

Foster Parent Rights: A Review
NYSCCC 26th Annual Conference
Uniting Families • May 9, 2015

**HOW CAN A NEW YORK STATE FOSTER PARENT EFFECTIVELY ADVOCATE
FOR A CHILD IN A PERMANENCY HEARING?**

By Margaret A. Burt, Esq. Copyright 4/10

Make sure the caseworker is aware that you expect to be get the papers and that you intend to attend the hearing. You should get the papers in the mail about a week or so before the hearing. The first hearing must be no later than 8 months after placement and there must be a hearing every 6 months after that. Some Judges have them more frequently. At each hearing, the Judge will set the date for the next hearing. Bring your calendar with you to court and speak up right away if the Judge sets a date that is bad for you.

If the caseworker thinks that it would not be a good idea for you to attend or tells you not to attend, ask why. Talk about what the worker says the reasons for this are - talk to the supervisor if you disagree with the worker's opinion. You do have a right to be present and the court is to be informed that you have been advised that you can come. There can sometimes be reasons why you choose not to go. If you choose not to go, tell the caseworker that you would like the worker to tell the court that you are an interested and concerned foster parent.

A foster parent has a legal right to have an attorney at a permanency hearing. Although it is quite unusual for a foster parent to do so, you can hire an attorney if you wish and if you think that it may help you. It would be helpful to discuss with any attorney what you are concerned about and if the attorney thinks they can be of any help to you. You are entitled to have an attorney appointed to assist free of charge to you BUT only if you can demonstrate that you are "indigent".

Make sure you read what is in the papers ahead of time. Read it with a pen and paper next to you and make notes of anything that you disagree with or anything that seems incorrect to you. If there are things in the papers that are a surprise to you or do not seem to be what you expected, call the worker in advance and speak to the worker about your concerns

The child's law guardian, now called the child's attorney, will be listed in the paperwork if you do not already know who it is. You should talk to the caseworker about the child having contact with his or her attorney before the hearing. How will this contact occur? What is the expectation regarding the child attending court? The child's lawyer is not obligated to speak with you as you are not the client, however, find out if the child's lawyer would like to speak with you.

If you have decided to come to court, consider in advance if there are things you want to say. Write things out if you want to be sure to remember what you wanted to say at court. Things that you might think about: Do you agree with what the agency says is the right plan for the child? Are all the appropriate services being provided to the child? Are there any problems with the visitation? It is really helpful to discuss any of these things in advance with the worker

and the supervisor if necessary. Although you have a right to talk for yourself in the courtroom, the worker may make some suggestions about how to be effective. If you find that you disagree with the worker about what you could or should say in court, speak to the supervisor. Remember that generally a Judge is not allowed to read mail from you or to talk to you in private or by phone so coming to court and speaking there is usually the only way for the Judge to hear your position or answer your questions or concerns. The Judge has a lot of power to change what is happening in a case, to order the agency to provide a child with services or to change visitation.

Sit where you can hear. Ask the worker if you can sit upfront with them or ask to sit in the first row. If you can not hear, raise your hand and say loudly “Judge, I am the child’s foster parent and I can not hear what is being said.”

Make your presence known in court. Some Judges will speak directly to you and ask how things are going and how you feel about the plans being discussed. Others may not ask you or acknowledge you. It is always important to stand up when you speak to the Judge. If it seems like the hearing is about to end or is ending and the Judge has not spoken to you and you want to say something, stand right up and raise your hand and say loudly, “Judge, I am this child’s foster parent, can I add some things here?” Even if you really did not have much that you wanted to say, it can be a good idea for you to make sure that the Judge saw that you were there. In that case you could stand up and raise your hand and say loudly, “Judge, I am this child’s foster parent and I just wanted to make sure everyone knew I was here, is there anything anyone would like to ask me?”

Sometimes, you may be able to ask someone to help you let the Judge know that you would like to talk. You could ask the agency attorney or the child’s attorney if they would tell the Judge that you had something that you would like to say.

Take paper with you to court and take notes. Ask the caseworker afterwards about what happened - make sure you understand what happened - particularly if things did not go the way it was expected.