

ADMIT/DENY HEARING CHECKLIST

IDENTIFICATION OF FILE NAME AND NUMBER AND PERSONS PRESENT

At the commencement of the hearing, the court shall on the record:

1. State the **case name** and **file number**.
2. Ask all **parties, participants, and attorneys** present to **identify themselves** for the record.
3. Determine whether it is in the **child's best interests** to be **present or to be excluded** from the hearing. In cases where the child's behavior is the underlying cause of the petition, the child must be present to admit or deny the statutory grounds stated in the petition.
4. Inquire whether there is anyone in the audience who wishes to be identified because of an interest regarding the child or family.
5. State that this is an Admit/Deny Hearing and that the **purpose of the hearing** is to determine whether the **parent, legal custodian, or child if appropriate, admits or denies** the statutory grounds and factual allegations set forth in the petition.

INITIAL PROCEDURES IF NOT PREVIOUSLY DETERMINED AT PRIOR HEARING

If this is the first hearing in the case, or if not previously determined at a prior hearing, the court shall:

1. Verify the **name, date of birth, race, and current address of the child** who is the subject of the matter, unless stating the information would endanger the child or seriously risk disruption of the current placement.
2. Determine **whether the child is an Indian child** and, if so, determine **whether the child's parent or Indian custodian and Indian tribe** have been **notified** of the hearing by **registered letter, return receipt requested**, and that the return receipt is in the court file.
3. Determine whether all **required persons** have been **informed of the time and place of the hearing** and what further efforts, if any, must be taken to notify all parties and participants as rapidly as possible of the pendency of the matter and the date and time of the next hearing.
4. Determine **whether any other persons**, including relatives, **should be included** as a **parties or participants** and notified of the date and time of the next hearing.
5. Determine whether **all parties and participants have been served a copy of the petition**. Unless a party otherwise consents to do so, a party may not be required to admit or deny the statutory allegations of the petition if the party did not

receive possession of the petition at least three (3) days before the hearing.

6. Inquire about the **address or location of any party, participant, or other person who is not present** at the hearing.
7. **Advise** any child or the child's parent or legal custodian who appears in court and is unrepresented of the **right to representation** pursuant to RJPP 25.

GENERAL RIGHTS ADVISORY

- A. **INQUIRE ABOUT VIEWING OF VIDEO.** Inquire whether the parties and participants have **viewed the video entitled "In the Best Interests of Your Child."** This video is intended to replace the need for the court to discuss in detail the "General Rights and Procedures Advisory" set forth below and, instead, allow the court to go into detail about any right or procedure that a party may not fully understand.
- B. **INQUIRE ABOUT UNDERSTANDING OF BASIC RIGHTS AND PROCEDURES.** The court shall on the record inquire about **whether they parties and participants understand the basic rights**. For parties and participants who have not viewed the video, or who state that they do not understand the rights, the court shall on the record advise all parties, participants, and attorneys present of the following:
 1. **The purpose of the hearing:** To determine whether the pertinent parties wish to admit or deny the statutory allegations stated in the petition.
 2. **The possible consequences of failure to appear at hearings:**
 - (a) A finding that the petition has been proved,
 - (b) An order adjudicating the child in need of protection or services,
 - (c) An order removing the child from the parent's care, including an order terminating the parent's rights or transferring permanent legal and physical custody of the child to another, and
 - (d) Arrest and/or contempt of court.
 3. **The Possible Consequences of Child Protection Proceeding:** Failure to comply with the court's orders and to make progress on a case plan ordered or approved by the court may result in the permanent removal of the child from the parent's care, including an order terminating the parent's rights or

transferring permanent legal and physical custody of the child to another.

(d) **The Right to Representation:** The right to representation if any child or child's parent or legal custodian appears in court and is not represented by counsel.

(e) **Basic procedural rights of a parties and participants.**

5. **The expedited permanency timeline.** If the child has been ordered into out-of-home placement and has not been returned home:

(a) For a child under age 8, a **Permanency Progress Review Hearing** must be commenced within 180 days of the child's court-ordered removal from home. The purpose of the hearing is to determine whether the parent or legal custodian has maintained regular contact with the child and is complying with the case plan, and whether it is safe for the child to be returned home.

(1) If the parent is complying with the case plan and maintaining regular contact with the child as required in the case plan, and if the court determines that the child would benefit from continuing this relationship, the court may either:

(i) Return the child home, if the conditions that led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to be returned home; or

(ii) Continue the matter up to a total of six additional months, at which time the court must conduct a Permanent Placement Determination Hearing if the child has not been safely returned home.

(2) If the parent is not complying with the case plan or not maintaining regular contact with the child as required in the case plan, the court may order the responsible social services agency to file a petition for the child's permanent placement away from the parent.

(b) If the child, regardless of age, remains in out-of-home placement, a **Permanent Placement Determination Hearing** must be commenced within 365 days of the child's court-ordered removal from

home. The purpose of the hearing is to review the parent's or legal custodian's progress on the case plan and the services provided by the agency. The court shall determine whether the child can be safely returned home or, if not, order permanent placement consistent with the child's best interests, including terminating the parent's rights or permanently transferring the child's legal and physical custody to a relative.

UNDERSTANDING OF STATUTORY GROUNDS AND FACTUAL ALLEGATIONS

At the beginning of the hearing, the court on its own may explain, or may ask the county attorney to explain, the following:

1. The **reasons why the child was taken into emergency protective care**; and
2. The substance of the **statutory grounds** and supporting **factual allegations** set forth in the petition.

The court should determine whether the child and the child's parent or legal custodian understand the statutory grounds and the factual allegations set forth in the petition and, if not, provide an explanation.

MOTIONS

- A. **SUFFICIENCY OF PETITION AND JURISDICTION.** The court shall hear any motions addressed to the **sufficiency of the petition or jurisdiction** of the court without requiring any person to admit or deny the statutory grounds set forth in the petition prior to making a finding on the motion. The court should ask for any such motions before asking for the admission or denial.
- B. **PRIVATE PETITION.** Any party has the right to **contest the basis of a petition** filed by an individual who is not a county attorney or an agent of the commissioner of human services.
- C. **INTERVENTION.** The court should determine whether there are any **motions to intervene**.

DETERMINATIONS IN TERMINATION OF PARENTAL RIGHTS MATERS

- A. **PRIMA FACIE DETERMINATION SUPPORTING TPR.** In each termination of parental rights matter the court shall determine whether the **petition states a prima facie case in support of termination of parental rights** under the statutory grounds stated in the petition.
- B. **PRIMA FACIE DETERMINATION REGARDING REASONABLE/ACTIVE EFFORTS TO REUNIFY.** When

the petition alleges that reasonable efforts, or active efforts in the case of an **Indian** child, have been made to reunify the child with the parent or legal custodian, the court shall enter a separate finding regarding whether the factual allegations contained in the petition state a prima facie case that the **agency has provided reasonable efforts**, or active efforts in the case of an **Indian** child, to reunify the child and the parent or legal custodian.

OR

In the alternative, the court may enter a finding that **reasonable efforts**, or active efforts in the case of an **Indian** child, to reunify the child and the parent or legal custodian were **not required** under Minn. Stat. § 260.012(a).

- C. **PRIMA FACIE CASE FOUND.** If the court determines that the petition states a prima facie case in support of termination of parental rights, the court shall proceed to solicit an **admission or denial** to the statutory grounds stated in the petition.
- D. **PRIMA FACIE CASE NOT FOUND.** If the court determines that the petition fails to state a prima facie case in support of termination of parental rights, the court shall:
 - 1. **Return the child** to the care of the parent or legal custodian;
 - 2. Give the petitioner ten (10) days to file an **amended petition** or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights;
 - 3. Give the petitioner ten (10) days to file a child in need of protection or services (**CHIPS**) **petition; OR**
 - 4. **Dismiss the petition.**

DETERMINATIONS ON OTHER PERMANENCY MATTERS

- A. **PRIMA FACIE DETERMINATION SUPPORTING PERMANENCY PETITION.** In each permanent placement matter the court shall review the facts set forth in the petition, consider such argument as the parties may make, and determine whether the petition states a **prima facie case in support of one or more of the permanent placement options.**
- B. **PRIMA FACIE DETERMINATION REGARDING REASONABLE/ACTIVE EFFORTS TO REUNIFY.** When the petition seeking permanent placement of the child away from the parent or legal custodian requires a determination by the court that

reasonable efforts, or active efforts in the case of an **Indian** child, have been made to reunify the child with the parent or legal custodian, the court shall enter a separate finding regarding whether the factual allegations in the petition state a prima facie case that **the agency has provided reasonable efforts**, or active efforts in the case of an **Indian** child, to reunify the child and the parent or legal custodian. In the alternative, the court may enter a finding that **reasonable efforts**, or active efforts in the case of an **Indian** child, were **not required** under Minn. Stat. § 260.012.

- C. **PRIMA FACIE CASE FOUND.** If the court determines that the petition states a prima facie case, the court shall proceed pursuant to **solicit an admission or denial** to the statutory grounds stated in the petition.
- D. **PRIMA FACIE CASE NOT FOUND.** If the court determines that the petition fails to state a prima facie case, the court may:
 - 1. **Return the child** to the care of the parent;
 - 2. Give the petitioner ten (10) days to file an **amended petition** or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case; or
 - 3. **Dismiss the petition.**

PERSONS REQUIRED TO ENTER ADMISSION OR DENIAL

The court shall ask the following persons to enter an admission or denial to the petition:

- A. **PARENT OR LEGAL CUSTODIAN.**
 - 1. **Generally.** Unless the child's parent or legal custodian is the petitioner, **a parent or legal custodian who is a party shall admit or deny** the statutory grounds set forth in the petition or remain silent. If the parent or legal custodian denies the statutory grounds set forth in the petition or remains silent, or if the court refuses to accept an admission, the court shall enter a denial of the petition on the record.
 - 2. **Termination of Parental Rights and Permanent Placement Matters.** In a termination of parental rights matter, only the **child's parent or legal custodian** are required to admit or deny the petition.
- B. **CHILD.** The child shall **not be required to admit or deny** the petition, **except** in matters where the sole allegation is that the **child's behavior** is the basis for the petition.

PROCEDURES, FINDINGS, AND ORDER IF DENIAL ENTERED

- A. **DENIAL WITHOUT APPEARANCE.** A written denial or a denial on the record of the statutory grounds set forth in a petition may be entered by counsel without the personal appearance of the person represented by counsel.
- B. **FURTHER PROCEEDINGS AFTER DENIAL.** When a denial by any party is entered, the court shall schedule a Pretrial Conference and/or Trial, the dates of which shall be included in a scheduling order which shall be issued at the conclusion of, or with five (5) days of, the Admit/Deny Hearing.
- C. **FINDINGS AND DETERMINATIONS TO BE INCLUDED IN ORDER FOLLOWING DENIAL.** If a denial is entered, the court shall determine the following, which shall be included in the order:
1. The names of all **parties, participants, and attorneys who appeared** at the hearing.
 2. The names of all **parties served with the Summons and Petition** at least three (3) days before the hearing, including any **who failed to appear** despite proper service.
 3. The names of all **parties not served with the Summons and Petition** at least three (3) days before the hearing, but who nevertheless **agree to proceed** with the Admit/Deny Hearing.
 4. The names of all **parties** who were entitled to be served but who were **not served**, and direct immediate service, including service by publication if necessary.
 5. The names of all **participants and attorneys** who were entitled to be served with a Notice of the Hearing and a copy of the Petition, but who were **not served**, and direct immediate service.
 6. The **parents' names, addresses, and dates of birth.**
 7. The **father's legal status** as of the date of the hearing as either alleged, adjudicated, presumed, custodial, or unknown.
 8. **Whether paternity must be established** for any father, and order paternity testing if appropriate.
 9. Whether the **child is an Indian child** and, if so, whether the child's parent or **Indian** custodian and **Indian** tribe were **notified of the hearing by registered mail, return receipt requested**, and whether the return receipt is located in the court file.
 10. The names of all **persons who entered a denial** to the petition.
 11. The **actual date of the child's removal** from home, if the child was removed from home by the responsible social services agency or law enforcement.
 12. The **child's placement**, including whether the child shall:
 - (a) Continue in out-of-home placement;
 - (b) Return home with conditions in place to assure the safety of the child or others;
 - (c) Return home with reasonable conditions of release; or
 - (d) Return home with no conditions.
 13. The **date** by which the out-of-home placement plan or child protective services **case plan will be served and filed**, and who will participate in the development of such plan.
 14. The **conditions**, if any, to be imposed **upon the parent**, legal custodian, or a party.
 15. The **services, examinations, or evaluations**, if any, to be provided to the **child** and by whom and the date the **report shall be served and filed.**
 16. The **services, examinations, or evaluations**, if any, to be provided to the child's **parent** and by whom and the **date the report shall be served and filed** (the court may order such services if the parent agrees to accept such services despite a denial or if the court grants another party's discovery motion).
 17. The terms of **parental and sibling visitation** pending further proceedings.
 18. **Scheduling information** for completion of discovery, and exchange of witness lists and exhibit lists.
 19. The date, time, and place of the **Pretrial Conference and Trial.**
 20. **The parent's responsibility for costs of care** pursuant to Minn. Stat. § 260C.331, subd. 1.
 21. A statement about **the expedited permanency timeline**: that if the child is under 8 years of age at the time the petition is filed, a Permanency Progress Review Hearing must be commenced within six (6) months of the child's court-ordered removal if the child remains in out-of-home placement; and a statement that if the child, regardless of age, remains in out-of-home placement, a Permanent Placement Determination Hearing must be commenced within twelve (12) months of the child's court-ordered removal if the child has not been returned home.

22. A statement that, unless otherwise modified by this order, all previous **orders** shall **remain in full force and effect**.

placement of the child will be held within 12 months of the date of the child's out-of-home placement if the child was 8 years or older at the time of the filing of the petition.

PROCEDURES, FINDINGS, AND ORDER IF ADMISSION ENTERED

- A. **ADMISSION UNDER OATH.** Any admission must be made **under oath**. The court should inquire whether there will be an **admission or denial** and, if there is to be an admission, place the party under oath.
- B. **ADMISSION WITHOUT APPEARANCE.** A **written admission** of the statutory grounds set forth in the petition, made **under oath** by the admitting party, may be entered by counsel for that party without the personal appearance of the admitting party. The admission must be **submitted at or before the hearing**. If a written admission is submitted, the hearing must still take place so that the court may make the necessary findings and orders.
- C. **QUESTIONING OF PERSON MAKING ADMISSION.** Before accepting an admission regarding a CHIPS petition, the court shall **determine on the record or by written document** signed by the person admitting and the person's counsel, if represented, whether the **person admitting acknowledges**:
1. An understanding of:
 - (a) the nature of the **statutory grounds** set forth in the petition;
 - (b) if unrepresented, the **right to representation** pursuant to RJPP 25;
 - (c) the **right to a trial**;
 - (d) the **right to testify**; and
 - (e) the **right to subpoena witnesses**.
 2. An understanding that the **facts being admitted** establish the statutory grounds set forth in the petition.
 3. An understanding that a **possible effect of a finding that the statutory grounds are proved** may be the **permanent removal of the child** from the parent's care, including transfer of legal custody of the child to another or termination of parental rights to the child.
 4. An understanding of the **expedited permanency timeline**: If the child is not returned home, a hearing to review progress on the case plan will be held within 6 months of the date of the child's out-of-home placement if the child was under 8 years of age at the time of the filing of the petition, and hearing to determine the permanent
- D. **FACTUAL BASIS FOR ADMISSION REQUIRED.** The court shall **refuse to accept an admission** unless there is a **factual basis** for the admission.
- E. **FULL OR PARTIAL ADMISSION.** A party may admit all of the statutory grounds set forth in the petition. Pursuant to a settlement agreement, a **person may admit some, but not all**, of the statutory grounds set forth in the petition.
- F. **WITHDRAWAL OF ADMISSION.** After filing a motion with the court:
1. An admission may be **withdrawn at any** time upon a showing that withdrawal is necessary to correct a manifest injustice; or
 2. The court may allow a withdrawal of an admission before a finding on the petition for any **fair and just reason**.
- G. **ACCEPTANCE OR NON-ACCEPTANCE OF ADMISSION.** At the time of the admission, the court shall make a **finding** that:
1. The admission has been **accepted** and the **statutory grounds** admitted have been **proved**;
 2. The admission has been **conditionally accepted** pending the court's approval of a settlement agreement pursuant to RJPP 19; or
 3. The admission has **not been accepted**.
- H. **FURTHER PROCEEDINGS.** If the court makes a finding that the **admission is accepted** and the statutory grounds admitted are proved, or that the admission is conditionally accepted pending the court's approval of a settlement agreement, the court shall enter an order with respect to **adjudication and proceed to disposition**.
- I. **ADJUDICATION OR WITHHOLDING OF ADJUDICATION IN CHIPS MATTERS.**
1. **ADJUDICATION.** If the court makes a finding that the **statutory grounds** set forth in the petition alleging a child to be in need of protection or services (CHIPS) are **proved**, the court shall:
 - (a) **Adjudicate** the child as in need of protection or services and proceed to disposition; or
 - (b) **Withhold adjudication** of the child.

2. **WITHHOLDING ADJUDICATION.** When it is in the best interests of the child to do so, in a CHIPS matter the court **may withhold an adjudication** that the child is in need of protection or services for a period **not to exceed ninety (90) days** from the finding that the statutory grounds set forth in the petition have been proved. During the withholding of adjudication, the court may enter a disposition order. **At a hearing, which shall be held within ninety (90) days** following the court's withholding of adjudication, the court shall either:
 - (a) **Dismiss the matter** without an adjudication if both the child and the child's legal custodian have complied with the terms of the continuance; **or**
 - (b) **Adjudicate** the child in need of protection or services if either the child or the child's legal custodian has not complied with the terms of the continuance. If the court enters an adjudication, the court shall proceed to disposition.
- J. **FINDINGS AND DETERMINATIONS TO BE INCLUDED IN ORDER FOLLOWING ADMISSION.** If an admission is entered, the court shall determine the following, which shall be included in the order:
1. The names of all **parties, participants, and attorneys who appeared** at the hearing.
 2. The names of all **parties served** with the Summons and Petition at least three (3) days before the hearing, including any **who failed to appear** despite proper service.
 3. The names of all **parties not served** with the Summons and Petition at least three (3) days before the hearing, but who nevertheless **agree to proceed** with the Admit/Deny Hearing.
 4. The names of all **parties** who were entitled to be served but who were **not served**, and direct immediate service, including service by publication if necessary.
 5. The names of all **participants and attorneys** who were entitled to be served with a Notice of the Hearing and a copy of the Petition, but who were **not served**, and direct immediate service.
 6. The **parents' names, addresses and dates of birth.**
 7. The **father's legal status** as of the date of the hearing as either alleged, adjudicated, presumed, custodial, or unknown.
 8. Whether **paternity must be established** for any father, and order paternity testing if appropriate.
 9. Whether the **child is an Indian** child and, if so, whether the child's parent or **Indian** custodian and **Indian** tribe were **notified of the hearing by registered mail, return receipt requested**, and whether the return receipt is located in the court file.
 10. The names of all **persons who entered an admission or denial** to the petition.
 11. Whether the child is **adjudicated** as in need of protection or services or, if the court determines that it is in the best interests of the child to do so, whether **adjudication is withheld** for a period not to exceed ninety (90) days from the finding that the statutory grounds set forth in the petition have been proved.
 12. The actual **date of the child's removal** from home, if the child was removed from home by the responsible social services agency or law enforcement.
 13. The **child's placement**, including whether the child shall:
 - (a) Continue in out-of-home placement;
 - (b) Return home with conditions in place to assure the safety of the child or others;
 - (c) Return home with reasonable conditions of release; or
 - (d) Return home with no conditions.
 14. The date by which the out-of-home placement plan or child protective services **case plan will be served and filed**, and who will participate in the development of such plan.
 15. The **conditions**, if any, to be **imposed upon the parent**, legal custodian, or a party.
 16. The **services, examinations, or evaluations**, if any, to be provided to the **child** and by whom and the **date the report shall be served and filed.**
 17. The **services, examinations, or evaluations**, if any, to be provided to the child's **parent** and by whom and the **date the report shall be served and filed** – the court may order such services if the parent agrees to accept such services despite a denial or if the court grants another party's discovery motion.
 18. The terms of **parental and sibling visitation** pending further proceedings.
 19. **Scheduling information** for any discovery that may be appropriate.

20. The **parent's responsibility for costs of care** pursuant to Minn. Stat. § 260C.331, subd. 1.
21. A statement regarding the **expedited permanency timelines**: that if the child is under 8 years of age at the time the petition is filed, a Permanency Progress Review Hearing must be commenced within six (6) months of the child's court-ordered removal if the child remains in out-of-home placement; and a statement that if the child, regardless of age, remains in out-of-home placement, a Permanent Placement Determination Hearing must be commenced within twelve (12) months of the child's court-ordered removal if the child has not been returned home.
22. A statement that, unless otherwise modified by this order, all previous **orders shall remain in full force and effect**.

NOTICE OF SUBSEQUENT HEARINGS

For each hearing following the Admit/Deny Hearing, the court administrator shall serve upon each party, participant, and attorney a **notice of the date, time, and location of the next hearing**. The notice shall be:

1. Delivered at the close of the hearing (if written notice is delivered at the end of the hearing, later written notice is not required),
2. Mailed at least five (5) days before the date of the next hearing, or
3. Mailed fifteen (15) days before the date of the hearing if mailed to an address outside the state.