

PROCEDURAL ISSUES

- ✓ If the dispositional hearing is held immediately after the adjudicatory hearing, determine whether:
- ✓ all parties have been served with all of the documents required for the dispositional hearing prior to adjudication; *R.C. 2151.35(B)(1); Juv. R. 29(F)(2)(a)* and *Juv. R. 34*

AND

- ✓ all parties consent to the dispositional hearing being held immediately after the adjudication hearing. *Juv. R. 34(A)*
- ✓ The adjudication and disposition must be separate hearings. *Juv. R. 34(A)*
- ✓ The disposition must occur within 90 days of the filing of the Complaint. *R.C. 2151.35(B)(1); Juv. R. 34(A)*



The dispositional hearing shall be held not more than 30 days after the adjudicatory hearing. **Juv. R. 34**

NOTICE

- ✓ Ensure that all parties to the action and the guardian ad litem received proper notice of the date, time, place and purpose of the dispositional hearing. *Juv. R. 13(E)*

NOTE

Notice and the opportunity to present evidence do NOT make the foster parent a party to the action. **R.C. 2151.424(C)**

- ✓ Determine whether the foster parent or relative with custody of the child was notified of this hearing at which they have the opportunity to be heard. *R.C. 2151.424*

APPOINTMENTS

- ✓ Advise any unrepresented parties of their right to counsel, including court- appointed counsel. *R.C. 2151.352; Juv. R. 4(A)*



Failure to pay \$25 fee for appointment of counsel is NOT grounds for denial of appointment. **R.C. 120.36(B)**

- ✓ If any party requests a continuance of the dispositional hearing to obtain or consult counsel, determine whether the hearing should be continued for any reasonable period of time not exceeding 90 days from the date on which the Complaint in the case was filed. *R.C. 2151.35(B)(1)*

SERVICE

If the Complaint seeks Temporary Custody, Planned Permanent Living Arrangement, or Permanent Custody [R.C. 2151.27\(C\)](#), the summons must contain the following required explanations: [R.C. 2151.28\(D\)](#); [Juv. R. 10\(D\)](#) through [\(F\)](#)

- ✓ An **Order for Permanent Custody** will permanently divest parents of their parental rights and privileges;

OR

- ✓ An adjudication of the child as either abused, neglected or dependent may result in an **Order for Temporary Custody** that will cause the removal of the child from the parents' legal custody until the court terminates the temporary custody Order or permanently divests parents of their parental rights;

OR

- ✓ An **Order for a Planned Permanent Living Arrangement** will cause the removal of the child from the parents' legal custody if specific criteria under [R.C. 2151.353\(A\)\(5\)\(a\)](#) to [\(c\)](#) are found to exist. [R.C. 2151.28\(D\)](#) and [R.C. 2151.353\(B\)](#)
- ✓ If a Motion in writing has been filed seeking that legal custody of the child be awarded to a person other than the parent, determine whether the Motion was properly served on all parties. [R.C. 2151.353\(A\)\(3\)](#); [Juv. R. 20](#)

HEARING PROCEDURE



The same hearing officer should preside over the adjudication and disposition. [R.C. 2151.35\(B\)\(2\)\(a\)](#)

Rules of Evidence: Relaxed. (Any evidence that is material and relevant, including, but not limited to, hearsay, opinion, and documentary evidence, may be admitted, except in matters seeking permanent custody.) [R.C. 2151.35\(B\)\(2\)\(b\)](#)

Record the proceeding. [R.C. 2151.35\(A\)\(2\)](#); [Juv. R. 37\(A\)](#)



Witness testimony must be sworn. [Evid. R. 603](#)

Standard of Proof: Preponderance of the Evidence. However, in Permanent Custody and Planned Permanent Living Arrangement dispositions, the standard is Clear and Convincing Evidence. For PPLA: [R.C. 2151.353\(A\)\(5\)](#); for PC: [R.C. 2151.414\(B\)\(1\)](#).

DISPOSITIONAL FINDINGS

Determine whether:

- ☑ the agency made or failed to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely, with a brief description of the services and why those services did not prevent removal or enable the child to return home; *R.C. 2151.31(E)(2); R.C. 2151.419(A)(1); Juv. R. 27(B)(1)*

OR

- ☑ the agency is not required to make reasonable efforts to prevent the removal, to eliminate the continued removal of the child from the home, or to make it possible for the child to return home safely as the facts fall within one of the factors contained in *R.C. 2151.419(A)(2); R.C. 2151.31(E)(2); Juv. R. 27(B)(1)*

AND

- ☑ it would be contrary to the welfare and best interest of the child to continue in the home. *R.C. 2151.33(E); 42 U.S.C. 672 § 472(1)*

NOTE

Reasonable efforts findings apply to orders for permanent custody, temporary custody, and planned permanent living arrangement dispositions as they are orders that remove the child from the child's home.

- ☑ In making dispositional orders, consider the “best interest” of the child. *R.C. 2151.412(D)* and *2151.415*

NOTE

Additional requirements exist for permanent custody orders. Refer to Special Provisions cards in this pocket.

CASE PLAN

- ☑ Determine whether the public children services agency has satisfied its requirement to maintain and file a case plan with the court. *R.C. 2151.412*
- ☑ If an agreed case plan has been filed with the court, determine whether to approve that case plan. *R.C. 2151.412(D)*

NOTE

The agency shall attempt to obtain agreement among all parties. *R.C. 2151.412(D)*

- ☑ In the absence of agreement as to the case plan, determine the case plan contents based on the evidence presented at the dispositional hearing using the best interest test. *R.C. 2151.412(D); Juv. R. 34(F)*

NOTE

The court shall be guided by the general priorities set forth in *R.C. 2151.412(G)(1) through (6)* when reviewing and approving the case plan.

- ☑ As part of the dispositional order, journalize a case plan. *R.C. 2151.412(D); Juv. R. 34(F)*

NOTE

All parties are bound by the terms of the journalized case plan. A party that fails to comply with the terms of the case plan may be held in contempt of court. *R.C. 2151.412(E)(1)*

VISITATION, CHILD SUPPORT AND OTHER RESTRAINING ORDERS

- ✓ Address issues of visitation. R.C. 2151.33(B) and 2151.35(B)(4); Juv. R. 34(H)



Sibling visitation should be addressed.

- ✓ Address issues of child support and health insurance. R.C. 2151.33(B)(2)(a), 2151.36 and 2151.361
- ✓ Determine whether any additional orders or restraint on conduct are necessary. R.C. 2151.353(C) when protective supervision has been ordered, or R.C. 2151.33(B) and 2151.35(B)(4) where protective supervision has not been ordered, as part of disposition; Juv. R. 34(H)

SCHOOL DISTRICT COST DETERMINATION

- ✓ If the dispositional Order does not return the child home, determine what district shall bear the cost of education for the child. R.C. 2151.357 and 3313.64



Issuing school district determination as a separate Order will protect the confidentiality of the information regarding the child.

CASEFLOW TIME FRAMES

- ✓ Advise the parties of their right to appeal this decision. Juv. R. 34(J)
- ✓ Journalize the Entry within seven days of the dispositional hearing. R.C. 2151.35(B)(3)
- ✓ Schedule the date for the review hearing to be held pursuant to R.C. 2151.415. Juv. R. 36
- ✓ Give notice of the review hearing to all parties while they are present. R.C. 2151.27(D); Juv. R. 10(D) through (F), and 36(A)