



**QIC
ChildRep**
Tennessee Rule 40 Guardian ad Litem Representation
Training

Adapted with Permission from the
National Quality Improvement Center on the Representation of Children in the
Child Welfare System
QIC Best Practice Model
LAWYER TRAINING



Tennessee Court Improvement
Program
Rule 40 Guardian ad Litem
Representation Training

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Welfare System



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Rule 40: Guidelines For Guardians Ad Litem For Children In Juvenile Court Neglect, Abuse And Dependency Proceedings

"Guardian ad litem" is a lawyer appointed by the court to advocate for the best interests of a child and to ensure that the child's concerns and preferences are effectively advocated.

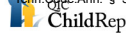
"Child's best interests" refers to a determination of the most appropriate course of action based on objective consideration of the child's specific needs and preferences.

In determining the best interest of the child the guardian ad litem should consider, in consultation with experts when appropriate, the following factors:



Best Interest Considerations

- (i) the child's basic physical needs, such as safety, shelter, food, clothing, and medical care;
- (ii) the child's emotional needs, such as nurturance, trust, affection, security, achievement, and encouragement;
- (iii) the child's need for family affiliation;
- (iv) the child's social needs;
- (v) the child's educational needs;
- (vi) the child's vulnerability and dependence upon others;
- (vii) the physical, psychological, emotional, mental, and developmental effects of maltreatment upon the child;
- (viii) degree of risk;
- (ix) the child's need for stability of placement;
- (x) the child's age and developmental level, including his or her sense of time;
- (xi) the general preference of a child to live with known people, to continue normal activities, and to avoid moving;
- (xii) whether relatives, friends, neighbors, or other people known to the child are appropriate and available as placement resources;
- (xiii) the love, affection and emotional ties existing between the child and the potential or proposed or competing caregivers;
- (xiv) the importance of continuity in the child's life;
- (xv) the home, school and community record of the child;
- (xvi) the preferences of the child;
- (xvii) the willingness and ability of the proposed or potential caretakers to facilitate and encourage close and continuing relationships between the child and other persons in the child's life with whom the child has or desires to have a positive relationship, including siblings; and
- (xviii) in the case of visitation or custody disputes between parents, the list of factors set forth in Tenn. Code Ann. § 36-6-106.



General Guidelines:

- (1) The child is the client of the guardian ad litem.
- (2) Establishing and maintaining a relationship with the child is fundamental to representation. . . For all but the very young or severely mentally disabled child, for whom direct consultation and explanation would not be effective, the guardian ad litem shall provide information and advice directly to the child *in a developmentally appropriate manner*.
- (3) The obligation of the guardian ad litem to the child is a continuing one and does not cease until the guardian ad litem is formally relieved by court order.

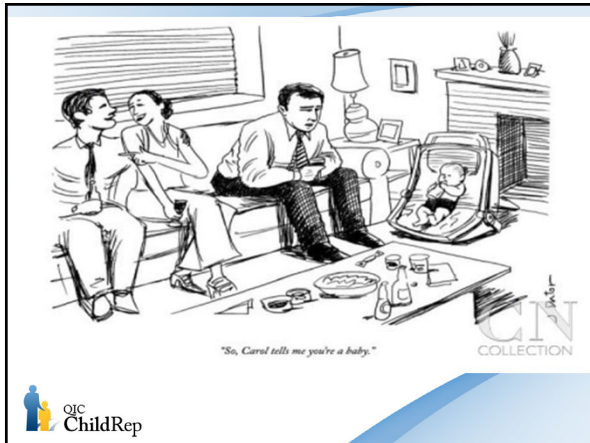


Duties & Responsibilities

- (2) Explaining to the child, in a developmentally appropriate manner:
 - (i) the subject matter of litigation;
 - (ii) the child's rights;
 - (iii) the court process;
 - (iv) the guardian ad litem's role and responsibilities;
 - (v) what to expect before, during and after each hearing or review;
 - (vi) the substance and significance of any orders entered by the court and actions taken by a review board or at a staffing.


- (3) Consulting with the child prior to court hearings and when apprised of emergencies or significant events affecting the child.





Trauma, Grief and Loss







**QIC
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**Enter the Child's World: Engaging,
Interviewing, and Counseling Child
Clients**

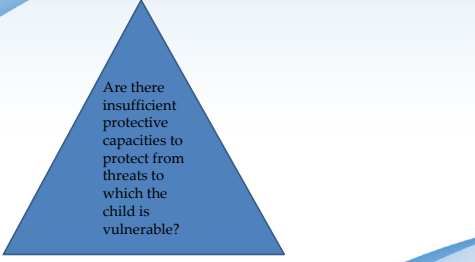
2. Assess Child Safety



- Listen to learn:
 - threats of danger
 - child vulnerability
 - protective capacities
- Participate in all placement decisions.
- **Remove the danger, not the child.**
- Distinguish between safety plan and case plan
- Don't equate compliance with progress.




Threats




Are there insufficient protective capacities to protect from threats to which the child is vulnerable?


Vulnerability Protective Capacities



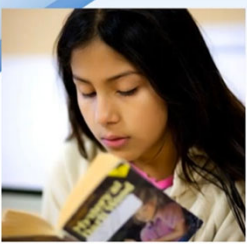
3. Assess/evaluate the case



- First identify the problem.
- Facilitate an appropriate evaluation of the needs of the child and his family.
- Learn how to evaluate the evaluation.



4. Advance an Appropriate Case Plan




Is it S.M.A.R.T.



- Specific
- Measureable
- Achievable
- Relevant
- Time Specific

Focus - Changes in behavior (not just compliance)

- Is it realistic?
- Does Case plan differ from safety plan?





Advance an Appropriate Case Plan





5. Theory of the Case

Develop a theory of the case that --

- ✓explains “what really happened”
- ✓is consistent with the evidence
- ✓is forward looking and addresses what you think should happen next.
- ✓is active (drive the bus)




Develop a Theory of the Case – (Drive the bus).



6. QIC Skills: Advocacy corollaries

- Identify child’s needs.
- Identify the goal.
- Emphasize problem-solving.
- Use non-adversarial approaches if possible.
- Use traditional litigation as necessary.



Rule 40 Exercise

Table Talk, Complete Table Talk Exercise #1 in your folder

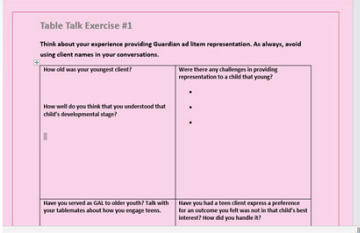




Table Talk Exercise #1

Think about your experience providing Guardians ad litem representation. As always, avoid using client names in your conversations.

How old was your youngest client?	Were there any challenges to providing representation to a child that young?
How well do you think that you understood that child's developmental stage?	
Have you served as GAL to older youth? Talk with your colleagues about how you engage them.	Have you had a teen client express a preference for an advocate you felt was well in that child's best interest? How did you handle it?






ADVERSITY, GRIEF AND LOSS


Some Signs And Symptoms Of Trauma In Children

- worry about dying at an early age
- losing interest in activities
- physical symptoms such as headaches and stomachaches
- showing more sudden and extreme emotional reactions
- having problems falling or staying asleep
- showing irritability or angry outbursts
- having problems concentrating
- acting younger than their age (for example, clingy or whiny behavior, thumb sucking)
- showing increased alertness to the environment
- repeating behavior that reminds them of the trauma




Additionally, Children May:

- Act out the experience by bullying or humiliating other children
- Become vulnerable to re-victimization, especially of concern with teenagers who may put themselves in unsafe sexual situations
- Have difficulty trusting and forming relationships
- Feel pessimistic about the future and have trouble forming a positive view of their future, including education and career

Source: American Academy of Child and Adolescent Psychiatry


Early Trauma and the Developing Brain:

- A time of rapid development and transformation
 - Greatest growth in the first three years—but growth continues
 - Next major period of growth occurs in adolescence
- Experience dependent—>what happens impacts both the growth of cells and the connections made
- Stress hormones (“cortisol”) can negatively impact neuronal growth and connection



Impacts on academic performance and social functioning

The most recognisable impacts of abuse and neglect on education fit into two intertwining categories, outlined in the table below.

Impacts on academic performance	Impacts on social relationships
<p>Reduced cognitive capacity</p> <p>Sleep disturbance (causing poor concentration)</p> <p>Difficulties with memory (making learning harder)</p> <p>Language delays (reducing capacity for listening, understanding and expressing)</p>	<p>Need for control (causing conflict with teachers and other students)</p> <p>Attachment difficulties (making attachment to school problematic)</p> <p>Poor peer relationships (making school an unpleasant experience)</p> <p>Unstable living situation (reducing learning, and capacity to engage with a new school)</p>

Calmer Classrooms 11

Discussion Questions

- With all respect to confidentiality, talk with your table about a child that you represented that you think manifested the behavioral effects of traumatic childhood. What did that look like?
- Did the team you worked with understand that's what you were seeing?
- Discuss at your table, then share experiences with the group.



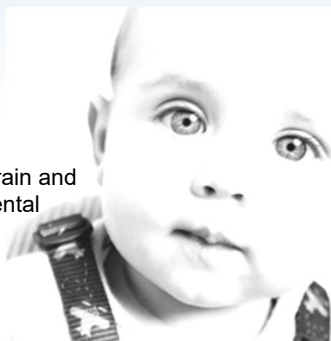
Grief and Loss:

- Signs and symptoms may parallel many of those associated with trauma
- Losses are common experience for children in the system
- Even very young children experience grief and loss
- Children may grieve relationships lost even if those relationships were not safe, or were harmful
- Adults may minimize or overlook child grief, especially for infants and young children




The good news:

Prevention and/or intervention can ameliorate risks and lead to better brain and behavior developmental outcomes




Protective Role of Caregiver

- Cortisol inhibits brain growth (neurotoxic), and thus needs to be kept low
- Infant's stress response is buffered by a responsive and sensitive caregiver
- Interventions with foster parents can positively impact cortisol patterns (Dozier et al, 2006; Fisher et al, 2007)




Parenting a Traumatized Child

- Is likely to pose new challenges even for experienced parents
- Child “miscues” based on earlier experience
 - Offer nurturance
 - Follow child's *s need* (not just their lead)
- Heightened need for active parenting
 - “Time in” versus “Time out”
 - Verbal and physical engagement– pick up the baby, talk to the baby




Consequences of Trauma/Loss in Infancy/Early Childhood

- Impact on emotions, sense of self, trust in others
- Insecure/disorganized/disordered attachments
- Grief, fear, anxiety, withdrawal, hypervigilance
- Failure to seek comfort or to be comforted
- Behavioral dysregulation: problems with feeding, crying, sleeping, inattentive, impulsive
- Inhibited exploration and play may carry negative consequences for learning
- Commonly “miscue” others about their needs and act like they are okay [or push others away]-- when they really need more support, predictability, soothing, and comfort




Implications for the Attorney

- Importance of seeing the child, getting to know his or her environment firsthand, taking time to get to know the child, establishing trust, creating a sense of safety.
- Importance of supporting/securing a trusting, safe, predictable relational environment.
- Support for caregivers (parents or foster parents) as they try to provide this secure, safe, and reliable environment—it's not always easy to “read through” the child's miscues.
- Making sure others understand the possible miscues
 - For example, reinterpreting assumptions that this is a ‘bad child,’ but instead, a ‘scared’ or ‘vulnerable’ child who needs support




Consequences of Trauma/Loss for School-Age Children

- Trauma worldview: “I’m not safe,” or “I’m helpless”
- Feelings of low self-worth, sadness, anger
- Immature perspective taking and hostile attributions
- Bias towards attending to and perceiving aversive stimuli (assuming an expression is “scary” or “angry” instead of “neutral”)
- Engage with distrust or aggressive behaviors.
- Expecting negative interactions may lead to “giving up” or “acting badly”
- Impacts on working memory and executive function lead to inattention, impulsivity, difficulty with



Implications for the Attorney

- Predictability & reliability are critical.
- Heightened impulsivity, inattention, distraction may require special attention towards clarity, simplicity in explanations, and extra support in thinking through decisions.
- Understand common “miscues”— children with trauma histories may “turn away” when they actually need others to ‘step in’ and provide more support
- Advocate for services to provide support – at school, with behavior.



Consequences of Trauma/Loss in Adolescence

- Many of the same implications described for school-age children
- “I’m not safe” “I’m helpless” worldview
- Feeling “different” “isolated” “alone” “hopeless”
- Higher rates of depression/anxiety
- Difficulties with executive function, impulsivity, inattention, planning, considering consequences can have greater consequences—risk taking behavior
- Trauma can affect school performance, relationships



Implications for the Attorney

- Feeling ‘helpless’ or ‘hopeless’ —most common among trauma survivors with depression—can complicate the task of eliciting the child’s participation in planning or making choices.
- Beware the trap of assuming an adolescent is simply a “younger adult” —keep language straightforward.
- Prefrontal cortex is still developing— can be hard for child to plan, delay gratification, or regulate impulses.
- Heightened impulsivity, inattention, distraction may require extra support in thinking through decisions to be made.




The Role of Treatment: Considerations for Attorneys

- If a child shows signs of trauma, be sure the child has been evaluated and is receiving appropriate trauma-informed treatment.
- Infants/young children can benefit from “therapy,” too.
 - Infant mental health services can support and enhance the relationship between caregiver (parent) and child.
- Don’t force the child to talk about painful experiences.
- Coordinate interview strategies with the child’s counselor.
- Be patient with a child who is being mean to other children. This is often caused by his own maltreatment and needs to be addressed therapeutically .




The Role of Treatment


- With youth, especially those who may age out of care, take extra time to help them plan for their futures. As they progress in therapy their ability to make decisions will improve, so stay in contact and revisit issues until a clear, positive plan for the future is achieved
- Keep promises, show you are trustworthy and return phone calls. Building trust will be especially challenging with children who have been traumatized



BREAK

- 15 Minutes





QIC ChildRep
Engaging, Interviewing, and Counseling
Child Clients

How To Find Out Who Your Client Is And What He Or She Needs.

“Just as every lawyer must start “where the client is” in the representation, the lawyer must strive for as specific an understanding as possible of *how the child sees her situation* in the representation. Otherwise, the lawyer’s attempts to counsel the client, negotiate with the client, negotiate for the client, translate the client’s wishes into legal terms for the court, or otherwise carefully involve the child in the legal proceedings around her, are *doomed*.”

Professor Jean Koh Peters



Outline – Child Engagement

- 1.Understanding the child’s general developmental level.
- 2.Using good general communication skills
- 3.Interviewing the Child
- 4.Building Rapport
- 5.Counseling the Child and involving the Child in Goal Setting




Understanding The Child’s General Developmental Level

- Children may not fit “neatly” into a pattern of development- need to know the *unique individual*
- Most children regress when exposed to trauma or stressful situations
- Nonetheless– helpful to understand basics of child development to understand how child will process information and communicate
- 4 core domains: Social, Emotional, Physical, Cognitive



Infants And Young Children: “Entering The Child’s World”

- “Communication” between attorney and young child client may not turn on verbal communication
- Important to be familiar with child’s personality (temperament), circumstances, and context
- Young children often don’t “tell” but rather “show” their feelings and experiences
- Observation and caregiver report are critical



Key Features of Infant/Toddler Social-Emotional Development


Birth- 1 year	Learns fundamental trust in self, caretakers and environment; Emergence of a primary attachment relationship
1- to 3 years	Mastery of body and rudimentary mastery of the environment (can get others to provide care)
12-18 months	Emerging sense of self- learning to say “no” and the “terrible twos” may begin; Willful, stubborn, tantrums all part of emerging autonomy
18-36 months	Feel pride when they are “good” and embarrassment when they are “bad”
18-36 months	May be emotionally attached to toys or objects for security

Some Strategies for Work with Infants & Toddlers

Visiting and observing is important.


While there is more reliance on caregiver report, the attorney will want to make note of:

1. The child’s physical appearance
2. His physical setting
3. How the caretaker interacts with the child
4. How the child responds to the caregiver.



For Example:

1. **Physical appearance:** growth, health, hygiene
2. **Physical setting:** safe places to explore/play, hazards, availability of food and necessary supplies (diapers, winter jackets)
3. How the **caretaker interacts** with the child: comforts child, holds child, talks to child, responds positively to interest in or praise regarding the child
4. How the **child responds** to the caregiver: expresses pleasure, seeks comfort, expresses fear, avoids caregiver




Key Features of Preschooler Development

- Egocentric, illogical, magic thinking
- Explosion of vocabulary
- Poor understanding of time, value, sequence of events
- Vivid imagination; some difficulty separating fantasy from reality
- Accurate memory, but more suggestible than older children
- Primitive drawing, can't represent self in drawing until about 4 years old
- Often fail to recognize that others have a different perspective
- Leave out important facts
- May misinterpret visual cues of emotions
- Receptive language better than expressive is typical at least til age 4

Some strategies to use with preschoolers

- Keep sentences short (6 to 8 words)
- Shorter attention span: Be willing to keep conversations brief and more frequent
- Engage the child in a toy or activity he likes
- Have the child draw to explain something. This is done not so much for the end product but the process will help the child tell his story.
- Keep aware of facial expressions, to which children are sensitive
- Give child undivided attention-children respond to attentiveness

Source: The Institute for Human Services for The Ohio Child Welfare Training Program




Key Features of School-Age (5-7) Development

- The child may not understand cause and effect
- The child may not understand link between past and future events
- Memory is limited
- Typically won't grasp hypotheticals
- May not be able to concentrate on more than one concept at a time
- When presented with "facts" they assume them to be true
- Attention is limited
- Children will often blame themselves for family problems


Some Strategies to Use with 5-7 year olds:

- Use concrete language
- Instead of asking for a conclusion, ask what would make the child feel better about a situation.
- Pictures and diagrams can help explain a situation, but stay concrete.
e.g., diagramming multiple hypotheticals can be confusing




Strategies for 5-7 year olds, cont'd:

- Stick to one topic at a time. If the child says something is important to him, focus on that issue
- If there are many complicated issues, break the time into smaller visits.
- Don't make "maybe promises."
– If you say "If I have time, I'll stop by tomorrow," the child hears that as a promise.
- Help the child piece together information. They can't always see how information relates.




Key Features of Middle Childhood (7-12) Development

- Importance of the peer group, friendships
- Desire to “fit in” and share similarities, experiences with peers
- Hobbies, special interests
- Competence in activities, skills a big focus
- May ask more sophisticated questions
- Increasing cognitive skills, but still some difficulty with abstract concepts and hypotheticals



Some strategies to use in middle childhood (7-12):


- Establishing rapport can take time. Show interest in peers, activities of interest (sports, hobbies, school)
- Continue to use concrete language, and focus on one topic at a time
- Keep things simple, but be prepared for more sophisticated questions
- Continued importance of trust and reliability—don't make 'maybe promises'



ADOLESCENTS : CHILDREN 13-18


“Maturation of the brain, including the regulation of impulses, thinking ahead, planning and weighing risk and reward lead to improvements in self-regulation and can permit the individual to put the brakes on the sensation-seeking behavior... But they occur very gradually and are not complete until the mid-twenties.... It's important for parents to realize that teenagers may not be as good as adults in thinking ahead, envisioning the future consequences of their actions, resisting pressure from others and forgoing immediate rewards to get a bigger payoff.”

Source: Laurence Steinberg, Ph.D., Professor of Psychology at Temple University, author of [“The 10 Basic Principles of Good Parenting”](#)




Key Features of Adolescent Development

- Increasing cognitive skill– ability to engage in abstract thought
- Exploration and experimentation
- Challenging authority
- Keen awareness of self in relation to others
- Thinking their experiences are unique and no one can understand them (the “personal fable” and re-emergence of egocentrism)




Strategies for interacting with teens:

- Listen. Teens often feel misunderstood, so be sure to give your full attention and let him/her know you are listening
- Acknowledge feelings
- Avoid judgment
- Don't impose your opinion. Show the teen how you arrived at your opinion.
- Allow teens to arrive at their conclusions.
- Be honest. On a conceptual level, they can understand everything you tell them, so there is no need to sugarcoat things. They may be suspicious of adults.




A Child's Decision

<p>Blue Wagon</p> <ul style="list-style-type: none"> • Pros: <ul style="list-style-type: none"> – Carry stuff & friends around – Easier to deliver paper route • Cons: <ul style="list-style-type: none"> – All my friends have bikes – May have to haul siblings around 	<p>Pink Bike</p> <ul style="list-style-type: none"> • Pros: <ul style="list-style-type: none"> – Can travel neighborhood – Cool kids have bikes • Cons: <ul style="list-style-type: none"> – Hate the color pink – Will have to run errands for Mom
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Adolescent Decision

Foster Home A <ul style="list-style-type: none">• Pros:<ul style="list-style-type: none">- In familiar neighborhood- Can attend same school- Small room to self• Cons:<ul style="list-style-type: none">- Walk to school in very economically stressed neighborhood- No video games	Foster Home B <ul style="list-style-type: none">• Pros:<ul style="list-style-type: none">- More recreational opportunities (e.g., Boys & Girls Club)- Near home where sibling(s) will be- Access to up-to-date electronics• Cons:<ul style="list-style-type: none">- Ride bus to school- Share room with others of different ages
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Rephrasing Exercise




Use language that is:

- Simple
- Short
- Clear
- Concrete
- Check for understanding
- See from the child's perspective

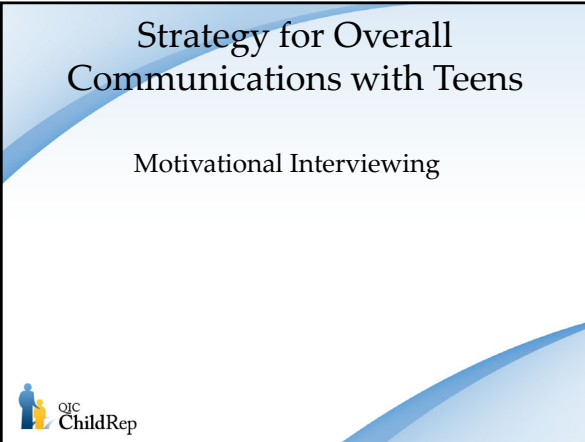



Communication with children and youth is a skill that can be improved



Strategy for Overall Communications with Teens

Motivational Interviewing



MI and You


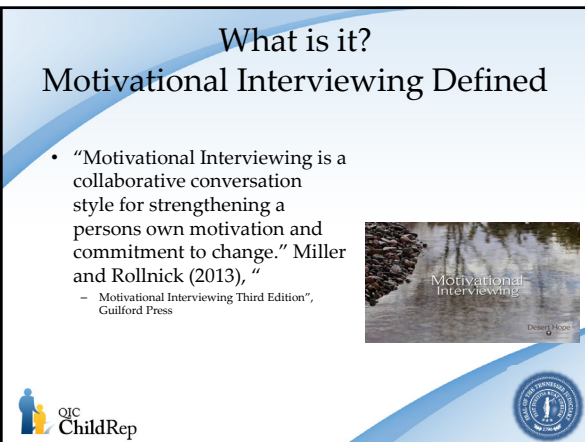


- What is your experience with motivational interviewing?



What is it?



Motivational Interviewing Defined

- “Motivational Interviewing is a collaborative conversation style for strengthening a persons own motivation and commitment to change.” Miller and Rollnick (2013), “
– Motivational Interviewing Third Edition”, Guilford Press






Motivational Interviewing with Teens

- Motivational interviewing has been studied extensively and shows promise as an effective intervention with adolescents in a variety of settings. Its use with young people aging out of care has been studied.
- It has been shown to be effective in getting young people to think about what they want for themselves and motivate change or focus on healthy choices.






Motivational Interviewing Main Principles:

- Spirit: Partnership, Compassion and Empathy
- Giving Information
- OARS
 - Open ended questions
 - Affirmations: comment on strengths, effort, intention
 - Reflective listening
 - Summaries: pulling together the person's perspectives on change





MI Foundation: Trust and Empathy

- MI is based on building relationships
- Dialogue does not have to take a lot of time
- Short, but intentional





Consider asking Permission

- Gauge what they're receptive to hearing.
- What if you ask permission and they deny you? Follow up!
 - i.e.: I'd like to talk to you about EFC, is that alright?
 - No.
 - Ok, then. You might have gotten all the information you need already. Maybe you have information that can help me: What sorts of benefits come with EFC?







OARS: Open Ended Questions

- Open questions invite others to "tell their story" in their own words without leading them in a specific direction. Open questions should be used often in conversation but not exclusively. Of course, when asking open questions, you must be willing to listen to the person's response.
- Key to using open ended questions is being deliberate and focused on topics that are relevant to youth's circumstances.

Open ended vs. Closed Questions




<p><u>Open</u></p> <p>What do you think about....</p> <p>To what extent...</p> <p>How often...</p> <p>Tell me about...</p> <p>Help me understand...</p> <p>Explain...</p> <p>Describe...</p>		<p><u>Closed</u></p> <p>Did you...?</p> <p>Will you...?</p> <p>Can you...?</p> <p>Is it...?</p> <p>Are...?</p> <p>Is...?</p> <p>Have...?</p>
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Questions for Practice

- How was your morning?




PRACTICE



Practice with questions




- Tell me about your morning.

GOOD MORNING...!





Change the Closed Ended Questions to Open Ended Questions

- Do you know about Extension of Foster Care?
- Do you have a good relationship with your foster parents?
- Wouldn't it be easier if you just followed the rules?




Affirmations:



- Affirmations are statements and gestures that recognize client strengths and acknowledge behaviors that lead in the direction of positive change, no matter how big or small. Affirmations build confidence in one's ability to change. To be effective, affirmations must be genuine and congruent.
- Pointing out teens' strengths. Keep the focus positive.



Affirmations Examples:





- You are a very resourceful person.
- You handled yourself really well in that situation.
- You were mature enough to make that decision
- You feel in control of your body.
- You believe in honoring your promises.






Affirmation Tips

- Affirmation should be "you" statements
- I think you're a caring person v. You're a caring person
 - You have
 - You are
 - You feel
- You statements are powerful! And can be used to remind young people of their strengths.





- **Practice:**
Turn to your neighbor. The person with the earlier alphabetical name should say to the person with a later alphabetic name:
"I am trying to bring my math grade up."
- **Your response:** Before you jump into information and discussion, take a moment to affirm the youth. Using these starters:
 - You have
 - You are
 - You feel
 - You believe





Reflective Listening

- Reflective listening appears easy, but it takes an intentional "tuning in" or focus and attention on the person you're speaking with.
- Try to tune in and *think* reflectively. Be interested in what the person has to say and be respectful and listening for evidence of the person's own wisdom.





Reflections

- Attend to VOICE inflection at end of statement, to turn it into a reflection.
 - Statement, not a question. Ends with a down turn
 - If I understand you correctly, it sounds like...
 - Affirms and validates
 - Keeps the client thinking and talking





Reflections

- Simple Reflection: Restating or acknowledging the disagreement or perceptions.
- 1. Restating: Adds little or no meaning or emphasis to what the client said. Youth: "I want to start taking my medication again." Adult: "You want start taking your medication again."
- 2. Rephrase: Slightly alter what a client says. Youth: "I really want to start taking my medication again." Adult: "Taking your medication is very important to you."
- 3. Acknowledge: Youth: "What do you know about being in foster care? You never had to deal with this." Adult: "It's hard to imagine how I could possibly understand."



Complex Reflection



- Youth: "I've tried to make therapy with a counselor work a million times and it just doesn't work for me. It's not for me. I can't open up."
- Adult: "It really may be too difficult for you. Therapy might not be the best fit for everyone, even though it is effective. Being in therapy means speaking up about what is happening in your life, and it might not be worth the discomfort. Perhaps it's better to stay as-is."



Reflections Practice

- Youth: I have boundaries when it comes to sharing on social media.
- A. You know what you're okay with and what you aren't
- B. What are your boundaries?
- C. You don't like just anyone knowing about your business.
- D. Everyone has some type of boundaries.



Adapted from Motivational Interviewing for Teens from the School Based Health Alliance.
https://www.youtube.com/watch?v=Q_0R3JhokU4




Reflections Practice

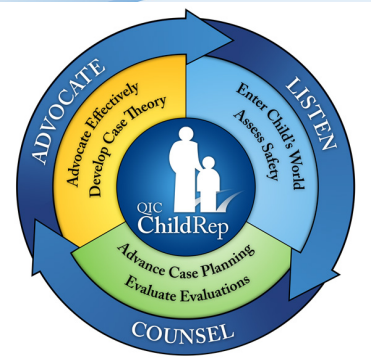

- I know I'm not perfect, but why do they have to always tell me what to do. I'm not a baby!

- A. In what areas are you open to improvement?
- B. They are handling this all wrong.
- C. You are mature enough to make good choices for yourself.
- D. Things would work out fine if they would just stop trying to control you.





**INTERVIEWING AND COUNSELING
CHILD CLIENTS**



INTERVIEWING AND COUNSELING CHILD CLIENTS



The goals of meeting with the child are similar to those of meeting with an adult client:

- 1.To get to know the client
- 2.To learn more about the facts
- 3.To set the case goals
- 4.To counsel the client

REMEMBER: Entering the child's world is a process that occurs over time.



Interviewing to Get Facts

- Types of information sought:
 - Subjective v. Objective Facts:
 - Subjective facts = emotional expressions of needs and wishes; reflect perception, bias and/or opinion
 - Objective facts = observable, verifiable, definitive representations that exist independent of emotion or perception



Tennessee Rules of Professional Conduct

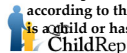
RULE 1.4: COMMUNICATION

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in RPC 1.0(e), is required by these Rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or has diminished capacity. See RPC 1.14.



Tennessee Rules of Professional Conduct


RULE 1.14: Client with Diminished Capacity

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

Comment

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or has a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects.... Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well being. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody.





National Quality Improvement Center on the Representation of Children in the Child Welfare System

Marco's Case


Building Trust and Rapport with a Child Client




- A child needs to trust before opening up.
- A child, even an adolescent, won't immediately or fully grasp the full extent to which cooperating with an attorney will affect them.
- The decisions in the case involve the whole child, and will affect his future.
- The attorney has to be astute enough to piece together the child's world and then create the best possible scenario for him.
- Trust is the foundation for having the client accept your advice.

Rapport building strategies:

- Be explicit about your purpose
- Take time to have a conversation. Talk about issues other than the case.
- Involve the child in the decision making process.
- Explain the attorney-client privilege (if applicable) and the scope of confidentiality.
- Allow the child to disagree.
- Allow the child to express negative emotions and opinions and to ask questions.
- Reassure the child (but be realistic – no false reassurance or raising unrealistic expectations).
- Affirm the child's position even if you can't agree with it.
- Repeat back what you understand.
- Be honest. Never promise something you can't deliver.
- Use humor, but not sarcasm
- Follow up. Explain what will happen and then what did happen.
- Meet regularly and provide contact information. Being available to your client is a big part of trust building.
- **QIC ChildRep** But also keep appropriate boundaries






QIC ChildRep
COUNSELING THE CHILD CLIENT:
ACCOMMODATING THE CHILD'S INTERESTS
IN SETTING THE CASE GOALS
MARCO'S CHOICE




Creating conditions that promote collaboration and the counseling process

- Context
- Language
- Engaging the client




Creating conditions

- **Context**
 - Create a quiet, distraction-free, and comfortable environment
 - Select a meeting place that is familiar to the child
 - Adopt an interactive style
 - Keep meeting agendas brief
 - Set expectations (e.g., “We only have 10 minutes today ...”)




Creating conditions

- **Language**
 - Use Language consistent with the client’s comprehension level.
 - Keep your messages simple, concise and on point. Use common words and short sentences.
 - Use proper nouns for names and places rather than pronouns. Use the child’s references.
 - Use other forms of communication to supplement (e.g., pro/con list, diagrams, pictures).
 - Practice active listening.
 - Use open-ended questions.
 - Observe the client, including body language.
 - Use memory anchors (e.g., “Court will take as long as Sponge Bob.”).
 - Avoid jumping from topic to topic.
 - Be aware of your own responses and expressions.




Creating conditions

- **Engaging the Client**
 - Take an unbiased, non-judgmental approach.
 - Be honest and reliable.
 - Allow the child to participate to the extent he can.
 - Ask the child what he would like (instead of inviting legal conclusion)
 - Explain the child's options and encourage him to actively evaluate those options.
 - Help the child understand his input is important but is not the only deciding factor in the case. Do not promise an outcome you can't deliver.
 - Explain your reasoning in a way the child can understand.
 - Identify and minimize the child's anxiety. Validate the child's feelings and provide reassurance.
 - Avoid over-influencing the child.




Coming to a Goal

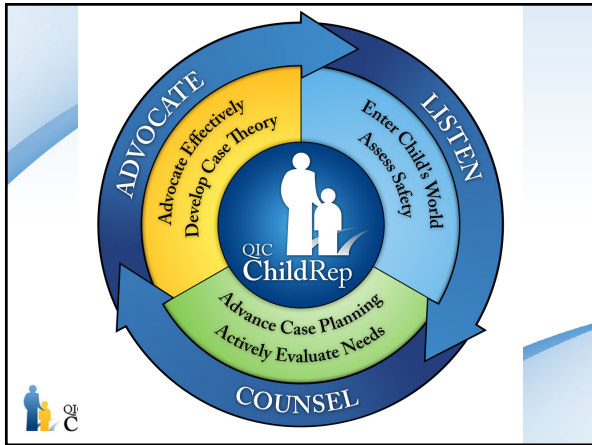
- Discuss the options available and all the pros and cons. Listen more than you talk.
- Explain the likelihood of specific outcomes. Listen.
- Set the goals of the case with him. Listen.
- Explain how you will achieve those outcomes. Listen.
- Prepare the client for court. Listen.
- Follow up with an explanation of what happened and what will happen next.
- Ask for Questions. Listen.

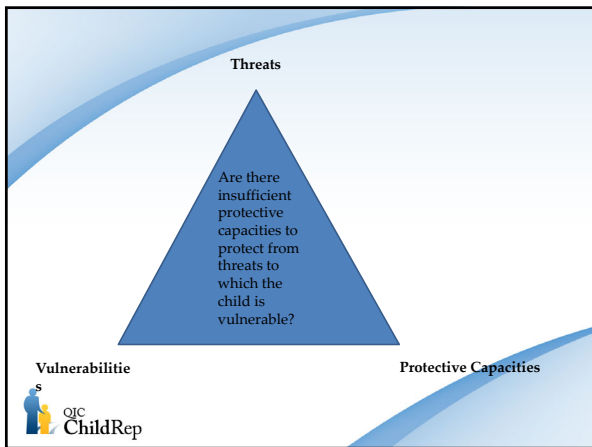


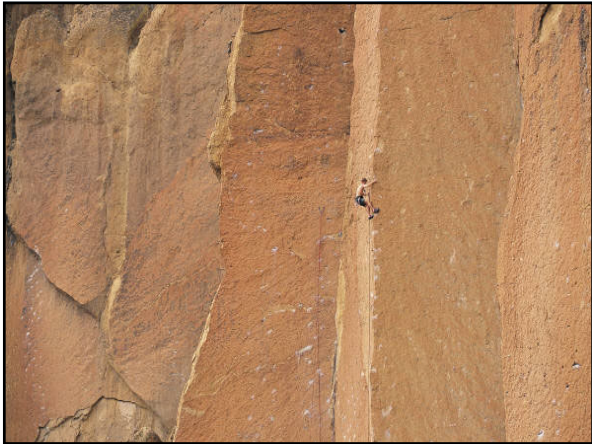
LUNCH!


















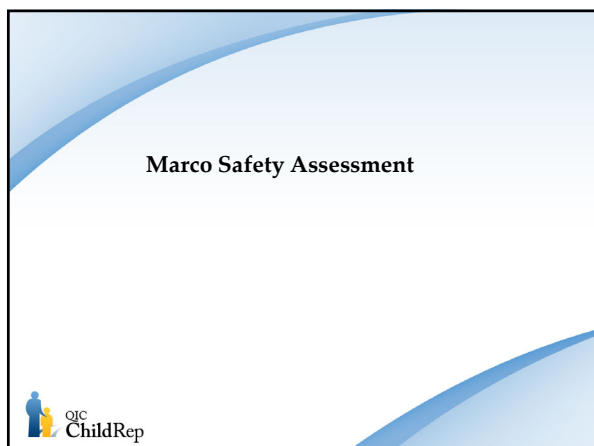


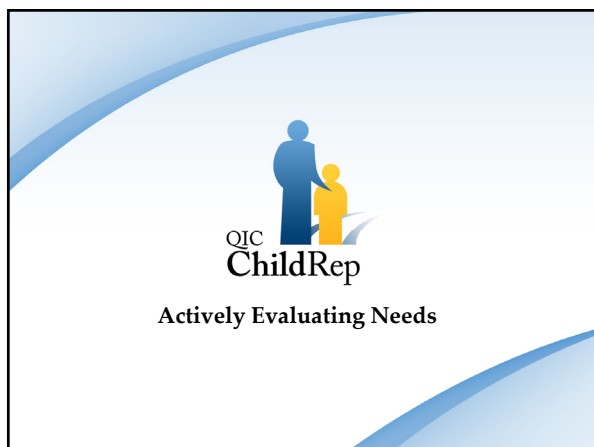
Threat or No Threat

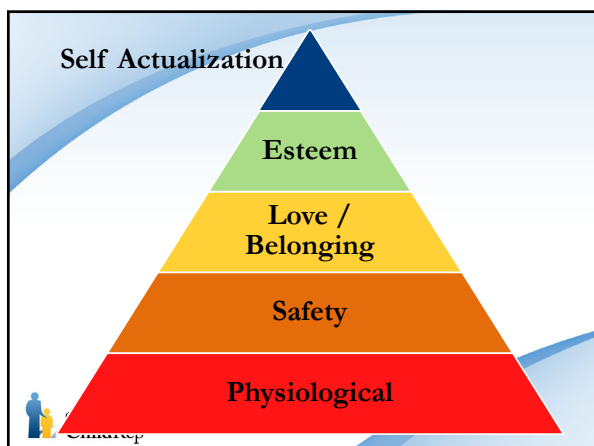
Threat:
observed or described, out of control, have immediate or imminent impact, and will result in severe negative consequences to the child's health or wellbeing.



The logo for o/c ChildRep, featuring a stylized blue and yellow figure next to the text "o/c ChildRep".








Thorough Evaluation That Includes The Entire Family.


You can't solve a problem until you define it.

Need:

- Background information about the family - CPS history, criminal background, and other records that will help to understand how long the problems have been occurring and what the context of the problems may be.
- Accurate information.
- Comprehensive; complete picture of the family; go beyond simply investigating the maltreatment
- Family involvement in plan to control threats to safety.
- Reasons for conclusions and suggestions for future steps.




What information do you need?




Relevant information may include:

- Medical information
- Educational records
- Mental health records
- Substance abuse treatment records
- Prison or law enforcement records
- Court records
- Children's Protective Services
- Foster care agency records -Title IV-E





Confidentiality Protections

- CAPTA—Children's Protective Services
- Health Insurance Portability and Accountability Act (HIPAA)—Medical and mental health records
- Drug Abuse Prevention, Treatment, and Rehabilitation Act—42 U.S.C. § 290dd-1; 42 C.F.R. § 2.1 Substance Abuse Records
- Family Educational Privacy Rights Act (20 U.S.C. §1232g; 34 C.F.R. § 99.31).
- School Record – IDEA (20 USC § 1400 et. seq.)
- Title IV-E—Foster care agency records.

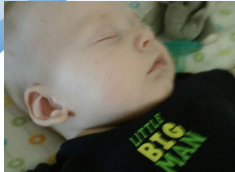


How to get information.


- Ask nicely.
- Releases from holder.
- Formal discovery process – court orders.
- Search public records – criminal convictions.
- FOIA

Referral Question – Critical step.





- Does the parent have the skills to parent **this** child?
- Does parent have personality, intellectual, or social problems that **block their ability to benefit** from services or to improve parenting needed to keep this child safe and provide adequate caretaking?
- Does the child have **special needs** and does this parent have the capacity to respond to them?
- Is this child **depressed**, anxious or show signs of **trauma** or behavior problems?
- Does the child show the capacity and motivation to bond with a family?
- What kinds of treatment or services are best suited for this child or family?




Evaluating the Evaluation

- Evaluator have Right qualifications?
- Experience in administering the tests given?
- Referral questions? Were they answered?
- Consider emotional status of subjects?
- Subjects evaluated over time?
- Limitations and generalizability of the evaluation addressed?
- Are clinical judgments clearly laid out?
- Were multiple sources of information used?
- Child's developmental level taken into account?
- Were barriers to the evaluations overcome?


THEORY OF THE CASE



THEORY OF THE CASE

Must address


- The facts of the case
 - Undisputed
 - Disputed
- The law
- The result you think is best.
- **Gives force and direction to your advocacy.**



Theory of the Case


Should be-

- Consistent with peoples' perception of how things works
- Presented in the form of a story ("This is a case about")




Theory of the Case / Needs

- The theory of the case is the “big picture” – what the case is about and where you want it to go.
- The “needs” are the smaller pieces that will help you to get to the ultimate goal
 - What are the child’s, the parents’ and the family’s needs?
 - What steps must be completed to move the family toward the ultimate permanency goal




Marco’s Case

- What are Marco’s needs?
- What are the mother’s needs?
- What are the intermediate goals?



BREAK







QIC
ChildRep

Non-Adversarial Case Resolution


Advocacy Corollaries

Non-Adversarial Case Resolution
(NACR)




Principal Goals of NACR

- To ensure the safety and protection of children through resolution of disputes without having to rely on the traditional adversarial court process
- To ensure that parents' and children's legal rights are protected




Negotiating

- Building solid working relationships with caseworkers and other providers is key
- At the same time, good advocate must be ready to seek alternative means of problem solving or to go to court
- Judgment is important




Negotiating

- Be sure all the parties have the relevant information
- Remember that while the attorney has to *consider* the other's opinions, those opinions should also be carefully weighed
 - Child's lawyer / GAL is an active participant and should not simply rely on or defer to the judgment of others




Different professional ethics and behavioral expectations

<ul style="list-style-type: none">• <u>Caseworkers</u><ul style="list-style-type: none">– May find "zealous advocacy" disagreeable and aggressive– Often expect complete openness and honesty– Tend to be more relational	<ul style="list-style-type: none">• <u>Lawyers</u><ul style="list-style-type: none">– More comfortable with spirited debate and disagreement– May negotiate strategically (e.g., withhold information)– Tend to be more analytic
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Negotiating with Caseworkers

- State your concern as clearly and concisely as possible
- Listen carefully
- Keep the focus on the child's needs as a common point of interest
- Restate and reframe in neutral language
 - Avoid "you" statements




Negotiating with Caseworkers

- Clearly and narrowly define the points of disagreement
 - Avoid legal jargon
- Offer concrete suggestions
 - ...and be helpful
- Involve the agency attorney, who may be able to assist in crafting a solution
 - Clarifying the law may help



Negotiating with Caseworkers


- Understand the financial realities
 - You don't necessarily have to back down because of them
 - "Reasonable efforts" requirements
 - A court order can provide the basis for additional services the agency wouldn't ordinarily seek on behalf of a child



Policy Disputes


If the worker's position is based on policy:

- Is that understanding of policy accurate (i.e., does the agency's policy say what the worker understands it to say?)
- Is that understanding of policy complete (e.g., does some other provision of policy provide the worker discretion to meet the need?)
- Is the policy itself consistent with the law?
- What is the scope of the caseworker's authority?




Policy Disputes

- Give the caseworker a fair opportunity to solve the problem
- Give a courteous head up if taking the matter to the worker's supervisor or to the court

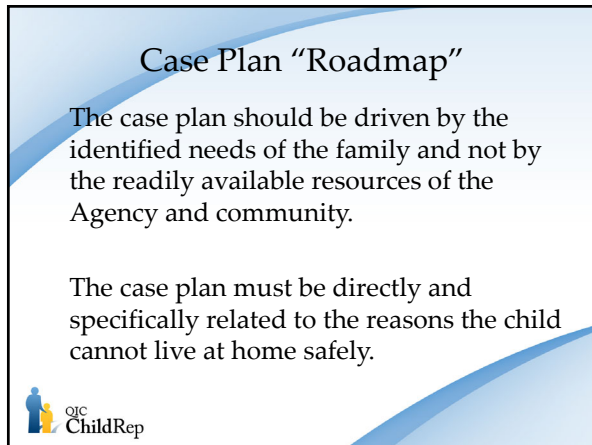


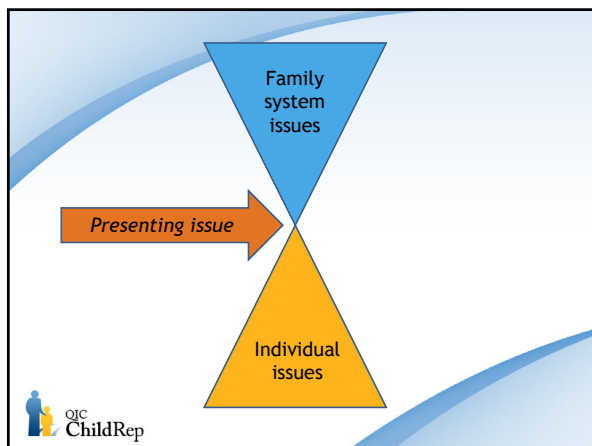
Marco

- Preliminary Hearing, Case Exercise










Characteristics of a Good Case Plan

- SIMPLICITY
- SPECIFICITY
- ACCOUNTABILITY
- RELATIVITY
- ACHIEVABILITY




MARCO Part II

- Small Groups




Monitoring Well-being



Child Well-Being


Group Exercise:
“The Things That Mean the Most”



Monitoring Well-being


REGULAR REPORTS

- Health status
- Educational Status
- Visitation
- Behavioral Issues
- Progress in therapeutic interventions
- Parents' progress on the case plan goals
- Placement




Fostering Connections

- Substantive mandates
 - Identification and notice to relatives
 - Maintaining sibling connections
 - Supports for older youth
 - Transition planning
 - Coordinated health care planning and services
 - Educational stability




Identification & Notice to Relatives

- Within 30 days after the child is removed from his parents' custody, the agency must exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of a child (including any other adult relative suggested by the parents).
- The notice must:
 - Specify that the child was removed from the custody of the parent(s);
 - Explain the options the relative has to participate in the care/placement of the child and options that may be lost by failing to respond to the notice;
 - Describe the requirements to become foster parents;
 - Outline available services and supports;
 - Describe the state's kinship guardianship assistance program, if one exists.
- This notice requirement is subject to exceptions due to family or domestic violence.




Sibling Co-Placement & Visitation

- Agency must make “reasonable efforts” to maintain sibling groups together
 - Exception: documented reason why joint placement would be contrary to the safety or well-being of any of the siblings
 - If placement together is not possible, then frequent visitation and other types of ongoing interaction must be provided [or documented reason why such contact would be contrary to the safety or well-being of any of the siblings]




Permanency

- Permanency Options
 - Reunification
 - Adoption
 - Permanent Guardianship
 - Permanent Custody to a Relative
 - Another Planned Permanent Living Arrangement (AAPLA)
 - Must be justified by a compelling reason why no other preferred permanency option is in the child's best interest




Health Care Coordination

- Plan for ongoing oversight and coordination of health care services, created in cooperation with state Medicaid agency and medical practitioners:
 - Schedule of initial and follow-up screenings (including dental, mental and sexual health)
 - Protocol for updating and sharing medical information
 - Electronic health record
 - Steps to ensure the continuity of health care services
 - Medical home
 - Oversight of prescription medications
 - Special focus on psychotropic medications
 - Routine consultation with medical professionals




Educational Stability

- Agency must ensure full-time enrollment
- Case plan requirement:
 - Assurance that the child's placement takes into account the **appropriateness of the current educational setting** and the **proximity to the school** in which the child is enrolled at the time of placement;
 - The state agency must coordinate with appropriate local educational agencies to ensure that the child **remains in the school in which the child is enrolled at the time of placement (school of origin)**;
 - If remaining in the school of origin is not in the child's best interest, the child welfare agency and the local educational agency must cooperate to ensure the **immediate and appropriate enrollment** in a new school
- In 2015, the Every Student Succeeds Act required school stability in the child's best interest on the educational side as well, vastly increasing enforcement.




Improving Outcomes for Older Youth

- Transition plan for youth aging-out
 - Agency, with involvement of other representatives of the child as appropriate, must assist and support the youth in developing a transition plan in the 90 day period immediately prior to the date the child turns 18




Improving Outcomes for Older Youth

- Personalized at the direction of the child and as detailed as the child may elect
- Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services
- Option to execute a health care power of attorney, health care proxy, or other similar document recognized under State/Tribal law (as amended by Patient Protection and Affordable Care Act)



Improving Outcomes for Older Youth


- Case plans must include a written or recorded description of the programs and services which will help a child age 14 or older prepare for the transition from foster care to independent living



Chafee Act

Assistance to help current and former foster care youths achieve self-sufficiency:

- Help obtain high school diploma
- Vocational training
- Job placement services
- Financial management
- Housing support
- Financial support and preparation for entering postsecondary education




Tennessee Department of Children's Services Independent Living Staff - By Region and County


IL Specialists & Coordinators	Region/Counties	IL Specialists & Coordinators	Region/Counties
Stephanie Bosson Program Coordinator C: 865-712-5426 Stephanie.Bosson@tn.gov	Grand East Region	Dana Eskridge Program Coordinator C: 615-289-6243 Dana.Eskridge@tn.gov	Grand Middle Region
Katie Butler Program Specialist O: 865-425-4557 C: 865-253-1339 Katie.Butler@tn.gov	East: Anderson, Campbell, Loudon, Monroe, Morgan, Union, Roane, Scott	Neil Lowe Program Specialist O: 931-490-6079 C: 615-289-2736 Neil.Lowe@tn.gov	South Central: Hickman, Lewis, Maury, Marshall, Bedford, Coffee, Moore, Lincoln, Giles, Lawrence, Grundy, Franklin
Rikki Eichler Program Specialist C: 865-712-2199 Rikki.Eichler@tn.gov	Smoky Mountain Claiborne, Cocke, Grainger, Hamblen, Jefferson, Sevier	Lela Pirtle Program Specialist O: 615-362-4335 C: 615-477-1137 Lela.Pirtle@tn.gov	Davidson
Natalie Seabolt Program Specialist C: 424-202-6971	Northeast: Washington, Carter, Union, Johnson	Kelly Steele Program Specialist O: 615-362-4392	Davidson

Advocating for Older Youth

- Ensure IL services are adequate
- Develop and implement a individually-tailored discharge plan
- Ensure the child understands her rights
- Explore all possible connections to family/adults
- Be aware of signs that the child needs help





Marco Part III




Don't Forget...

1. Reimbursement Form
2. CLE Form(s)
3. RIPPLE Participant Form
4. Reasonable Efforts Academy – presented virtually, one and half days, February 23-24, 2023
5. RIPPLE forms and material can be found at www.tncourts.gov/RIPPLE_Training.



THANK YOU!
Any Questions or Suggestions, Please Contact Us:

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