



# **TAKING YOUR PLACE AT THE TABLE:** **Enhancing Foster Parent Effectiveness**

*“You must be the change you wish to see in the world.” Mahatma Gandhi*

**Multi-Disciplinary Perspectives For  
Understanding the Structure and  
Mechanisms of the Foster Care System,  
The Foster Care Process, and Its  
Procedures, Policies, Standards and Practices**

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## **Taking Your Place At The Table: Enhancing Foster Parent Effectiveness**

<b>Developments and Trends in the Law and Practice of Foster Care .....</b>	<b>3</b>
<b>The Structure of the NYS Foster Care System .....</b>	<b>8</b>
<b>The Legal Status and Rights of NYS Foster Parents .....</b>	<b>12</b>
<b>Recognizing Foster Parents as Professional Parents .....</b>	<b>14</b>
<b>The Reflective Foster Parent .....</b>	<b>17</b>
<b>Every Foster Care Case is a Court Case: Overview of Family Court.....</b>	<b>18</b>
<b>Family Service Plan and Service Plan Review .....</b>	<b>24</b>
<b>NYS Permanency Hearings.....</b>	<b>25</b>
<b>Effective Courtroom Advocacy .....</b>	<b>26</b>
<b>Permanency Hearing Prompt .....</b>	<b>31</b>
<b>Decertification of Foster Boarding Homes.....</b>	<b>32</b>
<b>Post-Adoption Visitation with Birth Family Members .....</b>	<b>33</b>
<b>Manifesto: NYS Foster and Adoptive Parent Association .....</b>	<b>35</b>

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# How Developments and Trends in the Law and Practice of Foster Care are Changing the Roles and Functions of Parents

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"  
By Michael A. Neff, J.D.

From its inception and for its duration, every foster care case is also a court case. Casework principles, standards, practices and procedures intertwine inextricably with legal principles, standards, practices and procedures. The law is the context, the arena within which the drama of care takes place.

The shame of foster care historically was its warehousing of children. Infants and toddlers grew to adolescence as foster children often drifting from home to home or institution to institution. As research validated what had been known or believed anecdotally and intuitively about the deleterious effects psychologically and high costs of long term foster care, advocates for children coined a radical concept: that foster children have a right to permanency.<sup>i</sup> Over the next 35 years, a right to permanency evolved both as a practice principle and legal concept more as a stream of thought with variations in emphasis than in discreet segments or sequences as might be inferred from the following outline:

**Secure Legal Status:** An exit strategy to reduce limbo and impermanence and decrease the number of children in foster care through adoption services.

**Family Preservation:** An intake strategy to keep families at risk intact and limit expansion of foster care through preventive services ("Strengthening welds that bind the family system is less complicated and costly than de-welding and re-welding").

**Continuity of Care:** A utilization strategy to reduce shuffle and disconnect and promote stability by placing foster children in kinship foster homes.

There now is unanimity throughout the child welfare field that the goal of foster care, the core outcome of the government's intrusion into and presence in the life of a family, is restoring or placing a child into a permanent home with his birth parent or parents. Or if that is not feasible or realistic, with an alternative custodian, guardian or adoptive parent, within two years or less after the child comes into care. Strategies, techniques and tools for doing so were first developed in Oregon in the mid-1970s through a federally funded Permanency Planning Demonstration Project and are described comprehensively by Anthony Malacca in *Permanency Planning for Children: Concepts and Methods* (1986). Over the past 20 years permanency planning has been:

**Re-focused** by the ecosystem<sup>ii</sup> and strengths perspectives<sup>iii</sup> of contemporary social work theory and practice and the solutions-focus of family therapy<sup>iv</sup>;

**Re-designed** by the Family to Family model for delivering permanency services developed by the Annie E. Casey Foundation;

**Re-oriented** by empirical research and outcome studies demonstrating that successful reunification is more likely, and more likely earlier with less recidivism, if birth family identity is preserved during placement and birth family competencies, and its belief in its competencies, are enhanced beyond merely ameliorating or solving the problems that precipitated placement<sup>v</sup>; and

**Re-structured** by the Adoption and Sale Families Act (ASFA) signed into law by President Clinton in November, 1997 (P.L. 105/89)

Passed by Congress with overwhelming bipartisan support, ASFA established nation-wide standards and goals for achieving permanency for foster children by tying federal funds for foster care and adoption

assistance to a requirement that states enact laws and revise practices to carry out its mandates. It also empowered the U.S. Department of Health and Human Services to audit each State's performance and outcomes. If found below acceptable levels a State must develop, submit for approval and implement a Program Improvement Plan (PIP). New York enacted its version of ASFA in February 1999<sup>vi</sup> and, following an audit in 2001 developed a PIP of 12 strategies for improving performance.

The permanency strategy embodied in ASFA is a utilization strategy: shortening length of stay. It establishes a time line and time frame for effectuating permanency and discharging a child from foster care, whether by return home, adoption or other permanent arrangement. The overall effect of the ASFA time line is to compress permanency planning into a time frame of 17 months following removal of a child from his or her home. Except for recognizing that efforts to reunify the birth family may be made concurrently with efforts to find an alternative home for the child (a practice known as concurrent planning<sup>vii</sup>) ASFA does not mandate any specific practices, leaving best practice decisions to States and localities. Even though its primary focus is utilization, ASFA's impact has been seismic. In much the same way an earthquake cracks open the surface allowing what has been percolating below to gush forth, so also has ASFA cracked open the paradigm that long has sustained and guided foster care practice. Into the fissures has poured a tidal wave of change that is transforming the paradigm itself from a child centered, protection driven and problem-solving model to a model that is family-centered, reparation driven and empowerment-oriented.

ASFA is not the only force driving change in foster care. Parents and other stakeholders know first hand that the practice environment for several years has been and continues to be buffeted by a value tornado;<sup>viii</sup> fueled by research and theorizing in neurophysiology particularly as to brain archeology and plasticity;<sup>ix</sup> studies of attachment and resiliency,<sup>x</sup> and innovations in the theory and practice of social work<sup>xi</sup>

Empowerment, for example, is a way of seeing, thinking, speaking and relating to birth parents and families and understanding their situations that focuses less on the past, less on solving the problems that precipitated removal of the child to out-of-home care, than on the future, on setting goals and on family members discovering, activating and believing in their own mostly hidden and untapped powers, strengths and capacities for envisioning and living the life they want for themselves and their children.<sup>xii</sup> A fundamental tenet of empowerment is that each person "has innate abilities and competencies for change, growth and enhanced well-being. All the resources we need to live the life we want to live we already have. It is not a matter of acquiring them from without but of discovering them within. They do not have to be bestowed on us by others nor are they derived from our circumstances. They are not scarce, only that we have lost our connection to them."<sup>xiii</sup>

In an empowerment-oriented practice, caseworkers serve as **change agents**, foster care is recast from being (and from being seen as) a substitute family to being an **extension** of the birth family. The contribution foster parents make is recognized by renaming them resource parents and foster care-giving is enlarged to include **sharing parenting** with birth parents so as to keep them involved in the lives of their children. It makes a commitment to fostering a commitment to accepting and respecting birth parents as persons important in the lives of their children regardless of their bad deeds; and a commitment by foster parents to find within themselves the courage to build bridges and form parenting partnerships with birth parents.

The purpose of sharing parenting is to narrow the gap of separation between birth parent and child and preserve primary attachments. What it means in practice is creating opportunities for children to remember and internalize, not forget or extrude, family ties, family stories and family events. It begins with foster parents and birth parents meeting at the earliest opportunity, which allows birth parents to have a say and become part of what is happening to their children and to share what they know of the child's qualities, routines, likes and dislikes i.e. "*Cherise likes to sleep with the light on.*". Sharing invites reciprocal responses ("*How would you like me to cut Cherise's hair?*"). Such dialogue encourages partnership, how birth parent and foster parent handle different situations ("*When Cherise oversleeps I find she responds better by coaxing than yelling*") and

facilitates exchanges of information, especially as to significant events a birthparent otherwise would miss (*Cherise lost her first tooth yesterday*).

By demonstrating acceptance of a birth parent a foster parent makes it less threatening for the birth parent to accept her in return. The mutuality of the process benefits the child. When competition, quarreling or uncomfortable silence between birth parent and foster parent are reduced or eliminated, seeing the significant adults in his life cooperate alleviates a child's needs to choose sides and feel disloyal to either his birth parent or foster parent. It fosters a child's sense of security in much the same way a united parental front does in an intact family and allows him to be less defensive about his parent.

Frequent contact between birth parent and foster parent reduces misconceptions each has of the other and makes it safer for foster parents to involve birth parents in the child's daily life. What clothes to buy, how much allowance to give, chores, dating and so on are decisions birth parents and foster parents can make together and often leads to involving birth parents in more weighty matters such as attending school conferences, accompanying foster parent and child to clinical appointments, planning holiday events, joining in story hour at the local library, attending little league games, joining in outings (circus/museums), attending church together and jointly creating the child's life book (a collection of pictures, awards, writings, photos and more). The mutuality of creating a life book together makes partnering visible and, when finished, enables foster parent, birth parent and child to share and validate memories. Consider as an example of partnering what one foster father did when he realized the birth father did not know how to relate to his son in a parental way and was not able to use visitation meaningfully. He invited the birth father to join in recreational activities with him and the child such as fishing, bowling and basketball. The foster father slowly faded into the background during visits as the birth father learned how to enjoy and join in his son's play and fantasy.

Research also reveals that more infants and toddlers are entering foster care than school age children or adolescents and, due to developmental traumatology<sup>xiv</sup>, have multiple, overlapping, complex and increasingly severe developmental disabilities and disorders among which the most prevalent are reactive attachment disorder, post-traumatic stress disorder, attention deficit hyperactivity disorder, sensory integration disorder and bi-polar disorder. Advances in the scientific study of childhood during the critical first three years of life validate what long has been believed intuitively about the effects of parental substance abuse, pre-natal and post-natal, physical and emotional abuse, victimization, violence and disrupted attachment on child development. Foster parents see first hand what can result when children are raised in adverse environments: dissociation from reality, impulsiveness, inability to read social cues, play inhibition, social aggressiveness, explosiveness and more. The American Academy of Pediatrics recommends integrating such knowledge into foster care practices so as to broaden focus and redefine purpose as follows: "Safe guarding the physical safety of children is not enough. They require care and services that are reparative as well as protective. Every effort should be made to make the foster care process a healing experience"<sup>xv</sup>

There is an emerging consensus in the literature of child development that the orthodox, allopathic approach that relies upon treatment, an hour spent each week with a specialist, is less effective than a holistic approach that relies upon healing, an approach that utilizes real life, a child's experiences in daily living, to effect developmental repair<sup>xvi</sup> Reparative care giving makes a commitment to fostering a commitment also to learning about and becoming skilled at addressing and helping children address developmental and other disorders; to be open to understanding children in ways not within the common experience of most parents; and to lean and engage oneself in the elements of the healing process<sup>xvii</sup>. Practicing reparative care is what makes foster parenting **Professional Parenting**.

Other research, a body of international, cross-cultural, developmental and life span studies of children born into severely high risk conditions such as lawlessness; families where parents are mentally ill, alcoholic or drug addicted and violent or abusive; or in communities that are war torn or extremely poverty stricken have found that between 50-70% of children growing up under severe stress develop nonetheless a social competence,

autonomy, sense of purpose, optimism and problem solving skills that enable them to live successful lives. These studies not only identify the personal and environmental factors that enable children to steer through and rebound from adversity, but also have given rise to a new approach in fostering called resiliency enhancement. The actions that flow from this orientation include deliberately building around foster children a support network that encourages and provides opportunities for pro-social activity, for connecting, belonging, participating and contributing - a context in which they can cultivate and practice the skills of resiliency until, like riding a bicycle, they become habitual.

Shared parenting, reparative care and resiliency enhancement are not legal concepts or doctrines and have no legal definition. They are practices validated by research and promoted as best practices either for achieving timely permanency or for enhancing the development and well-being of foster children. They and ASFA are the catalysts for the changes that are transforming the roles and functions not only of foster parents but also of all stakeholders in the foster care system.

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# Structure of NYS Foster Care System

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The foster care system in New York is not centralized. While state-wide foster care policies and standards are established at the state level, foster care is administered at the county level by 58 autonomous social services districts. The five counties comprising the City of New York constitute one district. Each district decides such matters among others as the amount of board it pays foster parents; whether foster parents must attend in-service training and, if so, the number of hours or credits they must earn each year; core training requirements, if any; and interpretation of otherwise ambiguous provisions and mandates in law and State regulations. There also are wide variations district to district in views and attitudes toward foster parents; what information about the system itself and about the foster children placed in their homes they want foster parents to know and provide; the extent, if at all, they include foster parents in decision making; and more. A significant factor explaining such variations is that, outside the City of New York, each County Department of Social Services, the operational arm of the social services district, is accountable primarily to its County Legislature, each also having its own understandings and point of view.

## I. New York State Office of Children and Family Service

- Sets state-wide child welfare policies
- Sets maximum rates state-wide for board of foster children
- Regulates agency practice
- Monitors agency performance
- Maintains and operates Child Welfare Information System
- Maintains and operates Central Register of Child Abuse
- Maintains and operates Putative Father Registry
- Maintains and operates State Adoption Service
- Promotes caseworker and foster parent competency through trainings and technical support (i.e. Common Core for caseworkers and Model Approach to Partnerships in Parenting for foster parents)
- Empanels Administrative Law Judges to preside over and conducts Fair Hearings initiated by foster parents to adjudicate certain disputes between foster parents and DSS/agencies

## II. Child Protective Services of County Department of Social Services

- Investigates allegations of child maltreatment or abuse
- Initiates removal of child from unsafe home
- Practices and standards codified in New York State Risk Assessment Model (1996) and revised in Safety and Risk Interim Guide (2003)

## III. Family Court

- Must approve agreement for voluntary placement of child in foster care
- Must order child's removal from home
- May place child in foster care and transfer legal custody of child to DSS/ACS upon determining (adjudging) child is in imminent danger of becoming (or is derivatively) neglected or abused
- Must review child's status no later than 8 months post-removal to determine whether child should be discharged from foster care or placement continued and, if continued, until when and with what permanency goal
- Must determine at 8 month permanency hearing whether agency has made reasonable efforts to achieve child's permanency goal
- Must appoint attorney (Law Guardian) to represent child of any age who is the subject of the Court proceeding except in adoption proceedings in which appointment is discretionary
- May commit guardianship of child to DSS/ACS or agency for adoption



May convert care-taking relationship between foster parent and child into legal parent-child relationship by Order of Adoption

#### **IV. Administration of Foster Care**

##### **Public Agencies**

County Department of Social Services (Upstate) - DSS  
Administration for Children's Services (New York City) - ACS

##### **Private agencies**

Not-For-Profit corporations empowered under Articles of Incorporation and authorized by OCFS to board out children  
Serve children in public foster care pursuant to contract with DSS/ACS  
Many loosely affiliated with religious federations

#### **V. Stakeholder/Participant Roles and Responsibilities**

##### **Caseworkers**

Trained in Common Core principals and practices

##### **Roles**

Permanency stewards  
Change agents  
Resource experts

##### **Functions: Permanency**

Identify/locate non-respondent parent (fathers)  
Engage/motivate parents and family members  
Identify/assess family needs and wants  
Facilitate/co-construct service plan with family members  
Manage service delivery & superintend parent-child visits  
Maintain momentum  
Measure change/reduction of risk  
Report to Court on case activity/direction

##### **Functions: Child Wellbeing**

Refer a child under 3 abused or suspected of having developmental disabilities for early intervention, evaluation and services

Compile and maintain child's comprehensive health record  
Identify & fill-in gaps in available information as to both child and health history of birth parents  
Compile and maintain child's family heritage  
Arrange/monitor child's treatment and progress in special medical and mental health services

## **Foster Parents**

### Legal Status

Independent contractors

Immune from liability as state agents for violation of foster child's civil rights

Foster family's interest in its stability and integrity not constitutionally protected except for procedural due process in removal of child afforded certain kinship foster parents

No standing to petition for custody of current or former foster child or for visitation with child removed from home

### Roles

Case management team member (Agency)

Reunification partner (Birth Parent)

Reparative caregiver/healer (Child)

Resiliency promoter (Youth)

Systems' eyes and ears (Court)

### Role outcome expectations

Child safety

Child emotional security

Child development

Child permanency

Youth self-sufficiency

### Stature

Fostering as professional parenting

Fostering as collective expression of civic consciousness and responsibility

### Certification Process

Application/timeline/procedures/documents/reports/interviews

Standards for kinship/non-kinship applicants

Pre-certification orientation

Pre-certification Training: MAPP

Criminal record review and safety assessment

Obtaining waiver/exception from regulation/policy

Dual licensure of applicant as both foster and adoptive parent

Certificate to Board Child Technical distinctions between Certificate, License and Letter of Approval

### Restrictions/duration

Renewal of certification

Decertification: law unsettled on whether foster parent has constitutionally protected property interest in certificate to board child requiring procedural due process in connection with decertification

## **Law Guardians**

Attorneys qualified and empaneled to represent children in Family Court

Appointed by Court case by case (Upstate)

Employed by Juvenile Rights Division of Legal Aid Society or other recognized legal services corporation (NYC and some upstate counties)

Always confronting conflict of being a lawyer (representing child's interests), counselor (advising child of alternative and preferred interests) and advocate (promoting own view of child's best interests)

### **Birth parents**

Entitled to representation throughout proceeding by attorney assigned by Court (County Law 18.B) if indigent

Expected to keep agency apprised of mailing address and whereabouts

Expected to provide agency with identifying information regarding non-involved parent

Expected/duty-bound to maintain contact with child

Expected/duty-bound to plan for child's future

Expected/duty bound to utilize services and resources made available by agency to change dysfunctional or maladaptive patterns of behavior, attitudes and thinking, enhance parenting ability and efficacy, (iii) ameliorate conditions precipitating child's removal from home and reduce risk and ( ready self for child's safe return

### **Birth Relatives**

May request approval as child's kinship foster parent

May petition Court for custody of child

May request direct placement as alternative to placement of child in foster care

Adjudication of non-marital father's paternity prerequisite to standing by paternal relative

# The Legal Status and Rights of NYS Foster Parents

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Akin in psychological and other respects to a family by blood, marriage or civil union, the foster family does not have the same legal status. While the concept of family has evolved and continues to evolve to include many non-conventional relationships, developments in law have stopped short of affording the foster family the same or equivalent protection and deference as long has been afforded the birth family (Smith v. Organization of Foster Families for Equality and Reform, 431 U.S. 816 [1977]).

A biological family has a constitutionally protected interest in its integrity, stability and survival. The foster family does not. The State cannot remove children from birth parents absent abuse or neglect. It may remove foster children from foster parents in its discretion so long as it does not act capriciously. It needs only a rational reason. Since the status of foster parents derives not from nature but from agreement or contract, their legal rights are less comprehensive and unfettered and their legal duties more stringent and demanding than those of birth parents.

While foster parents are entrusted with and are responsible for the child's care, legal authority for decision-making remains with the State. That is not to say foster parents must obtain consent from the agency for each and every one of the multitude of decisions involved in child rearing day-by-day. Common sense is what determines what meals to cook, clothes to buy, outings to plan, lessons to supervise, discipline to administer, talents to develop, values to instill, morals to nurture, ambitions to encourage, meal-time, bath-time and bed-time routines, television shows to watch, video games to play and more. The line between day-by-day child-rearing decisions and those decisions only the agency can make or for which it must give permission is not clearly articulated by statute or regulation. The latter, generally speaking, involve enrollment in school and other education decisions, travel outside New York State, medical treatment for other than routine preventive care, visitation with birth parents, siblings and members of the extended birth family, babysitting or day care arrangements and religious training outside the child's religion. Each agency's Foster Placement Agreement may make further distinctions and additional delineations may be found in each agency's manual of policies.

- The law not only does not protect the care-taking relationship between foster parent and foster child in the way it protects the parent-child or guardian-ward relationship, it also disqualifies foster parents from obtaining or even seeking to obtain such protection. Under New York law, foster parents lack standing to petition the Court for legal custody of a foster child currently or formerly in their care or for visitation with a former foster child. That does not mean, however, that foster parents have no legal rights. They do, consisting, inter alia, of the following:
- Read their certification home study and insert comments
- Receive a manual summarizing agency policies and practices bearing on the role and responsibilities of foster parents
- Receive information regarding a foster child's health history, health status and health care needs and material health history of birth parents.
- Receive information regarding immunization and medical examination schedules and protocols and procedures for obtaining emergency medical treatment for the child
- Receive basic information regarding child's behavior, known propensities, history of sexual abuse, school and educational experiences, relationships with birth parents, siblings and members of the birth family, details of The parent-child visitation plan and schedule, permanency goal and plan and information on such additional factors as may significantly influence child's behavior
- Receive invitation to and participate in Service Plan Review
- Receive agency's Permanency Hearing Report and Notice of Permanency Hearing
- Participate as a party in Permanency Hearing

- Receive Notice, participate in meeting of Committee on Special Education and make educational decisions on behalf of child in need of special education services
- After child in home for 12 months, intervention as of right in any Court proceeding where child's custody is at issue
- Petition Court to terminate parental rights after child in care for 19 months or if DSS/ACS or agency fails to file petition within 90 days after having been ordered to do so by Court, whichever is earlier
- Receive Notice when child's permanency goal has been changed to adoption and Notice when child has been freed for adoption.
- After child in home for 12 months, receive first consideration in selection of adoptive parent for child freed for adoption.
- Receive 10-day written advance notice of agency's intent to remove child from home except for imminent or immediate danger
- Stay removal by requesting independent review of agency's decision
- Receive 20-day written advance notice of agency's decision and reasons for non-renewal or revocation of certification and an opportunity to discuss reasons with agency official
- Access to State Administrative Law Judge for reversal of certain adverse agency actions or inaction
- Access to State Supreme Court for reversal of adverse decision by Administrative Law Judge

These rights collectively insure (or are designed to insure) foster parents receive adequate information regarding the foster child in their care and have opportunities and notice of opportunities to have input and be heard in case planning and decision-making. Legal rights, however, unlike factual interests, are inchoate. They do not self-activate. **They must be actualized or brought into being.** While agencies are required not only to notify foster parents of these rights but also to recognize and effectuate them, due to oversight or otherwise that may not occur.

**What's a foster parent to do?** Enhancing effectiveness, saying or doing what is necessary to bring rights into being, stems in large measure from foster parents finding within themselves the courage to question, not to complain but to focus attention, the stamina to persevere, refusing to give up when encountering difficulty, and energy and steadfastness in demanding clarity and certainty.

**It is not enough to be "right."** Challenging with "right" and "wrong," mostly triggers defensiveness and blaming. Effectiveness lies in attuning oneself to and speaking into the other person's listening, framing concerns and issues in the language of their "already listening." In foster care, that is the language of the law. Furthermore, if there is a concession to be made, for someone to do what is required for foster parental rights to materialize, it is up to foster parents to create space and opportunity for the commissioner to save face. Effectiveness also involves consciously cultivating the mind-set of a Professional Parent and habits of vigilance, initiative and gumption.

# Recognizing Foster Parents as Professional Parents

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

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What the NYS Office of Children and Family Services (OCFS) found from a state-wide survey it conducted in 2003 of foster parent needs and wants is that (more so than not) the information agencies provide foster parents about the background and developmental and health history of foster children is minimal at best. They permit foster parents little say and marginalize their input in planning a foster child's future; and offer foster parents little if any support. Practices that undervalue the unique contributions foster parents make in achieving positive outcomes for foster children and reflect a conventional view of foster parenting as little more than sheltering and care-taking or care-giving.

Challenging this view OCFS formulated and operationalized several recommendations to local Departments of Social Service and private agencies for supporting and soliciting input from foster parents.<sup>1</sup> Together they stake out a pathway toward re-conceptualizing the role of foster parents and recognizing foster parents as professional parents. <sup>2</sup> Major OCFS recommendations to local districts and agencies included:

- Provide information and opportunities for clarifying and achieving mutual understanding of caseworker/foster parent roles and responsibilities
- Demonstrate partnerships between caseworkers and foster parents by responding promptly to telephone calls and requests for information and by scheduling meetings on days and times that are mutually convenient
- Include foster parents as full members of each foster child's team and in key aspects of decision-making by soliciting their input and considering their opinions
- Maximize foster parent participation in permanency planning by using teleconferencing when foster parents cannot attend plan reviews
- Provide and regularly update information for foster parents regarding the child's health care needs and availability of resources and service providers
- Encourage networking among foster parents by providing a list of names and numbers
- Facilitate foster parent access to peer support
- Involve foster parents in planning and evaluating trainings

## Defining Professionalism

Foster parents rarely, if ever, think of themselves or are thought of as professionals. Moreover, what professionalism means in the context of foster parenting has received scant attention in the foster care literature.<sup>3</sup> When "professionalism" is used it is mostly for effect to convey prestige and status. What learning there is derives mainly from medicine, law and education. But there is a cross-discipline consensus that professionalism is not simply a matter of knowledge, or mastery of a body of knowledge; or a matter of skill or proficiency in skill sets. It is a matter of values, attitudes and behaviors.<sup>4</sup> While more than 90 elements or components of professionalism have been identified, there is near unanimity on the following as core characteristics of professionalism:

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<sup>1</sup> 05-OCFS\_INF-03

<sup>2</sup> Warf, *Transforming the Role of Caregivers in Today's Society* [1992]

<sup>3</sup> Weldock, "Professionalizing Foster Care," 64 S.W. 26 [1992]

<sup>4</sup> (Maister, *True Professionalism* [2002]; Buley, *What is Professionalism* [2000]; Epstein & Hundert, *Defining and Assessing Professionalism*, 287 JAMA 226 [2002]).

- Professionals must qualify as professionals by meeting qualification requirements and admission standards and become professionals only by being licensed
- Licensure gives professionals access to, membership in, and association with a community of shared interests and a community of support
- Professionals are altruistic. They put service before self-interest and demonstrate unselfish regard for the welfare of others
- Professionals have caring, covenantal relationships and relationships of promise with the people they serve
- Professionals observe rules of confidentiality, adhere to standards of conduct and guide themselves by principles of ethics
- Professionals work autonomously but also collegially in partnership with others
- Professionals are responsible. They self-start and commit to completing a job. They are a standard for accountability. They keep their word and hold others to theirs. Professionals profess. They communicate their opinion
- Professionals strive to improve themselves by taking advantage of opportunities for development and betterment

## Recognizing Foster Parents as Professionals

Review the core characteristics of professional and consider the following:

- Foster parents become foster parents only after being trained (MAPP), qualified (Home-study) and licensed (Certificate to Board Child).
- Once licensed, they are eligible for membership in the New York State Foster and Adoptive Parent Association and may participate with other foster parents in Circles of Support.
- Foster parents serve. When asked why they do what they do, the two most frequently answers foster parents give are "healing they hurt" and "doing God's work."
- The relationship between foster parents and foster children are caring, covenantal and promissory: "You can count on me to help you get through this."
- Foster parents observe rules limiting the information about foster children they may disseminate and to whom, adhere to standards of conduct, the vast array of prescriptions and proscriptions derived from law and State regulations, and are guided by principles of ethics promulgated by the National Foster Parent Association in its Foster Parent Code of Ethics.
- They work autonomously 24/7 week after week attending to the needs of foster children and also work in partnership with caseworkers in planning for their future.
- Foster parents are not passive. They self-start and communicate their opinions. They must earn but are not limited to a pre-set number of credits of continuing education per year through participation in conferences, trainings, workshops and courses.

Thinking about, and appreciating foster parents, as professional parents is not only descriptively accurate; it is also aspirational, and therein lies its value. Professionalism is a goal to strive for, to measure oneself against. Its value lies in what it demands that foster parents demand of themselves.

Other advantages derive from practices followed by professionals day by day. They keep records. It behooves foster parents also to keep records such as a Foster Child's Portfolio containing clinical reports, individualized education plans, photographs, certificates and so on. A conference Journal recording the dates, participants and agreements made at conferences, meeting and teleconferences between foster parents, clinicians, caseworkers, teachers and others; and a Master Notebook of events, observations and concerns.

Professionals prepare. They rarely 'wing it'. It behooves foster parents to see each interaction or encounter however routine as purposeful, formulating a purpose in advance and preparing how to achieve it. Professionals anticipate. They consider what could arise to derail, sidetrack or stymie what they want to accomplish, and rehearse what to say or do in response to focus attention of the decision-maker on the decision they want the decision-maker to make. It also behooves foster parents to anticipate; to consider possible opposing or alternative points of view, opinions or recommendations; and rehearse what to say or do so as to avoid surprise and maintain presence. Preparing and anticipating build confidence and is vital to foster parents being heard in positive and memorable ways.



# The Reflective Foster Parent

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

By Michael A. Neff, J.D.

Public policy in New York "invites" foster parents to work with birth families to help achieve family reunification, by building bridges with birth parents; sharing parenting with birth parents to keep them involved in the lives of their children; and joining with birth parents as reunification partners to assist them to prepare for the safe return of their children. These roles/functions call on foster parents to acquire and practice beliefs, attitudes, commitments, and aptitudes different from those that have long guided foster parent parenting and may be difficult for some foster parents to accept or achieve.

Foster parent effectiveness in performing these "new" roles is less a matter of acquiring knowledge and refining skills than of accessing, acknowledging and confronting what's "truly so for one's self" through self reflection. Not for the purpose of identifying shortcomings, but for the purpose of discovering and activating innate (but untapped) competencies. Foster parents today are challenged to consider and reflect upon:

**Respectfulness:** How open am I to accepting the feelings and aspirations of birth parents without having to discredit or denigrate them? How willing am I to accept them as persons important in the lives of their children regardless of their bad, even grievous, mistakes.

**Forgiveness:** How all right with me is it that others are imperfect and make mistakes?

**Relatedness:** How much can I be me with birth parents and not play a role?

**Flexibility:** How spontaneous and creative can I be in my interactions with birth parents without having to stick with preconceived notions of what needs to be done?

**Attentiveness:** How able am I to stay focused on other people's needs or concerns and not withdraw into my own thoughts, or become distracted by my own inner voices?

**Self-Awareness:** How connected and turned in am I to my own deeper values and spiritual roots, and how able am I to access and activate them in order to serve others.

**Humility:** How able am I to not have to dominate or control?

**Assertiveness:** How comfortable am I speaking out, asking questions to clarify and gain certainty and being firm?

**Directness:** How willing am I to talk straight, to say what's so?

# Every Foster Care Case is a Court Case:

## Overview of the NYS Family Court Process

From “Taking Your Place at the Table: Enhancing Foster Parent Effectiveness”

By Michael A. Neff, J.D.

From its inception, and for its duration, every foster care case is a Court case. The child and parent remain within and subject to the jurisdiction of the Court and the case remains with the same Judge until the child is discharged from foster care, whether by reunification with his birth family, release into the legal custody or guardianship of a relative or adoption.

### A. Order Approving Voluntary Placement (S.S.L. 358-a)

1. Agency must commence proceeding within 30 days after execution of a Voluntary Placement Agreement
2. To approve the agreement the Court must find:
  - a. Parent or person executing agreement did so knowingly and voluntarily because unable to provide adequately for care, maintenance and supervision of child; and that it would be contrary to welfare of child to remain in home; and
  - b. Agency made reasonable efforts to prevent or eliminate the need for placement and, following execution of agreement until date of hearing, made reasonable efforts for child's safe return home; unless such efforts were not required because of aggravated circumstances.
3. Upon approving agreement Court must set date certain for permanency hearing no later than 240 days after removal.

### B. Order of Placement for Neglect or Abuse (F.CA 1055)

1. Court order required for removal of child from home and for remand of child into care of public agency (DSS/ACS) during pendency of proceeding. Each case is initiated by a removal hearing.
  - a. Order required even if parent consents to removal (F.CA 1021)
  - b. Post-petition removal order. (F C A 1027)
  - c. Pre-petition removal pursuant to order where child in “imminent danger” (F.CA 1022)
  - d. Post-removal order where child removed without order because in imminent danger (F.CA 1024)
2. Title IV-E Findings: For New York State to claim federal financial assistance for a child removed to out-of-home care, there must be a determination by the Court within 60 days after removal that:
  - a. Agency made reasonable efforts to prevent or eliminate the need for removal, or
  - b. Reasonable efforts by Agency to prevent or eliminate the need for removal were not required due to aggravated circumstances, and
  - c. It is or would be contrary to welfare of child to remain in home.
3. Court must assign attorney to represent parent until child is returned home or adopted.
4. Parent may apply for return of child during pendency of proceeding. (F.C.A 1027)
5. DSS/ACS has duty to identify, locate, contact and inform non-respondent parent, grandparents, other relatives and persons identified by child over 5 as playing or having played a significant role in his life of pendency of protection proceeding; ascertain their interest and willingness in either obtaining custody of the child or becoming the child's foster parent; and to inform Court

accordingly.

6. Court may order DSS/ACS to expedite investigation into suitability of interested persons and to expedite approval or certification of qualified persons as foster parents.
7. When first hearing case after child removed, the Court must set a date certain for Permanency hearing, no later than 240 days after removal.
8. Court may order DSS/ACS to provide or arrange for such services or assistance as are authorized by existing State Comprehensive Service Plan for rehabilitation of the birth family.
9. Agency must prove by a fair preponderance of evidence at fact finding hearing that child is, is in imminent danger of becoming, or is derivatively, neglected or abused. (F.CA 1044)
10. Agency must prove by a fair preponderance of evidence at dispositional hearing that child's health, safety "and interests are served best by placement. (F.CA 1045)
11. Order placing child with Agency transfers legal custody of child to ACS/DSS.
12. Placement order effective until (and proceeding remains on Court calendar for) permanency hearing on date previously selected.

### **C. Permanency Hearing (F.CA 1089)**

1. Agency-prepared Permanency Report must be served upon parent, non-respondent parent, foster parent in whose home child resides and Law Guardian no later than 14 days before hearing.
2. Report must set forth facts sufficient for the Court to determine
  - a. Whether agency made reasonable efforts to effectuate child's permanency goal.
  - b. Whether parent has utilized resolutely and constructively the services and resources made available to her and has put into practice the insights, lessons learned or tools acquired.
  - c. Whether parent has demonstrated change in her ability to parent her child to the extent she is in a better position to do so now than she was at the time the child was removed from the home.
  - d. Whether there has been amelioration of the conditions or circumstances precipitating placement and a reduction of risk; or, if not, facts demonstrating the child would be at risk if returned home.
  - e. The child's medical, mental health and educational needs and whether those needs are being met adequately by the services he is receiving; or if different or additional services are needed,
  - f. Whether tasks that must be completed require revisions in the family service plan or visitation schedule, and
  - g. The agency's recommendation whether the child should be discharged or remain in foster care; and, if the latter:
    - i) until when
    - ii) under what permanency goal, and
    - iii) what actions it will take and by when to effectuate that goal.

3. Report must be made under oath.
4. Court must determine upon facts and law that agency made reasonable efforts to effectuate permanency goal. If not, eligibility of state to receive federal financial assistance for foster care services rendered the child terminates but may be restored by subsequent finding that reasonable efforts have been made.
5. Court determines permanency goal for child remaining in care.
6. Placement of child remaining in care extended until (and Court must set a date certain for) next permanency Hearing no later than 180 days after conclusion of hearing.
7. Permanency hearing must be completed within 30 days of date certain.
8. Service plan as modified at hearing and permanency order containing the following must be given to parent
  - a. Child's permanency goal,
  - b. Date of next permanency hearing,
  - c. Visitation plan,
  - d. Direction to parent to keep agency informed of her whereabouts and current mailing address,
  - e. Warning to parent that a proceeding for termination of parental rights could be commenced if child remains in care for 15 of most recent 22 months,
  - f. Notice to parent of her right to attend Service Plan Reviews with attorney or other representative and (vii) notice to parent of her right to appeal
  - g. If discharge of child is likely before next permanency hearing, Court may authorize discharge provided DSS/ACS gives Law Guardian and Court 10 day advance notice
  - h. Absent preauthorization, DSS/ACS cannot discharge child without applying for and obtaining discharge order

#### **D. Freed Child Permanency Hearing**

1. Hearing must be held within 30 days after child fully freed for adoption.
2. Purpose of hearing is for Court to monitor progress toward, and by using its powers to overcome (or eliminate) obstacles or barriers to permanency, and expedite finalization.

#### **E. Voluntary Relinquishment of Child for Adoption (S.S.L 383-c)**

1. Judicial surrender
  - a. Court must approve surrender upon allocuting parent as to satisfaction with pre-surrender counseling, voluntariness of surrender (no duress), understanding of consequences (knowledge of what surrender means), mental competency, (orientation to time, place and event), and willfulness (not influenced by drugs, alcohol promises or payment of money or other consideration).
  - b. In the event of failure of a material condition of the surrender, within 20 days after failure agency must commence a proceeding for Court to determine consequence of failure.
2. Extra-judicial surrender

- a. Agency must commence proceeding within 15 days after execution for order approving extra-judicial surrender.
  - b. Court must appoint attorney or guardian ad litem for parent unable to appear in Court to confer with parent and inform Court whether he/she executed surrender voluntarily, knowingly and willingly and consents to its approval.
3. Preserving post-adoption communication and contact by parent with child through written agreement.
- a. Agreement must be executed/signed by parent, Law Guardian, agency and adoptive parent, if any.
  - b. Court must determine whether terms are in child's best interests and must approve agreement for incorporation into Order of Adoption by reference or otherwise.
  - c. Post-adoption failure or refusal by adoptive parent to comply with terms of agreement does not affect finality of adoption.
  - d. Agreement affords parent standing to commence post adoption enforcement proceeding.
  - e. Agreement may provide for sibling as well as parental communication and contact and any sibling 14 and older must sign agreement.

#### **F. Involuntary Termination of parental Rights (S.S.L. 384-b)**

1. Filing petition
  - a. Agency has discretion in deciding whether and when to file petition; except it must file petition after child has been in placement for 15 of the most recent 22 months, unless it can document a compelling reason for not doing so.
  - b. If the Court during a permanency hearing finds reasonable cause to believe that termination grounds exist, it may order agency to file petition.
  - c. Agency may move to vacate order or extend time for filing.
  - d. If time not extended, and agency does not file petition within 90 days after having been ordered to do so, foster parent may file petition unless Court finds reasonable cause to believe foster parent would not be approved as adoptive parent for child.
  - e. If agency does not file petition within 90 days after having been ordered to do so, Court may authorize Law Guardian to file.
  - f. Foster parent may file petition after child has been in placement 19 months.
2. Jurisdiction
  - a. Agency must join as necessary parties, and allege against each grounds for terminating rights, all persons having the right of consent to the child's adoption:
    - i) always the mother,
    - ii) her husband if she was married when the child was born,
    - iii) the child's legal (if not biological) father, and any father not married to the mother who has acquired the right of consent by establishing and maintaining a substantial relationship with the child.
  - b. For the Court to acquire jurisdiction over all necessary parties, the agency must serve or cause to be served upon each personally a summons and petition no later than 20 days before date set to appear in court; or if service cannot be made personally, no later than 30 days by alternative means authorized by the Court. Also, notice must be timely served upon any non-consent father formally identified:
    - i) by mother in sworn statement,
    - ii) in child's certificate of birth or
    - iii) in Putative Father Report

3. Agency has burden of proving by clear and convincing evidence at fact-finding hearing one of the following grounds against each parent:
  - b. Mental illness
  - c. Mental retardation
  - a. Permanent neglect
  - b. Abandonment
  - c. Repeated abuse
  - d. Severe abuse
4. Proof of grounds at fact finding does not terminate parental rights, but instead activates the Court's power to do so. Agency must prove by a fair preponderance of evidence at a dispositional hearing that the child's needs, welfare and interests are served best if freed for adoption.
  - a. Foster parent who has cared for child for 12 months may intervene as of right and become a party to dispositional hearing.
  - b. Relative may intervene and become a party by leave of Court.
  - c. There are no presumptions or preferences afforded any party, whether parent, relative or foster parent. All are "legal strangers" to child and on same footing.
  - d. Sole standard for disposition is child's "best interests" as they are at the time of the hearing, not when the proceeding was commenced, and not by what could have been and even should have been had all concerned adults acted differently earlier; or by what might be because of what they are now willing to do. **What is out-weighs what isn't.**
5. Dispositional alternatives
  - a. While proof the child will be adopted is not a legal prerequisite to termination of parental rights, when a 14 and older child does not want to be adopted, the petition may be dismissed in the interests of justice, notwithstanding proof of grounds at fact-finding, as serving no beneficial purpose.
  - b. Court may afford parent a "second chance or time to complete rehabilitation or recovery by suspending judgment for up to 1 year upon terms and conditions for the parent to observe or fulfill. Agency may move to revoke suspended judgment if parent violates any term or condition. If no revocation motion is made, no less than 60 days before expiration of the suspended judgment, the agency must serve a compliance report and, not less than 30 days before expiration, the Court must hold a compliance hearing.
  - c. The legal import of an order terminating parental rights is that it commits guardianship of the person to the agency, thereby empowering the agency to give consent to the child's adoption without and in lieu of the parent's consent.

#### **H. Agency-sponsored adoption of child in foster care (D.R.L. 110 et seq.)**

1. Agency-approved adoptive parent residing in New York may file adoption petition in Family Court for the county in which he resides or in The Family Court freeing child for adoption.
2. Adoptive parent residing out-of-state but finalizing in New York may file adoption petition in the Family Court freeing the child for adoption or in Family Court for the county in which the agency has its principle place of business.
2. Court may grant petition upon determining from its assessment of the suitability of the adoptive parent and the circumstances and needs of the child that it is in the child's best interests that the adoption be approved.

3. No single factor predominates or controls and negative and positive factors are weighed, balanced and offset.
4. Court not confined to documents and reports submitted by adoptive parent and agency and may request additional documents, reports and information and may appoint Law Guardian or order Probation Office to make investigation and submit independent recommendation regarding finalization.
5. A husband and wife must adopt jointly unless legally separated, or living separate and apart for over 3 years. A cohabiting, but unmarried couple, whether heterosexual or gay, may adopt jointly,

# Family Service Plan And Service Plan Review

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

By Michael A. Neff, J.D.

Within 30 days alter a child is removed from home; DSS/ACS must complete a Family Assessment. It is the foundation for development of a Family Service Plan ("FSP"). Although the plan is to be developed in consultation with birth parents<sup>5</sup>, consistent with what is accepted throughout the foster care field as a best-practice, the Office of Children and Family Services recommends the FSP be developed though family group conferencing and decision-making<sup>6</sup>, an approach grounded in the belief that birth parents and families know best what they need, can take charge of their lives despite adverse past or present circumstances and that caseworkers serve best by collaborating with parents and families as peers and taking seriously their aspirations<sup>7</sup>

The traditional or conventional approach to planning is hierarchical. Caseworkers identify deficits and needs and unilaterally determine and demand of parents and families what must be done for reunification of the family. Family group conferencing is a collaborative approach. It substitutes the lay judgment of family members for the professional judgment of the caseworker.

The FSP is an action plan that programs change. It consists of goals and tasks stated in measurable, behavioral terms with timetables for their accomplishment and assignments of who will do what. It sets forth the child's permanency goal, encompasses both service delivery and arrangements for parent-child visits and must be prepared no later than 30 days alter a child is removed from home. A copy must be given to the parent (S. S. L. 409-8.4).

The FSP must be reviewed within 90 days alter removal at a Service Plan Review<sup>8</sup> Mandated invitees are the birth parent, foster parent and the child if 10 and older. Optional invitees include among others birth relatives, service providers and the child's Law Guardian. Each invitee must be given 14-day advance written notice and birth parents advised they may bring them an attorney or other personal representative. The case planner and an "independent third party reviewer," an administrator or other person not responsible for case management or delivery of services selected by the case planner must represent the agency.

While not prescribed by statute or regulation, the review agenda customarily includes an assessment of parent-child visits, the parent's utilization of the services that have been made available, or the barriers to access and utilization, amelioration of the conditions or problems precipitating placement and of any additional problems that may have arisen since removal and reduction of risk. The FSP may be amended or revised as deemed necessary and a copy of the modified FSP or a statement of the conclusions and recommendations from the review "must be made available to all participants"<sup>9</sup> There must be a second review no later than 120 days alter the first review and at six month intervals thereafter.

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<sup>5</sup> Social Service Law 409-8

<sup>6</sup> OCFS, Desired Elements of New York State's Child Welfare System [2004]

<sup>7</sup> (Connolly & McKenzie, Effective Participatory Practice: Family Group Conferencing in Child Protection [1999]).

<sup>8</sup> S.S.L. 409-e.3; 18 N.Y.G.R.R. 430.12[c][2]).

<sup>9</sup> 18 N.Y.C.R.R. 430.12[c][2][i][c]).



# NYS Permanency Hearings

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

By Michael A. Neff, J.D.

Reform of a system invariably is accompanied by a change of language to connote a different way of doing things. Pre-ASFA, New York law required that Family Court review the status of children placed voluntarily to determine whether their placement should be continued and the status of children placed involuntarily as a result of neglect or abuse to determine if their placement should be extended. When amending its laws in 1999 to incorporate ASFA's mandates, New York abolished differences in terminology and for traditional review hearings substituted a permanency hearing, intended by ASFA to be a detailed and focused inquiry into the circumstances of each case in contrast to what had become superficial and cursory inquiries at traditional reviews. ASFA also requires the Court determine at each permanency review whether the agency made reasonable efforts to finalize the child's permanency goal. Consistent with concern for proper utilization of foster care (how and how effectively Federal dollars are being spent) Federal regulations require the Court also inquire into the adequacy of the medical, mental health and educational services children are receiving. (45 C.F.R. 1355.34[b][1][iii]).

In New York, a study by the Permanent Judicial Commission on Justice For Children revealed an atmosphere of inattention to the health and developmental needs of children in foster care (PJCJC, Ensuring the Healthy Development of Foster Children [1999] and a study by Advocate's For Children of children in foster care in New York City revealed a similar atmosphere of inattention regarding their education needs (AFC, Educational Neglect: Delivery of Educational Services to Children in New York City Foster Care [2000]). It found significant under-utilization of early intervention and pre-school special education services, delays in enrolling children in school following removal from home, frequent changes in school placement and limited availability of vocational training and pre-college preparation services for older adolescents. To insure accurate, comprehensive and up to date information is made available to the Court and to bring the health and educational needs of foster children to the forefront of attention, New York law was amended in 2005 to require that agencies prepare and serve upon the parties in advance of the permanency hearing a Permanency Report covering not only implementation of permanency plans (progress and change) but also the health and educational services children are receiving.

The 2005 legislation, known as the Permanency Bill (L. 2005, Ch.3) accelerates decision making beyond what ASFA requires. While ASFA requires a permanency hearing no later than the 12th month of placement, New York now requires it no later than the 8th month. To eliminate what had been such systemic barriers to expeditious movement of cases in Court as repeated adjournments, reassignment of an attorney for an indigent parent at different stages of the same case, and more, the Permanency Bill provides for continuing jurisdiction over a parent, eliminating the need for repeat service of process, continuous calendaring of a case until a child is discharged from foster care, eliminating the needs for filing successive petitions to restore a case to a Judge's calendar, and continuity in representation of a parent throughout all stages of a case by the attorney first assigned who now is expected be available to a birth parents for ongoing consultation and advice in non-Court dealings with the agency and otherwise (see Every Foster Care Case is a Court Case: Outline of Family Court Process, *infra*, for details of hearing).

# Effective Courtroom Advocacy

From “Taking Your Place at the Table: Enhancing Foster Parent Effectiveness”

By Michael A. Neff, J.D.

We use “advocacy” regularly in daily conversation to connote promoting a desired result. Advocacy, however, is not about results. It is about **voc**, about “giving voice to.” Foster parents who advocate are giving foster children a voice. To advocate effectively, foster parents need do more than speak on behalf of a foster child. They must “be” and speak “as if” the child, seeing and communicating the events and people in the child’s life, not as they are objectively, but as they appear to the child. It is this dimension of empathic understanding, born of tender devotion that differentiates advocacy by foster parents from advocacy by others who say they want what is best for the child.

Effective advocacy, whether one on one with a caseworker, at service plan reviews and other planning conferences or in the Courtroom at a permanency hearing, and whether for the purpose of informing or influencing, is less a matter of content than of interpersonal communicative competence<sup>10</sup>. Communicating effectively is an art. It must be learned. Handling difficult or crucial conversations poorly makes matters worse. Negative communication habits lose ground that must be recovered before moving forward.<sup>11</sup>

To advocate effectively it is incumbent that foster parents as “Professional Parents” take advantage of opportunities provided by courses, workshops or readings to learn about and improve communication skills. The concordance in the literature of cognitive science, social psychology, dialogue studies and communications is that core skills are not those for negotiating agreement, but for **creating common meaning or a common wavelength**<sup>12</sup> There is an old French proverb that “without mutuality, the spoken word belongs half to him that speaks and all to him that hears,” or as Archie Bunker put it, “The reason you don’t understand me, Edith, is that I am talking to you in English and you hear me in dingbat.” Where there is no common meaning, not only will there be no effective advocacy but also “the void created by miscommunication is soon filled with drivel and poison”<sup>13</sup>

The following guidelines for communicative competence are not comprehensive nor are they developed at length. They are intended as talking points to generate discussion:

- Avoid a lengthy monologue and be brief: “The worst kind of death is being talked to death.” - Mark Twain
- Abandon blame<sup>14</sup>
- Listen From the inside out<sup>15</sup>
- Stay focused on what you want<sup>16</sup>
- Speak assertively and persuasively rather than aggressively and abusively<sup>17</sup>
- Choose words carefully<sup>18</sup>
- Know what not to say: “The real art of communication is not only to say the right thing the right way at the right time, but far more difficult is to leave unsaid the wrong thing at the tempting moment.” - *Dorothy Newell*,
- Replace discussion with dialogue<sup>19</sup>

<sup>10</sup> Jablin & Seas, Communicative Competence, (2001)

<sup>11</sup> Bostrom, Competence in Communication: A Multi-Disciplinary Approach, (1984)

<sup>12</sup> Rubin, Essential Communication Skills, (1984)

<sup>13</sup> Norman Parkinson.

<sup>14</sup> Ludden, Effective Communication Skills, (2001)

<sup>15</sup> Burley-Allen, Listening (2000)

<sup>16</sup> Stone, Difficult Conversations (2000)

<sup>17</sup> Elbert & Emmons, Assertiveness in Everyday Life (2001)

<sup>18</sup> Telushin, How to Choose Words Wisely and Well, (1998)

<sup>19</sup> Bohem, On Dialogue (1994)

- Stay in dialogue when others blow up or won't listen or when you are angry
- Closely watch The person with whom or to whom you are speaking and adapt your presentation accordingly<sup>20</sup>
- Back what you say with an appropriate affective tone <sup>21</sup>

No less significant for effective advocacy than communicative competency is venue. What can be accomplished is determined in part by where the conversation takes place. While the Courtroom is a place of high potential for foster parents to contribute and make a difference, it also can be Frustrating and challenging.

**CONSIDERATIONS:** Since non-Lawyers, regardless of abilities, are but amateurs in Courtroom maneuvering, it is to be expected that "going to Court" for foster parents fills them with fear (fear of not knowing the rules, fear of the unknown, fear of losing composure, fear of surprise); awe (the majesty of the black robe); and dread (freezing, looking bad, being criticized). They become nervous (dry-mouth, sweaty palms, rapid pulse); frustrated; and often feel diminished. Asked afterward what happened, they frequently say, *"I don't know, all that legalese and psychobabble. It was just mumbo-jumbo to me. I felt intimidated."* Other Frequent comments are:

- *"I didn't go. My caseworker told me I didn't have to go and I got the impression she didn't want me to go. I felt insulted."*
- *"The Judge told me I was allowed to be present but not allowed to speak. I felt discounted and disrespected."*
- *"I had something I wanted to say, but did not know when I could speak, and the Judge never called upon me. It was over before I knew what happened. I felt invisible and helpless."*
- *"I said I was willing to adopt if my foster child can't go home, but everyone in the Courtroom made that seem like a bad thing, like I was undermining efforts at returning him to his mother. I felt criticized and humiliated."*

Consider this: While considerations hinder effectiveness, they are not real. They are not inherent in the circumstances nor are they created objectively by what happens. They exist only internally, in perception, thought and feelings, in how a person reacts.

**ADVERSARIALNESS:** A permanency hearing is not collegial. It is adversarial and reflects the culture of lawyering. The adversarial process is not about building a consensus. It is about having the decision-maker make the decision you want the decision-maker to make however much others may disagree. The constituency foster parents must persuade at a permanency hearing is a constituency of one: the Judge.

**PRESENCE:** The messenger is as important if not more so than the message. Foster parents should ask themselves, "What can I say or do to get myself heard in a positive and memorable way?" - and do it. Relevant factors among others are punctuality, dress, preparation, anticipation, genuineness, body language, etiquette, respectfulness, familiarity, and ease in using appropriate terminology and harnessing nervous energy.

**PARTIES:** The child, agency, birth parents and foster parents in whose home the child resides at the time of the hearing are parties to the proceeding. Each is entitled to be represented by an attorney. No two situations are the same and whether a foster parent should retain an attorney depends upon many factors: the facts in

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<sup>20</sup> Trenholm, Interpersonal Communication (2003)

<sup>21</sup> Swets, The Art of Talking So That People Will Listen (1986)

dispute, the nature and complexity of the issues, a foster parent's perception of his own ability to communicate what he wants to say, and whether his views are already being put forth by another party. If there will be an evidentiary hearing, with testimony by witnesses, it is highly advisable that a foster parent be represented by an attorney. As a party, a foster parent has procedural rights and can avail himself of a multitude of legal tools for obtaining information and refining his recommendations. He has standing to be heard (think of standing literally: he can enter the Courtroom and "stand" before The Judge); and is entitled to speak and to have his views considered. A Judge who refuses to let a foster parent speak commits reversible error. Foster parents are entitled to receive a copy of the agency's permanency report mailed to them 14 days in advance of the hearing and to copies of any other reports submitted to the Court. Foster parents also have access to full Court processes, including demands for production and inspection of agency records and records of service providers. They can make motions and applications. If represented by an attorney, foster parents are entitled to have their attorney make arguments on issues of law and fact to the Judge. If there is an evidentiary hearing, they may testify and may cross-examine other witnesses. If aggrieved by the Court's order, they may appeal to the Appellate Division.

**COLLOQUY:** A permanency hearing usually begins with review of the agency's Permanency Report and colloquy, statements back and forth by the parties and the attorneys. Foster parents may speak up during colloquy. They do not have to wait to be called on to speak. They should not interrupt someone else, however, and when beginning to speak, should demonstrate respect for the Judge, i.e. "*May I be heard, your Honor?*" or "*With the Court's permission, may I ...*"

Unlike ASFA, which requires an evidentiary hearing, New York law requires only that the Judge make findings "upon the proof adduced," and most permanency hearings conclude without the Judge hearing testimony by witnesses. The "proof" can consist entirely of the Permanency Report and statements of fact by parties during colloquy since both are made under oath. During colloquy, speak simply (express, don't try to impress); concisely (get to the point, don't tell a story; and clearly (choose words that make it obvious). **Words matter.** Some illuminate, some obscure, some persuade. What also matter are **facts**; not assumptions, speculations or impressions; and facts you know **personally**; although some Judges will stretch the rules and allow parties to state what someone not present told them (hearsay). Ask questions to learn, not judge.

**TERMINOLOGY:** Two specialized vocabularies are used in the Courtroom: (1) a psycho-social vocabulary that describes or explains the social and psychological dimensions of what brought the case to Court and why it is still there, the circumstances and behaviors of birth parents and others, and (2) a legal vocabulary that governs what the State can do about it. Caseworkers talk of bonding, "relapse, change readiness, poor prognosis," and so on; while lawyers talk of "aggravated circumstances, abandonment, diligent search, notice fathers," and more. Speaking the vocabulary of the players enhances presence. Since there currently are no comprehensive dictionaries or glossaries, it is incumbent that foster parents as Professional Parents learn the meanings of terms and phrases. When encountering them in day-by-day conversation, rather than assuming to know what they mean, it is much preferable to ask. The terms and phrases are what define issues and determine choices.

**ISSUES:** The scope of a permanency hearing is circumscribed. The Judge must make certain statutorily prescribed findings and must choose one or more statutorily prescribed courses of action. What can and cannot be addressed and what can and cannot be accomplished in turn influences and limits the information the parties must present. Distilled from The language of relevant statutes, judicial opinions and commentary, the essential inquiry is as follows:

1. Has the agency made reasonable efforts to achieve the child's permanency goal?
2. What are the child's medical, mental health and educational needs and are those needs being met adequately by the services he is receiving? If not, what different or additional services should be provided?

3. Has the birth parent utilized constructively and resolutely the services and resources made available to her and has she put into practice the lessons learned or tools acquired?
4. Has the birth parent demonstrated change in her ability to parent her child to the extent she is in a better position to do so now than she was at the time the child was removed from her care. If not, what has to be done for that to happen?
5. Has there been amelioration or elimination of the circumstances or conditions precipitating placement and a reduction of risk to the extent the child can be returned home presently? If so, why is the child still in foster care? If not, what demonstrates the child would be at risk if returned home and what has to be done to reduce risk to an acceptable level?
6. Do the things that have to be done require revisions in the family service plan or visitation schedule? If so, who should do what by when?
7. If the child is going to remain in foster care at the conclusion of the permanency hearing, until what date? Should there be continuation of the child's permanency goal until that date or should the goal be changed at this time? If so, to what?

Apart from The findings a Judge is required to make, the parties may apply or move for orders on matters of particular concern to them. A birth parent, for example, may move for an order directing the agency to move her child from a non-kinship foster home to the approved kinship foster home of her mother.<sup>22</sup> A foster parent may move for an order directing the agency to provide him with a copy of the child's medical record, i.e.

*"It has been 8 months since Jamal was placed in my home and I have requested many times, but have not yet received, his medical record. I move for an order directing the agency provide me a copy forthwith"* (Social Services Law 373-a).

As this example illustrates, foster parents should apply for an order only after they have attempted unsuccessfully to resolve the matter with the agency. The agency may move for an order of protection directing a birth parent refrain from certain conduct. A Judge on his own motion or the motion of any party may order public or private agencies render such services to The child or birth family as are within their legal authority to render (Family Court Act 255).

**TESTIFYING:** How a witness testifies during an evidentiary hearing is as important as what he says. To resolve disputed facts, a Judge must determine who and what to believe. He does so by assessing each witness' credibility and observing his demeanor. Flippancy, jocularly, evasiveness, vagueness, inconsistency, glibness, hyperbole and more affect credibility. Core "dos" and "don'ts" of testifying are as follows:

**BE PREPARED:** Nothing can more readily ruin a Judge's impression of a foster parent's credibility than his lack of knowledge about his foster child. **An aid in preparation is the attached Permanency Hearing Prompt.** It is not uncommon for foster parents waiting for their case to be called to spend time in the waiting room chatting or reading a newspaper. The time could be spent more productively reviewing The Prompt, and then reviewing it again. Feeling prepared enhances confidence.

**DO ANSWER QUESTIONS DIRECTLY:** Judges constantly evaluate testimony and give it weight proportional to its credibility. Foster parents should respond to questions with direct replies so as to avoid the appearance or implication of giving half-truths or less-than-complete answers. A direct response conveys an impression of truthfulness and trustworthiness. Take time when answering. Take a breath and think. Think explicitly about questions requiring thought. Be precise. Say "1 p.m." instead of "around noon" or "three times" instead of "numerous times." The direct answer to "*When did she call?*" is "*Noon,*" **not** "*I had started to eat my lunch and was almost finished when she called.*" Correct any mistakes or misstatements immediately.

<sup>22</sup> In Re Earl G., 235 N.Y.L.J. 19, p. 25, col. 1 [February 13, 2006]

**DO NOT VOLUNTEER INFORMATION:** The proper answer to a question is a direct answer and no more than that. Do not elaborate or provide information not called for. Do not answer a question you think should have been asked or what you think the attorney intended to ask. You frequently will have a strong desire to explain an answer. Avoid the temptation! If an answer necessarily leaves something unsaid that should be said, it is the responsibility of your attorney to bring it out on his redirect examination of you. Trust his competence.

**DO LISTEN ATTENTIVELY TO THE FORM OF THE QUESTION:** If you are asked to give a yes or no answer and believe the answer will be misleading, say so, or respond "*half yes and half no.*" Avoid "*more or less*" or "*yes but*" answers. The "yes" is the answer and an attorney properly may cut you off before you can add the qualification. Be alert to questions that call for conclusions such as "*Did she do that Frequently?*" Think about what "Frequently" means. If that is not the characterization you would use, answer using your own words, "*No, only sometimes.*" If asked, "*Isn't it true when you took Jamal for a visit with his mother on September 4 he said he was excited about going to see her?*" That is a double question. It has two parts. If one part is true and the other isn't, respond by saying "You have asked me two questions" and respond separately to each. Get the question in your mind before your mind gets the answer.

**DO NOT ANSWER QUESTIONS YOU DO NOT UNDERSTAND.** Attorneys commonly ask the same question in different forms at various stages of cross-examination. It is important your answers be consistent. If you missed part of a question or do not understand a question, say so and ask that it be repeated. If you still do not understand, advise the Judge. The Judge will usually clarify the question or ask that it be rephrased.

**DO NOT GUESS:** If you are not certain of an answer, say so. Never try to fill in by assumption or guess work. It is all right to admit not knowing an answer. If you do not remember something you once knew, say, "*I do not recall.*" That suggests there may be a way for you to "refresh your recollection" through a writing or other document. If so, you will be permitted to read it but must set it aside and testify from memory, not read the document. Do not hedge your answers with "*I believe*" or "*I think.*" However, if you are not certain of an answer, do not convey the impression you are. You convey certainty and reliability that you know what you know and know what you don't know, by answers containing detail. They reflect not only attunement to the events, but also clarity of recall in contrast to answers that contain generalities that give the impression your recall is vague or fuzzy.

**DO CONTROL EMOTIONS:** Avoid emotional displays whether at the counsel table or in the witness chair, such as laughing or grimacing in disagreement or shaking you head violently to contradict someone else's testimony. Such behavior is unconvincing and detracts from presence. Do not lose control of your temper. Attorneys sometimes bait witnesses hoping they lose control, leading at a minimum to diminished credibility and at most to damaging statements. Whatever your feelings (and however unpleasant the experience) do not become defensive, or sarcastic, or ridicule the attorney. You only do a disservice to yourself and those counting on your testimony. Be patient. Be relentlessly polite. Your personal annoyance at questions being asked is unimportant to everyone else. If the questions are inappropriate or improper, they will not be terminated by your impatience, only by objections from your attorney and rulings by the Judge. Never challenge the authority of the Judge. If you do, you may be held in contempt<sup>23</sup>

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<sup>23</sup> (Small, Preparing Witnesses [2004]).

# Permanency Hearing Prompt

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"  
By Michael A. Neff, J.D.

Child's Name  
Docket Number

Date of Birth  
Date Child Entered Your Home

Date of Permanency Hearing:

Judge:

Law Guardian:

Participants:

Issues: WHAT ISSUES DO I WANT THE COURT TO ADDRESS?

Purpose: WHAT IS THE DECISION I WANT THE JUDGE TO MAKE?

Factors to consider & affecting outcome:

1. Child's health and medical needs and how they are being met:
2. Child's emotional functioning and mental health needs and how they are being met:
3. Child's problematic behaviors and how they are being addressed:
4. Child's schooling, academic performance and need for educational interventions:
5. Child's intra-family relationships and daily life;
6. Child's social skills and peer relationships:
7. Child's leisure interests, activities, hobbies, talents:
8. Child's statements and behaviors before, during and after visits with birth parents, siblings and other relatives
9. Recommendations for different or additional services for child or changes in visitation or service plans (Recommendations should be specific, achievable, time-bound and measurable)
10. What is the child's permanency goal, service plan tasks, priorities, timetable and assignments and by what standards will change and reduction of risk be measured?
11. Am I willing to make a permanent commitment to child through adoption if he (she) cannot return to the care and custody of a parent or cannot be released to a suitable relative.

# Decertification of Foster Boarding Homes

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

By Michael A. Neff, J.D.

A Certificate to Board Child is time-limited and must be renewed after 12 months if a foster parent is to continue to provide foster family care. Before expiration, the agency that issued the Certificate may revoke it provided it gives the foster parent 20 days advance written notice, sets forth its reason or reasons and offers the foster parent a meeting with an agency official to discuss its decision (18 N.Y.C.R.R. 443.11). Revocation, or decertification, is a discretionary act not reviewable at a Fair Hearing before an OCFS Administrative Law Judge for abuse of discretion or otherwise. The only parameters, more by way of illustration than limitation, is a Certificate may be revoked if the foster parent or foster home falls out of compliance with any of the criteria for certification or if there is no need for a foster home with its particular characteristics (18 N.Y.C.R.R. 443.11). Revocation for other reasons must be "for cause" within the meaning of Social Services Law 379.

With no recourse through OCFS, a foster parent aggrieved by decertification must commence a proceeding in State Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules. The issues in an Article 78 proceeding are narrow. The Court determines not whether decertification was right or wrong but whether the revocation decision was effected by an error of law, whether it was made in violation of lawful procedure, was arbitrary or capricious or not supported by substantial evidence. Court action is prohibitively costly for most decertified foster parents. There are less than 6 reported decisions and no decisions in which Courts have construed "for cause" in the context of decertification.

If decertification is annulled through an Article 78 proceeding, a victory will not restore certification. Most Certificates will have expired by the time a decision is rendered or will expire shortly thereafter and the Court has no authority to order renewal. Moreover, a highly relevant consideration for renewal is an agency's assessment of its working relationship with a foster parent as to which agencies have broad virtually unfettered discretion to decide. What a victory does accomplish is that it eliminates the stigma of involuntary closure.

When decertifying a foster parent, an agency enters that fact into a state-wide data base of foster parents, selects one of 35 pre-programmed reasons for its decision and sets forth its recommendation as to whether or not the foster parent be recertified. An agency to which a recertification application is submitted has access to that information and while we want to believe it will make an independent, objective and enlightened assessment, in reality that rarely happens. The only empirical study I know is one I conducted in 2002. I obtained data from my 8 agency clients on the number of recertification applications they received during the fiscal year ending June 30, 2002, the number accepted for home-study and the number approved. The results were: 48; 0; 0. It is widely perceived that once a foster parent is decertified involuntarily, he is blacklisted.

It has been 26 years since New York County Supreme Court Justice Bentley Kassel observed in *Goldstein v. Lavine*, 100 Misc.2d 126 (Sup. Ct. N.Y.Co. 1980) that the "State must adopt clearer guidelines for review of decisions to decertify foster parents.. It never has. He also noted that, were the issue before him, he "might well conclude" that foster parents have a constitutionally protected property interest in their unexpired Certificate entitling them to due process safeguards in connection with decertification. That issue has not been resolved.



# Post Adoption Visitation with Birth Family Members

From "Taking Your Place at the Table: Enhancing Foster Parent Effectiveness"

By Michael A. Neff, J.D.

Although adoptive parents may at their discretion permit post-adoption contacts or communication by a birth parent with an adoptive child<sup>24</sup>, as frequently occurs in kinship adoptions, it was not until 1990 that agreements for post-adoption contacts were approved by the Legislature and recognized by the Court as consistent with adoption finalization, a practice known as "open adoption."<sup>25</sup> The mechanism chosen by the Legislature was to permit a birth parent who voluntarily relinquishes a child by executing a surrender to include terms for post-adoption contacts within the surrender.<sup>26</sup>

Case law construed the statute as affording a birth parent standing to file a post finalization petition in Family Court to enforce the terms of the surrender if an adoptive parent failed or refused to comply.<sup>27</sup> Although not a party to the surrender, adoptive parents were bound thereby under the theory they acquired no greater rights than those the agency was empowered to give.<sup>28</sup> To remove residual doubts about enforceability and insure adoptive parents are aware of post-adoption contact or communication terms, L 2005, Ch. 3, known as the Permanency Bill, requires at the time of surrender a separate agreement between birth parent, agency, pre-adoptive foster parent and child's law Guardian which the Court must approve as in the best interests of the child. The agreement and approval order must be submitted in the adoption proceeding for incorporation into the Order of Adoption by reference or otherwise.

The agreement may include terms for post-adoption contacts by siblings and half-siblings and those over 14 must also sign the agreement. A post-adoption failure by an adoptive parent to comply with terms of the agreement does not affect the validity of the adoption. The parent, however, has standing in Court to petition for enforcement of the agreement. The sole issue is the child's best interests, not as they were when the agreement was signed or when the order of adoption was entered, but as they are at the time of the hearing. The Court, moreover, is not bound by and may modify the terms of the agreement.

Even if not preserved in the agreement, post-adoption sibling visits may be Court-ordered upon application by one or more siblings who, as a matter of law have standing to petition the Court for post-adoption visits (DRL 71). Visitation is not automatic. A sibling must first demonstrate circumstances exist in which equity would see fit to intervene and, if the Court agrees, visitation may be ordered if in the child's best interests. In Hatch on Behalf of Angela, 1993<sup>29</sup>, visitation was denied where the child for whom visitation was sought was born after her siblings had been placed in foster care, was only 19 months old when contact with them ceased and there was no meaningful emotional bond between them and her. While Hatch does not establish an ironclad rule precluding visitation unless a meaningful relationship existed before adoption, it also does not mandate that visitation must always be granted where such relationship existed. Each case must be judged on the totality of its own circumstances.

Grandparents also may petition for post-adoption visits.<sup>30</sup> As in the case of sibling visitation, a grandparent must first demonstrate circumstances exist that would justify Court intervention and, to prevail, that visitation is

<sup>24</sup> Matter of Gregory B., 74 N.Y. 2d 66 [1989]

<sup>25</sup> Melina, The Open Adoption Experience: A Complete Guide for Adoptive and Birth Families from Making the Decision Through the Child's Growing Years [1993]

<sup>26</sup> S.S.L. 383-c; see Matter of Lovell Raeshawn MeC, 308 AD.3rd 589 [2nd Dept. 2003]: when terminating parental rights Court has no authority to order continuing or post-adoption visits between birth parent and child

<sup>27</sup> Adoption of Ricky Luis F., 184 Misc.2d MI [Sur. Ct. Bronx Co. 2000]; Matter of Alexandra C., 151 Mis.2d 262 . [Fam. Ct. Queens Co. 1993]; Matter of Patricia "YY" v. Albany Co. D.S.S., 238 AD.2d 672 [3rd Dept. 1997]; Matter of Sabrina H., 245AD. 2d 1134 [4th Dept. 1997]

<sup>28</sup> Ronald D. Sr., v. Doe. 176 Misc.2d 567 [Fam. Ct. Jefferson Co. 1998])

<sup>29</sup> Hatch on Behalf of Angela J. V. Courtland Co. D.S.S., 199 AD.2d 765 [3d Dept. 1993]

<sup>30</sup> (D.R.L. 72); David M. V. Usa M., 207 AD.2d 623 [3rd Dept. 1994]: standing afforded grandparent not available to great-grandparent)

in the child's best interests<sup>31</sup>. Where there was no meaningful pre-finalization relationship from which the child derived any benefit visitation has been denied.<sup>32</sup> In the Matter of Kaywonne the grandmother's petition to compel visitation in New York with grandchildren placed in adoptive home in South Carolina denied where grandmother had not had a close relationship with them for nearly five years. Since the decision of United States Supreme Court in Troxel v. Granville,<sup>33</sup> Courts adjudicating visitation disputes between parents and non-parents must presume fit parents act in the best interests of their children and must apply D.R.L. 71 and D.R.L. 72 in a manner that accords "special-weight" to their decision. See:

Rachel S. v. Annette R., 1 Misc, 3rd 760 [Fam. Ct Kings Co. 2003]; Hertz v. Hertz, 291 AD.2d 91 [2nd Dept. 2001]; Matter of Amanda S. v. Eleanor H., 234 N.Y.L.J. 25, p.19, col.3 [August 5,2005]: visitation with sister/grand-daughter by brother and grandmother denied where they had not had any contact with her for more than 8 years, her recollection of them was vague and, because grandmother never accepted adoptive mother and remained angry child had been adopted, would likely cause an "emotional tug of war;" John P. v. Laura R., 234 N.Y.L.J. 111, p.20, col. 3 [December9, 2005]: visitation by paternal grandparents ordered over objection by adoptive mother as to frequency and duration and notwithstanding children's ambivalence and anxiety attributed by Court to her over-identification with trauma they suffered when their father, petitioner's son, killed their sibling, the Court noting it must make an "enlightened, objective and independent " evaluation of the circumstances and that the benefits devolving from grandparent-grandchild visits and relationships often are a precious part of a child's experience not obtainable from any other relationship.

Morgan v. Grzesik, 287 AD.2d 150 [4th Dept. 2001]: visitation between grandmother and grandchildren ordered over objection of parents since contentiousness between parents and grandmother were rooted in issues personal to them unrelated to welfare of children. Court addressing parent's concern over what grandmother would say about them to children by ordering grandmother and parents not make disparaging remarks about each other in the presence of the children).

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<sup>31</sup> Emanuel S. V. Joseph E.,78 N.Y. 178 [1991])

<sup>32</sup> People ex rel Wilder v. Spence-Chapin in 93 Misc2d 617 [Sup. Ct. N.Y.Co. 1978]; Barko v. Department of Social Services of Suffolk County, 180 N.Y.L.J. 3 p.14, col. 4 [July 6, 1978]

<sup>33</sup> Troxel v. Granville,<sup>33</sup> (530 U.S. 57 (2000)

# MANIFESTO

*Responding to the flux surrounding the role and functions of foster parents, the membership of the NYS Foster and Adoptive Parent Association proclaimed at its 2001 Annual Meeting:*

***“Where we as foster parents stand,  
What we can be counted on to do,  
What we need to do better.”***

**We call upon all foster parents** to look beyond care-giving and reflect whether we are willing and able, individually, to make or reaffirm a commitment as bridge builder and healer; knowing that what the system now expects and demands of us are attitudes and aptitudes different than those that long have guided foster parenting, and which for some of us may be difficult to achieve.

**We encourage all foster parents** to participate in pre-certification MAPP training and in the Shared Parenting and Compass curricula developed by the Center for Development of Human Services. We ask county Departments of Social Services and private agencies to provide meaningful in-service training programs for foster parents on the elements of the healing process; and the effects on child development of disrupted attachment, repetitive stress and acute distress. We call upon counties and agencies to involve foster parents in planning and evaluating trainings and that they plan workshops for foster parents and caseworkers jointly.

**We call upon all foster parents** to embrace the concept of Processional Parenting and participate on-goingly, as do lawyers and other professionals, in their continuing education and development.

**We call upon the counties and agencies** to structure regular case-conferencing between foster parents, birth parents, and staff for sharing information about home life and for collaborative decision-making.

**We call upon the counties and agencies** to address the negative effects upon foster parents of vicarious traumatization by strengthening respite services, promoting peer support in general and such groupings among other combinations as grandparents fostering grandchildren, fostering attachment disordered children, and fostering adolescents.

**We call upon the counties and agencies** to conduct comprehensive pediatric assessments of children entering foster care within 30 days after removal from home and provide foster parents with each child's complete medical record and updates, and all mental health evaluations and treatment summaries and material health histories of birth parents.

**We call upon the counties, agencies and all foster parents** to be open and receptive to the many alternative, and in some instances radically new, treatment modalities and therapies proven effective in healing developmental traumatology and attachment disorders.

**We call upon all foster parents** to be vigilant, persistent, and assertive in securing services for foster children in their care; approaching and utilizing case conferences, service plan reviews and permanency hearings as opportunities to advocate and be heard so as to highlight needs and identify gaps in service; by insuring we keep all diagnostic and treatment appointments; and by consulting regularly and accepting coaching from clinicians and other health providers.

**We call upon counties and agencies** to cultivate an organizational culture that recognizes, appreciates, and treats foster parents as partners and full members of each child's treatment team; that solicits and considers the opinions of foster parents; and that includes them in decision-making regarding each child's future.

*Dated October, 21, 2002, Callicoon, New York, NYS Foster and Adoptive Parent Association*