

Child Welfare Policy Manual

Questions & Answers

8.3C.2b TITLE IV-E, Foster Care Maintenance Payments Program, State Plan/Procedural Requirements, Case review system, notice and right to be heard

1. Question: Is it possible to waive noticing a parent whose child's case plan goal is a permanent foster care placement?

Answer: There is no waiver provision in the law with respect to opportunity for parental involvement in an administrative review undertaken as required by the case review system.

A periodic case review may be undertaken either by a court or by an "administrative review". (Section 475 (5)(B) of the Social Security Act (the Act)). Section 475 (6) of the Act defines an "administrative review" as a "review open to the participation of the parents of the child..."

These provisions indicate that when a State agency satisfies the periodic review requirement by "administrative review", it must provide parents the opportunity to participate in the proceedings. Of course the parents may choose not to participate. But it is incumbent upon the State agency to give them that opportunity.

- **Source/Date:** ACYF-CB-PIQ-81-01 (10/20/81)
- **Legal and Related References:** Social Security Act - sections 471 (a)(16) and 475 (5) and (6)

2. Question: Do the notice requirements in section 475(G) of the Social Security Act apply to all court hearings? Do they apply to shelter care, emergency removal, adjudication and disposition hearings? Do they apply to procedural hearings, such as pretrial hearings or hearings on motions for discovery?

Answer: The revised statutory language confers a "right" to be heard instead of an "opportunity," as well as changes such right to be heard to a "proceeding" instead of "review or hearing" as in the previous language. Thus, we are interpreting this change to mean that in having a "right" to any "proceeding" to be held with respect to the child, the foster parents, pre-adoptive parents or relatives providing care for a child must, at a minimum, be provided with notice of their right to be heard in all permanency hearings, as well as six-month reviews, if held by the court.

- **Source/Date:** 01/29/07

- **Legal and Related References:** Social Security Act § section 475(5)(G), 45 CFR 1356.21(o)