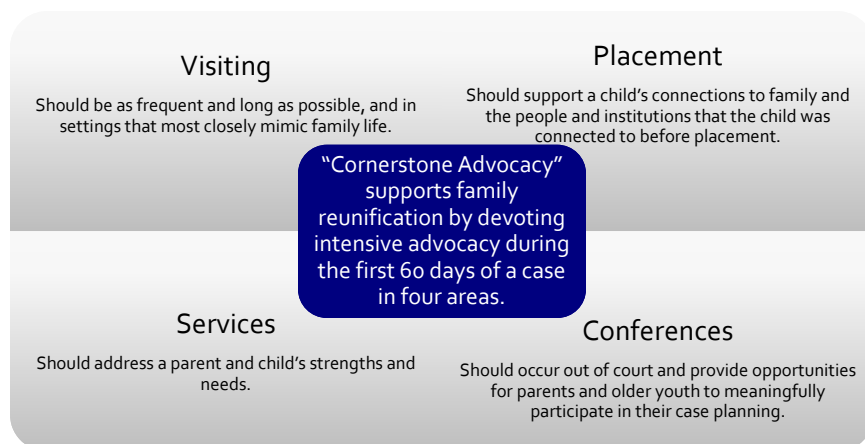
Richard Barinbaum, LMSW

Center for Family Representation

What do we Mean in the CP context?

- **Develop a Legal Theory and Strategy to Advance other Objectives** of your client (in addition to defending the petition—they have others) especially: **visits** that speed reunification, well tailored **services** that make it more likely you will secure reunification; **placement** options that support a child's attachment to the parent; and ways to leverage **out of court opportunities for advocacy---**
- **Advocate in and Out of Court**—to advance their objectives even before adjudication;
- **Find opportunities to do "small" litigation**, i.e. an oral application well supported in facts/law and **motions** directed toward objectives
- **Make the Goal this being your client's last contact with the system**

The Four Cornerstones



Our Results

- 50% of our clients children do not enter care
- Median LOS/FC of 7.5 months (avg over 7 years) compared to 11.5 months (city) prior to becoming the primary defender;
- 37% of kids returned within six months compared to 28% ; 52% within one year compared to 43% (state)
- Re-entry 8% compared to 15% (state)
- Dismissal rate of 33% compared to 11% (ACD)



What do Social Work Staff do for our clients?

- Intake, Ongoing Assessment and Support
- Connect Clients to Services
- Out of Court Advocacy



You don't need CFR's model to pursue Cornerstone Advocacy

- We have a high volume practice and continually have to find ways to do more with less
- We'll focus on "small adjustments" and "next actions" for the solo practitioner
- Tried and Tested suggestions
- Applies to Youth and Parents





Cornerstone Advocacy

1. Always ask WHY?
2. REFRAME
3. ARGUE from Common Sense and Compassion
4. Learn a few regs or policy directives
5. Think about "Small Adjustments" and "Next Actions"

Why 60 Days?

The 60th day is a best practices benchmark for the trial phase of a dependency case to be complete.

To take advantage of the sense of urgency and optimism at the beginning of the case

To set the direction of the case towards reunification from the outset.

While Cornerstone Advocacy should begin on day one, it can and should continue throughout the case, regardless of when a trial date is set.

Placement: Ask about the whole constellation of possible supports, not just relatives; advocate for the one that supports your client/child's attachment or your client's goals for her child

Appropriate placement eases the child's transition to foster care

- A placement that helps children stay connected to teachers, friends, and other community supports like therapists or physicians minimizes the disruption in a child's life.

Appropriate placement keeps parents engaged

- Foster parents who are willing to support a parent and child's relationship play a critical role in maintaining family ties that inspire parents to stay engaged in services.

Appropriate placement supports reunification

- A placement which appropriately supports a child's connection to family promotes reunification and eases the transition home.



Services: should not be formulaic or duplicative—
should be practical, achievable, and
make sense to the client

Poor or Inappropriate Services

may be ill-suited to the family and may create unnecessary demands on a parent who must attend programs, court appearances, and visits.

may lose legitimacy for parents and can cause them to disengage or "fail to comply."

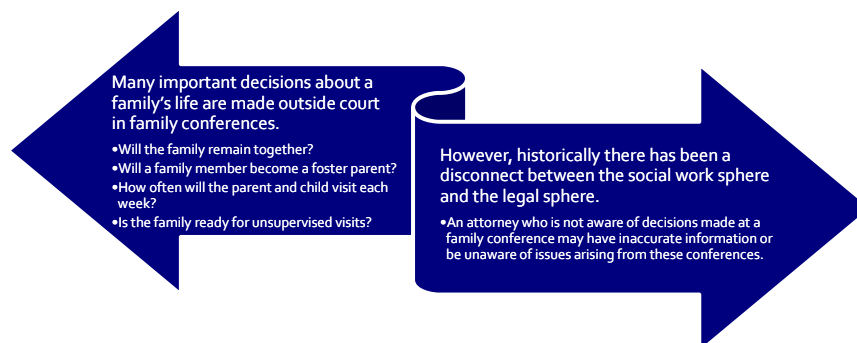
Creative and flexible services

will keep parents engaged by ensuring that the services are meaningful and manageable given the parents' other commitments

will move the family towards reunification more quickly by addressing their needs and building on their strengths



Conferences: So much happens out of court (and so much of what happens in court gets lost in translation at the agencies); if you can't be at a planning conference, help your client identify a support who can; make sure they have orders and send them with letters if need be



Preparing Clients for Conferences

- Find out about meetings: on the record in court, from clients, and agency caseworkers
- Identify and invite client supports
- Explain expectations to the client
- Prepare for a discussion about the allegations
- Bring written information about services
- Anticipate a reasonable service plan



Advocating for Clients at Conferences

- Suggest people talk *to the parent, not about*
- Ensure strengths are also discussed
- Help client disagree when necessary
- Explore service recommendations by asking questions out loud
- Suggest time frames, and hold the agency accountable.
- Get a copy of the service plan



Debriefing with Clients after Conferences

- Take 10 minutes with your client
- Ask how they experienced the conference—successes and challenges.
- Discuss next steps for you, as well as for your client.
- Make calendar reminders about any follow up



Visiting: the key to everything else—huge motivator for parents, gives the client the chance to keep “parenting”—
ALWAYS explore a Visit Host

Visiting is the key to parent engagement

- Visiting enables parents to continue the relationship with their children and inspires them to keep working on getting them home.

Visiting helps children cope with foster care and eventually with the transition home

- When children can see their parents often and in circumstances that make them comfortable, they can talk with the people they most need to about what has happened—their parents.
- Quality visiting can help children preserve cherished rituals, share stories from school and social life, and continue to seek advice and encouragement from their parents.

Meaningful and frequent visitation is the single best predictor of safe and lasting reunification

- Practitioners should advocate for more frequent visits with as little supervision as necessary.
- When possible, visits should occur outside the agency and include activities that mimic family life.
- ALWAYS explore Visit Hosts



The Legal Basis for Cornerstone Advocacy

“Reasonable efforts”

- The passage of ASFA prompted a renewed focus on the agency's duty to make reasonable efforts to safely reunify families. Think about how the Cornerstone applications can fairly be deemed ‘reasonable efforts’ in support of reunification.

State child welfare statutes

- These address services and assistance. Also look to any issue-specific sections of your state statute (i.e. the portion that deals with services, visits, or placement). Argue that your advocacy fulfills the spirit if not the letter of that section.

State regulations

- These detail the obligations that agencies owe parents and children. For example, most states have regulations which include specific agency obligations regarding visits, conferences and services, and placement.

Administrative directives, memos, and guidelines

- Find these on state and county web sites. While not law per se, they typically represent social service providers’ interpretation of best practices and legal obligations and thus can be persuasive in convincing an agency or a judge to move on a Cornerstone issue.



NYS Cornerstone Architecture

Reasonable Efforts Language
(FCA 1027, 1028, 1052, 1089)

plus

FCA 1015-a (“...court may order a social services official to provide or arrange for the provision of services or assistance to the child, and his or her family to facilitate the protection of the child, the rehabilitation of the family and, as appropriate, the discharge of the child from foster care...”)

and/or

255 (“family courtmay order any ...county, municipal....officer and employee to render such assistance and cooperation as may be within his legal authority...to further the objects of this act....”)

and/or other applicable statutes, i.e. 1017 (all through placement)

and/or

Pertinent Regulation(s)

and

Applicable Policy Statements, Administrative Memos, etc.



Example: Application for Visit Host

- **FCA 1027, 1028, 1052, 1089**
- “**‘Reasonable Efforts’**ACS/DSS has an ongoing obligation to make reasonable efforts to reunify children safely with their parents—visitation that is frequent and long enough to help parents and children maintain and potentially improve their relationship should be viewed as such a reasonable effort
 - -plus-
- **FCA 1030:** a Parent is entitled to reasonable and regular visitation unless a child’s life or health would be endangered
 - -plus-
- **18 NYCRR 430.12:** “...Visitation shall take place in a setting that affords a family ‘comfort, safety and privacy.’ and **18 NYCRR 430.11:** agency is supposed to develop a visiting plan for a child that includes visiting with “significant others”
 - -plus-
- **o4-OCFS-INF-o4:** Visiting should occur in settings that encourage the most natural interaction between family members while minimizing any risk that may exist to the children or communities. It can and should include parental and family participation in normally occurring events in the children’s lives; for example, school conferences, medical appointments, church programs, and extracurricular activities.
 - -and/or-
- **ACS Visit Guidelines 2/2013 :** ...As soon as possible, visits shall move from the agency into the community...where Visit Hosts may facilitate visits....”



Example: Application for Child to be in the Care of God Parent

FCA 1027, 1028, 1052, 1089.:

"[R]easonable Efforts" determinations must be made when the Court is considering removal or placement of the child and if the goal remains return to parent, DSS /ACS must demonstrate that reasonable efforts were made to reunify the child—

-plus-

FCA 1017: Family Court has the authority to direct placement with a particular person even if in foster care; **FCA 1015-a:** Court can order DSS to provide "assistance" to the child to "protect" the child and to "facilitate.....discharge"

-plus-

18 NYCRR 430.11: Placement should permit child to maintain connections to people and institutions from which child was removed and to which child will likely be returned; **18 NYCRR 443.1 and 443.7:** any person with a "significant prior relationship to a child" is entitled to an expedited home study for FC certification in the same manner as a biological relative

-plus-

12-OCFS-INF-4: The initial placement of the child into foster care... must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's foster care placement location.

When it is in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency ... must coordinate with applicable local school authorities to ensure that the child remains in such school.

"Litigating" the Cornerstone Application to have a child placed with a godparent and thus remain in her after-school program

Remember: You rarely have to have an extensive hearing to make a good record and/or be persuasive on a Cornerstone application—

think "mini litigation." (i.e. asking a few questions on the record of a parent, caseworker, or interested party or handing in a report)

And Remember.....SHOW AND TELL is the rule of thumb when raising any Cornerstone issue: you may have to provide copies of regulations and/or Policy bulletins or Administrative Directives to convince the Agency or Judge

Oral Application:

•Argue that helping your client's child to remain in her school/afterschool program should be deemed a **"reasonable effort" in support of reunification** and in support of your client's child's emotional health best interests and that an educational plan is expected to be addressed at disposition at a minimum, that a policy of educational stability is well established in regulations (430.11), in that child will adjust better to foster care if she can stay among familiar teachers and peers, remain in any established school services, sports or clubs AND that future reunification will not be delayed due to the desire to preserve a school placement until the end of the academic year

•Argue that application regulations (443.1 and 443.7) make clear that "kin" are those with a "significant prior relationship" so a godparent qualifies and the agency is obligated to preserve educational stability whenever possible (430.11)

•Present brief testimony on this issue, i.e. have the godmother present to tell the court under oath about her relationship; have the parent tell the court about the relationship; (this takes only a few minutes and makes the record); have a letter from the afterschool program

•Show and Tell: hand up copies of the applicable regulations

Great Cornerstone Regs

18 NYCRR
427.3

- Agency can be reimbursed for the costs of long distance travel for visits to children in foster care from birth parents, siblings and relatives
- Agency can be reimbursed for the cost of long distance telephone communications between children and parents or siblings

18 NYCRR
428.6

- Family assessment and service plans must include visiting plans for children with parents, siblings, relatives, any potential permanency resource and persons of significance to child
- Service plans must include the family's views of its needs and concerns; plans should be based on a family's strengths as well as its needs



Great Cornerstone Regs Cont'd

18 NYCRR
430.11

- Placement should permit child to maintain connections with people and institutions from which child was removed, including school
- First Visiting Plan must include plan for visits with parents and at least biweekly visits with "significant others."

18 NYCRR
430.12

- Visiting should take place in a manner that assures comfort, safety and privacy
- Child over the age of 10 must be included in Family Team Conferences (SPR); Parents can bring supports
- "Adult Permanency Resource" is committed to providing emotional support, advice and guidance to the youth



Other Helpful Policy Statements (examples only)

- O4-OCFS-INF-04: Family Visiting for Children in Out-of-Home Care
- Preparing Youth for Success: Services for Foster Care Youth and former Foster Care Youth (published by OCFS and Center for Development of Human Services)
- 12-OCFS-ADM-03 (educ. stability for children in care)
- 11-OCFS-ADM-04 (religious affiliation of child placed in care)
- 98-OCFS-INF-03: ASFA (Compelling Reasons)
- ACS Visiting Guidelines #2013/02: Determining the Least Restrictive Level of Supervision Needed
- ACS "A Bridge Back Home" (Visit Hosts)



Safety Planning in the Team and Handling Prejudicial Information

- Communicate within the team and with Supervisors
 - Communicate frequently with Client
- (With Permission) Collaborate with Others
- Review the limits of your Representation with Team and with Client



Practice Shifts you can Make Now—some are just “Small Adjustments”

1. Always ask **WHY?**
2. Learn to **REFRAME**
3. **ARGUE** from Common Sense and Compassion
4. **LEARN** a few regs or policy directives
5. Develop Reasonable Efforts “scripts”
6. Do an ‘internal’ survey of your own perspective/gather with people who may want to try something new....put Cornerstones on the agenda

Resources

Center for Family
Representation

212-691-0950

www.cfrny.org
info@cfrny.org

Office of Children and Family
Services (search

“Administrative Directives “
and “Info Letters”

www.ocfs.ny.gov

Administration for Children's
Services

http://www.nyc.gov/html/acs/html/staff/staff_resources.shtml

http://www.americanbar.org/publications/child_law_practice/vol_31/july_2012/maintaining_family_relationships_for_children_in_the_child_welfare_system.html

Children's Bureau
Administration on Children,
Youth and Families

[www.childwelfare.gov](http://www.childwelfare.gov/info@childwelfare.gov)
[/info@childwelfare.gov](mailto:info@childwelfare.gov)

National Project to Improve
Representation for Parents
Involved in the Child Welfare
System

www.abanet.org/child/parentrepresentation/home.html



Special Thanks to:

Colin Gilland

Emily Wall

For work on these materials

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A Bridge Back Home: Visit Hosts

A Bridge Back Home: Visit Hosts

June 2007

**New York City Administration for Children's Services
Division of Family Support Services
Office of Family Visiting**

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Tanya Krupat, Osbourne Society
Michele Cortese, Center for Family Representation, Inc.

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Viviane DeMilly, Children's Services, Office of Advocacy
Donna Smith, Children's Services, Children Center
Diana Bond, Children's Services, Central Sibling Unit
Francis Ayuso, Children's Services, Neighborhood Networks
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Elynn Lambert, The Juvenile Rights Division of the Legal Aid Society
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Jenny Crawford, Bronx Defenders
Kara Finck, Bronx Defenders
Shaolee Sen, Bronx Defenders
Lauren Shapiro, South Brooklyn Legal Services
Sara Hopkins, LSNY Bronx
Jennifer March-Joly, Citizens Committee for Children of New York
Alicia White, Court Appointed Special Advocates (CASA)

Additional Professionals who Presented to the Workgroup:

Joseph Moliterno, Esq., counsel to New York Foundling Hospital
Jeanette Gisbert, Director of Volunteer Services, New York Cares

A Bridge Back Home: Visit Hosts

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A	What is a Visit Host?
B	Points of Discussion for an Agency considering Visit Hosts
C	Questions to Ask Parents and Youth
D	Sample Consent Forms
E	Sample Visiting Agreements
F	Sample Criminal History Statement

A Bridge Back Home: Visit Hosts

Background

Visiting is critical to children in foster care. Frequent and ongoing contact with family members reduces the trauma of removal for children, improves their adjustment to placement, and helps expedite permanency, regardless of whether the goal is reunification, adoption, independent living, or adult custodial care.

Visiting is also a critical element in the child welfare system's response to the Adoption and Safe Families Act (ASFA). Passed by Congress in 1997, ASFA was designed to ensure that children in foster care are either reunited with their families or found other, permanent, stable homes in a timely manner. In order to meet ASFA's time frames for permanency, it is critical that children maintain frequent contact with their families whenever it is safe for them to do so.

In August of 2006, Children's Services re-issued the "ACS Best Practice Guidelines for Family Visiting Arrangements for Children in Foster Care." The guidelines addressed the increasing recognition that improved family visiting reduces the confusion and anxiety of children in foster care; is a critical factor in the safe reunification of families; and supports the achievement of another permanency arrangement when reunification is not possible.¹ The guidelines are intended to make visiting a fruitful, family-specific, child-focused opportunity to sustain and strengthen family relationships.²

The visiting guidelines direct that, whenever possible and in the child's best interest, agencies should:

- Offer weekly visits of *at least* two hours in duration;
- Arrange for visiting in a location *outside* the agency that is convenient for all parties;
- Provide the *minimal* level of supervision necessary to ensure the well-being of the child; and
- Increase the visit frequency and length in anticipation of reunification. Visits should evolve from weekly to more frequent visits of greater length, to overnight and weekend visits, leading to trial and then final discharge.

The guidelines introduce an intermediary category of supervision termed "monitored visiting," designed to offer caseworkers more options and assist the progression from a

¹See, "ACS Best Practice Guidelines for Family Visiting Arrangements for Children in Foster Care," ("Guidelines") December 2000, p.1 and see, cover memorandum from Commissioner Scoppetta to Foster Care Agency Executive Directors. The Guidelines are available at www.nyc.gov (type in either "ACS policies ASFA" or "ACS Best Practice Guidelines for Family Visiting" in the website search window and you will find a direct link to the guidelines.)

² The guidelines also seek to improve the quality and frequency of sibling visits.

higher to a lower level of supervision. The guidelines also clarify that (contrary to common practice) *the presumption is that visits are unsupervised* unless supervision is warranted. Supervision must be justified by a safety concern and/ or need for assessment.³ Finally, the guidelines direct agency workers to identify “significant relatives (or others)” who “can and should be considered resources for the case planner...they can help...by *hosting* parent-child visits...”⁴

As Children’s Services has worked with foster care agencies to improve visiting practices over the past six years the need for creative solutions has become clear. While many agencies have improved practices, too often visits still occur at the agency, supervised by the caseworker. Opportunities for parents to engage in more normal family activities with their children (medical appointments, recreation, etc.) are offered infrequently. Many agencies offer limited access to evening or weekend visits. Too often, visits conflict with other service requirements and responsibilities of the parent, as well as activities of older youth.

While understandable, such practices harm families. Research shows that visit arrangements significantly influence the quality of visits. One recent study suggested, for example, that agency visiting spaces may be the least reliable venue in which to make difficult and critical assessments about family attachment and a parent’s abilities to meet his/ her child’s needs.⁵

These guidelines cannot answer every question that may arise in working with individual families, as each situation is unique. However, these guidelines (and the practice tools in the appendices) are meant as a reference and tool for the exploration and implementation of this promising practice. For specific questions or assistance related to Visit Hosts or other areas of visiting, please contact the Children’s Services Office of Family Visiting at 212-487-8630.

Introduction

³ Guidelines, pp. 3-4, 10-14.

⁴ Guidelines, p. 9.

⁵ See, Wendy Haight, et al., *Understanding and Supporting Parent-Child Relationships During Foster Care Visits: Attachment Theory and Research*, *Social Work*, April, 2003, Vol. 8, Num 2; see also, Sonya J. Leathers, *Parental Visiting and Family Reunification: Could Inclusive Practice Make a Difference?*, *Child Welfare*, July/August 2002, Vol. LXXXI, Num. 4; White, MaryEllen, Albers, Erick Bitonti, Christine, *Factors in Length of Foster Care: Worker Activities and Parent-Child Visitation*, *Journal of Sociology and Social Welfare*, June, 1996, Vol. XXIII, No. 2, pp. 75-84; Davis, Inger P.; Landsverk, John; Newton, Rae; Ganger, William; “*Parental Visiting and Foster Care Reunification*”, *Children and Youth Services Review*, Vol. 18, Nos. 4/5, 1996, pp. 363-382.

Foster care agencies have cited insufficient resources and high caseloads as barriers to implementing frequent and quality visits. The practice of utilizing Visit Hosts offers a potential solution to these barriers on appropriate cases. These guidelines are intended to assist foster care agencies in recruiting and integrating **Visit Hosts** into routine family visiting practice for children in foster care. A **Visit Host** is someone identified by the family (parents, youth or relatives) or by the foster care agency who can monitor family visits for children and their parents or siblings *in lieu of* the agency worker. The use of Visit Hosts is a promising approach because:

- Frequent and high quality visiting between parents and children in appropriate cases is a vital predictor of safe reunification;
- Visits that are fun and permit a family to feel supported and engage in normal family activities support a child's overall well-being and adjustment to foster care;
- Visits that are frequent and meaningful contribute to parents feeling empowered and motivated;
- Allows visits to be taken out of the agency earlier but still provides a level of supervision needed on the case.
- Agencies often need additional resources to consistently provide frequent and high quality visits, particularly visits that occur outside the agency or for extended time periods;
- Visit Hosts can be this additional resource on appropriate cases.

As the guidelines illustrate in greater detail, a Visit Host is someone who can assure the safety of the child(ren), is invested in the well being of the child(ren), and is supportive of the parent and the family's attempts to reunify or maintain strong relationships. A Visit Host can accompany the family in settings that are more comfortable than the typical agency visiting room. She can bring participants together more frequently and for longer periods of time than an agency caseworker who has responsibility for multiple families. For example, Visit Hosts can hold regular family dinners, accompany the family to the library or zoo, or go with the parent to a child's medical appointment.

Over the past several years, Visit Hosts have been used by New York City agencies sporadically but successfully (though they may not have been called "*Visit Hosts*"). Visit Hosts have been guidance counselors, pastors, trusted family friends or relatives, even, in one situation, the manager of a bowling alley. A Visit Host could also be a retired foster parent, an adoptive parent with whom the agency is familiar, or a parent advocate or other volunteer.

These guidelines should serve as a reference in recruiting, assessing and training Visit Hosts in order to provide more frequent, consistent and rewarding visits for children and their families.

A. What Situations are Appropriate for Visit Hosts?

There are many situations in which Visit Hosts can enable families to spend more productive and meaningful time together. While the practice makes the most sense for those families with a goal of reunification, Visit Hosts may also be appropriate where reunification is not the goal but where there is a need to maintain a child's connections to parents, siblings, extended family or others.⁶ Visit hosts can be integrated at any point during the life of a foster care case. Examples of family situations which may be ideal for consideration of a visit host include:

1. Large sibling groups where all the children do not reside together;
2. Older teens, regardless of the permanency goal, who wish to spend more time with each other, with parents, extended family, or other people identified by the teens themselves;
3. Families for whom the visiting plan should progress to more natural, less closely supervised visits, to support the transition to unsupervised visits;
4. Families who would benefit from a combination of unsupervised and supervised visits;
5. Families for whom more frequent visits outside the agency are appropriate but the agency lacks resources to facilitate such visits;
6. Families who can identify people with whom and/ or places where they would like to spend time as a family outside the agency;
7. Families who can identify activities and events that they would like to participate in together or that the caseworker feels would be helpful for them to engage in together (i.e. parent attending early intervention appointments with a child or shopping for school clothes);
8. Families who are able to identify a person who could host visits;
9. Families in which a parent is isolated and a Visit Host could play an important role in building a support network for that parent;
10. Families who are homeless or otherwise lack appropriate housing or space in which to spend time together during the day or for overnight visits.

B. Identifying a Visit Host

In many cases, simply asking parents and youth about people who might be able to host visits will yield several options. A good starting point is to meet with the parent to gather psychosocial information and develop a genogram (i.e. resource map) including family members and other important people in his/her and the child's life. Relatives who are

⁶ Examples of situations where Visit Hosts may be important but where reunification is not the permanency goal include: teenagers who may not have a goal that includes returning to a parent but who should maintain connections with parents or other extended family, including teenage parents; Large sibling groups who may have distinct permanency goals, not all of which include reunification; cases where a parent suffers from a physical or psychiatric condition that makes it unlikely they will resume care of a child but where it is important for a child to have continued contact with the parent; situations where there is a need to strengthen and maintain a bond between an adoptive parent and the biological parent when the child would benefit from a model of "family" that does not discontinue contact with a biological parent.

identified but unable to be foster care resources are often good candidates. Places and activities that are important to the parent and family should also be explored. School age children may have been involved with coaches and guidance counselors; families may have been involved with churches, local community groups, or preventive agencies. These outside agencies often include people who not only know the family but who are also willing to help the family stay connected. Because these hosts would only be working with the particular family they know, they may be able to provide additional opportunities for visits, and have experience to draw from in supporting the family.

Visit hosts can also be identified by the agency, and can include existing staff or volunteers, parent advocates, prior adoptive parents, or others who may be willing or interested in hosting visits. Though not initially known to the family, these hosts can offer support and connections for families who may otherwise be isolated and in need of a greater support network. In other words, the benefits of exploring hosts even when families cannot identify one can be enormous.

Use of Visit Hosts can be explored at family team conferences, and at any casework meeting where service planning is discussed. *Use of a Visit Host should be considered whenever the provider reviews the level or type of supervision that is necessary for a family.*⁷ *Certainly, a desire to have visits outside the agency or organized around more family-friendly activities should prompt a discussion of visit hosts.*

Appendix C provides a complete list of questions to ask parents, and often youth as well, in the effort to identify potential visit hosts, but here are some that may be helpful:

1. Who are the people who are important to you and have been important and supportive to you and your family?
2. Does your child have a godparent or other adults he/ she is close to? What other adults did your child spend time with prior to foster care?
3. How, and with whom, do you celebrate birthdays and holidays? What were fun activities that you did together prior to foster care? Who else participated in those activities? Are there school, church or recreational activities that are important to you or your children?
4. Are there people in your community who know your child, who you trust and feel are supportive and reliable?
5. (for a child/youth) Who else did you spend time with before you came into foster care? Would you feel safe if this person were at a visit with you and your parents? Who are other adults you like or respect?

⁷ Current ACS Visiting guidelines direct that visiting plans should progress and/or be revisited at least every six months, so at a minimum, you should ask whether a visit host is appropriate in a particular case when visits have been supervised for six months and continue to go well.

C. Assessing Whether a Person is Appropriate to be a Host

A Visit Host's primary responsibility at a visit is to ensure the safety and well-being of a child. Visit Hosts are not generally trained visit coaches or experts in child development. Nonetheless, in each case, you will have to determine if you feel this person is reliable and willing to work with the agency to support visiting, while at the same time attending to concerns about visits that you may have in a particular case. Some general criteria for potential Visit Hosts are outlined below to guide agency staff in making these assessments:

General Criteria for Selecting a Visit Host

An appropriate candidate to be a Visit Host is a responsible adult who:

1. Has a connection to the family *OR* is identified by an agency as someone who has demonstrated a commitment to supporting family reunification, mentoring, etc., such as a parent advocate or prior foster parent;
2. Is willing and able to host visits on an ongoing basis;
3. Is willing to maintain consistent contact with the foster care agency and respond to agency inquiries in a timely manner;
4. Will intervene appropriately if any problem occurs during a visit and is willing to report back to the agency;
5. Agrees to be honest and forthcoming about the quality and content of the visits;
6. Is knowledgeable about the original placement circumstances, ongoing family issues and current goals of the family;
7. Is invested in helping the family to have safe, productive, positive visits;
8. Is willing to participate in a home assessment (if relevant), interview, and background check for child abuse history;
9. Is willing to discuss any of his/ her own relevant child protective services history with the agency;
10. Is willing to participate (if necessary) in training or orientation to learn more about the responsibilities of being a visit host or to learn how to meet the family's needs during a visit;

11. Is willing to sign an agreement (if considered necessary) to the above expectations (*a sample of such a written agreement is attached as Appendix E*).

What to discuss with a Parent, a Child and the Host Candidate

Most of the time, when a parent proposes someone to host a visit, that person will be someone with enough history with the family that s/he will be aware of at least some of the circumstances that led to the child's placement. Many relatives and community supports, for example, were close to the family prior to placement and it may be just this intimate relationship that makes them a good candidate in the first instance. However, this may not be the case, and parents should be asked about whether and how much the potential host knows about their child welfare case. *Parents should always be given the option of sharing information with the Visit Host, and the case planner and the parent should come to agreement about how much information needs to be shared with the Host.*

Prior to considering a visit host candidate (and certainly prior to meeting with a candidate), you should be sure to discuss with the parent that you will need to share with a Visit Host any information about the case that is pertinent to the child's safety on a visit (which may include sharing the allegations that brought the child into foster care). For example, you may want to share with the host that the case involved substance abuse so that you can communicate to the host your expectation that the parent will be sober on a visit. You will need to obtain the parent's explicit consent to release this information if the parent tells you that the Host is unaware of this history. You may have the parent sign a written consent form or forego a written consent and instead discuss this issue and then make a record of the discussion and the parent's consent in your progress notes (*copies of sample Consent forms are provided in Appendix D*).⁸

Children, particularly older children, may also be able to propose a visit host, or at the very least tell you about other people with whom they spent time prior to care. Children are often able to tell you whether they feel safe with such a person and why. You should be sure to let a child know that s/he will have the opportunity to talk privately with the caseworker about how visits are going with the host once they begin.

How to decide whether someone is appropriate on any given case will vary with the circumstances. At a minimum, you should always have at least one meeting with the proposed Host individually and one meeting with the parent and the Host. More meetings may be necessary at first, including a meeting with the child/ren. Strengths-based information including progress and changes since the child's entry into foster care

⁸ If the visit host is someone who already works for or volunteers with the agency, such as a parent advocate, you should be sure to tell the Visit Host that the same expectations regarding confidentiality of families being served by the agency applies to the situation of hosting visits. In cases involving sharing substance abuse, HIV and/or mental health information, your agency may have particular protocol that you should follow to comply with federal law. If you have questions about how they relate to the practice of visit hosts, you should contact the Office of Family Visiting at 212-487-8630.

should be shared, as well as expectations and concerns. You may want to reference the criteria above in structuring your discussion with a host candidate; for example, you will need to tell them that you will be contacting the SCR to see if they have any history of alleged child neglect.

As suggested, you should get a sense of how the person would handle particular situations if child safety became a concern during a visit they were hosting; you should also ask the person to describe his/her relationship with the child/ren or the parent to see if it coincides with the description provided by the parent and/or child.

Possible Additional Activities to Include in the Assessment:

- ask the person to come to some of the visits currently being held at the agency so that you have a chance to see the person interact with the parent and child;
- ask the person for pertinent references;
- show the person redacted portions of any Visit Host agreements you have used on prior cases or would like to use on the identified case to see if it raises questions or concerns;
- if you have a Visit Host working on another case, ask the candidate to speak with that Host;
- contact Children’s Services Office of Family Visiting at 212-487-8630 if you have additional questions or need guidance about how to proceed.

D. Approving a Visit Host

Within your agency, you should have some discussion about whether you wish to consider a Visit Host a “volunteer” in the same way that you do other people who assist the agency without compensation, such as volunteers who help with transportation, putting on parties or events, etc. Because most visit hosts will work with only *one* family as opposed to being available to work with multiple families, they are not “volunteers” in the typical sense. It is unclear whether, and to what extent, state regulations governing agency volunteers would apply to every visit host situation, however, **these recommended steps for approving visit hosts are reflective of and based on those regulations:**⁹

⁹ Pertinent regulations governing agency volunteers are found at 18 NYCRR 442.18 et seq. Typical liability coverage for foster care agencies covers volunteers in a variety of ways; if you have questions about your agency’s liability coverage as it relates to visit hosts, you should contact the Office of Family Visiting.

1. Obtain an SCR clearance: It is critical that you determine whether the Visit Host candidate has ever had allegations of abuse or neglect made against him or her. *The mere existence of an SCR history should not automatically preclude the person from hosting visits; rather, as with potential foster parents, it should be one factor that the agency uses to determine if the Host is appropriate.* In reviewing prior SCR history, agencies should consider how much time has passed since the report as well as the type and severity of the allegations.

In the situation of proposed Visit Hosts, Children's Services will conduct an SCR clearance on the candidate in the same manner that expedited clearances are done for Child Protective Services, so that an agency need not wait for several weeks to gain this information. To request this, contact the Office of Family Visiting at 212-487-8630.

2. Address criminal background: Criminal background checks are usually accomplished in one of two ways: either by finger printing or by asking a candidate to execute a sworn written statement attesting to any prior criminal record. **State regulations do not require fingerprinting for volunteers** and in addition, fingerprinting can be costly and time consuming. *As is true of SCR clearances, the circumstances of any prior criminal record should be viewed with discretion as one factor, but not the only determinative one in approving a visit host (a sample of a sworn written statement is included as Appendix F).*
3. Provide for orientation, training and ongoing work with a Visit Host: Orientation and training for a Visit Host can be informal, i.e., individual meetings you have with the host to discuss expectations. If you have identified several cases in which you would like to use Visit Hosts, you may ask all of the candidates to come in for a group training session. *In particular, a host needs to understand what s/he is expected to do if a child's safety or well-being appears to be at risk at a visit.*¹⁰
4. Conduct a home assessment if the Host intends to monitor visits at his or her home: Whenever the host will have the child and his/her family to the host's home, you should conduct the same safety assessment you do when initially investigating the home of a potential resource. This is particularly important when someone is hosting extended or overnight visits.

*In addition to these steps, programs may consider the following steps, depending on the circumstances of the case:*¹¹

¹⁰ You may wish to memorialize this expectation in writing, either in an agreement like the one in Appendix E or in a letter or "contract" that marks the beginning of the visit host's role.

¹¹ The additional suggestions outlined in 5-8 are not required by state regulation for volunteers, but they may, in a particular case, reflect prudent practice. One important consideration to keep in mind whenever you are approving a host is that the practice is designed to be as informal as possible in order to assure that

5. Conduct an SCR clearance on any adult residing in the Host's home: If a child will be spending time at the host's home or if other adults may accompany the host at visits, you should conduct an SCR clearance on those people. You should always be clear with the host that s/he is responsible for the visit and no other adult should be at the visit without the parent's consent and the agency's knowledge, or if prior agreements regarding the visit have precluded that person (i.e., someone who is considered a risk to the child or the parent). You should also talk with the child about additional adults who may participate.
6. Ask the host and/or the parent to establish a written agreement about the visits: Written agreements can function in the same way that other service "contracts" do in child welfare practice. While these agreements do not guarantee that a problem will never arise, they can help clarify the ground rules of the visit and provide guidance for both the host and the parents. "Contracts" can also help defend an agency's decision to stop the Visit Host arrangement should that be deemed necessary. (A copy of a sample agreement is included as Appendix E)
7. Have the Visit Host appear in court: In those cases where the Court has made specific directions regarding visits in the past, you may wish to have the Visit Host appear with the worker in court to discuss with the attorneys on the case, as well as the judge, the plans and expectations for visits.
8. Have the Visit Host meet other pertinent actors on the case: The foster parent, other extended family and others may be able to help the Visit Host appreciate the importance of their role and can help parents appreciate that a Visit Host is an integral part of a service plan to help them reunify successfully with their child.

E. Orientation, Training and Ongoing Work with the Visit Host

Every case will be somewhat different in terms of the level of orientation or training a Host will need to begin supporting a family on visits. As suggested, you may accomplish this in casework meetings that include the parent and/or the child. It is valuable to make your expectations about the visit clear to the host and the parent together. Certainly, a host needs to know what you would like them to do if they feel a visit is not going well, which should always include the expectation that the host will end the visit and return the child to the foster home or the agency, depending on the arrangements you make. In advising the host, you may want to draw on expectations and guidance you provide to kinship foster parents who have visits in their home with a child's parents.

The assigned caseworker or supervisor should always be present for the first few visits that take place with the host as a means to identify additional issues that may be important for assuring a safe, productive, positive visit for the family. Over the life of a case, it is recommended that the caseworker be present with the Visit Host from time to

people willing to support the family are not discouraged by what feels like burdensome limitations or conditions on their support of the family that go beyond assuring the child's safety.

time to assess the arrangement. You should regularly check in with the Visit Host to find out about the progress of visits as well as to address any of the host's concerns, in much the same manner as you would check in with a kinship foster parent who monitors visits in his/her home. Less frequent check-ins should be possible as the case progresses, if visits continue to go well.

It is important to regularly request feedback on the visiting arrangements from the child and parent. You may wish to set aside a specific casework meeting to discuss with the Host and with the parent and children their impressions of the visits. It is also important to interview children separately regarding their experience of the visits. You may wish to include the Visit Host at SPRs or similar casework meetings, with the parent's consent.

F. Documentation Regarding Visits

Even when engaging a Visit Host, the agency remains responsible for documenting reasonable efforts around all service planning, including visits. It is not necessary nor is it recommended that Visit Hosts *formally document* their activities while supporting a visit, though you may wish to ask the host to keep a simple log that chronicles the dates and times of visits and perhaps briefly summarizes activities at the visit. It *is* necessary for the caseworker to regularly touch base with a Visit Host, to get feedback on the visits and to include that feedback in regular progress notes and service plans. Just as caseworkers regularly hear from kinship foster parents about visits that take place under their "supervision," caseworkers should make provisions to solicit this feedback from the hosts, either after every visit or at regular intervals.

Visit Hosts do need to understand that in the event of a conflict or question regarding the accuracy of their feedback on visits, a caseworker may temporarily or permanently halt the arrangement, until the conflict can be adequately resolved. This should be indicated and included in any Visit Host contract or written agreement that is used and when discussed in lieu of a written agreement, the discussion should be documented in the progress notes. Naturally, progress notes should also reflect any feedback from parents and children.

If you choose to ask the Host to fill out a brief form or keep a log of visits, you should be sure to give the parent (and older children) the opportunity to record their impressions and feedback as well.

Conclusion


With proper exploration and application, Visit Hosts offer a promising approach to improving family visits, meeting the needs of children and families in foster care, and enhancing the network of support families can continue to rely on outside of the child

welfare system. We strongly encourage agencies to utilize these guidelines and to integrate Visit Hosts into standard case practice.

Determining the Least Restrictive Level of Supervision Needed During Visits for Families with Children in Foster Care

Determining the Least Restrictive Level of Supervision Needed

During Visits for Families with Children in Foster Care

Approved By:  Ronald E. Richter, Commissioner	Date Issued: <u>2/28/13</u>	Number of Pages: 22	Number of Appendices: 2
Related Laws: Soc. Serv. Law §§ 358-a; 384-a; FCA §§ 1030, 1081, 1082, 1083, 1084	Children's Services Divisions/Provider Agency: Child Protection; Family Court Legal Services; Family Permanency Services; Youth and Family Justice; and Foster Care Provider Agency Staff	Contact Office/Unit: Paula Fendall, Director, Office of Family Visiting paula.fendall@dfa.state.ny.us	
Supporting Regulations: 18 NYCRR § 430.11; 18 NYCRR § 430.12; 18 NYCRR § 431.14; 18 NYCRR § 428.6(1)(viii)	Supporting Case Law: NA		
Bulletins & Directives: 11-OCFS-ADM-7	Related Policies: NA	Supersedes: Updated ACS Best Practice Guidelines for Family Visiting Arrangements for Children in Foster Care (8/28/06)	
Related Forms: NA			
SUMMARY: Children's Services and provider agencies should seek to arrange unsupervised visits between a parent and a child in foster care whenever there is no safety reason to support supervision. This policy sets forth practice guidelines for determining the least restrictive level of supervision for family visits when children are in foster care or are residing with a non-respondent parent or other caregiver under court supervision. This policy also provides guidance for assessing, arranging, and implementing a quality visit plan.			
SCOPE: This policy applies to the Children's Services' Divisions of: Child Protection (DCP); Family Court Legal Services (FCLS); Family Permanency Services (FPS); Youth and Family Justice (DYFJ); and provider agency staff working with families whose children are in foster care.			

Policy Highlights

- Case planners must tailor visit plans to the needs of individual families.
- Unless there is a court order to the contrary, case planners must determine the most appropriate initial level of least restrictive supervision during the Transition Meeting.
- Visits may be supervised by provider agency staff (e.g. parent advocates, case aides, caseworkers, case planners, and supervisors), Visit Hosts, or Visit Coaches.
- Visits must be unsupervised unless certain conditions are present, such as a court order for supervised visits and/or a reasonable basis to believe that a child may be at serious risk of physical and/or emotional harm or injury if visits are unsupervised.
- Case planners must contact the FCLS attorney if they wish to change the level of supervision and there is an existing court order that prohibits the change. Case planners may not change visit plans prior to receiving written confirmation from the FCLS attorney documenting that the Family Court has ordered that the change may proceed.
- As soon as possible, visits shall move from the agency into the community (e.g. public library, park, YW/YMCA) where Visit Hosts may facilitate visits.
- Case planners must facilitate at least bi-weekly visits and contact that is not limited to visits with parents when siblings are placed separately.
- Parent-child visits shall not be suspended as a consequence of a parent's non-compliance with the service plan or poor behavior on the part of the parent as long as non-compliance with the service plan or poor behavior on the part of the parent does not compromise the physical and emotional safety of the child or others during visits.
- Provider agency case planners must always follow court orders regarding visits, except in an emergency where the case planner believes that a visit will place a child in imminent danger of risk or harm and there is no time to seek a modification of the order. If a visit is suspended because of an emergency, the case planner must immediately notify the FCLS attorney of the action.

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Attachments:

1. Guide for Making a Safety Assessment to Determine the Most Appropriate Type of Family Visiting
2. Community Partnership Project Facilitator and Liaison Directory

I. Introduction

- A. It is critical that children in foster care maintain frequent contact with their families when it is safe to do so. Contact with family reduces the trauma of removal for children, improves their adjustment to placement, and helps expedite permanency regardless of the permanency planning goal.
- B. Frequent and consistent parent-child contact preserves parents' emotional attachment to their children, allows parents to practice day-to-day parenting skills, and expedites permanency. Visiting that includes "shared parenting" responsibilities (e.g. with the parent accompanying the foster parent to medical and school appointments, or assisting in supervising the child's homework) can provide a realistic sense of what parenting will be like when the family is reunited.
- C. It is critical that any action taken by a case planner with respect to visits be consistent with any current court orders.
- D. It is critical that case planners evaluate, establish, and adjust visit plans for each child individually, as each child in a sibling group has different needs and preferences. Likewise, case planners should plan for visits with each individual parent. The actions required by the following policy are to be applied to individual children and individual parents.

II. Visiting Requirements for All Families

A. General Responsibilities

- 1. The foster care provider agency, taking into consideration the circumstances of the case and any court orders which pertain to visiting, determines the level of supervision during visits. The provider agency case planner shall arrange and facilitate visits and other forms of contact between the child, parent, separated siblings, and other adults important to the child. When appropriate, case planners shall facilitate other forms of contact between these parties in addition to face-to-face visits, such as phone calls, emails, and letters. Although foster parents may escort children to visits, host visits in their homes (if they agree to do so), and actively participate in visit arrangements, the ultimate responsibility for making sure that visits take place lies with the case planner.
- 2. The case planner must consult with the parent prior to the first visit and prior to subsequent visits, as necessary, to convey the importance of visits for the child's emotional health and for achieving permanency. Whenever possible, visits should not disrupt school, therapy appointments, etc. When age and developmentally appropriate, the case planner must also consult with the child when formulating a visit plan. This consultation should be done in person to

maximize the child's comfort level and candor in discussing and creating the visit plan.

3. When the permanency plan goal is "return to parent," provider agency staff must document in Connections (CNNX) and be able to explain to the Family Court the efforts they have made to implement this plan, including maintaining the parent-child bond through visiting and other parent-child contact (e.g. contact at school and/or medical appointments; special occasions such as birthdays, holidays, or other events).
4. In all cases, provider agencies must follow court orders which pertain to visits. When such a court order exists, if a case planner believes it is in the child's best interests to change the frequency or duration of visits, the case planner must contact the assigned FCLS attorney to determine whether to seek a modification of the court order. Unless the Family Court modifies the order regarding visits, the current order must be followed. The case planner must document in CNNX any visit plan change, as well as the justification for such change. The change should be documented in the FASP if available; if not it must be documented in the progress notes.

B. Initial Assessment and Creation of Visit Plan

1. A child's removal from his/her family is a traumatic event. The case planner must consider the importance of discussing and scheduling parent-child contact immediately after removal. Timely parent-child contact can serve to:
 - a. Provide continuity and reassurance for the child;
 - b. Send a vital message of responsibility to the parent;
 - c. Support the parent so that the parent can immediately begin to address the reasons for the child's removal; and
 - d. Begin the process of determining the permanency plan for the child. One of the first steps in the parent-child contact is the Parent to Parent meeting which shall occur within 48-72 hours of placement.
2. As each family is unique, every visit plan must be developed, assessed, and evaluated individually.¹ The visit plan must be shared with the parent and the child (when age and developmentally appropriate) and updated or modified to reflect their input. Unless the court has ordered that visits be "supervised," the assigned Child Protective Specialist (CPS) and the provider agency case planner, in consultation with a provider agency supervisor, must determine the appropriate

¹ The initial visit plan must specify whether biweekly visits are appropriate. If biweekly visits are inappropriate, then the reason why such visits are inappropriate must be clearly documented in the initial visit plan. See 18 NYCRR §§ 430.11(c)(2)(ii) and 430.12.

initial level of least restrictive supervision during the Transition Meeting.² Children's Services DCP staff shall share what the court order requires during the Transition Meeting. If it is not feasible to make the determination during the Transition Meeting, case planners must make this determination at or before the Twenty (20) Day Follow-up Child Safety Conference ("Twenty (20) Day Conference"). Once the appropriate level of supervision has been determined, the case planner must document in CNNX the reason for the chosen level of supervision.

3. The reason(s) that the child came into care provide the basis for determining the initial level of supervision. For example, if there was an allegation of repeated hitting by a parent, supervision of initial visits would be appropriate. The case planner must regularly review with the parent the reasons for supervision and discuss the gains or improvements that need to be made before visits can be unsupervised.
4. Visits must be unsupervised unless one or more of the following conditions exist:
 - a. There is a court order for supervised visits. (Any concerns about court orders must be discussed with the FCLS attorney and such orders shall be obeyed unless stayed or modified.)
 - b. There is a reasonable basis to believe that the child may be at serious risk of physical and/or emotional harm or injury.
 - c. There is a reasonable basis to believe that the parent may attempt to influence, interfere with, manipulate, or coerce the child's potential testimony in court.
 - d. It has been determined that the parent may abscond with the child.
 - e. In the presence of the child, a parent displays explosive, emotionally uncontrolled behavior toward agency staff or the foster parent.
5. Case planners must use the Risk Assessment Profile in the FASP and the CPS' notes in CNNX in assessing physical and emotional safety as they relate to the supervision level of visits. Case planners must read these documents and have conversations with the CPS and the family to understand the family dynamics. Scheduled Family Team Conferences (FTCs) are also appropriate settings to discuss the development of a visit plan. If the case planner is unable to obtain information about the investigation from CNNX, the case planner must obtain the information directly from the CPS. For more information about assessing safety, see Attachment 1, *Guide for Making a Safety Assessment to Determine the Most Appropriate Type of Family Visiting*.

² See Children's Services memorandum, Transition to Foster Care Services: Clarification on Connections, dated January 3, 2011.

6. When there are multiple children in the family, the case planner must consider each child's age, developmental level, ability to communicate, and other relevant factors to determine the level of visit supervision needed for each child. Older children, particularly adolescents, do not have the same supervision needs as infants.
7. The case planner must also assess each parent individually to determine the level of supervision needed during visits. The case planner may determine that one parent requires supervised visits with the child, but the other parent does not. If a family requires supervised visits, the case planner shall consider the most appropriate staff person or resource, such as a Visit Host³, to provide the supervision. A provider agency staff member is defined to include a parent advocate, case aide, caseworker, case planner, supervisor, or higher level staff. In addition to a Visit Host, a Visit Coach⁴ may also be used to supervise a visit. The case planner is responsible for informing the person supervising the visit about the family's issues with regard to the case and any pertinent court orders. Case planners are encouraged to contact the local Community Partnership Program (CPP) visit program, if any, to arrange for a Visit Host to supervise a visit (see Attachment 2, Community Partnership Project Facilitator and Liaison Directory).
8. Case planners must notify the FCLS attorney of the initial visit plan. The FCLS attorney will then notify the parent's attorney and the attorney for the child.

C. Frequency and Location of Initial and Ongoing Visits

1. The initial visit shall occur within two (2) business days of the child's placement into foster care unless there is a court order that sets forth a different timeframe or directs that no visits take place.⁵ If a child has been removed but not yet placed, the CPS shall call the Children's Center to arrange the visit. Parents and children must be permitted immediate phone contact (if the parent has phone

³ See A Bridge Back Home: Visit Hosts, Visit Host Guidelines from June 2007.

⁴ Visit Coaches and Visit Hosts are identified by either the provider agency or a Community Partnership Program (CPP). A **Visit Coach** is an agency employee or other professional affiliated with a CPP whose job is to provide intensive hands-on assistance to help the parent meet the needs of their child during the visit. A **Visit Host** can be a family member, foster parent (not on his/her own case), member of the community with an SCR clearance (through the ACS Community Partnership Program), or provider agency staff person who can supervise visits instead of the case planner. Children's Services will conduct SCR clearances on Visit Hosts and Visit Coaches that are not affiliated with Community Partnership Programs. Prior to having a Visit Host supervise a visit, a supervisor one level above the case planner must approve the use of the Visit Host and must document such approval in CNNX. See also Section IV(A)(2-3) regarding the use of a Visit Coach or Visit Host, including addressing issues of confidentiality.

⁵ Placement into foster care includes placement via a Family Court remand or placement order pursuant to Family Court Act Articles 3, 7, and/or 10; signing of a voluntary placement agreement; or placement of a child into foster care as a destitute child. In Multidimensional Treatment Foster Care (MTFC) cases, the initial visit schedule may be different.

access) after a removal by providing the parent's phone number to the foster parent, with prior consent from the parent. Frequent phone or email contact, along with the exchanging of family photos, is encouraged throughout the child's stay in care.

2. Regular and frequent visiting must continue after the initial visit to reduce trauma, maintain and establish attachment among family members, and promote parent and child engagement in the permanency planning process. Parent-child visits must take place at least once per week for at least two (2) hours at a time and more frequently whenever possible. For infants and toddlers, visits must generally be more frequent (two or three times per week) and of shorter duration. Additionally, parents must be encouraged to participate in their child's medical visits, education, special events, and other occasions.
3. If a child is experiencing a crisis unrelated to the child protective matter (or cause of removal), the case planner should arrange additional visits. **Examples of such circumstances are:**
 - a. The child is hospitalized for a medical or psychiatric reason;
 - b. The child is re-placed into another foster home and is separated from his/her siblings;
 - c. The child has experienced a trauma or crisis in the foster home, school, or place of employment, for example, and would benefit from the support of the parent to process what happened;
 - d. There has been a death in the family; and
 - e. A clinician recommends that additional contact would be beneficial for the child to improve his/her relationship with the parent.
4. Parent-child visits shall not be suspended as a consequence of a parent's noncompliance with the service plan or poor behavior on the part of the parent as long as the non-compliance or poor behavior does not compromise the physical and emotional safety of the child or others during visits. Such visits shall also not be suspended or otherwise altered if doing so would be contrary to an order of the Family Court.
5. Visiting arrangements must take into consideration the schedules and circumstances of all those involved, including the parent, child, and foster parent. Case planners must factor in obligations the parent may have such as participation in a drug treatment program, medical appointments, job searches, and income maintenance appointments. Case planners must also consider travel distance and cost, safety considerations for parents in domestic violence situations, and cultural, religious, and language issues. Case planners may consider alternative sites, such as ACS borough and provider agency offices, as well as evening and weekend hours. When there is no overlap between the

parent's availability and that of the foster parent, the agency must arrange visiting that works for the parent.

D. Ongoing Assessment and Modifications of Visit Plans

1. Immediately after implementation of the initial supervision plan for visits, and in no event later than the Twenty (20) Day Conference, case planners must assess whether visits can proceed unsupervised. In making this assessment, the case planner, along with his/her supervisor, must consider his/her knowledge of the case, any progress towards rectifying the circumstances that placed the child in danger of harm, and the observed interaction between the parent and child.
2. Visits should only continue to be supervised where one or more of the following conditions exist:
 - a. There is a court order for supervised visits. As noted, any concerns about court orders must be discussed with the FCLS attorney and such orders shall be obeyed unless stayed or modified.
 - b. There is a reasonable basis to believe that the child may be at serious risk of physical and/or emotional harm or injury.
 - c. There is a reasonable basis to believe that the parent may attempt to influence, interfere with, manipulate, or coerce the child's potential testimony in court.
 - d. It has been determined that the parent may abscond with the child.
 - e. In the presence of the child, a parent displays explosive, emotionally uncontrolled behavior toward agency staff or the foster parent.
3. If supervision of visits must continue, the case planner must discuss with the parent and child, if age and developmentally appropriate, the reasons for continued supervision and the ways in which unsupervised visits can be achieved. Efforts must continue to be made to hold supervised visits in natural settings where the parent and child would normally interact such as a park, playground, or shopping center.
4. Following the Twenty (20) Day Conference, the case planner must continuously assess and, when appropriate, decrease levels of supervision. Supervision levels must decrease when parents demonstrate they are able to meet the physical and emotional safety needs of their child.
5. Visit plans must be reviewed whenever there is a change in the family's or child's circumstances including but not limited to instances when the parent or child is experiencing a personal crisis, when the child is moved to a higher level of care, or when the child expresses that he or she wants more or less visiting than do(es) his or her sibling(s).

E. Visits in the Community

1. As soon as possible, visits shall move from the agency into the community (e.g. public library, park, YW/YMCA) where Visit Hosts may facilitate visits. A Visit Host can supervise visits in the community instead of the case planner when:
 - a. The case planner has obtained an SCR clearance of the Visit Host;⁶
 - b. The case planner has received supervisory approval one level above **prior** to the visit;
 - c. Such a visit is consistent with court orders; and
 - d. The supervisor has documented the supervisory approval in CNNX.
2. Visits facilitated by a Visit Host are documented by having the Visit Host provide a written summary of and about the visit to the case planner at which time the case planner will enter the documentation into CNNX, which will be reviewed by a supervisor. This documentation must include information relating to the physical and verbal interaction between the parent and child. For visits occurring in the community and being supervised by a Visit Host, the case planner shall observe how the visits are progressing at least once a month.
3. When considering a change in a visit plan, the case planner must arrange to be present at a visit to assess case circumstances and evaluate whether the proposed change in the visit plan is appropriate and consistent with court orders.

F. Weekend and Overnight Visits

1. As a general rule, a child should not be trial or final discharged without first having experienced successful overnight and weekend visits with the parent over a period of time. This period of time varies from family to family but generally occurs over the course of three to six (3 - 6) months. For families who reside in a shelter, the case planner should seek out relatives who can be approved to host the parent's weekend/overnight visits.
2. In cases where the Court orders an immediate discharge, the order must be obeyed and implemented accordingly, regardless of whether there have been prior overnight and/or weekend visits, unless the order is stayed or modified.

III. Supervised vs. Unsupervised Visits

A. Supervised Visits

1. Visits are supervised to protect the safety of children. Provider agencies must provide supervision when one or more of the following conditions exist:

⁶ The ACS Office of Community Partnerships obtains SCR clearances on Visit Hosts and Visit Coaches affiliated with Community Partnership Programs.

- a. There is a court order for supervised visits;
 - b. There is a reasonable basis to believe that the child may be at serious risk of physical and/or emotional harm or injury during the visit;
 - c. There is a reasonable basis to believe that the parent may attempt to influence, interfere with, manipulate, or coerce the child's potential testimony in court;
 - d. It has been determined that the parent may abscond with the child; or
 - e. In the presence of the child, a parent has displayed explosive, emotionally uncontrolled behavior toward agency staff or the foster.
2. During the supervised visit, the provider agency staff person, Visit Coach, or Visit Host is present to help the parent build parenting skills and to respond to the parent's requests for assistance and support.
3. The person supervising must also assess the safety of the child, paying close attention to the physical contact between the parent and child, as well as to the reaction the child has to any physical contact and verbal or non-verbal communication.
 - a. The person supervising the visit must be present with the parent and child during the entirety of the visit and, depending on the allegations of the case and/or other safety factors, must be able to hear all communication between the parent and child during the visit. If a case requires heightened vigilance, the person supervising should supervise the visit of the one family only – and not simultaneously supervise other families.
 - b. If the child and/or parent speak a language other than English, the agency must use an interpreter during the visit.
4. Whenever possible, supervised visits shall take place in locations outside of the agency to promote the parent-child relationship and offer the case planner an opportunity to determine whether to decrease the level of supervision.
5. Provider agency staff must have a clear safety plan for the visit.
6. Provider agency staff shall not stop the visit, except in any of the following instances:
 - a. If the emotional or physical safety of a child is threatened;
 - b. If the parent tries to influence, interfere with, manipulate or coerce the child's potential testimony for court;
 - c. If the parent attempts to leave the visiting area with the child;
 - d. If, in the presence of the child, a parent displays explosive, emotionally uncontrollable behavior toward agency staff or the foster parent; or
 - e. The parent is under the influence of drugs or alcohol.

7. Case planners shall document their observations and assessments of supervised visits in CNNX for use when re-evaluating the level of supervision.

B. Unsupervised Visits

1. When **none** of the concerns listed in Section III(A)(1) above exist, when there is no other determined child safety related need for the presence of provider agency staff, and when there is no court order mandating supervised visits, the provider agency may decrease the level of supervision of parent-child visits.
2. **After the issues above have been determined, the case planner must then document in CNNX that unsupervised visits are beginning.** As noted, the change should be documented in the FASP if available; if not it must be documented in the progress notes.
3. Unsupervised visits shall take place in locations that support and promote the parent-child relationship, and that are identified by the family as comfortable, supportive, and convenient.

C. Increasing or Decreasing the Level of Supervision

1. Visits need not be supervised when there are no safety issues requiring supervision and the child is comfortable being alone with the parent. Whenever consistent with safety and the child's comfort, case planners shall also increase visits from weekly to more frequently and to the next level of least restrictive supervision. Conversely, when safety or risk concerns arise, provider agency case planners may need to increase the level of supervision of visits. Case planners must be attentive to changes in parental and child behavior patterns once unsupervised visits have commenced.
2. Before moving to unsupervised visits, the case planner must contact the FCLS attorney to determine whether the Family Court judge has issued orders regarding visits, and to ascertain whether the attorney has any additional information to be considered before moving to unsupervised visits. If the case planner wishes to change the level of supervision, but a court order prevents the change, the case planner must contact the FCLS attorney about modifying the order. **The case planner may not make a change in the visit plan until receiving written confirmation from the FCLS attorney, such as the electronic court action summary via email, documenting that the Court has ordered that the change may proceed.**
3. If there is no court order regarding the level of visit supervision, the case planner has the authority to increase or decrease the level of supervision on a case, provided that the case planner consults first with the FCLS attorney and the change is **approved by an agency supervisor**. The case planner must notify the

FCLS attorney, and the FCLS attorney will notify the parent's attorney, and the attorney for the child, of the modified visit plan.

D. Emergency Supervision or Suspension of Visits

1. Provider agency case planners must always follow court orders regarding visits, except in an emergency where the case planner believes that a visit will place a child in imminent danger of risk or harm and there is no time to seek modification of the order. In such a situation, with the approval of a supervisor, the case planner may supervise or suspend the individual visit. The case planner must immediately notify the FCLS attorney of the action. The attorney must alert the Court and counsel and explain the circumstances.
2. If the provider agency believes that visits should be limited or terminated going forward, the case planner must contact the FCLS attorney immediately to request a modification of the court order. The case planner must also have a discussion with the parent and child regarding the reasons for the proposed change in the visit plan. The case planner must set milestones with the parent with a view to decreasing the level of supervision in the future.
3. A court order, including any modified court order, may specify the timeframe to which the order applies. Once the order expires, the agency must resume a minimum of one visit per week or seek another court order to limit visits.

E. Child Contact with Non-Resource Parents, Relatives, and Other Significant Parties

After making an appropriate assessment, the case planner must also arrange visits between a child in foster care and a non-resource parent, other significant relatives, and significant other parties in the child's life. The assessment must include, among other things, whether the person has a relationship with the child; whether the person can abide by court orders; and whether the child would be safe with this person. Contact with relatives or other significant parties can help lessen the trauma of removal and placement for children and help to provide support for the parent in complying with the service plan. Relatives and others may be able to provide respite for or help to the foster parent by assisting with taking the child to appointments, arranging transportation, hosting parent-child visits, or participating in activities with the child. Visit plans may be modified to include non-resource parents, other significant relatives, and significant other parties in children's lives.

F. Child Contact with Foster Parents Post-Reunification

Children in foster care may develop strong attachments to their foster parents and/or others who have cared for them during their placement in foster care. Although ACS and provider agencies do not have authority over a child after final discharge, case planners must work with parents as their child nears final discharge to help them understand their child's need for continuity of relationships. Depending on the

circumstances, and because it is often in the best interests of the child, parents should be encouraged to allow their child to maintain a relationship with the foster family.

G. Children with Goals Other than Reunification, Including APPLA+ and Adoption

1. For children who have not been freed for adoption whose goal is adoption or for children whose goal is APPLA+, visits with parents and other family members often remain vital to their well-being and can help reassure them at a time of transition. Except when visits pose safety or health risks to the child, the case planner must arrange contact (by phone, mail, email and in-person) with parents, siblings, relatives, and others identified by the child. Youth who are 18 and over with a goal of APPLA+ have the right to make decisions about visits with family.
2. Unless the Family Court has ordered otherwise, parents of children whose permanency goal is adoption maintain the right to visit with their children until their parental rights have been terminated (i.e. the children are legally freed). A goal change to adoption does not by itself change the visit plan. If a case planner wishes to limit, suspend, or terminate visits between the child and the parent at the time of the goal change, the case planner must contact the FCLS attorney for further discussion.

H. Electronic Media

At the agency's discretion, and with the permission of the family, case planners and family members are encouraged to take photographs during visits and to print and distribute copies as long as the privacy of other families in the visiting area is respected and protected. If the case planner takes any photos during a visit, he/she must keep copies for the case record when practicable. Similarly, at the agency's discretion and with appropriate supervision, the family may use electronic media to record images appropriate to the situation during visits as long as the privacy of other families in the visiting area is respected and protected.

IV. Supervising and Documenting a Visit

A. Who May Supervise A Visit

1. Provider Agency Staff

Provider agency staff persons who may supervise a visit include parent advocates, case aides, caseworkers, case planners, supervisors, and other higher level program staff. Provider agencies are expected to use clinical discretion in deciding which other trained professional staff can supervise a visit if needed.

2. Visit Coach

- a. A Visit Coach provides intensive hands-on assistance to help the parent respond to the needs of the child during the visit. When a Visit Coach

supervises visits in the community, the provider agency case planner must observe at least one visit a month to assess how the visits are progressing.

- b. Written consent from the parent or legal guardian is required before a Visit Coach may supervise a visit. Such consent is required in all cases except when the Visit Coach is a provider agency staff member. Such consent must address information that the provider agency may disclose to a Visit Coach so that the Visit Coach may safely and effectively supervise visits. Explicit written consent is required before the provider agency may disclose information obtained from educational or drug treatment records to the Visit Coach. If the Visit Coach is not an employee of the agency, only information relevant to visits will be shared with the Visit Coach. The Visit Coach must also consent in writing that she/he will not disclose confidential information provided about the family by the provider agency. The issue of confidentiality is addressed in Visit Coach training.
- c. Some examples of when Visit Coaching is appropriate are:
 - i. When parents need assistance in addressing the behavioral and/or emotional needs of their children;
 - ii. When parents have significant cognitive delays or mental health disorders;
 - iii. When parents have several children and struggle with managing and addressing the specific needs of every child who may be competing for the parents' attention;
 - iv. When a parent with a substance abuse issue is learning to parent in sobriety;
 - v. When a parent has been incarcerated for an extended period of time;
 - vi. When a parent has not raised his/her child and is parenting for the first time; and
 - vii. When a parent wants to learn how to communicate and relate to his/her child more effectively.
- d. A Visit Coach can be identified by the provider agency or through a Community Partnership Program (CPP) (See Attachment 2). For communities where there is no CPP, provider agencies can obtain assistance in locating a Visit Coach by calling the Children's Services Office of Family Visiting at (212) 676-9270.

3. Visit Host

- a. In certain circumstances and on a case-by-case basis, an approved Visit Host may supervise a family visit when the provider agency has determined that the family does not need agency staff to supervise the visit. Written consent from the parent or legal guardian is required before a Visit Host may supervise a visit. Such consent is required in all cases except when the Visit Host is a

provider agency staff member. Such consent must address information that the provider agency may disclose to a Visit Host so that the Visit Host may safely and effectively supervise visits. Explicit written consent is required before the provider agency may disclose information obtained from educational or drug treatment records. A Visit Host is a person identified by the family, the agency, or a CPP, and approved by the family. A Visit Host can be a family member, foster parent (not involved in the visiting family's case)⁷, member of the community, or provider agency staff member. An approved Visit Host may supervise a visit as long as he/she has had an SCR clearance, has completed Visit Host training (which is provided by the CPP), has consented in writing that she/he will not disclose confidential information provided about the family by the provider agency, and a supervisor one level above the case planner has documented the approval in CNNX **prior** to the visit. If the Visit Host is not an employee of the agency, only information relevant to visits will be shared with the Visit Host. The issue of confidentiality is addressed in Visit Host training. For visits occurring in the community and being supervised by a Visit Host, the case planner should observe how the visits are progressing at least once a month. Examples of when Visit Hosting is appropriate are:

- i. When young parents would benefit from being taught how to take care of their baby or young child, a Visit Host can teach and/or model ways to form positive emotional attachments with their child;
- ii. When parents do not present with severe cognitive or mental health disorders;
- iii. When parents could benefit from learning how to utilize community resources to enrich their child's life (e.g. libraries or museums);
- iv. When parents could benefit from learning how to be effective advocates for their child by attending doctors' appointments, school visits, etc.;
- v. When a parent is isolated and a Visit Host can help him/her build a support network;
- vi. When families for whom more frequent visits outside the agency are appropriate, but the agency lacks resources to facilitate such visits; and
- vii. When families are transitioning to unsupervised visits but still require some supervision in the community before visits can be unsupervised.

B. Understanding Cultural Norms during Visits

It is important that the assessment of the family by the person supervising the visit is informed by an ongoing understanding of and respect for the family's cultural and behavioral norms. The person supervising the visit must be careful not to project his or her own norms onto a family's visit, and the case planner must be aware of the various methods by which communication occurs for that family. Meeting regularly

⁷ Kinship foster parents may serve as Visit Hosts and supervise visits involving children in their care.

with parents and children about one's observations and asking clarifying questions is an important tool for avoiding misinterpretations that could result in an inaccurate assessment.

C. Documentation of Visits

All visits, whether supervised or unsupervised, must be documented in CNNX.

1. Supervised Visits

- a. The **case planner** must document the following in CNNX:
 - i. The reasons for the chosen level of supervision for family visits; and
 - ii. Information relating to the physical and verbal interaction between the parent and child.
- b. Visits facilitated by a **Visit Coach** must be entered into CNNX by the Visit Coach when he/she is an agency employee. When the Visit Coach is affiliated with a CPP, the Visit Coach must provide a written summary of the visit to the case planner, at which time the case planner must enter the documentation into CNNX.
- c. Visits facilitated by a **Visit Host** are documented by having the Visit Host provide a written summary of the visit to the case planner, at which time the case planner must enter the documentation into CNNX to be reviewed by a supervisor.

2. Unsupervised Visits

- a. As noted above, a case planner must document in CNNX any approval to begin unsupervised visits. The change should be documented in the FASP if available; if not it must be documented in the progress notes.
- b. Documentation of an unsupervised visit must include the date, time, and location of the visit; who was present for and participated in the visit; and any other pertinent information the case planner receives about the visit.
- c. The case planner must also speak to the child to assess how the child felt about the visit. The case planner must document these conversations and assessments in CNNX.
- d. As noted, if safety concerns for the child arise, the case planner must discuss with his/her supervisor about changing the visit plan back to supervised visits. If this occurs, the case planner must notify the FCLS attorney and the supervisor shall document approval to resume supervised visits in CNNX. The change should be documented in the FASP if available; if not it must be documented in the progress notes.

V. **Preparation of Family for Visits and Post Visit Processing**

A. Preparation of Parents and Children for Visits

1. For children, parents, and foster parents, preparation before visits is critical, particularly immediately following a removal. Prior to the start of visits, case planners must meet with children, parents, and foster parents to discuss:
 - a. Each party's rights and responsibilities regarding visits;
 - b. The circumstances of the visits (where, when, how long, and who is expected to attend);
 - c. What is planned for the end of the visits (e.g. children should not expect that they will go home with the parent unless this is actually the case); and
 - d. When the next visit will occur.
 2. Case planners (or other qualified staff) must meet with the parent prior to the first visit, and prior to subsequent visits as necessary, to convey the importance of visits, explain the visit circumstances, help the parent prepare visit activities, and address any questions or anxiety the parent and child may feel. Preparation must also include helping the parent understand a child's sense of time and need for attachment. Children have the capacity to be connected to more than one adult caregiver/parent; therefore, case planners must advise parents about the natural development of attachment between children and their current caregivers, including foster parents. It is important for parents to work together with foster parents to reduce the level of conflict a child might feel between connecting with a current caregiver and maintaining a connection with a parent.
 3. The case planner or, ideally, a qualified mental health professional, should explore with children prior to visits their feelings about the visit and their placement in foster care. Provider agencies shall arrange visits so as to minimize children's anxiety, maximize safety, and support the maintenance of the parent-child bond.
- B. Interpreting Reactions to Visits and Post-Visit Processing
1. Processing the visit afterwards can build trust and facilitate permanency, particularly when all parties (parent, child, foster parent, and case planner) are becoming familiar with one another.
 2. Processing visits must be done based on what occurs during each visit. Cases with more serious issues require visit processing while for cases less serious in nature visit processing is discretionary. Processing visits with children (in age and developmentally appropriate ways, either verbally or through play, art, and other activities) often reduces regressive behavioral reactions by children, and in turn makes it easier for foster parents to support visits. Processing with parents includes helping the parents to understand the needs of the child, providing them with guidance about effective parenting, and preparing them for the next visit if possible. The case planner must process with parents directly after each visit, especially if there are concerns based on the allegations in the case. For example, if the petition alleges that the parent hits the child, the case planner should

discuss how the parent handled situations of conflict during the visit. If an immediate discussion is not feasible, the case planner must conduct a prompt follow-up phone call (or face-to-face contact).

3. When interpreting the parent's reactions to visits, case planners and foster parents must remember that:
 - a. The removal of a child from the home is traumatic, even when the removal is a result of the parent's own behavior;
 - b. Visiting can be initially uncomfortable for parents and children;
 - c. A parent's own feelings (which may include guilt, confusion, sadness, and anger) affect visits; and
 - d. Each family group is unique and will react differently to visits.
4. Parents often feel enormous pressure during family visits. Parents are aware that provider agency case planners make casework decisions based on how visits are proceeding. A child's negative reactions to a visit may be unsettling to the point that the parent asks to end the visit or end visits altogether. Case planners must help parents understand their child's reactions, including providing information about attachment and separation; the importance of continuous parent-child contact; and the fact that children's negative reactions at the end of visits often subside over time. If the visits are not going well, a case planner must consider using a Visit Coach to supervise the visits.
5. Children's reactions to visits are often misunderstood. When children demonstrate negative behaviors, the parents are often blamed. While agencies often respond by limiting or suspending visits, these actions can harm children. The child's behaviors may actually be a way of expressing the desire to spend more time, not less, with the parent. For this reason, case planners and foster parents should carefully explore children's reactions to visits. If there is reason to believe that the child's negative behaviors are attributable to decreased contact with the parent, or that the child would benefit from increased contact, the case planner must consider increasing parent-child contact or visits. Case planners must support foster parents regarding children's struggles and help them understand the nuances of the situation. It is always advisable for the case planner to seek professional guidance from a qualified mental health professional before making any decisions to limit or terminate visits solely based on the child's reactions.
6. In all cases, if a parent does or says anything before, during, or after a visit that appears to place the child in danger; acts inappropriately; or violates agency rules, the provider agency must address the behavior immediately.

VI. Special Populations

A. Children Voluntarily Placed in Foster Care

1. Case planners must immediately establish a plan for frequent parent-child visits for voluntarily placed children. Voluntary placements are a temporary change in custody to address parent and/or child service needs. Visits between parents and voluntarily placed children must not be restricted or discontinued without a court order or parental agreement, which must be in writing. A copy of the court order and/or parental agreement must be kept in the case record.
2. Visits must be unsupervised unless there is a court order for supervised visits, or the voluntary placement agreement provides for supervised visits. (Any concerns about court orders must be discussed with the FCLS attorney and such orders shall be obeyed unless stayed or modified.) If safety concerns arise, the case planner should take measures as appropriate (see above sections regarding terminating visits) and immediately discuss the matter with FCLS. Additionally, the case planner should consider making a report to the Statewide Central Register as appropriate.

B. Incarcerated or Detained Immigrant Parents

1. When the permanency planning goal is reunification, the case planners shall make suitable arrangements for a parent to have visits with the child at the correctional facility, unless such visiting is not permitted by the facility or would pose a risk to the child's physical or emotional safety. The case planner must arrange visits through ACS' Children of Incarcerated Parents Program (CHIPPP) by calling 212-341-4883. **Case planners must not call the correctional facility directly.**
2. Case planners are required to arrange a minimum of one monthly face-to-face parent-child visit between the child and the incarcerated or immigration detained parent if the parent is incarcerated or detained in the greater New York City metropolitan area or surrounding states. For parents incarcerated or detained beyond this geographic zone, face-to-face parent-child visits will be considered on a case-by-case basis; however, parent-child contacts for incarcerated or detained parents outside the above defined geographic zone may be conducted by telephone or video conferencing. In addition, for parents incarcerated within the above defined geographic zone, after completing the required once monthly face-to-face parent-child visit, additional visits may be conducted by telephone or video conferencing. The criteria noted above is conditioned on the absence of a court order to the contrary. All court orders regarding visits must be followed regardless of distance.
3. Case planners must be proactive in facilitating other methods of regular contact through phone calls, letters/cards, emails, and/or the exchange of photographs. Following the release of the parent, the provider agency case planner must supervise at least an initial visit to assess family dynamics and the parent's ability

to maintain the child's physical and emotional safety during visits and then create a visit plan for future visits.⁸

4. If the permanency planning goal has been changed from reunification (e.g. to adoption or placement with a relative), visits may continue to remain in the child's best interests. Parents retain visiting rights until their parental rights are terminated or a court has suspended visits. A goal change does not eliminate the obligation to provide parent-child visits.
5. In the event that the parent is serving a long-term sentence and is unable to be the child's discharge resource, the case planner must explore alternative permanency planning goals. Nonetheless, parent-child visits that support the ongoing relationship between the parent and child may remain a vital part of the service plan.
6. Permanency options for the child to be explored in these cases include family members, other identified persons assuming legal guardianship, subsidized kinship guardianship, voluntary and/or conditional surrender of parental rights, and open adoption.

C. Parents in Drug Treatment, Medical, or Mental Health Facilities

Case planners, at the agency's discretion, shall facilitate visits between children and parents who are in residential substance abuse programs, or are medically or psychiatrically hospitalized, as long as it is safe to do so and permitted by the treatment program or hospital. Case planners must facilitate other methods of regular contact through phone calls, letters/cards, emails, and/or the exchange of photographs, etc. Upon the parent's discharge, case planners must supervise at least an initial visit to assess family dynamics and the parent's ability to protect the child's physical and emotional safety during visits.

D. Parents Who Reside Outside of New York City (NYC)

When parents reside outside of NYC, case planners must coordinate regular visits by asking the parent to travel to NYC to visit with the child. If the parent is unwilling to travel to visit the child, the case planner must explore the reasons for the unwillingness. If the parent is unable to travel, the case planner must make arrangements to bring the child to the parent's residence outside of NYC for visits, taking into consideration distance as well as the age and emotional maturity of the child.

E. Children Who Live in Residential or Incarceration Settings

⁸ See 11-OCFS-ADM-7, Incarcerated Parents and Parents in Residential Substance Abuse Treatment with Children in Foster Care: Termination of Parental Rights and Other Issues.

1. Case planners in child welfare residential facilities must determine a consistent parent-child visit plan. Visits must be arranged on at least a weekly basis for two (2) hours at a time. Case planners must be proactive in facilitating other methods of regular contact such as phone calls, letters/cards, emails, and/or the exchange of photographs. **Under no circumstances may visits be withheld as a form of punishment or discipline.**
2. Case planners shall facilitate regular parent-child visits for incarcerated youth, and be proactive in facilitating other methods of regular contact between parents and incarcerated youth. Visits must occur at minimum weekly, unless doing so is impracticable.

F. Teen Parents

Case planners must facilitate frequent visits between teen parents and their child in foster care. As with all parents, the provider agency case planner must determine whether the teen parent can safely have unsupervised visits. Supervised visits should take place in the community to better engage the teen parent. Given the age and developmental stage of the teen parent, additional supports, such as Visit Hosts or Visit Coaches must be considered to help the teen effectively parent his or her child during the visits. Visits should never be withheld from a teen parent as a consequence of noncompliance with the service plan.

G. Sibling Visits

Children in foster care shall be placed with their siblings, unless such placement is contrary to the best interests of the children. When siblings are not placed together, provider agency case planners must facilitate at least bi-weekly visiting and contact that is not limited to visits with parents. If there are physical and/or emotional safety issues among the siblings, case planners must complete a separate assessment and plan, independent of the parental visit plan. Even if physical or emotional safety reasons exist that prevent the children from residing together, visits may still be appropriate. Provider agencies shall encourage visits with, as appropriate, half-siblings, step-siblings, and siblings who have been adopted or are not residing in foster care. Case planners must also emphasize with foster parents the importance of sibling contact.

H. Families Affected by Domestic Violence

Case planners must consider the following when scheduling visits when domestic violence is or has been present:

1. Case planners must follow court orders;
2. Parents with a domestic violence history must have separate visit plans that vary the visit date, time, and location of each parent's visit;
3. The scheduling and location of each parent's visit must not be shared with the other parent;

4. Older children must be cautioned against sharing information about the visit time or location with the abusing parent;
5. Even if there is no documented history of domestic violence by a parent against the other, if the case planner has reason to suspect violence, he/she must meet with the parents separately to determine whether safety issues exist.

For additional guidance, contact Paula Fendall, Director of the Children's Services Office of Family Visiting, at paula.fendall@dfa.state.ny.us.

**Guide for Making a Safety Assessment to Determine the Most
Appropriate Type of Family Visiting**

Guiding Principle:

**Family visiting should occur in the least restrictive manner consistent with the
child's physical and emotional safety.**

- When a child comes into care, at least one initial assessment visit (see policy, pages 3-4) should take place as soon as possible. Even though visits may be unsupervised, assessment visits can also be scheduled periodically, as helpful to the overall plan, to assess progress, and to facilitate progression to less restrictive models. Assessment visits do not need to take place at the agency. Case planners can accompany families to planned outings.
- If progression is not occurring due to the child's reaction to family separation and/or to aspects of the visits, consider arranging an evaluation of the child, or requesting a professional evaluation of the parent-child interaction by a visiting coach, or social work practitioner with specialized training. Assessments should be made on an ongoing basis throughout the case to ensure the child's physical and emotional safety and to ensure that the visits are occurring in the least restrictive manner that is appropriate.
- There must be flexibility in determining how visits progress. Visits should progress from one stage to another consistent with the child's physical and emotional safety.

Spectrum of Supervision:

- Different visiting models can provide for the child's safety and comfort while providing the family with maximum freedom and flexibility. Visits should progress to the least restrictive model as soon as possible. Models might include:
- Supervised Agency Visits (professional level staff present in room at all times);
- Day Visits Supervised by a Visiting Host (family, friend, or parent advocate). Prior to having a visit host supervise a visit, supervisory approval two levels above the case planner is required;
- Day Visits Supervised by a Visit Coach.
- Unsupervised Day Visits with a Period of Supervision by a Case Planner or Parent Educator;
- Unsupervised Community Visits for a Few Hours;
- Unsupervised Day Visits;
- Overnight and weekend visits.

Guide for Making a Safety Assessment to Determine the Appropriate Type of Visits

Factors to Consider	Questions to Ask	Examples
The Reason the Child Came Into Care	<ul style="list-style-type: none"> To what extent can the parent manage the behaviors that placed the child at risk of harm? 	<ul style="list-style-type: none"> Drug Use: a parent may be able to maintain sobriety for a day visit, or a few hours, but not a whole weekend. Excessive Corporal Punishment: Assessment visits may be needed to understand better the triggers for corporal punishment, and whether physical and emotional safety can be assured during visits. An individualized assessment should be made. Considerations include the reasons for use of corporal punishment (e.g., are there cultural factors? need for anger management strategies? difficulties managing a special needs child?), the circumstances under which corporal punishment occurred (e.g., school performance related? toilet training? limit setting?), and the ability to develop a plan if these issues arise in the course of a visit. Parents and caseworker should develop a safety plan to address circumstances that could arise during family visits. Domestic Violence: a parent may be able to have a safe visit in the community, but not in his/her home. Have the caseworker and parent identified a safety plan (such as a phone call to the police or the caseworker) for the parent and child to use if needed during a visit? Diagnosed Mental Illness: stability may depend upon cooperation with mental health services and/or medication. Voluntary Placement: there may be no safety risk at all. A younger child or one who has developmental disabilities may require a higher level of supervision than an older child.
The Child's Age	<ul style="list-style-type: none"> Can the child communicate concerns/ problems? Can the child take steps to protect herself if a problem arises? 	
Child's Anxiety Prior to a Visit	<ul style="list-style-type: none"> Does the child want to see their parent? How is the fear or anxiety manifested in the child's behavior? 	<ul style="list-style-type: none"> The extent to which the child demonstrates any fear or extreme anxiety about seeing their parent?
The Child's Reaction to Visits	<ul style="list-style-type: none"> What do the child, parent, foster parent and therapist say about visits? Are there alternative explanations for statements/behaviors surrounding the visits? 	<ul style="list-style-type: none"> If a child is upset following visits, is it because something inappropriate occurred during a visit or because the child is confused and unhappy that the visit has ended and the family is not together?
The Status of Court Proceedings	<ul style="list-style-type: none"> Will the child be pressured to recant if left unsupervised with the parent? 	<ul style="list-style-type: none"> If the child will be testifying in a Family Court or Criminal Court proceeding, depending on the circumstances, consider whether visits should remain supervised until the child has testified. Consider whether a court order concerning subject matter of parent/child communication, would be

The Quality of Visits, Bearing in Mind the Family's Cultural Norms	<ul style="list-style-type: none"> Do the parent and child appear to be comfortable together? Is the interaction appropriate? Does the parent address the child's needs? 	<p>helpful.</p> <ul style="list-style-type: none"> While non-verbal communication, a certain tone of voice, and lack of physical interaction might be seen as evidence of a lack of bonding, or inappropriate communications, they might simply reflect the family's way of relating. For example, lack of eye contact between children and their parents is a sign of respect in certain Asian cultures, while it might be evidence of fear in other cultures. How does the parent respond to unsafe behavior, speak to the child, respond to the child's emotional needs? Consider whether problematic responses represent a pattern, or a one time incident. Has there been change over time? Is the parent amenable to suggestions?
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Visiting Safety Assessment (Refer to previous page for guidance on how to complete the Visiting Safety Assessment)

Factors to Consider	Questions to Ask	Your Observations
The Reason the Child Came Into Care	<ul style="list-style-type: none"> To what extent can the parent manage the behaviors that placed the child at risk of harm? 	
The Child's Age	<ul style="list-style-type: none"> Can the child communicate concerns/ problems? Can the child take steps to protect herself if a problem arises? 	
Child's Anxiety Prior to Visit	<ul style="list-style-type: none"> Does the child want to see their parent? How is the fear or anxiety manifested in the child's behavior? 	
The Child's Reaction to Visits	<ul style="list-style-type: none"> What do the child, parent, foster parent and therapist say about visits? Are there alternative explanations for statements/behaviors surrounding the visits? 	
The Status of Court Proceedings	<ul style="list-style-type: none"> Will the child be pressured to recant if left unsupervised with the parent? 	
The Quality of Visits, Bearing in Mind the Family's Cultural Norms	<ul style="list-style-type: none"> Do the parent and child appear to be comfortable together? Is the interaction appropriate? Does the parent address the child's needs? 	

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Practice Tips: Preparing Clients for DHS or Agency Conferences

Practice Tips: Preparing Clients for DHS or Agency Conferences

Parents involved in child welfare and the Family Court are often invited to conferences/meetings during the course of their cases. These conferences may be formal meetings with specific protocols or parents may be asked to participate in informal meetings. Support and advocacy for clients are essential at these meetings, but preparing clients ahead of time can also have a great impact on the outcome of the meeting. Here are some general tips for preparing clients for conferences and navigating these meetings:

- After ACS initiates a Family Court case, there will be multiple conferences held throughout the case. ACS policy may prohibit attorneys from participating in most meetings. **Social workers, parent advocates, service providers and friends/family members may attend and advocate for the client.**
- **Find out about the meetings.** It's difficult to find out about every meeting. At the initial court appearance, you should ask your client to inform you about meetings. You should also ask the ACS and foster care workers about upcoming meetings. This requires perseverance. Attorneys can request, on the record, that the agencies inform us about the meetings.
- **Your client can invite people to the conference for support.** In a room full of agency workers, family and friends may help a parent stay calm. Your client should invite any resources who are interested in being considered foster parents or visit hosts.
- Even if you cannot attend, **you can prepare your client for these meetings.** Your client should know the meeting's purpose and agenda, format of the meeting, invited players, and documents they may be asked to sign.
- **Discuss strategies for handling a tense or difficult meeting,** such as stepping outside the meeting to take a break and re-focus.
- **Bring written information** about any programs or services the client attends to the meeting. As with everything, bring copies! If the client is already in services, it will help minimize the number of referrals the agency makes.
- When the facilitator discusses the "ground rules," **suggest that participants talk to the parent rather than about them,** while they are sitting there. You should model this approach.
- **Prepare your client for a discussion of the neglect and abuse allegations.** Every parent should speak with their legal team prior to discussing or responding to the allegations in the

meeting. If the team advised not to discuss the allegations, help your client to communicate the reasons (i.e. "on advice of my lawyer" and "due to the pending criminal court case") and help move the discussion to service planning and visits.

- **Ensure that the family's strengths are also discussed.** Encourage your client to talk about family and friends involved in her family's life, her connections to the community, schools, religious organizations, and any services she obtained on her own. If you can highlight strengths early on, it will set the tone for the rest of the meeting.
- **Talk to clients about how to present their needs productively.** Unfortunately, sometimes seeking help for problems can result in additional allegations against the client. During the initial conferences, ACS is still conducting an investigation and can ask to amend the petition against a client based on what they learn during their investigation. However, parents often do need help, which you can help frame without compromising their legal case
- **Anticipate a reasonable service plan and discuss what your client is willing and able to do.** For example, if the allegations are drug abuse, discuss drug assessment, treatment and testing options. With excessive corporal punishment allegations, discuss a range of options from anger management classes to individual therapy. If the services ACS requests are too numerous, require a parent to travel to multiple providers, conflict with work or school schedules, or are not reasonable, help your client speak up at the conference. You don't want your client to sign a service plan that will fall apart immediately.
- **Help a client disagree with unreasonable or inappropriate services.** Parents should not agree to services that they don't understand, they don't need, or that are impossible to do. There may be a place in a service agreement to express these disagreements so be sure to fill that out. While you can prepare a parent to respectfully disagree, you may suggest a client speak with their attorney following the meeting to resolve any disagreements.
- **Request to *explore* a service recommendation.** If ACS recommends something that the client does not know if he should agree to, such as a drug test or a psychiatric evaluation, he can ask to postpone the decision until he speaks with his attorney.
- **Hold the agencies accountable for concrete timeframes.** The service plans require timeframes for the implementation of each service. Ask for very specific dates and then follow up.
- **Take advantage of the conference by asking for help with concrete problems** like Public Assistance or the shelter system. If a parent needs a letter for PA or housing help, make that part of the service plan with a date attached to it. Providing Metro Cards should be part of the service plan if the parent needs transportation assistance.
- **Know what happened in court and about current court orders.** Be aware that the participants may not have been in court. The more information people have about what the Judge decided helps make the service plan accurate. Bring court orders related to Orders of Protection, visiting and Orders to explore relatives for foster care or Visit Hosts.

- **Push visiting.** In addition to advocating for frequent visits, your client may present people who are willing to supervise visits besides the agency caseworkers. Ask about upcoming appointments or events (i.e. school meetings, doctor's appointments, family gatherings) involving the children, and ask for the parent to be included.
- **Ask questions out loud.** You may not be able speak privately with your client during the meeting. You should ask questions about service recommendations or remind a client about something their attorney advised them about in front of the group. You can ask to explain a service recommendation in your own words to the parent to make sure they understand it fully.
- **Consider sharing copies of the Service Plan generated at this conference.** The service plan is not often provided to the Court, but if your client agrees, you can use it to present your client in a positive and participatory light to other parties or to ask the Court to hold the agency accountable for what they have agreed to do for the client.

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Cornerstone Advocacy (for Solo Practitioners)- Visiting



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Cornerstone Advocacy (for Solo Practitioners)

Visiting

Assembled by Carolyn Walther, Litigation Supervisor

Some ideas for small adjustments in:

1. Your mindset:

- As a parents' attorney, making visitation applications is a way to keep forward momentum towards reunification: making a visit application is an opportunity to remind everyone of the urgency all parties should have regarding this and the positive aspects of our client's case (services, close bond with the child). Think of visits as something that is on the table to be raised at *every* court appearance.
- Even in a TPR phase, there is often the ability to keep improving visits
- For every visiting plan proposed by the agency, ask yourself whether this is appropriate for this particular case (for example, why do visits need to be supervised?) Remember that you don't need to accept the agency's plan, which can often be formulaic.
- Keep a creative mindset regarding what visits should look like. Examples include: identifying visit hosts (even if these individuals are not viable placement resources for the child or are not family members); other types of parent-child contact, such as phone, Skype, email, etc.; and flexible hours to accommodate the schedules of the parents and children.
- Practitioners in the custody/matrimonial areas are probably familiar with the move towards the term "parenting time" rather than "visitation". Keeping this term in your mind (and even using it out loud) can help solidify the concept that visitation should be as natural as possible, as well as centered on normal family activities, such as birthday celebrations, doctor visits, school conferences, bedtime routines, etc.
- Keep the effect of positive (or problematic) visiting arrangements on the child in mind, even though you're representing the parent, because courts are often receptive to these arguments (and making them shows our client's concern with

her child's well-being): bonding with our client if the child is young; or the child's desires if an older child. Having regularly scheduled, natural visitation can be very beneficial in limiting the upheaval in children's lives. Also, just because children are in the same family doesn't mean that they need to be having visitation in the exact same way: they could be differently situated because of age, special needs, or even gender.

- Does the child have to be in foster care with the relative? Sometimes, releases to relatives can mean more opportunities for visits

2. Your communication with others:

Your client	The agency	Attorney for the children/GAL
<p>Are there any regular activities that you would particularly like to be involved in (bedtime, sports games)? What about upcoming special events (birthdays, holidays, school plays)?</p> <p>Are the children in services that you have been involved in or would like to be involved in? (therapy, medical appointments, etc.)</p>	<p>When is the next visit going to be?</p> <p>What will the regular schedule going forward be?</p> <p>What do terms like "weekend visits" mean specifically?</p> <p>What is the agency's default when it comes to frequency and location (and when can this change?)</p> <p>Why is the default warranted in this particular case?</p>	<p>How do the children feel about visitation?</p> <p>Are all of the children similarly situated?</p> <p>Could a "negative" reaction during or after the visit be due to the child's trauma due to separation from the parent?</p>
<p>Who would you want to be a visit host? (does that person have a criminal or child welfare history?)</p> <p>What is their schedule?</p> <p>Can we provide their contact information to the agency?</p> <p>Consider the travel time in unsupervised time—don't want too much spent on that</p>	<p>When will the agency have completed their exploration of a particular visit host?</p>	<p>Is there anyone that the children would identify as a visit host (even a non-relative)?</p>
<p>Remind client to let us know ASAP if there is a problem with visitation. Failure to visit can be misinterpreted as disinterest when the really problem is something else (distance, schedule).</p>	<p>Put the agency (and attorney for the child) on notice before court that you'll be making visitation applications so they can come prepared with specific information.</p>	

3. Your litigation strategies:

- Always argue that meaningful visits are a “reasonable effort” in support of reunification!
- At the first court appearance or as soon as possible thereafter, request that a visit take place within 48-72 hours.
- Ask about visiting at *every* court appearance.
- Request that the court direct foster care providers to investigate potential visiting hosts as well as possible activities that could be integrated into visits.
- Be sure that placement options are explored that maximize the child and the family’s ability to spend time together, i.e. kinship placements or those with someone with a significant prior relationship to the family, i.e. godparents.
- Ask that court orders clearly outline an agency’s responsibility for visiting, i.e., to provide reimbursements for transportation costs. Also ensure that orders are clear regarding the current visitation schedule, as well as the need to update parties and the court on the reasons for supervision, whether the visiting plan can progress and/or whether and to what extent an agency will have discretion to modify visiting plans.
- Draft the visitation orders you would like issued, and submit them to counsel prior to court appearances for review and feedback. Provide these proposed orders to the court as well -- they may be willing to sign them over the objection of other parties.
- Ask in court to be provided with updated visiting plans generated at conferences or reviews that are required by law and/or agency policy.
- Reference applicable regulations in oral argument and in motion practice and keep copies of pertinent regulations handy, i.e., 18 NYCRR 430.12 which states that visits should be conducted in a manner that assures the ‘privacy, safety and comfort’ of the family.
- Obtain copies of any pertinent social service policy memos or guidelines and reference them as well! What the guidelines state can often be different than what is actually taking place.
- If the family identifies someone who can assist with visiting, ask that person to come to court to address the judge on his/her ability to assist with the visit and assure the well-being of the child.

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Cornerstone Advocacy for the Solo Practitioner

Rebecca Horwitz, Senior Staff Attorney, CFR

SERVICES

CHANGING THE WAY OF THINKING

Think critically before agreeing to a service plan and make common sense arguments.

- **WHY?** Are multiple services being offered to this parent for the sake of offering formulaic services or are these services that will assist the parents in reunifying with their children? Are they duplicative and unnecessary services?
- **WHAT?** Are they appropriate services for this family given their specific issues? For example, what type of parenting skills program is the parent being asked to complete: is it a class that will address the age of the children at issue or do these children have specific special needs?
- **WHERE?** Are the service referrals in locations that are easily accessible for the client? Can one service provider engage the parent in multiple services? Is there a service provider that has particular cultural competence or language offerings that would benefit a specific family? Are there particular providers that have late evening or weekend hours to accommodate a parent's employment schedule? Are there particular providers that provide low cost, sliding scale, or free programs?
- **WHEN?** Have all barriers to services been addressed, i.e. Medicaid coverage, public assistance, or transportation costs? Is there something that should take place before a specific service begins, i.e. suggest a client attend an assessment for a drug or alcohol treatment program to see if a formal program is needed or if random testing would be sufficient?
- **HOW?** Who is making the service referral? How will the parent be notified of the referral? Will the parent be notified in their native language? Was an appointment scheduled for the parent or does the parent have to schedule the appointment themselves? Does the parent have to be accompanied in order to begin the service? If necessary, have child care arrangements been made so the parent can attend services? Are there regulations or statutes that would require the local social services agency to help cover the cost of services?

PRIORITIZING COMMUNICATION

WITH THE CLIENT

- When you first meet the client, discuss their schedule and income, including whether they have insurance. Find out what neighborhood they live in and work in and their method of transportation.
- Discuss any service recommendations with the client and explain how that service would positively impact the family and/or the court proceedings.
- Ask the client if there are any services they wish to engage in or feel they could benefit from. This helps them feel in control and more likely to continue with and complete the services.
- If the client has been engaged in services in the past, what did they benefit from and why? If services were unsuccessful previously, ask why.
- Stay in contact with the client in between court dates to keep updated on their progress in services. Ask the client to keep you updated if any services are completed, discontinued or changed.
- Ask the client who is providing specific services- find out their name, phone number, email, and fax number.
- Anytime a parent enrolls in a new service, ask them to sign a release so you can help monitor their services.

WITH THE SERVICE PROVIDER

- Introduce yourself to the service provider via telephone or email early on in the court process. This will help establish a relationship and make it easier to request information at a later date.
- Schedule reminders for yourself to reach out to service providers in advance of court dates in order to have current information
- When requesting information from service providers, explain the purpose for the information at that time, i.e. are you making a visiting application or asking for the children to return to the parent's care?
- Make sure to explain the allegations (i.e. send them the petition) and the procedural posture of the case when discussing with providers (with the client's permission!). This will allow them to provide more informed reports which will allow the court to grant them more weight.
- When attempting to get information about a parent's compliance and progress in services, phone conversations are generally the most productive, but ask for a follow up letter or report to be provided to give to the court.
- Introduce yourself to the service provider via telephone or email early on in the court process. This will help establish a relationship and make it easier to request information at a later date.
- Schedule reminders for yourself to reach out to service providers in advance of court dates in order to have current information
- When requesting information from service providers, explain the purpose for the information at that time, i.e. are you making a visiting application or asking for the children to return to the parent's care?
- If you are having trouble reaching a service provider, let the client know and ask them if they can bring documentation about services to court appearances. Let the client know what issues would be helpful to address in the report, this is an easy way to help empower the parent. Give the parent a letter directed to the service provider about the information you will need for court.

WITH OTHER COUNSEL

- Find out what are the main issues other counsel wishes to see addressed. Does the attorney for the child think family therapy is necessary? Does the agency attorney think anger management is the issue?

<ul style="list-style-type: none"> • If at all possible, provide any updates about services to other counsel in advance as it may help negotiate settling contested issues.
<ul style="list-style-type: none"> • Find out what are the main issues other counsel wishes to see addressed. Does the attorney for the child think family therapy is necessary? Does the agency attorney think anger management is the issue? Whenever possible stagger the services if the client does not feel ready to engage in all of them right away.

LITIGATION

- Often times, parents will engage in services prior to them being mandated by court. However, when the time comes that they are incorporated into orders, think critically about whether we would support such orders. These could include when services are mandated as conditions of paroles, part of disposition, or in the course of permanency hearing determinations. Once a service is court mandated, it becomes difficult to argue that it is not appropriate. By allowing services that are inappropriate, unnecessary or not feasible to be mandated, we are putting our clients in a position where they will likely fail. Litigating the necessity of including specific services as part of orders makes it more likely that our clients will succeed in completing such services.
- Even if the litigated issue is not one involving services, include service information and compliance in the application. Are you requesting more liberalized visits or for a child to return home? Show progress in services as a way of supporting that application.

Cornerstone Advocacy: Small Adjustments and Next Actions

Cornerstone Advocacy: Small Adjustments and Next Actions

ALWAYS

- reframe when possible**
- argue from a common sense standpoint—remind Court and other actors about what matters to children and parents**
- learn a few pertinent regulations—keep copies handy**
- ask WHY**

Placement:

- Ask about/brainstorm way to support the child's (and parent's) attachments: Who and what resources are available that can continue to work with a child or parent. (i.e. daycare, school, doctors, early intervention providers, therapists) *Next Actions: when reviewing a petition, 'inventory' who those people might be; add this to your list of interview questions for a parent*
- Ask parents about services/resources that have been helpful to them or the child; ** too often the system treats parents as though they no longer have anything to offer their children; they do better when engaged in their children's care, even if only to provide some advice on some issues. —*Next Actions: if you have an interview checklist (written or just in your head) , add a question about other supports, adults involved with the parent, not just family; if you represent children, ask to speak with the parent about this; make an argument in court that references this whenever possible (i.e. to explore a placement option) as it reminds all parties that parent is thinking about the child's well being (humanizes the parent)*
- Regulations provide that "kin" can be people not related to the child by blood but people who have a relationship with the child--Access these people: sometimes neighbors, god parents, etc, can be placement resources; *Next Actions: copy the reg and carry copies with you for a few weeks;*
- When reviewing a petition, 'inventory' potential placement resources and supports; *Next Actions: make a point of asking a case planner at arraignment who these people are; **ask that these people be included in conferences if you identify them and the client consents*

Services:

- Parenting skills courses: think critically about them and ask what the services in a particular class will be prior to making a referral—ask WHY this particular parenting program is deemed appropriate for this particular parent—too often the referral is formulaic and the program does

not match the parents strengths or needs well; *Next Action: invite a staff person from a parenting class to a brown bag lunch at your office;*

- Ask: What are this parent's strengths? *Next Action: add this to your checklist of items you'll ask the client, the case planner when you meet him/her; if you are a case planner, add 'parents strengths' to your court report template;*
- Ask: are services duplicative or potentially unnecessary, at least at this particular time? Is the service plan burdensome? *Next Action: ask a case planner to explain day by day exactly how/when/where the parent can accomplish these things; help your parent client make a calendar or checklist; ask a service provider to provide a short letter to the court regarding what will be covered, for example, in therapy;*

Visiting:

- Ask WHY regarding visiting plans: Why exactly is supervision necessary? Why at this level? When can it change? ***Is the visiting plan treating all the children as similarly situated when perhaps they are not? Next Actions: ask that court reports include specific reasons for supervision; ask about visiting at every court appearance; ask: when will visits become unsupervised?*
- Try to identify a visit host in appropriate cases: *Next actions: add to your standard questions of young people and parents those that will help identify a visit host; ask the agency to 'explore and report' if you identify a particular visit host; read the NYC guidelines (or assign an intern to do this) and list the people who might help develop similar guidelines if necessary;*
- Surface philosophical and professional development issues pertaining to visiting—do we think increased visiting should be a reward for compliance with a service plan? Are we formulaic in our approach to visit plans? Do we need additional training? *Next Action: set up a meeting to begin discussing this;*
- Think about developmental needs of the child in supporting attachment to parents
- Raise the visitation issue in court: one hour/once a week = only 2 days per year (reframe)—argue this is not enough; if the county says it does not have the staffing to provide more visits, and you can identify a visit host, ask that person to be explored;
- Ask if the kids/youth can talk on the phone with their parents; think about whether or not older kids and parents can exchange cell phone numbers or whether a parent can give a child a pre-paid phone
- Think about what you can do to insure:
 - As frequent visitation as possible
 - Least amount of supervision necessary
 - Visitation centered around activities that mimic family-like activities (i.e. haircuts, doctor visits, school conferences, festivals, picnics, sporting events)
 - Ask a SW or legal intern to research free community events in your area
- Ask parents what they would like to do on a visit; can't make promises, but can ask

- ASK: at our particular agency or within our particular practice, could we benefit from additional training on how to interview parents about visiting? So that we can feel more comfortable with “hard” conversations, but also get more information so we can be more creative? *Next Action: schedule a meeting to discuss this and whether we’d like help in doing this;*
- ASK: if you represent the county/social services/foster care agency: do we need any additional training in how to talk with caseworkers who are OUR clients about these issues? how do we view the ‘client counseling’ role in this regard? Do we see ourselves as ethically (and from a knowledge standpoint) able to talk about these issues with them? What skills do we need to do that? Do we even see this as part of our role, or are we mainly here to prosecute the case? (no right answers, and often about resources); *Next action: schedule a meeting to discuss this; make a list of who you’d invite on your way home;*

Conferences:

- Family team decision making or other conferencing scheme: find out if it is in your county and how it works; *Next Action: assign an intern to do this if you can’t;*
- Find out whether or not there will be any conferences/meetings to which you will be invited to attend. Can attorneys attend? *Next Actions: If parents/youth identify any prior service provider as helpful, ask that provider to be included—common sense: people who know the family have a lot to add*
- Ask youth/clients if there is someone whom they want to bring to the conference to support them. Find out whom they trust. Support parents in bringing someone they trust to the conference. *Next Actions: add a question about conference supports to your interview lists;*
- Ask the court to direct that supports to youth and parents be specifically invited to the conferences; (admit this can be unwieldy so those working with parents in particular have to try and assess if the person will be able to engage productively); *Next Action: turn to the judge sitting at your table and tell them you are going to make this application in court tomorrow;*
- Attend conferences where you are allowed to come, request to be invited. If the department does not invite you, seek a court order *with meaningful notice to you about the scheduled time;* *Next Action: draft a short form boilerplate order to get signed each time and provide it to the case planner;*
- Cast a wide net at conferences—not everyone who knows the family or cares about the children can be a foster parent or visiting resource, but they may have a lot to add and provide additional resources and ideas for you....they may also ultimately prove to later be in a position to be caretakers, or for older children, the “significant adult”....
- Make applications/seek orders so that you receive reports of conferences and service plans--
- In DV cases, seek separate conferences for the father and the mother and separate visiting plans

Generally:

- Schedule quarterly meetings to discuss any one or all of the Cornerstones—lunch meetings, etc., not necessarily ‘extra’ meetings, just put a Cornerstone discussion on your agenda within your own agency; OR within your court house—if the latter, make sure to invite child welfare people too, not just attorneys, as Cornerstone issues straddle both systems.....whenever possible, serve food—it always improves attendance (!) *Next Action: Send around a sign up sheet TODAY or at your next large ‘stakeholder’ or court improvement meeting just asking who would like to be involved in more targeted work on any/all of the Cornerstones.....things get done, even if slowly, when you start with the people who feel energized (and it is okay if you don’t).....*
- On the other hand, often good to start informally—if you know five people (judge, attorney, advocate, case worker, CASA) that thinks like you do and you want to advance any/all of these, have an informal lunch, coffee, first. Brainstorm about how to proceed next and who else to include;
- Start small if you can: ask your CIP liason (!) or supervising judge about piloting something—in a part, in a particular group of cases, etc.*Next Action:—ask for TA help; if you want to work on something, ask your CIP liason to handle scheduling.....*many great ideas die on the vine not because we don’t have time to meet, but simply because most of us don’t have people to handle coordination and scheduling of meetings.
- Don’t reinvent any wheels...i.e. if you like the idea of developing Visit Host Guidelines in your county, start with those developed by ACS in NYC.....they were the result of more than two years of collaboration between court personnel, child protective and foster care personnel, parent and youth reps, all members of the advocacy and legal community, and focus groups.
- Use a regulation to call a caseworker and let them know they can do something they think they can’t; do the same with a policy directive
- Specify that you want a Family Services Plan in the proposed order of discovery if you are representing parents or children; create routines in the court conferencing process to all look at /discuss these together. Note that SSL 409 a-f *require* that children’s and parents’ attorneys receive service plans via mail within 10 days of completion.
- Advocates: Always consider short orders to advance a Cornerstone.....they create a blueprint, avoid delay, and keep things on top of the pile (but appreciate that a county attorney may feel compelled to object to an order against an agency)
- Assign interns, whenever available, to do the work we can’t find time for: outline of applicable regs, compendium of applicable policy directives, collecting research on parent engagement, support for children, visiting outcomes; free community resources for families, write sample papers to enhance visiting, gather Cornerstone resources from other states to serve as jumping off point (i.e. PA has written a visiting handbook, the ABA has numerous resources on its website from a variety of states, MI has a foster care manual that addresses many of the Cornerstone issues, while not of course naming them that way)—build on the work and ideas of others.....it always saves time. Let the intern ‘present’ on what they found to your staff/at a meeting; good for their resume and saves you time

- Make a **common sense argument**—for example, if a single therapist can help a parent with anger management and parenting issues, argue that a parent should not have to attend three distinct programs (therapy, anger management and parenting) and that a parent will do better if not be pulled in so many directions
- Learn a regulation! Show and Tell works best with a regulation—once you show it to parties and judge or referee once, you may not have to again.....keep copies of regs you like in your briefcase; case file. Learn a policy directive or guideline.....also Show and Tell and keep copies with you if you find it helpful in moving a case along—*Next Action: ask a summer intern to catalogue any Cornerstone regs;*
- Gather with like minded people to identify a ‘bite size’ goal to further Cornerstone Advocacy (or just one Cornerstone) in your jurisdiction; *Next Action: on the ride home, make the list; send an email to someone with formal (or informal) authority who will host a first meeting; brainstorm about how to serve food.....*

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Sample Provider Letter

5/21/12

Western Queens Consultation Center

RE: CLIENT NAME

DOB: 00/00/00

Dear Ms. Thomas,

I am an attorney representing Ms. S. in an ongoing family court proceeding. I am writing for two reasons: to provide you with some additional background information regarding her child neglect case, and to make you aware that we'll be asking for a letter for her next court appearance.

With Ms. S's permission, I am attaching a copy of the child neglect petition that ACS filed against her. These are just allegations at this time, but they provide an understanding of why ACS removed her child from her care and what concerns may be addressed in counseling.

As an advocate for Ms. S, I work to inform ACS and the court of the positive progress she makes in her programs. Her next scheduled court appearance is July 12. We aim to get her child returned to her as soon as possible. It would be extremely helpful to Ms. S if by **July 6**, you could write a letter addressing:

- Treatment schedule and attendance, including start date
- That you have received the child neglect petition
- Treatment goals, if any, that she has identified
- What insight she has gained or what she has learned from counseling thus far?
- Anything else positive you may have to say about her participation and engagement

I appreciate your help with this matter. Please feel free to call me at 888-888-8888 if you need clarification on anything. You can fax me the letter at FAX: 999-999-9999. Thank you!

Regards,

Lauren Reiser
Attorney

Sample Order to Show Cause for Visitation

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 4

-----X
In The Matter of

SMITH CHILDREN

**ORDER TO SHOW
CAUSE**

Children Under Eighteen Years of Age,
Alleged to be Neglected by

Docket Nos: NN-XXXXXX-12
NN-XXXXXX-12

JOHN SMITH,
JANE SMITH

Respondents.

-----X

Upon the annexed Affirmation of _____, dated September 6, 2013, and upon all papers and proceedings previously filed and had herein, and good and sufficient cause appearing,

LET the Administration for Children's Services, Family Court Legal Services,
Christopher _____, Esq.; June _____, Esq., Attorney for the Respondent Mother Jane Smith;
and The Legal Aid Society Juvenile Rights Practice, _____, Esq., Attorney for the Children
Victor and Veronica Smith, show cause on the _____ day of _____, 2013 in Part
4 of this Court at 9:30 a.m., or as soon thereafter as the parties can be heard, why an Order
should not be made:

1. Allowing John Smith to have unsupervised day visits with the subject children;
2. Allowing John Smith to have supervised overnight weekend visits with the subject children, supervised by the paternal grandparents at their home, located at _____;
3. Allowing John Smith to have telephone contact with the subject children;
4. Providing such other and further relief as the Court deems just and proper.

It is further ORDERED that service of this Order to Show Cause and any supporting documents to be made on Christopher _____, Esq.; June _____, Esq., Attorney for the Respondent Mother Jane Smith; and The Legal Aid Society Juvenile Rights Practice, _____, Esq., Attorney for the Children Veronica and Victor Smith, by _____ service, no later than _____ is deemed good and sufficient service.

ENTERED:

J.F.C.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 4

-----X
In The Matter of

THE SMITH CHILDREN

**AFFIRMATION IN
SUPPORT OF ORDER TO
SHOW CAUSE**

Docket Nos: NN-XXXXXX-12
NN-XXXXXX-12

Children Under Eighteen Years of Age,
Alleged to be Neglected by

JOHN SMITH,
JANE SMITH

Respondents.

-----X

Allegra Leitner, an attorney duly licensed to practice law before the courts of this State, affirms
the following under penalty of perjury:

1. I am an attorney at the Center for Family Representation, Inc. ("CFR"), counsel for
John Smith ("Respondent Father" or "Mr. Smith"), the father of the Smith children, and I am
fully familiar with the facts and circumstances of this case.

2. I make this affirmation in support of Mr. Smith's Order to Show Cause.

3. This affirmation is based upon personal knowledge and upon information and belief,
the sources of which include: conversations and contacts with Mr. Smith and CFR Family
Advocate Emily ____; a review of the record and all papers and proceedings heretofore filed
and had in this matter; and counsel's own further research and investigation.

Pertinent Procedural History

4. A neglect petition was filed against Mr. Smith on September 20, 2012. CFR was assigned as counsel to Mr. Smith pursuant to FCA § 262 on September 23, 2013. The children were paroled to the care of the then non-respondent mother, Jane Smith.

5. ACS filed an amended petition on April 17, 2013, naming Jane Smith as a respondent, and requested a remand of the subject children on that date. Following a hearing pursuant to FCA § 1027, the Court ordered a parole of the subject children to their maternal aunt.

6. On July 30, 2013, the subject children were paroled to the respondent mother Jane Smith.

7. Since the commencement of the instant matter, the Court has permitted Mr. Smith to have visits with the subject children supervised by ACS. Visits were initially arranged one time per week; as of June 2013 visits were expanded to two times per week. Mr. Smith has consistently attended visits with the children and, upon information and belief, the supervised visits have gone well.

8. Mr. Smith enrolled in The PAC Program, a batterer's intervention program, on May 16, 2013. To date, Mr. Smith has attended 16 of 24 total sessions. Mr. Smith has attended his program consistently, with no absences, and has participated in the sessions appropriately and actively. He shares his experiences with the group and has shown insight into his role and responsibility in the alleged incidents that led to the instant matter. (See Letter from The PAC Program of Manhattan, dated September 6, 2013, attached as Exhibit A.)

The Court Should Order Unsupervised Day Visits, Supervised Overnight Visits, and Telephone Contact Because Such an Order Would Not be Detrimental To the Children or Be Contrary to Their Best Interests

9. FCA § 1061 provides that for good cause shown, the Court may set aside, modify, vacate, any order issued.

10. It is respectfully submitted that good cause exists to modify the order to allow for unsupervised day visits, supervised overnight visits, and telephone contact because Mr. Smith is now enrolled in a program and is engaged in services that are appropriately addressing the concerns raised in the petition that was filed against him by ACS.

11. Additionally, it is respectfully submitted that providing Mr. Smith and his children with unsupervised day visits, supervised overnight visits, and phone contact is in the children's best interests. It is well settled that the best interests of the child are the overriding concern in all visitation determinations. Freidewitzer v. Friederwitzer, 55 N.Y.2d 89, 94, 447 N.Y.S.2d 893, 432 N.E.2d 765 (1982).

12. This expansion of visits and contact would not be detrimental to the children and is in the children's best interests. Supervised visitation is appropriate only where it is established that unsupervised visitation would be detrimental to the child. Powell v. Blumenthal, 35 A.D.3d 615, 615, 827 N.Y.S.2d 187 (2d Dept. 2006); Gainza v. Gainza, 24 A.D.3d 551, 808 N.Y.S.2d 296, 297 (2d Dept. 2005) [citing Purcell v. Purcell, 5 A.D.3d 7552, 773 N.Y.S.2d 569; Matter of Graves v. Smith, 264 A.D.2d 844, 845, 696 N.Y.S.2d 181]. There is no evidence that unsupervised visits would be detrimental or pose a risk to the children in the instant case or that an expansion of visits would be against their best interests. Ritz v. Otero, 265 A.D.2d 560, 697 N.Y.S.2d 123 (2d Dept. 1999); Gerald D. v. Lucille S., 188 A.D.2d 650, 650-51, 591 N.Y.S.2d 528, 529 (2d Dept. 1992).

13. Unsupervised visitation should be denied only when, given the totality of the circumstances, unsupervised visits would not be in the child's best interests. Abanko v. Vargas, 26 A.D.3d 490, 810 N.Y.S2d 509 (2d Dept. 2006) [citing Grossman v. Grossman, 5 A.D.3d 486, 772 N.Y.S. 2d 559]. In the instant case, the totality of the circumstances indicates that unsupervised visitation would be in the children's best interests.

14. Upon information and belief, Mr. Smith's supervised visits with the children at ACS have gone very well and there have been no safety concerns. Upon information and belief, the children wish to spend more time with their father and they wish to spend unsupervised time with him.

15. Mr. Smith is engaged in the services required of him by ACS, namely batterer's intervention services. His service provider, the PAC Program of Manhattan, indicates that Mr. Smith is an active participant in all topics, shares his experiences during sessions, and has taken responsibility in the role he played in the events leading to his engagement in services. Mr. Smith has completed 16 of the 24 sessions that are required to complete the program and has had no absences since he began the program on May 16, 2013. (See Exhibit A).

16. Granting Mr. Smith's request for unsupervised day visits will allow Mr. Smith to spend time with the children in a more natural setting and will further allow Mr. Smith to engage in the parenting role and bond with his children.

17. Mr. Smith is also requesting overnight visits with the children supervised by the paternal grandparents, Nathan and Lorraine Smith, at their home in Forked River, New Jersey. Upon information and belief, the children are familiar with their paternal grandparents and has visited with them and spent time in their home. Granting Mr. Smith's request for these visits would allow Mr. Smith to be more involved in the children's day-to-day routine as he would

have the opportunity to spend full days with the children. Having the visits supervised by the paternal grandparents would mitigate any risk or concerns about the safety of the children, as other responsible adults would be present in the home with Mr. Smith and the children. Prior to these visits commencing, ACS could speak to the paternal grandparents to ensure that they understand their responsibility and role in being visit hosts.

18. Finally, Mr. Smith is requesting telephone contact with the children. Upon information and belief, the child Victor, who is fourteen years old, has his own cell phone. Mr. Smith can contact the children on the child's cell phone rather than through the respondent mother, which would ensure that Mr. Smith does not have contact with the respondent mother in violation of the outstanding criminal court order of protection.

19. In the instant case, there is nothing in the record that suggests that unsupervised day visits, supervised overnight visits, and telephone contact with Mr. Smith would be contrary to the children's best interests. There is likewise nothing to suggest that unsupervised contact with their father would endanger the children's life or health, or otherwise be detrimental to them.

In the Interests of Justice, the Court Should Consider New York State Regulations and ACS Guidelines Regarding Visiting for Children in Foster Care as Instructive When Crafting Its Visiting Order in this Case

20. Mr. Smith asks this Court to consider the New York State regulations surrounding visiting, and the policy guidelines promulgated by the Administration for Children, as instructive when ordering parent-child contact in this case. When children are in foster care, the foster care agency would have the obligation to arrange for visits, "to occur in a location that assures the privacy, safety and comfort of the family members." 18 NYCRR § 430.12 (d)(1)(i)(c).

21. ACS Best Practice Guidelines for Family Visiting Arrangements for Children in Foster Care should be considered by the Court in making determinations regarding visitation.

ACS's own guidelines suggest that an order allowing ACS supervised visits only is inappropriate in the instant case. ACS guidelines make clear that "the lowest level of supervision which safeguards the well-being of the child should always be chosen in order to allow the parent to resume/assume the maximum amount of parenting responsibility possible."

WHEREFORE, it is respectfully requested that this Court grant the applications herein and any further relief as the Court deems just and proper.

Allegra Leitner, Esq.
The Center for Family Representation, Inc.
Attorneys for John Smith

Date: September 6, 2013
New York, NY

TO: Christopher Walken, Esq.
Attorney for the Petitioner
Family Court Legal Services
Administration for Children's Services
150 William Street, 5th Floor
New York, NY 10038

Adam Sandler, Esq.
Attorney for the Children
Legal Aid Society
60 Lafayette Street, 9th Floor
New York, NY 10013

June Carter, Esq.
Attorney for the Respondent Mother
305 Broadway, 9th Floor
New York, NY 10007

Biographies

Rick Barinbaum joined Center for Family Representation (CFR) in September of 2007. Prior to that, his work entailed advocating for families in a variety of capacities. He worked as a legal clinic coordinator for two non-profit organizations in Washington DC during a year of AmeriCorps service, followed by three years of work as a Care Coordinator, Conference Facilitator and then Trainer/Consultant for the Mental Health Association of New York City for an initiative that worked to keep children effected by mental illness at home with their parents. Rick has been a Social Work Supervisor at CFR since September of 2011 and directly supervises social work, family advocate and parent advocate staff. Rick frequently conducts in-service trainings at CFR on Team Communication, the Role of the Social Worker and Time Management; as well he has done presentations for a variety of community based agencies on family court and child welfare practice. Rick received his Masters from the Hunter College School of Social Work where he was a Child Welfare Fund Fellow, and then adjunct professor teaching social welfare policy.

Christine Zielinski is a litigation supervisor at the Center for Family Representation (CFR). She directly supervises staff attorneys and participates in various training and policy initiatives with CFR staff and outside agencies. Christine began working at CFR as a staff attorney in 2007. Before joining CFR, she clerked in the Family Part in Bergen County, NJ for the Hon. Ellen Koblitz. She attended the CUNY School of Law at Queens College, where she participated in the Battered Women's Rights Clinic, the law review and during which time she interned at several non-profit organizations. She received the Equal Justice Works fellowship for a summer internship at CONNECT and the Paul O'Dwyer Human Rights Fellowship for a summer internship at the Welfare Law Center. She attended Montclair State University from where she received a B.A. and M.A. in Practical Anthropology.