

***Child Abuse and Neglect—A guide for parents involved in
child abuse or neglect cases in New Jersey***

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This handbook was last updated in February 2018, but laws often change. Please check our website, www.lsnjlaw.org, for updates to this handbook or talk to a lawyer for up-to-date legal advice.

Child Abuse and Neglect

**A guide for parents
involved in child abuse
or neglect cases
in New Jersey**



**Written and Published by
Legal Services of New Jersey**

Important Names and Numbers

My case docket number is: F _____

My lawyer is: _____

Phone number: _____

The judge in my case is: Honorable _____

Phone number: _____

My DCP&P office is: _____

My DCP&P caseworker is: _____

Phone number: _____

My caseworker's supervisor is: _____

Phone number: _____

My child's law guardian is: _____

Phone number: _____

**The deputy attorney general (DAG)—lawyer for
DCP&P—is:** _____

**My child's court appointed special advocate
(CASA) worker is:** _____

Phone number: _____

**My Child Placement Review Board (CPRB)
coordinator is:** _____

Phone number: _____

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Preface

Legal Services of New Jersey (LSNJ) coordinates the statewide Legal Services system in New Jersey, which provides free legal assistance to lower-income people in civil matters. Part of Legal Services' mission is to make people more aware of their legal rights and provide helpful information if they choose to pursue a legal case on their own. Awareness may allow you to resolve some problems on your own, without the need for a lawyer, or to make better use of a lawyer if you have one. LSNJ wrote this handbook to help parents when the Division of Child Protection and Permanency, DCP&P (formerly the Division of Youth and Family Services, DYFS), files a court case to place their children in foster care, based on claims that the parents have abused or neglected their children. The printing of this handbook was funded through a federal grant.

Important notes about using this handbook

This handbook does not give advice about a particular legal problem that you may have, and it is not a substitute for seeing a lawyer when you need one. Always talk to a lawyer, if you can, before taking legal action.

The information in this handbook is accurate as of February 2018, but laws often change. Please check our website, www.LSNJLAW.org, for updates to this handbook.

How to use this handbook

Being involved in a child abuse or neglect case can be confusing and stressful. This handbook will help you understand what may happen. It will explain the court process, the choices you have, and what you can do to improve your chances of keeping your family together or getting your family back together.

Although everything in this handbook may not apply to your situation, reading the handbook will give you information that will help you deal with your situation.

Keep this handbook with you so you can keep track of important information about your case. On the inside front cover, you can write down the names and phone numbers of the people involved in your case. At the end of the handbook, you will find worksheets to write down the dates of your court hearings, appointments, and visits with your child.

Getting legal help

If the Division of Child Protection and Permanency (DCP&P—formerly DYFS) has filed a court case against you and your income is low, you may be eligible to have a lawyer appointed to represent you through the Office of Parental Representation (OPR), which is part of the New Jersey Public Defender system. You may also apply to Legal Services of New Jersey’s Family Representation Project for assistance. This is explained on pages 10-13 of this handbook.

You may want legal advice about dealing with DCP&P even if there is no court case against you. If you need the advice of a lawyer but cannot afford one, you may be eligible for Legal Services. Contact the regional Legal Services program that serves your county. See the inside back cover of this handbook for a list of programs.

You can also contact Legal Services of New Jersey’s statewide, toll-free legal hotline, LSNJLAWSM, at 1-888-LSNJ-LAW (1-888-576-5529). Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. You may also apply online at www.lsnjlawhotline.org. The hotline provides information, advice, and referrals in civil legal matters to eligible low-income New Jersey residents. This service is provided at no charge to callers who are financially eligible. If you do not qualify for Legal Services, the hotline will refer you to other possible resources.

Acknowledgments

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*Melville D. Miller, Jr., President
Legal Services of New Jersey
February 2018*

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Introduction

When children are placed in foster care, there are limits on how much time parents have to get them returned home. You will need to act quickly to do everything you can to get your child back home.

You have the right to get a lawyer to represent you in your case and should get one as soon as you get court papers from the Division of Child Protection and Permanency (DCP&P—formerly DYFS).

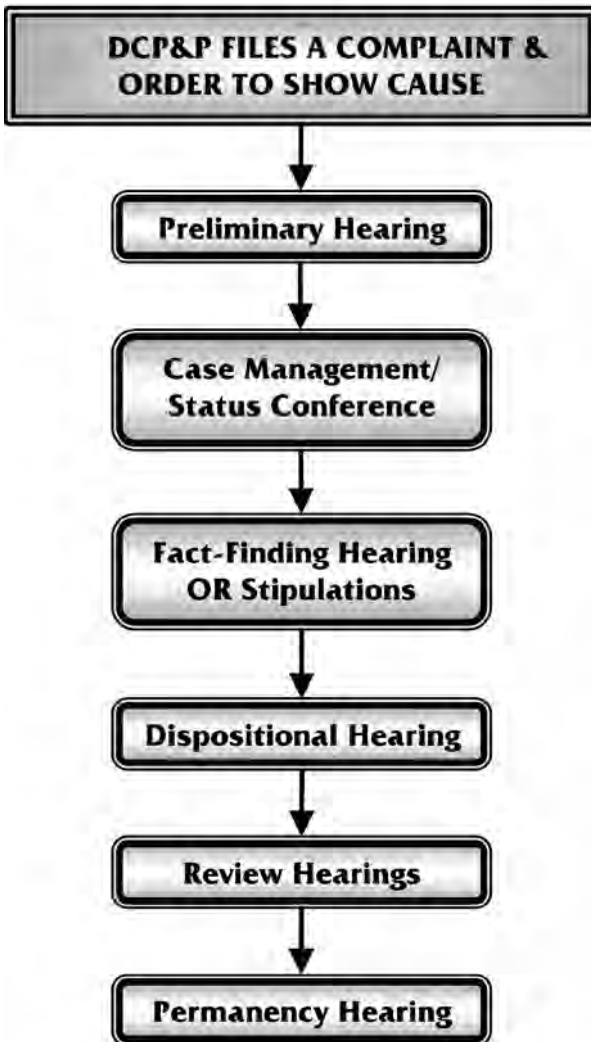
In most cases, DCP&P is required to provide services to help you and your family get back together. It is important to get the help that you need right away. Within one year of the time your child goes into placement, DCP&P must decide whether your child can be returned to you. If DCP&P believes that your child cannot go home at that time, it must make a plan for your child to live someplace else on a permanent basis. The court will decide whether to approve DCP&P's plan.

In many cases, DCP&P will seek to terminate your parental rights through the court so that your child can be adopted. If the court agrees that your child cannot be returned to you and approves DCP&P's plan to file for termination of parental rights, DCP&P must file another court case. It must file that case within 15 months of the time your child went into foster care. If your parental rights are terminated and your child is adopted, you and your child can only stay in contact if the adoptive parents permit it.

This handbook will help you understand the things you must do to try to reunite with your child as soon as possible.



Child Welfare Court Process— At a Glance



How This Guide Can Help You

The questions and answers below highlight some of the most important information about your abuse or neglect case and guide you through the contents of this handbook.

Section 1: Basic Information About Abuse and Neglect Cases

What is an abuse or neglect case?

The Division of Child Protection and Permanency (DCP&P) has filed a court case against you because it believes you have abused or neglected your child. Usually, DCP&P wants to place or keep your child in foster care or another out-of-home placement until it feels the child can return home to you safely. DCP&P must demonstrate to the court that you have abused or neglected your child.

How will the court decide if I abused or neglected my child?

The court will find that you have abused or neglected your child if you have seriously harmed or created a risk of serious harm to your child.

See page 9.

How will my case start?

DCP&P will start its case against you by filing court papers explaining how it believes that you have abused or neglected your child. These papers are called an *Order to Show Cause* and a *Complaint*.

See page 10.

How can I get a lawyer?

You have the right to a lawyer and should get one as quickly as possible. If your income is low, you may qualify to have a lawyer appointed to represent you.

See page 10.

Who else will be involved in the case?

Your child will also have a lawyer, called a law guardian.

A deputy attorney general (DAG) will represent DCP&P.

A court appointed special advocate (CASA) worker may be appointed to advocate for your child's needs.

See page 13.

**Section 2: Working With DCP&P
to Get Your Child Back**

Will someone from DCP&P be involved in my case?

You will have a DCP&P caseworker assigned to your case.

See page 16.

Will I get help from DCP&P?

In most cases, DCP&P must provide services that will help you get your child returned home. Some of the services DCP&P can provide or refer you to are therapy, day care, home health aides, parenting education, substance abuse treatment, and emergency shelter or housing.

See page 17.

How will I see my child when my child is in foster care?

In most cases, DCP&P must arrange a schedule for visits between you and your child while he or she is in foster care. It is very important to visit with your child.

See page 20.

Can my child live with relatives or friends?

If your child is going to be removed from you, let DCP&P know right away if you have relatives or friends who could care for your child.

See page 21.

Section 3: The Court Process

What will happen in court after DCP&P files a case against me?

There will be a series of court hearings:

Preliminary hearing. This is the first hearing, and the judge will decide whether or not DCP&P has shown good reasons to continue its case and whether or not your child should be in placement while your case is going on.

See page 24.

Fact-finding hearing. At this hearing, DCP&P will try to prove to the judge that you have abused or neglected your child. You have the right to present your view of the situation and defend against what DCP&P says.

See page 26.

Dispositional hearing. If the judge finds that you abused or neglected your child, the judge must hold a dispositional hearing to decide what should happen next. The judge will decide whether your child can come home, whether you need to continue getting services, and other issues.

See page 28.

Review hearing. After your dispositional hearing, the judge will generally schedule your case for one or more review hearings to check on how you and your child are doing.

See page 29.

How This Guide Can Help You

Permanency hearing. Within 12 months of the time your child enters foster care or another out-of-home placement, the judge will hold a permanency hearing. At the permanency hearing, DCP&P will present a plan for a permanent living situation for your child, and the judge will decide whether or not to approve that plan.
See page 30.

Mediation. Some counties have neutral mediators who can meet with everyone involved to try to resolve some or all of the issues in the case.
See page 26.

Section 4: Related Legal Matters

What is the Child Placement Review Board (CPRB)?

The Child Placement Review Board (CPRB) is a group of volunteers who review cases of children in foster care and make recommendations to the judge. The CPRB in your county should review your case within 45 days of your child's removal.

See page 32.

What if DCP&P notifies me that it has substantiated abuse or neglect?

In addition to bringing this court case against you, DCP&P may make its own finding that you abused or neglected your child. If DCP&P sends you a notice that it has substantiated abuse or neglect, you may want to appeal that decision.

See page 33.

Can DCP&P collect child support from me?

If your child is in foster care, your county welfare agency may file for a child support order against you to collect money for supporting your child.

See page 35.

What if I receive welfare benefits?

If you were receiving welfare before your child was removed, you will lose your benefits. Or, if you still have a child at home, your benefits will be lowered.

See page 36.

Section 5: Suggestions to Help You Get Your Child Back

- Get a lawyer right away and work with your lawyer.
- Try to get services that you think will help you and start them right away.
- Attend all hearings and appointments in your case so that DCP&P and the court know that you are serious about getting your child back.
- Visit with your child as much as possible.
- Do everything you can to show that you can provide a safe, stable home for your child.
- Involve family members and friends to help you do what is needed to have your child returned to you.
- Make sure your child's needs are being met and advocate for your child if you think your child needs services or other help.

See page 38.



Section 1: Basic Information About Abuse and Neglect Cases

Overview of the case

DCP&P files an abuse or neglect case when it believes you have abused or neglected your child. Usually, DCP&P wants to place or keep your child in foster care or another out-of-home placement. In some situations, DCP&P does not want to remove your child, but wants the judge to allow DCP&P to check on you and your child and to order you to participate in services DCP&P believes you need.

At the beginning of the case, the judge must decide whether DCP&P has shown adequate reasons to continue its case.

Eventually, the judge must decide whether you have abused or neglected your child. You have a right to a hearing where all of the parties will be able to present their cases to the judge. In some instances, you may decide to stipulate to or admit to some of DCP&P's claims instead of challenging them. In that case, the court will find that you abused or neglected your child without a hearing.

If the judge finds that you did not abuse or neglect your child, your child will return home. If the judge finds that you did abuse or neglect your child, the judge must decide what should happen next. Generally, you will be required to participate in services to help you correct the problems that DCP&P believes prevent you from taking care of your child. Your child will stay in foster care until the judge decides your

child can return home safely. If your child is at home, the judge may still order you to participate in services.

The definition of abuse and neglect

The law says that a child has been abused or neglected if his or her parent, guardian, or caretaker has done any of the following things:

- Caused very serious physical or emotional harm to the child or allowed someone else to harm the child;
- Created a risk that the child will be physically harmed, or allowed someone else to create a risk of harm to the child;
- Sexually abused the child or allowed someone else to sexually abuse the child;
- Harmed or created a risk of harm to the child by failing to take proper care of him or her;
- Used excessive physical punishment on the child; or
- Abandoned the child.

A judge's decision about whether a parent abused or neglected his or her child depends on the specific facts of each individual situation. Findings of child abuse and neglect are sometimes based on physical injuries to a child, but they can also be based on severe emotional harm. Even if you have not harmed your child, a judge might find that you have abused or neglected your child because the child may be at risk of serious harm in your care.

Judges can decide that drug or alcohol abuse by a parent constitutes neglect if the parent cannot provide

proper care for the child. Judges have found child neglect when parents have failed to protect a child from someone they should have known would harm the child. Leaving children alone can also be considered child neglect.

How DCP&P starts an abuse or neglect action

DCP&P will begin the child abuse or neglect case against you by filing court papers called an *Order to Show Cause* and a *Complaint*. You should appear at the filing of the Order to Show Cause and Complaint. If you do not appear, DCP&P will provide you with a copy of the court papers. An Order to Show Cause is a special court order that tells you to appear in court on a specific date for the judge to consider your case. In the Complaint, DCP&P explains how it believes that you have abused or neglected your child. DCP&P must also show why it needs to remove your child from your home. Or, if DCP&P only wants to check on your family, it must show why that is necessary. In many situations, when DCP&P files the case, it has already removed the child on an emergency basis and DCP&P is asking the judge to keep the child in foster care.

How to get a lawyer

It is very important that you get a lawyer as soon as possible. If you can afford to hire a lawyer, you should do so immediately. Your county bar association's lawyer referral service can suggest names of lawyers who can help you.

If you cannot afford to hire a lawyer, you may qualify for a lawyer to represent you through the Office of Parental Representation (OPR), which is part of the New Jersey Public Defender system. DCP&P is required to provide you with contact information for the OPR

office handling matters in the county in which you live. You will find this information in the papers provided to you when a Complaint is filed. You should try to contact the listed OPR office before the date you are given for the first court hearing. DCP&P is also required to provide notice of your case to the OPR for any initial court hearing if a child has been removed from your custody. This initial hearing is usually called an Application for an Order to Show Cause or, sometimes, a *DODD* hearing. OPR has a program called Order to Show Cause Attorney Representation (OSCAR) to try to ensure that a parent has a lawyer in court for this first hearing in a case.

As part of the OSCAR program, the OPR lawyer will represent you *provisionally*, which means prior to the time you actually apply for an OPR lawyer and before the court determines that your income qualifies you for representation by the OPR. If DCP&P did not provide OPR with notice of your case or you did not contact OPR directly prior to the scheduled hearing, you will be able to apply for an OPR lawyer at your first court hearing by asking the judge for a lawyer. But remember, if you request a lawyer from OPR as soon as you find out about the case, you may be able to have a lawyer with you at your first court hearing.

To get a lawyer as quickly as possible, go to Children in Court Services or the family intake or family reception office at the courthouse where your case has been filed as soon as you know that DCP&P has filed an action against you. Tell a court employee that you would like a lawyer to represent you in your case. Take a copy of any court papers you have and proof of your income. You will have to provide information about your income and any property you own. The court, not OPR, is responsi-

Basic Information About Abuse and Neglect Cases

ble for determining whether you qualify for an OPR lawyer based on your income. Ask to be notified as soon as your lawyer is appointed. Give a telephone number and an address where you can be reached. If a week goes by and you do not hear anything, call the OPR headquarters in Trenton at 609-341-3832 or Children in Court Services in the courthouse.

After your case is over, the New Jersey Public Defender's Office will send you a bill for the lawyer's legal services. The bill will include any other expenses, such as expert witness fees, that the OPR pays in defending you. The cost of these services will become a lien for a period of 10 years on any property you own or may own in the future (such as a home, a bank account, or a car). You have the right to challenge the amount of the lien or your ability to pay. Even if you cannot pay, you will still receive legal services.

Each parent needs a separate lawyer to represent him or her in the abuse or neglect case. Separate lawyers are necessary because you and the other parent(s) involved may disagree or take positions against each other during the case.

Legal Services Family Representation Project

You may also be able to get help from Legal Services of New Jersey (LSNJ). LSNJ has a statewide project called the Family Representation Project, through which Legal Services lawyers who are specialists in child welfare law provide advice to low-income parents in matters involving DCP&P. Although its resources are limited, in some instances the Family Representation Project provides representation in child abuse or neglect cases. If you would like to apply for assistance, call LSNJLAWSM, LSNJ's statewide, toll-free legal

hotline, at 1-888- LSNJ-LAW (1-888-576-5529) or apply online at *www.lsnjlawhotline.org*.

Lawyers for DCP&P and your child

A lawyer called a deputy attorney general, or DAG, will represent DCP&P. Your child will be represented by a lawyer called a law guardian.

The role of the judge

Judges have two important responsibilities in abuse or neglect cases. They must protect children from being harmed by their parents, and they must protect the rights of parents and children to be together if the children can stay safely at home. By deciding what has happened in your case and applying New Jersey law to those facts, the judge will decide whether you abused or neglected your child.

Court Appointed Special Advocate (CASA)

A court appointed special advocate (CASA) worker may be assigned to your case. The CASA worker will get to know your child and gather information about him or her for the judge.

This is not a criminal case

An abuse or neglect case is not a criminal case. It is a civil action. You cannot be incarcerated (put in jail) or subjected to any other criminal penalty if you lose this case.

Be aware that, in some instances, the prosecutor's office may file a separate criminal case against you based upon the same situation. If a criminal case is filed against you, or if the prosecutor's office is investigating you, make sure that your lawyer in your civil case knows about the criminal case. If you have a lawyer in

the criminal case, make sure that lawyer knows about this civil case.

Things that happen in criminal and civil child abuse cases can affect each other. For example, admitting that you harmed your child in your civil case can affect your criminal case. And pleading guilty to abusing a child in the criminal case can affect the civil case.

The danger of losing your rights to your child

The judge cannot terminate your parental rights in an abuse and neglect case. However, if DCP&P removes your child, there may be serious consequences. DCP&P is required to file a court case to terminate your parental rights forever if your child is in foster care for 15 months, unless one of the following exceptions applies:

- Your child is living with a relative who can care for your child permanently;
- DCP&P shows that termination of parental rights is not in your child's best interest; or
- DCP&P has not given you the help that it was supposed to provide.

In some cases, DCP&P may file a case to terminate your parental rights even sooner than 15 months. You must begin immediately to do whatever you need to do to get your child back home.

The child abuse registry

If the judge concludes that you abused or neglected your child, your name will be permanently placed on the New Jersey Child Abuse Registry (sometimes called *the central registry*). Even if your child is returned to you, your name will remain on the registry. Being on this registry will prevent you from getting or keeping

certain jobs working with children and with disabled or elderly adults. It may also prevent you or others in your household from becoming foster or adoptive parents or caring for relative children. Also, DCP&P is required to disclose the names of the people on the registry to police and certain other agencies.

As described in Section 4, your name will be placed on the New Jersey Child Abuse Registry when DCP&P concludes its investigation with a substantiation finding. This means that DCP&P determined that you abused or neglected your child. If DCP&P finds abuse or neglect against you but does not bring a court case, you must use the administrative procedure described in Section 4 to have your name removed from the registry.

What you say can be used against you

Things you say to DCP&P workers, CASA volunteers, the law guardian, the law guardian's investigator, psychologists, and others can be used against you in this abuse or neglect case. They can also be used in any future cases against you.

Confidentiality

Your lawyer cannot disclose things that you tell him or her in confidence when no one else is present. The only exception is if your lawyer is preventing a crime or reporting child abuse. For example, if your lawyer knows that you are going to commit a crime, the lawyer is required to report that to the police. In addition, information provided at court hearings and in DCP&P's files cannot be disclosed to the general public.



Section 2: Working With DCP&P to Get Your Child Back

Parental Responsibilities



Your DCP&P caseworker

A DCP&P worker has been assigned to your case. Make sure that you write the names and telephone numbers of that worker and his or her supervisor on the form on the inside front cover of this handbook. If your worker or the supervisor changes, make sure to change the name and telephone number in this handbook.

Workers are often out of the DCP&P office, away from their desks, or already on the telephone when parents call. Whenever you call your worker, leave a voice mail message if the worker is unavailable to speak with you. If you need to speak to someone right away, ask to

Speak to the worker's supervisor. If the supervisor is not available, ask to speak to the covering worker. Be sure to note the name of the person you speak with.

Always keep a record of the date and time of the calls you make to your worker or his or her supervisor, so that you can be specific about your attempts to talk to DCP&P. If you cannot reach your worker or the supervisor, or if you want to make sure that certain information gets into the DCP&P record in your case, contact your attorney and provide him or her with that information. You and/or your attorney can send a letter or a fax to the worker and keep a copy of it. Letters and faxes sent to DCP&P are proof that you attempted to contact your worker and proof that DCP&P was given whatever information you put in your letter.

DCP&P's responsibility to help families

In most cases, DCP&P is required to help keep families together. DCP&P must make reasonable efforts to help families so that foster care placement is not necessary. It must also help you reunite with your child if your child has been removed. DCP&P is supposed to work with you and provide you with services to solve the problems that it says prevent you from caring for your child. At a minimum, DCP&P is required to:

- Work with you to develop a case plan;
- Provide you with a copy of all plans and releases and every updated care or safety plan;
- Provide you with services that you and DCP&P agree will help keep your family together or bring your family back together;
- Keep you informed about your child's progress, development, and health; and

- Arrange for you to visit your child.

In certain cases, DCP&P may ask the judge to rule that it does not have to make reasonable efforts to help you. The judge can only excuse DCP&P from helping you if a court has terminated your rights to another one of your children, or you have caused very serious harm to a child.

Some of the services DCP&P can provide to you are therapy, day care, home health aides, and parenting education. DCP&P can refer parents for substance abuse treatment and other services. DCP&P may also be able to help you if you need housing to keep your family together or to reunify. DCP&P currently has a small emergency fund that can provide a limited amount of money for rent or a security deposit. If housing is your only unresolved problem and you are receiving welfare, or would qualify for welfare if your child were returned to you, DCP&P may be able to help you get emergency housing assistance through your county welfare agency.

You should ask DCP&P for any services that you think will help you. If DCP&P refuses to provide services that you believe you or your child need, ask the judge to order DCP&P to provide them. You can also appeal a decision by DCP&P not to provide you with services you have requested. To start an administrative appeal, tell your caseworker or write to DCP&P stating that you wish to appeal the denial of services. If you are not able to get therapy, substance abuse treatment, or other services you need through DCP&P, try to get them on your own.

You need to know what DCP&P expects you to do. Meet with DCP&P as soon as possible to develop your

written case plan. The case plan will state what you must do to reunify with your child and what DCP&P must do to help you. You may want to talk to your lawyer before you sign the case plan. Get a copy of the case plan.

DCP&P may request that you undergo a psychological, substance abuse, or other evaluation, or the judge may order you to get evaluated. You must attend all evaluations you are ordered to attend. If you have questions about cooperating with evaluations or other things you are required to do, discuss them with your lawyer right away.

You should begin services as soon as possible. If you have a substance abuse problem, you need to enter treatment immediately, attend regularly, and complete the treatment program. Trying to solve a substance abuse problem without a treatment program usually will not be acceptable to DCP&P or to the judge.

DCP&P may ask you to attend a Family Team Meeting. The Family Team Meeting's purpose is to develop a plan with you, including: a review of efforts and services to prevent the need for placement; a review of areas of concern; identifying the family's strengths and needs; identifying relative, kin, and family friend resources for placement and other types of support; and developing a visitation plan. You can also ask for a Family Team Meeting at any time during your case. You can also bring anyone with you who will help and support you such as interested family members, friends, therapists, and lawyers. All those invited should participate in the decision-making process involving what services and supports are needed.

Visiting with your child

In most cases, DCP&P must arrange a schedule for visits between you and your child while he or she is in foster care. It is very important to visit with your child. Visits are your opportunity to keep a close relationship with your child. Ask DCP&P right away to arrange for you to visit with your child. Often, DCP&P will only offer you supervised visits with your child at the DCP&P office for one hour every other week. You should work with your attorney to ask the court for more frequent and longer visits. Visits with your child should be unsupervised, unless DCP&P asked the court for supervised visits and explained the reasons supervision is necessary. You can suggest that visits be arranged outside of the DCP&P office—for example, in parks, at restaurants, at your home, or at the home of a responsible relative or friend.

If your visits must be supervised, you or your lawyer may suggest that a relative or friend be the supervisor. If you need transportation to visit with your child, ask for it. Also, ask if you may have telephone contact with your child and if you may send your child letters and gifts by mail. If DCP&P does not agree with your visitation requests, you or your lawyer can ask the judge and try to get the judge to order better visitation than DCP&P is offering.

Make the most of your visits with your child. Bring snacks, games, toys, and books with you to make the visits more enjoyable for your child. Bring family pictures to help you talk about your family, maintain your child's family identity, and help your child remember good times you have had together. Focus your entire attention on your child throughout the visit. Be warm and affectionate, but do not force your child to respond

if he or she resists. Always try to understand and meet your child's needs. Do not discuss this case with your child or promise your child that he or she will be coming home soon, as that may be upsetting to your child.

Exhibit good techniques of discipline at visits. If your child becomes upset or misbehaves, try to redirect him or her to happy, appropriate activities.

Finding relatives or friends to take care of your child

One of the first things you need to think about is whether you have relatives or friends who could care for your child. This includes the child's other parent and his or her relatives. You should try to find someone who has a positive relationship with your child. If you have relatives or friends who live in another state, DCP&P can ask that state to evaluate them. Give DCP&P their names, addresses, and telephone numbers. Ask those relatives or friends to call DCP&P themselves to request that your child be placed with them.

Before placing your child with a friend or relative, DCP&P will check to see if they have criminal records or DCP&P records. With some exceptions, DCP&P will reject friends or relatives if they have criminal records or if DCP&P finds that they abused or neglected a child. DCP&P will also visit their home to be sure that they have enough room and a safe place for your child to live. If DCP&P does not agree to a placement you suggest, you or your lawyer can ask the judge to order that placement.

Friends or relatives who take care of your child may be eligible for financial help for the child through several different programs. They can apply to DCP&P to become foster parents and receive regular monthly pay-

Working With DCP&P to Get Your Child Back

ments for your child. The Kinship Navigator Program can also provide information about other benefits available to certain relatives and friends. Their toll-free number is 1-877-816-3211. In addition, DCP&P may be able to provide funds for clothing, bedroom furniture, or other things your friends or relatives need to be able to take care of your child. DCP&P can also provide Medicaid for your child while he or she is in the care of your friends or relatives.

Certain relatives who are not receiving monthly payments for the child from DCP&P can apply to their county welfare agency for benefits for the child. The welfare agency can also help relatives and other caretakers apply for medical coverage for your child through NJ FamilyCare.



Section 3: The Court Process

Court hearings and orders

Hearings in your abuse or neglect case will take place in court, and a judge will make decisions and issue court orders about what must be done. For example, the court may order you to get a psychological evaluation or order DCP&P to provide counseling for you. Both you and DCP&P must follow the court orders. If you do not appear in court when ordered to be there, or if you fail to comply with an order of the court, you could be held in contempt of court. You could then face a penalty, including the possibility of being arrested. Also, if you do not appear in court, the court may enter a default against you. This means that you will not be permitted to present your side of the case to the judge. If a default is entered against you, ask your lawyer about what you can do. Generally, if you have a good reason for not appearing, the judge will agree to set aside the default. (See *Child Welfare Court Process – At a Glance* on page 2.)

At court hearings, you have the opportunity to tell your side of the story, defend yourself, assert your rights, and ask the judge to order things that you want. You will need a lawyer as soon as possible to help you do these things. DCP&P can recommend to the judge that your child be removed from you. It can make recommendations about where your child should be placed if he or she is removed from you, when you should visit your child, and what you need to do to get your child back. Your child's law guardian can either agree with DCP&P or make different recommendations. You have the right

to object to these recommendations and to tell the judge what you think should happen.

If you do not speak English, ask in advance for a court interpreter to be present for each court hearing.

Your child's foster parents or other caretakers have the right to come to court hearings. However, they are not parties in abuse or neglect cases and their participation at hearings is limited to giving the court information related to the case.

Your preliminary hearing

You are entitled to a brief first hearing, which is called a preliminary hearing. The preliminary hearing will happen either when DCP&P files its case against you or soon after the case has been filed. At the preliminary hearing, the judge will decide whether or not DCP&P has stated adequate reasons to continue its case against you. If DCP&P has removed or seeks to remove your child, the judge must decide whether or not your child should be in placement while your case is going on.

When DCP&P filed this case, you should have received an Order to Show Cause telling you to come to court on a specific date. (See page 10.) Many parents have their preliminary hearing on that date. If DCP&P removed your child on an emergency basis, without going to court first, DCP&P must file a Complaint within 72 business hours of your child's removal. If you go to court then, you can have a preliminary hearing at that time. If you were not present when the judge signed DCP&P's Order to Show Cause to remove your child, you can request a hearing and have one within three days of your request. If you do not have a lawyer at your preliminary hearing, you can ask the judge to postpone your hearing so that you can get one.

At the hearing, the lawyer representing DCP&P will try to convince the judge that your child should be removed from you. Your lawyer can ask the judge to let your child stay with you or return your child immediately, if that is what you want. Your child's law guardian may also participate in the hearing.

Sometimes, you may be able to convince the judge to allow your child to stay with you while your case is going through the court process. You can discuss with your lawyer and your DCP&P worker the possibility of arranging for supervision or services that might allow you to keep your child at home. Perhaps a relative could live with you to supervise your contact with your child. Or DCP&P might consent to your child staying with you if you have a home health aide or intensive in-home counseling. If DCP&P or the law guardian suggests other arrangements that they think would make your child safe in your care, you should try to go along with their plan, if possible.

If you need substance abuse treatment, there are a few small residential treatment programs where a parent and child can stay together. Ask if one is available. Or ask DCP&P to let you enter an outpatient substance abuse treatment program while continuing to care for your child. If your child has been removed because someone else in your home harmed your child, ask if your child may stay with you if you and your child have no further contact with that person.

Discovery

After your first appearance in court, there will be a discovery period. The discovery period allows all sides to gather information about the case and get information from each other. Your DCP&P worker will continue to

investigate and evaluate you, your home, and the facts in your case. Your DCP&P worker and the law guardian or investigator will also visit your child to see how he or she is doing.

Your lawyer is entitled to look at the DCP&P file on you and your family.

If you qualify for help from the Office of the Public Defender's Parental Representation Unit, your lawyer can apply for money to pay for any psychological or other expert evaluations you need in this case. Although your lawyer is not allowed to have contact with your child, he or she may request an evaluation of your child.

Mediation

Some counties have mediation programs, which give parents, DCP&P caseworkers, lawyers, and other interested people an opportunity to meet and try to reach solutions in abuse or neglect cases. A neutral mediator, who is a specially trained court employee, coordinates the sessions. Sometimes mediation may help the parties agree on some or all of the issues in their case.

Your fact-finding hearing

After discovery is completed, the judge will have to decide whether or not you abused or neglected your child. You have the right to a fact-finding hearing. At this hearing, DCP&P will try to prove that its claims against you are true. You and your lawyer have the right to present your view of the situation and defend against what DCP&P says.

DCP&P's lawyer will present documents (papers) and witnesses to prove that the things it said about you in its Complaint are true. Your lawyer and the law guardian

will have an opportunity to argue, where appropriate, that DCP&P's documents should not be part of the case. Your lawyer and the law guardian will also be able to challenge what DCP&P's witnesses say by cross-examining them.

Then your lawyer will be able to present documents and witnesses on your behalf. DCP&P and the law guardian will have an opportunity to object to what you presented and cross-examine your witnesses. The law guardian will also have an opportunity to present documents and witnesses, and DCP&P's lawyer and your lawyer will have a chance to object and cross-examine.

Preparing for your fact-finding hearing with your lawyer is very important. You must be sure your lawyer knows all important information about DCP&P's claims about you. Let your lawyer know about any other related facts or witnesses you think would help explain your side of the story. You and your lawyer should decide whether you will testify at your hearing.

The judge will consider all of the evidence and legal arguments made at the hearing and decide whether you have abused or neglected your child. The judge must explain his or her decision in an oral or written opinion. If the judge decides that you did not abuse or neglect your child, your child will be returned to you, and your case will be closed. If the judge decides that you did abuse or neglect your child, the court will hold another hearing, called a dispositional hearing, to decide what should happen next. See *Dispositional hearing* on page 28.

Stipulating to DCP&P's claims instead of having a hearing

Before your hearing, your lawyer may discuss with you whether or not you want to stipulate to (agree with) some or all of DCP&P's claims about you. If you stipulate to any of DCP&P's claims, you agree that you will not argue that they are untrue. You also give up your right to a fact-finding hearing in this case. Instead, the judge will rely on your stipulation and make a finding that you abused or neglected your child. You cannot appeal your stipulation to child abuse or neglect once it is accepted by the court.

Deciding whether to stipulate to claims against you is a very important decision. You should discuss it carefully with your lawyer. If you stipulate that you have abused or neglected your child, DCP&P can keep your child in foster care until the judge decides that it is safe for your child to live with you. The judge can also order you to participate in services. Also, if you stipulate, DCP&P will place your name on the Child Abuse Registry. See *DCP&P administrative substantiation of abuse or neglect* on page 33.

If there are statements in DCP&P's Complaint that are not true, you have a right to make DCP&P present evidence to prove that the claims are true, instead of signing a stipulation.

Before you agree to stipulate, you or your lawyer should discuss with DCP&P the specific facts to which you will stipulate. You should also find out what DCP&P wants you to do to get your child back if you stipulate.

Dispositional hearing

If the judge finds that you abused or neglected your child, either after a hearing or a stipulation, the judge

must then hold a dispositional hearing to decide what should happen next. This hearing often takes place immediately after the fact-finding hearing. The judge will generally order you to take certain steps, such as participating in counseling or other treatment, to address the problems it believes you have. The judge will also decide whether or not your child can be returned home while you are participating in services or whether you must do certain things before you can be reunified with your child. At this hearing, all parties may present additional evidence.

Appeals

If you disagree with the judge's decision following the dispositional hearing, you have a right to appeal it. DCP&P and the law guardian also have the right to appeal if they disagree with the decision. If you choose to appeal the decision, your lawyer should start the appeal process for you. The time limit for filing an appeal is 45 days from the date the judge signs the order. If the case is appealed, the appellate court will review the record of the hearing and decide whether the trial judge decided the case correctly.

Review hearings

After your dispositional hearing, the judge will schedule your case for one or more review hearings to check on how you and your child are doing. At review hearings, the judge will find out whether you are following current court orders and, where necessary, make new orders in your case. DCP&P and the law guardian will continue to report to the judge about your progress and your child. Often, DCP&P will submit written reports about your case for the judge to consider. If a CASA volunteer is involved in your case, he or she may also

submit a report to the judge. You should go over the information in these reports with your lawyer before the review hearing. At the hearing, you can correct information in a report and add additional information. You should give the court any reports or other information that show you are making progress.

When the judge finds that you can safely care for your child at home, the judge will order that your child be returned to you. The judge will probably continue your case for another few months after your child is returned to make sure that you are providing a safe, stable home for your child. Eventually, if all goes well, the judge will dismiss your case.

Permanency hearing

If your child is in foster care or another out-of-home placement and nearly a year has gone by, the judge will hold a permanency hearing. If the judge decided that DCP&P did not have to help you reunify your family, a permanency hearing will be held much sooner. At the permanency hearing, DCP&P will present a plan for a permanent living situation for your child, and the judge will decide whether or not to approve that plan. Your child is also permitted to attend and participate in the permanency hearing, if they wish, regardless of their age. Your child may speak to the judge in chambers or in the court room. DCP&P may recommend any of the following:

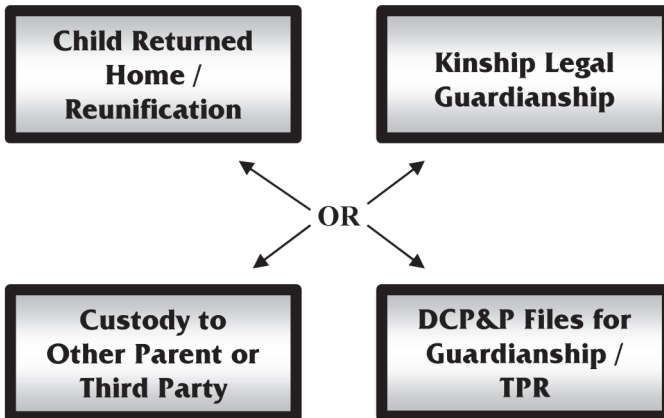
- Returning your child to you in the near future;
- Filing a case to terminate your rights to your child so that your child can be adopted;
- Placing your child in the custody of a relative or friend;

- Having your child’s current caretakers become kinship legal guardians (where caretakers assume legal responsibility for the child, although parental rights are not terminated); or
- Placing your child in long-term foster care.

You have the right to present an alternative plan for your child. For example, you can request that the judge allow your child to live with a specific relative or family friend. Or you can ask that the child’s caretakers become kinship legal guardians so that your parental rights are not terminated.

At the permanency hearing, DCP&P must show that it made reasonable efforts to help you, unless the judge ruled that DCP&P was not required to help you reunify with your child.

Possible Court Outcomes



Section 4: Related Legal Matters

The Child Placement Review Board (CPRB)

The Child Placement Review Board (CPRB) is a group of volunteers who review cases of children in foster care. The CPRB gathers information about the parents; the visitation schedule; the status of relative searches; the children's vital information, as well as educational and medical background; and the services provided by DCP&P. The CPRB reports the information gathered and makes recommendations to the judge. If your child has been removed from you, the CPRB in your county should review your case within 45 days of your child's removal. Parents, foster parents, and other interested people are allowed to attend the CPRB hearing to present their views. If you have a court case going on at the same time, the CPRB hearing will take place in addition to the court hearing. If you voluntarily placed your child with DCP&P, the CPRB will have additional reviews of your case, including an annual review focused on permanency (return home, adoption, or other permanent outcomes for the child).

You should attend all CPRB hearings about your child, and ask your lawyer to come with you, if possible. DCP&P makes written reports to the CPRB members in each case. You and your lawyer should ask to see the report before your hearing, so that you can respond to what DCP&P is saying about you. You should give the CPRB copies of reports or other papers you want the CPRB to see.

After reading DCP&P's report and any papers you provide and listening to the people who come to the

hearing, the CPRB will make recommendations to the judge about what should happen in your case. You and your lawyer should get a copy of the CPRB's recommendations in the mail. You should let the judge know, in writing, if you disagree with the recommendations. The judge may hold a hearing before deciding whether to approve the recommendations. If no objections are submitted, the judge will address the CPRB recommendations at the next court hearing.

DCP&P administrative substantiation of abuse or neglect

In addition to bringing this court case against you, DCP&P may make its own finding that you abused or neglected your child. If, after investigating your situation, DCP&P decides that you abused or neglected your child, it will notify you that it has substantiated abuse or neglect. This administrative substantiation of abuse or neglect can have negative consequences for you. DCP&P will place your name in the New Jersey Child Abuse Registry, which contains names of people who have been determined by DCP&P or a court to have abused or neglected children. Being on this registry will prevent you from getting or keeping certain jobs that involve caring for children or people who are disabled or elderly. It can also prevent you from becoming a foster or adoptive parent. In addition, DCP&P will let the local and state police know about the abuse or neglect.

If you do not agree with the substantiation of abuse or neglect, and you are not a defendant in a child abuse or neglect case that is in court, you should appeal it by contacting the office identified in the notice you receive from DCP&P within 20 days. If you are involved in a child abuse or neglect court case, you should inform

Related Legal Matters

your attorney of the abuse or neglect substantiation. You are entitled to see any reports on which DCP&P is basing its decision. You are also entitled to a hearing before the Office of Administrative Law. After that hearing, an administrative law judge will make recommendations and the director of DCP&P will make a final decision. If you lose your case, you can appeal to the Appellate Division of the Superior Court of New Jersey.

Prior to April 1, 2013, DCP&P made only two types of findings: substantiated and unfounded. Now, there are four tiers of findings: *substantiated*, *established*, *not established*, and *unfounded*. Only substantiated findings are placed on the registry. The definitions for *substantiated* and *unfounded* have not been changed. An *established* finding means that after gathering and reviewing all the information, DCP&P concluded at the end of the investigation that your case did not fall in the substantiation tier, but it still found that there was some proof of abuse or neglect. *Not established* means that DCP&P did not find abuse or neglect but found that you may have exposed your child to harm or risk of harm. *Established* and *not established* are not placed on the registry, but DCP&P will maintain your files in their agency records. There is no right to expunge (delete) your files in the agency records.

Due to a 2017 New Jersey Appellate Division decision called *New Jersey Division of Child Protection and Permanency v. V.E.*, if you do not agree with the Division's established finding, you may now directly appeal the finding as you would a finding of substantiated. Because an established finding may still affect certain employment opportunities related to children, the right to adopt or serve as a resource parent, and impact possi-

ble future Division proceedings, it is appropriate that there is an appeals process to appeal an established finding. As with a substantiated finding, you may now appeal directly to the Office of Administrative Law. You can do this by contacting the office identified in the notice you receive from DCP&P within 20 days. There are several steps to the appeal process. During the process, you should try to talk with the Division and/or the Deputy Attorney General (DAG) assigned to your case and tell them that you do not want your information or name in the Division's files and would like your finding to be downgraded to not established or unfounded. In some cases, the Division and/or the DAG may be willing to change your substantiated finding to a finding of unfounded or not established.

Unlike a substantiated or now an established finding, there is no right to appeal a *not established* finding directly to the Office of Administrative Law. However, you may have the right to appeal to the Appellate Division of the Superior Court of New Jersey. If you would like advice or assistance on appealing these findings, please ask your attorney or contact Legal Services of New Jersey's Family Representation Project.

Child support

If your child is in foster care, your county welfare agency may file a child support action against you on behalf of DCP&P. Or relatives or friends caring for your child may seek child support from you. Do not ignore notices about a child support action against you. If you do not go to court, the judge may set a child support amount that is too high for you to pay. You may be jailed for contempt of court if you do not pay the support.

Related Legal Matters

Child support payments are based on your income. When you go to court in a child support case, bring proof of your income. If you are receiving public assistance (such as welfare or SSI), bring proof of that with you. Public assistance payments do not count as income in figuring out how much child support you must pay.

If your child support order is too high because it was entered when you were not in court or because something has changed since it was entered, try to get it reduced. Go to the family court and tell them you want to file a motion to change your child support order. If you are not given a date for a hearing at that time, the court will notify you by mail when to come for the hearing.

At the modification hearing, a hearing officer will review your case. You will need to explain your reasons for asking that the order be reduced. If you have lost your job and cannot find another one, are in a full-time treatment program, or are now disabled and cannot work, explain your situation. If you missed the hearing in your case, tell the hearing officer why you missed it.

The hearing officer will make a recommendation to the judge about whether to change your child support order and, if so, by how much. If you are not satisfied with the hearing officer's recommendation, you can request a new hearing before a judge. If there is no challenge to the recommendation, a judge will usually sign an order accepting the hearing officer's recommendation.

Welfare

If you were receiving welfare before your child was removed, you will lose your benefits. Or, if you still have a child at home, your benefits will be lowered. If you

lose your welfare benefits, you will also lose your Medicaid benefits. However, you can apply at your county or municipal welfare agency for General Assistance, which also provides medical benefits. You may also be eligible for food stamps/SNAP and Emergency Assistance for housing. Ask your welfare agency about all of these programs.



Section 5:

Suggestions to Help You Get Your Child Back

Many parents feel powerless and frightened when DCP&P files a court action against them. Try not to let your feelings keep you from doing what you need to do to keep your child with you or to get your child back. Here are some suggestions to help you focus on the things you can do to help yourself:

Get a lawyer and work with your lawyer

Get a lawyer as soon as possible and keep in touch with him or her. Always make sure your lawyer knows how to reach you. When your lawyer leaves you a message, respond as soon as possible. Keep your lawyer up to date on your situation.

Be honest with your lawyer. Tell him or her everything you know that might be important in your case. Give your lawyer copies of all of the papers you have that concern your case. Ask your lawyer to explain anything that goes on in your case that you do not understand. Never sign anything related to your case without consulting your lawyer.

Begin services right away

Unless you have a strong belief that counseling, parenting classes, and other services DCP&P recommends are a bad idea for you, you should begin those services as soon as possible. Ask for other services you believe will be helpful. Letters and reports from therapists that say good things about you will help you get your child

back. Proof that you have attended and completed parenting classes or other training should also help.

Attend all hearings and appointments

Always be present and on time for court, evaluations, therapy, and other appointments related to this case. If possible, let your employer, teachers, and/or treatment program staff know that you are involved in an important court case, and try to arrange your schedule so that you can attend all scheduled appointments and court dates. If you do miss court or an evaluation you have been ordered to attend, contact your lawyer right away. Remember that the judge can enter a default against you because of your failure to appear in court, and you could lose your chance to present your defense at trial. If you have a good reason for not appearing, your lawyer might be able to undo the default.

Attend all visits with your child

Visits are important for your child and will help you and your child maintain your relationship. Never miss your scheduled visits with your child, and remember to confirm them in advance if you are required to do so.

Behave in a calm, polite way

How you act while your case is going on is important. The judge, DCP&P workers, the law guardian, therapists, court staff, CASA volunteers, and others are forming opinions of you that will affect the decisions in your case. Be cooperative and respectful. Otherwise, you may hurt your chances of getting your child back.

Show that you can provide a safe, stable home for your child

Do the best you can to show that you can meet your child's need for safety and stability. Employment and acceptable housing are signs of stability. So is a good support system, a network of reliable, stable friends and relatives you can call on when you need help. Avoid relationships with people who are or have been involved with crime, child abuse, substance abuse, or any kind of violence.

Advocate for your child

If you are concerned that your child is being mistreated in his or her out-of-home placement, or that your child needs services or other help he or she is not getting, discuss this with your lawyer. You or your lawyer will need to express your concerns to DCP&P. If you are not satisfied with DCP&P's response, talk to your lawyer about whether you should express your concerns to the law guardian, the CASA volunteer, if there is one, and the judge.

Stay involved with your child's educational and medical decisions

Ask your caseworker to be notified of all upcoming school meetings, events, and medical appointments for your child while your child is out of your home. You want to stay involved in your child's day-to-day activities. If you are not receiving this information, let your attorney or judge know.

Keep up with everything that is going on

Dealing with everything that happens when DCP&P brings an action for child abuse or neglect against you is very hard and time-consuming. However, you must

attend to everything. Don't let anything related to this DCP&P case fall through the cracks.

- Get your side of the story and your suggestions before the judge, as well as before the Child Placement Review Board.
- Work to stabilize your life and solve any problems you have.
- Visit and communicate with your child as much as possible.
- Stay involved with your child's educational and medical decisions.
- If you are informed that DCP&P has made an administrative substantiation of abuse or neglect against you and you wish to contest it, respond by the deadline.
- Attend any child support hearings that involve you.



Conclusion

You have a right to care for your child, unless your child is at risk of harm in your care. You will need to work hard to resolve your family problems and get through your case successfully. Remember that you have a right to present your side of the case and to have a lawyer represent you. Remember also that DCP&P must provide services to help you keep your child, or reunite with your child. Most of all, remember that what you do from now on will be a major factor in determining the outcome of your case.

Important Dates and Deadlines In My Case

Keep track of the important dates and deadlines noted below.

Date of removal: Date my child was removed from my care: _____

Deadline for CPRB to review (see page 32) = Date of removal + 45 days: _____

Deadline for court to hold permanency hearing (see page 30) = Date of removal + 1 year: _____

Deadline for DCP&P to file case for termination of parental rights, if my child is still in out-of-home placement (see page 14) = Date of removal + 1 year and 3 months: _____

Services and Appointments In My Case

In most cases, DCP&P has an obligation to provide you with services to help you keep your family together or reunite your family if your child has been placed in foster care. For more information about getting help from DCP&P, see page 17. You can keep track of service providers and appointments below.

My therapist: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Services and Appointments in My Case (continued)

Other Services/Appointments:

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Services and Appointments in My Case (continued)

Other Services/Appointments:

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Services and Appointments in My Case (continued)

Other Services/Appointments:

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Service/appointment: _____

Phone number: _____

Address: _____

Appt. dates and times: _____

Visitation

It is very important to visit with your child when she or he is in foster care. Remember to confirm your visits in advance if you are required to do so. For more information about family visits, see page 20.

You may have a separate caseworker involved with your visitation.

My visitation worker:

Phone number: _____

Address: _____

Best time to call: _____

Keep track of your visits and do not miss any.

Date	Time	Location	Date/Time Confirmed	Notes on Visit

Visitation (continued)
Keep track of your visits and do not miss any.

Date	Time	Location	Date/Time Confirmed	Notes on Visit

Court Hearings

It is important that you attend every court hearing in your case. If you have an emergency that prevents you from attending any hearing, you must call your attorney or the court as soon as possible.

Each court hearing and meeting has a different purpose. They are all described in this handbook, at pages 23-31, so that you will know what to expect and why it is important for you to attend. Consult with your attorney regarding any questions or concerns that you have about any hearings that you are being asked to attend.

Keep track of your court hearings below.

Court Date	Time	Judge	Notes
1)			
2)			
3)			
4)			
5)			

Court Hearings (continued)
Keep track of your court hearings below.

Court Date	Time	Judge	Notes
6)			
7)			
8)			
9)			
10)			
11)			
12)			
13)			
14)			

New Jersey Legal Services Programs

State Coordinating Program

Legal Services of New Jersey

100 Metroplex Drive, Suite 402

Edison, NJ 08817

732-572-9100

LSNJLAWSM, statewide, toll-free legal hotline:

1-888-LSNJ-LAW (1-888-576-5529)

Apply for help online: www.lsnjlawhotline.org

www.LSNJ.org / www.LSNJLAW.org

Regional Legal Services Programs

Central Jersey Legal Services

Mercer County (609) 695-6249

Middlesex County—New Brunswick (732) 249-7600

Middlesex County—Perth Amboy (732) 324-1613

Union County (908) 354-4340

Essex-Newark Legal Services (973) 624-4500

Legal Services of Northwest Jersey

Hunterdon County (908) 782-7979

Morris County (973) 285-6911

Somerset County (908) 231-0840

Sussex County (973) 383-7400

Warren County (908) 475-2010

Northeast New Jersey Legal Services

Bergen County (201) 487-2166

Hudson County (201) 792-6363

Passaic County (973) 523-2900

South Jersey Legal Services

Atlantic County (609) 348-4200

Burlington County (609) 261-1088

Camden County (856) 964-2010

Cape May County (609) 465-3001

Centralized intake 1-800-496-4570

Cumberland/Salem Counties (856) 691-0494

Gloucester County (856) 848-5360

Monmouth County (732) 414-6750

Ocean County (732) 608-7794

