Resource Family Approval and Relative Placement:
What Judges and Attorneys Need to Know
August 24, 2018

Marymichael Smrdeli: Welcome to the Judicial Council webinar on "Resource Family Approval and Relative Placement: What Judges and Attorneys Need to Know." My name's Marymichael Smrdeli. I'm an attorney here at the Judicial Council.

Today, we have with us the Honorable Zeke Zeidler from the Superior Court of California, County of Los Angeles; Andrew Cain, Directing Attorney of Law, for Silicon Valley, Law Foundation of Silicon Valley; Kim Wrigley, the Bureau Chief of Resource Family Approval with the Department of Social Services; and Lori Fuller, the Bureau Chief of Permanency Policy, also with the California Department of Social Services.

Welcome, everybody.

Faculty: Thank you. Thank you.

Marymichael Smrdeli: So, my job today is, sort of, to be the moderator of this webinar in this session.

Our intended audience today is basically the judges and attorneys that practice in juvenile dependency and juvenile justice proceedings. We are trying to educate that audience on the Resource Family Approval process, so what they need to know and to move their cases forward in to achieve permanency for our youth in the foster care system.

Our learning objectives today are to understand the background of the changes for the Resource Family Approval for relatives and non-relative extended family members; recognize how resource family approval impacts the court process at each hearing types throughout the juvenile case; and, hopefully, and at the end of this, you will be able to explain your role in facilitating the RFA process.

So, now, I'm going to turn this over to Kim to talk about the background of Resource Family Approval.

Kim Wrigley: Thank you, Marymichael, and thank you everybody for joining us today.

The, really, Resource Family Approval is been a project we've been working on for several years. And it became part of the larger scope of the Continuum of Care Reform project. Through the Continuum of Care Reform, we've really been looking at a lot of ways to reduce the number of children in congregate care and how to step them home into home-based settings. One of the larger goals of the Continuum of Care Reform is we believe that all children deserve to live with a committed, permanent, and nurturing family that has strong community connections. In order

to do that, we really had to relook at how we approve families in California. So, some of the legislative intent behind the Resource Family Approval program was to develop a unified family-friendly and child-centered resource family process that's eliminating a lot of the duplication and increasing the approval standards. And we really wanted to look a lot at relatives and the non-relatives and make sure that everybody was receiving the same types of resources, support systems, and funding to better balance it out between what relatives were being provided and what non-relatives were being provided.

So, with the Resource Family Approval program, this is just a simple visual aid to show you that all of our families that are interested in providing care to a child in the child welfare or probation systems, whether they're related or non-related, whether they're interested in guardianship, adoption, however they're coming into the system, they will all go through the same Resource Family Approval process. Some of the big changes that are occurring now is that there is going to be training for all of our families that are going to be providing care to our children. In the past, relatives were not required to receive training, which was a big disservice to them. So now, all of our families will receive training. And families can still choose the type of role they want to play in the system. They can choose to be a temporary caregiver on a short-term basis, or if the child is unable to reunify with their family, they can choose to play a more permanent role in that child's life. With the Resource Family Approval program, the families are approved for all types of care up front, not to say as we will explain later on, that there's some additional things to look at. But we've done the approval process up front and the families have that ability to parent on a short or long-term basis.

The one exception to this process is tribally approved homes. At this point in time, the tribally approved homes are exempt from the RFA process, and they are still going through the same approval tr, process through their tribes that has always been done.

Marymichael Smrdeli: Thanks, Kim. So, what are the basic requirements for Resource Family Approval?

Kim Wrigley: So, a lot of the basic statutory guidelines for the Resource Family Approval program can be found in the Welfare and Institutions Code 16519.5 and some of the subsequent statutes after that. As part of the statutory requirements, we're al-allowed to create the written directive, which has the same force and effect of regulation. And when you go to our RFA website you can find all versions of the written directives up on that website. Currently, we are in version 5. So just like the adoption regulations which we'll talk a little bit more later, the written directives provide the minimum standards of what every county is required to look at when assessing a family for Resource Family Approval. Some counties can go above and beyond some of those requirements if they choose to, they just cannot supersede what are the minimum standard requirements of RFA.

Marymichael Smrdeli: And Andrew, do you know in your counties if there's any additional requirements for the RFA processes or?

Andrew Cain: So, the one that stands out, and the county I practice in is Santa Clara County, it revolves around the training. The statewide minimum requirements are twelve hours of training and what our county has done is asked resource family applicants to complete 27 hours of training. The theory being that, should we be in a situation where this family needs to be the long-term permanent provider of care for this child, having that additional training will help them be able to provide those long-term supports.

Marymichael Smrdeli: And Judge Zeidler, do you know the approval trainings for Los Angeles?

Judge Zeke Zeidler: I do not believe that we require any more in Los Angeles than the minimum but I'm not sure of that.

Kim Wrigley: I would concur with the judge here. We've been working a lot with Los Angeles County and currently they are requiring the minimum 12 hours of pre-approval.

Marymichael Smrdeli: So, it's important for counties or the judges and the attorneys to know exactly what your county is requiring for the RFA approval process.

Kim Wrigley: So, this slide actually goes into a little bit more detail of some of the basic requirements, like, I kind of skimmed over that before. But really, when you're looking at RFA, there's two main components of the process. And with each of those components is broken down into some sub-components. So, the home environment assessment when you look on your left here, is probably what most folks are familiar with in the old world. So, it's part of the home environment. You're doing a home and grounds check, looking at storage capacity, the outdoor living space, and then you're also looking at the background check assessment. So, the background checks is a little bit more than what used to be required. You still do the Department of Justice, FBI, the child abuse check index form, so the DOJ, FBI, and CACI checks, but we're also now asking that a Megan's Law check be done, DMV for any applicant or other people who are frequently transporting the child, as well as what's called an LIS check, which is a check with the California Department of Social Services, to determine if they carry any other Community Care licenses, such as a daycare license, adult facility license. And then an AARS check, which is looking to see if there had been any administrative actions filed against the family previously. So, those are some of the additional checks that were not previously required.

The other larger component of the Resource Family Approval program is the permanency assessment. And under that component is where you will find the pre-approval training requirements. And as we discussed earlier, the minimum standard is 12, and then, and under those 12 hours there are certain topics that must be covered. And you can find those topics either in the statute or in the RFA written directive. Then there's also a family evaluation, which is really interviewing the family, interviewing the people in the home to assess what are their parenting strategies, their history, their experiences in life, to really have a better understanding

who this person is, what are their coping strategies, and what can we do to better support them to care for children as they come into the home?

And then, if there is some additional activities that are needed to help you determine the strength or some of the issues we need to work on with the family, you can ask them to complete some additional activities. All of that information is then summarized, evaluated, and a determinanish-, a determination of approval or denial of the family is made through the written report. So, the written report is the one final document that evaluates all this information and gives you the reasons for why the family is or is not approved as a resource family.

Marymichael Smrdeli: And, Kim, who has access to that written report?

Kim Wrigley: So, the written report, we do want to be careful with because it contains a lot of sensitive information about the family. We do know that it is a necessary report for placement agencies, placement workers to access, to, to make placement decisions, so anybody whose needs it for a placement decision has access to it. We are looking at some other factors that may require that the release of the written report. At this point in time, that's where we're at, we're trying to be very sensitive and careful. It's looked at similarly to what the adoption home study was looked at, in terms of the confidentiality, so there is a lot of protections in place right now.

Marymichael Smrdeli: If there was something in the home studythat a parent or a relative or someone that denied them…

Kim Wrigley: Mhm.

Marymichael Smrdeli: …the placement, what would they, would they have a, would they get a copy of that? And how? What would their process be to challenge that?

Kim Wrigley: So, all applicants have a right to have a, they are entitled to a copy of their written report. And if they are denied, they have the right to due process. And the written directives clearly lay out the steps needed to take to appeal a decision of denial. It's very important to note that the approval process with RFA is separate from the placement process. So, you could be approved as a resource family, but the placement worker can still deny you placement. So, we've deliberately kept those factors separate because we, the placement workers looking at that identified child and whether this family can meet that child's needs or not. So, they're kept separate.

Judge Zeke Zeidler: For the place-

Kim Wrigley: Yeah.

Judge Zeke Zeidler: Better way to phrase is the placement worker could recommend against placement there.

Kim Wrigley: Mhm.

Judge Zeidler: The court could deny placement there or the court can place there, over, over the worker's recommendation since RFA has been approved, it's just specific issues with that caretaker that the agency has issues with or for that child of the agency application.

Kim Wrigley: Yes, that's, that's true. So, the, the due process entitled to a family with there being denied placement has not changed, that would be managed through the juvenile court. Denial of the approval of the resource family would go through a diff-, through state hearings or potentially the Office of Administrative Hearings following the directives lined out there.

Andrew Cain: Kim, in the work that you've been, your office has been doing with the respective counties, have you heard of instances where the written report has been requested in discovery if there's a contested hearing, and has the state given the counties any guidance on how to handle those requests?

Kim Wrigley: I have heard of instances such as that. At this point in time as we're still further learning what we need to do with the written report and how to ensure it's, the privacy entitled to a family about it but still ensure that all appropriate parties have the information they need, we've been advising counties to work with their county counsel to determine the appropriateness or if a summary of some of the information that's being requested could be provided instead of the full written report.

Marymichael Smrdeli: And, can you talk a lot about these written directives?

Kim Wrigley: *(Laughs)*

Marymichael Smrdeli: *(Laughs)* So, let's talk about them a little bit. What are they?

Kim Wrigley: So, the written directives are the regulations for RFA. And, the statute is very clear they have the same force and effect as regulation. So, as you can imagine we have learned a lot about what we need for our families since version 1 was released. We're now in version 5. We do anticipate a version 6 being released January or February of 2019. There's a lot of Assembly Bills and Senate Bills out right now that if their chapter will require some amendments our directive. So, it really lays out everything you need to look at in a home, the type of information when you're interviewing a family together, the details of if there is something that shows up on the live scan, how to do the exemption process.

What this slide is showing you is some of the significant changes that occurred between version 4.1 and versions 5. So, these definitely do not go over all of the changes. When you pull up the written directive they are highlighted, what did change from the versions to make it easy for people to see. But to point out a few of the changes here is, in version 4.1, the CPR and First Aid

training required of the applicants was required as a pre-approval process. We discovered that this was causing delays in approving families, and since many of our families already have placement of the child while they're going through the approval process, we agreed that the CPR first aid training could be done postapproval. So, within 90 days of approving a family, they are required to complete the CPR first day training. It does not need to be done to be approved, just within that first 90 days.

The previous version of directives talked about, needing to have a minimum of three interviews face to face with each applicant. Working a lot with our county partners and our FFA partners, we discovered that sometimes you don't really need three interviews to get all the information necessary. So, we did agree to reduce the minimum number of interviews to two face-to-face interviews with each applicant, and still need to do one interview with everyone else in the household, adults and children in the home.

We also created some flexibility in how the interview with other adults in the household could be obtained. Sometimes the other adults in the home have very different work schedules, or they may not be as willing to take time off work to help a family get approved. So, we now allow more flexibility, that if you're not able to meet with them in the home, you can interview the other adult through some sort of visually-based technology means, I'm not an expert here, but like Skype or FaceTime or other means. We still want to have that visual, but we allowed some flexibility into how that could be obtained.

And when we're looking at the interviews a lot of people compute, confuse the interviews in the family evaluation thinking they're separate items, sorry, I went back there, but the interviews are giving you the information to do the family evaluation. So those are part of the same thing that help lead to the written report. And I like to point that out because there's a lot of confusion between family evaluation and the written report. Other changes were the health screen and TB screen. There is no longer a requirement to do a TB screening of any of the adults in the home. And with the health screening, it was required that the applicants have a health screening conducted by licensed health professional. Now, it's a, it can be a Self-Health Questionnaire completed by the applicants. If the county determines that there may be some questions about their health and they're affecting their ability to parent, they can still request they see a medical professional for a full exam, but it's not required. We also change the references from a minimum of three to a minimum of two references. And if you're still struggling to receive those references back from the individual, then you can document your attempts and the reasons why we feel like you can still approve a family without the two references. These were items we found that were really causing a lot of delays in the written directive, I mean, in the county's ability to approve a family, and we've been hearing from counties this has made some significant improvements to their timelines by making these changes.

Some new items that went into effect this year was the ability for a family to go on inactive status. So, oftentimes a family, maybe they are grieving the loss of a child that went home, or they're remodeling the house, or something's going on in their life where they're not actually able

to maintain the RFA requirements, but they don't want to close out their case. They can basically go on hold, they can go on inactive status for up to two years where they're not needing to maintain the standards. But when they're ready to come off, they would have to complete an update and make sure everything is current and an annual update has been completed to get them back on track. You could still place a child on an emergency basis in, with a family who is on inactive status, you would just then need to, within five days, start the update to get them fully back into compliance with the Resource Family Approval standards.

And portability, we do have an All County Letter that will be issued fairly soon. You can get a lot of information about that through Welfare and Institutions Code 16519.58 or the Health and Safety Code 1517.5. It essentially is allowing a approved resource family to transfer their approval county to county or FFA to FFA or county to FFA, so it's allowing, allowing the family a lot more flexibility with where they want, with whichever agency they want to work with.

Marymichael Smrdeli: So, I have a follow up on that, Kim, about, in terms of the placing a child out of county and who's responsible for the RFA approval.

Kim Wrigley: Mhm.

Marymichael Smrdeli: Say for example, if the only child who's going to be placed in Santa Clara County, or a Santa Clara child being placed in LA County, what are the requirements or what's the obligation of the agency and what, and what timelines should be looking at in terms of that?

Kim Wrigley: So, the written directives outline, I believe, it's three options. The placing county can make the emergency placement in out of county or they can request the host county to do the emergency placement, so that part has not really changed. What has changed is within five days, we do need to have an RFA application on file. And the County Welfare Directors Association (CWDA) has created a protocol, this protocol is for child welfare cases only, this does not apply to probation, where they say unless you're a contiguous county, that the host county is responsible for completing the Resource Family Approval. So, within five days of the placement occurring, the placing agents, the placing agency must send a referral to the host county, and the host county must begin that RFA process within that fiveday time period of getting the application and getting the ball rolling. And because it is a placement prior to approval, the host county is responsible for completing the RFA process within 90 days. For probation, they do not have to follow this protocol, they can follow the three options outlined in the written directives, which is the option I just presented to you. Or it could be the placing county going into the county to do the approval. Or the third option is an agreement between the two counties, just have some sort of mix of the two with clearly stated roles and responsibilities.

Judge Zeke Zeidler: And one thing we were discussing before we started, was that in terms of any waivers or exemptions needed, criminal or CACI hits, child abuse hits, it is the host county that's doing that as part of the RFA, and not the placing county.

Kim Wrigley: Correct.

Andrew Cain: And, for attorneys, you heard in Kim's comments, some very concrete things that you can follow up on in your individual cases or systemically. If it's a question about temporary approval, find out what your county's policies are. Your county, likely, has already made decisions about whether they're going to do the temporary approval process themselves or request the host county to do it, depending on geography or other factors. In the, the full RFA approval process, making sure that five-day requirement is honored, putting notes in your calendar at the five- or six- day mark to follow up with the social worker to make sure that all the appropriate steps have been taken.

Marymichael Smrdeli: And when did this five-day requirement start?

Kim Wrigley: That's been…In terms of the out of county protocol?

Marymichael Smrdeli: Yes.

Kim Wrigley: So, in, can't remember if it's protocol became effective in version 4.1 or version 5. Version 5 came out in February 2018. I believe the protocol was before that, but I'm, I'm sorry, I can't recall at the top of my, right now. But if folks are interested in li-, seeing what the protocol states, when you go to the directives, this would be found in article 4 or 5, I'm sorry, I don't have it open right now. There is a link to the out-of-county protocol you can find within the written directive.

Marymichael Smrdeli: So right now, if people are listening to this webinar, this is in place in the-?

Kim Wrigley: Yes.

Marymichael Smrdeli: And does anybody is, if you're county, if you're an attorney or judge and you, this is not happening, thenyou should be able to contact your child welfare agency and ask.

Kim Wrigley: Absolutely. Absolutely. Yes.

Marymichael Smrdeli: Okay. So I know that there has been a lot of pending legislation and a lot of concern about these RFA conversions, meaning you were a foster family before RFA came into effect and now RFA is here, what does that conversion process look, look like? And what's needed? And how can we make sure that the families continue to get support through this process? So, Kim, could you talk about that?

Kim Wrigley: Yes, be happy to. For more detailed information, there's two All County Letters I encourage folks to look at, and that's All County Letter 17-16 and 7,17-16E because we just recently made some amendments to our original All County Letter.

The simple answer is, if there are still in your county, existing licensed foster family homes or approved relatives or NRFMs, they will need to convert to Resource Family Approval. Anybody who did not have a placement in the calendar year 2017 who had a license, their license was automatically forfeited by operation of law, effective January 1st, 2018. So, that's, so you know anybody who's still in the system will need to be converted. Originally, the conversion date was 12-31-2019; however, it's my understanding that Senate Bill 1083 was recently passed, and if that, if my information is correct on that, it extended the conversion deadline to December 31st, 2020. So, this is a recent development, so we do need to double-check on a couple of those things, but in any case, they have that time to convert. That means though, they can still take placements as a licensed foster family home or an approved relative. All of the laws, regulations affecting their license are still in place until they convert. For families, as they do convert, the important thing for the counties is to really look at how they're going to prioritize who needs to convert, when. If you have a relative who is caring for a seventeen-and-a-half-year-old child who they know is not going to be extended into foster care and the relative is going to be done then, that might not be your top priority to convert. If you have a family that you know may be moving towards permanency or is going to continue on as, a, caring for children, they may be a higher priority. So, that's one thing that counties need to really look at, is how they're going to convert, when they're going to convert families.

As they convert, we've tried to simplify the requirements because these families do have experience, we want to respect that. We obviously have had confidence in their abilities because they've been getting placements of children. So, what we've decided is to convert over to Resource Family Approval. The big thing that has been missing is the assessment of the family, so they do need to complete a family evaluation. What we did in the most recent All County Letter that I mentioned, 17-16E, is we said that you only need to do a minimum of one face-to-face interview with each applicant and you do still need to meet the other people in the house to get the information that's in accordance with the written directives. So, all the topics to complete a family evaluation, you do need to obtain, but if you can do that in that one interview, because you already have a lot of history at that family, you can do so. Before that it was requiring a minimum of two face-to-face interviews. So, this was something to streamline the process for families we already have knowledge of, history of, to streamline that process. Once they do that interview and get the information, they write up a modified version of the written report. Once that's completed, they are a resource family, and from that time forward, they will follow the Resource Family Approval standards. Once they are formally a resource family, then their license or the relative approval would be forfeited by operation of law as well. So, I think where we're at today, those are the basics things for the courts to understand with these families, sir-.

Marymichael Smrdeli: Is there any requirement to keep the attorney or the court updated on where we, where a family is o-, in this process or whether they started the conversion process or

if the court needs to order it, if the court feels like it's a higher priority maybe than the agency does to convert the family?

Kim Wrigley: I think it's definitely a conversation that could be had within the, at a status review hearing with the courts. If we have a family that looks like we're going to be seeking permanency, it may be a good point to start that conversion process, or if there's other factors that the courts and the county have discussions about to determine if they need to be bumped up. Some counties when the family is due for their annual reassessment with, of their license, I'm not sure if it's annual, but if they're needing to do a reassessment of their license or the reapproval status as a relative, that's when they're sometimes doing the conversion process. But I think it's a conversation that the courts can definitely have with the workers.

I did leave out one important point here, and with the conversion, they were live scanned at a different applicant type than what was required for resource families. But we don't want to have to have every single licensed relative approval go through another live scan process, that's a big burden on them. So, what we said for these families is if and when they're actively moving towards adoption, at that point, these conversion families will need to re-fingerprint to the RFA applicant type because it's a higher level of information that you would receive through that live scan clearance.

Andrew Cain: And, for attorneys, as you're checking in with your clients, particularly children's counsel, and, and talking to the caregivers to learn more about what's going on with all the current circumstances, this is another thing that you can check in on. You can talk to the caregivers about whether they have already been contacted regarding the conversion process and encourage them to make sure they work with the we-, child welfare agency to get everything done.

Marymichael Smrdeli: And just to clarify, the training requirements for the conversion, does the family have to complete those, those?

Kim Wrigley: Not prior to the conversion, no. However, once they are converted to RFA, they are then from that time forward, required to meet the RFA standards. So, they will have to have an annual update and within that an-, within that one-year period between the time they got converted to when their anniversary date is, they will need to complete what is a minimum of eight hours of post-approval training. That's something we didn't mentioned before. All of our resource families are required to have an annual update and post-approval training is required and for the post-approval, it's a minimum of eight. So, that's when the, some of those families who may not have had training beforehand, which would be mostly the relative, that's when they'll start catching up with some of those requirements.

Marymichael Smrdeli: And, I've heard one of the issues is, for approvals, just in general, is the training and, and getting the training and the training requirements. Is there any way, have you heard of any counties or maybe, Judge Zeidler and Andrew can weigh in on this, about

streamlining the training process or having it more accessible to families so that they can get that done?

Kim Wrigley: Yes. And what's interesting with that is that is one of the biggest struggles is to get relatives into the training. However, it's been fairly unanimous, from what we've heard from all of our counties, that once they get the relatives there, the relatives appreciate and have indicated they are benefiting from the training. The trick is getting them there in the first place.

The RFA directives do allow a lot of flexibility for the counties to offer various ways of providing the training. It can be through classroom instruction, it can be with your social worker in the home, it can be online, as long as there's qualified, the county's determines it's a quality source providing the training. So, there is a lot of flexibility. The state does have a contract with foster parents college who has online training provided, that the county can register their families through. And that one I believe is offered in English and in Spanish cause sometimes we know that there's been a lot of hurdles with families speaking a language other than English. So there is flexibility allotted for how the training is provided.

Marymichael Smrdeli: Do you have anything?

Andrew Cain: Only that I can, from a one-specific county perspective, confirm what Kim said. In Santa Clara, we have utilized all those options. Our county works with a local community college to provide ongoing continuing education, not just for foster parents but for everybody who works in the system through the Title IV-E collaborative. And I can also specifically verify from both what I've heard anecdotally and even speaking specifically with caregivers that the training, while it is a lot, is appreciated when it's all said and done because there's a lot of valuable instruction that otherwise would not have been provided.

Marymichael Smrdeli: Alright, and so now we know, we've heard that throughout the state, RFA's been a little bit challenging to implement. So, we want to try to see if it's working,

Lori Fuller: *(Laughs)*

Marymichael Smrdeli: if this new approval process is working and that all the hard work that the agency's been doing and all of the trainings that we've been giving our attorneys and judges is actually working, and that things are moving forward. So, Kim has provided some data for us, do you want to go through those, Kim?

Kim Wrigley: Yeah, so RFA is still a pretty new program for most of the state. So, the counties you see listed here on this slide were part of our cohort one early implementing counties who implemented, oh boy, now the years are flying past me, around 2012, 2013, 2013, some, maybe, maybe it's slightly later than that, I'm sorry, I'm, 2015? *(Laughs)*

Marymichael Smrdeli: *(Laughs)*

Kim Wrigley: The years are flying by, I'm sorry folks. So, I thought those would be the best counties to see if one of the objectives of RFA is that families, or children, I should say, would exit into permanency faster.

Prior to RFA, oftentimes once you knew the child was not going to be reunified and you're moving forward with the adoption process, that's when the adoption home study might have begun, is very late in the process. And the home study would often delay the child's permanency and subsequent exit into a, exit from the child welfare system.

So, I think what is interesting with this data is in three of our counties, we actually are seeing over the timeframe, some improvements to exits within 24 months to adoption. The guardianship numbers are a little all over the place. Two of the counties, we have not necessarily seen an improvement to permanency, Kings and I believe, Santa Clara's are pretty stable, Kings seems to have had a drop. But in the other three counties, I think we are seeing a significant increase in exit to permanency.

Whether we can correlate that as a direct benefit of RFA, I think it's a little too soon to tell. I think within the next year or so, if we start looking at the cohort two counties that came on board, we might start, you know, if we start seeing a pattern there, I think that will help us tell more. So, but I think right now what I'm seeing is, is encouraging. I do think it looks encouraging there.

Marymichael Smrdeli: And I, just for clarification, when you say, "exit to permanency for adoption and guardianship," does that mean the closing of the case or does that mean just the establishment of legal guardianship papers or letters of guardianship or termination of parental rights?

Kim Wrigley: It would mean that the dependency has been dismissed because the adoption has been finalized. I'm not a hundred percent sure if that's the same defining criteria for the guardianship cause sometimes we keep those cases open to establish Kin-GAP. So, I would say it's, the guardianship papers probably on this data have been established.

Marymichael Smrdeli: Ok, thank you.

So now, as judges and attorneys, we go through our cases, keep, hearing by hearing. That's sort of how we, as professionals in this world, look at different burdens of proof and different standards that are needed at each hearing types. So, that's what we're going to do, we're going to be looking at, sort of, the Resource Family Approval placements, relative placements by hearing type and what's needed now that we have this new process, and, at each hearing.

So, the first hearing, obviously, is detention. We know that in general the policy is that law, the law favors placement with relatives. So, the first question is sort of what is, what has changed or

has anything changed, and what is the process that needs to be completed for a child be placed with a relative pre-detention or at detention?

We know a lot of times our children may be placed in protective custody and maybe be released to a relative prior to the detention hearing occurring, or at the detention hearing a relative comes forward and requests placements.

So, let's talk about placement prior to approval.

Kim Wrigley: Yes, so there are two different ways in which a family can receive a placement before they are approved as a resource family. The first is if a child is placed with a relative or a non-related extended family member on an emergency basis. And that could be done in, pursuant to the Welfare and Institutions Code 309, which is pl-,a child that's been taken into temporary custody prior to detention or before the dispositional hearing, or 361.45, which is after dispo, if there's the sudden unavailability of a caregiver that's requiring a change in placement. That's also when an emergency placement may be made with a relative or NRFM. To make this emergency placement, the families, and there has been some changes to the Welfare and Institutions Code to streamline and clarify some of this, so I encourage you to look at it. But the assessment criteria for the emergency placement is found under 361.4. The requirements have not changed, just the law got moved around a little bit. So, you still are required to do the CLETS check, which is the name check for the criminal history. And just a brief home inspection to make sure there's nothing that appears obviously unsafe in the home. If those two criteria, oh and a CACI check, I'm sorry, if those criteria have been met, then an emergency placement may be made.

Judge Zeke Zeidler: CACI and the CLETS both have to be clear.

Kim Wrigley: They have to be clear, however, there has been an amendment to the law, that if there is something that shows up on the CLETS, on the name check, that does not rise to a non-exemptible or a primer of that nature, the county director or deputy director or somebody that they've designated, may still approve the placement if no one in the party objects to it, pending a live scan and then formal exemption process. So, you may make a placement even if there is a hit, if it's been approved by the county director and every, the other parties are okay with that.

So, when that happens, then you do need to have the Resource Family Approval application submitted within 5 days of the placement and the live scan must be completed within 5 days of the placement, I believe its ca-, calendar days, I'm not sure if it's business days, I'm sorry we'll have to check on that.

But once that our, once that placement has been made, the RFA statute, 16519.5, says that the approval, the comprehensive assessment, must be completed within 90 days of the placement. So that's really important we-, cause we want to make sure that these children are in appropriate family. And also the family was struggling with some financial issue,s which some of that we've resolved, and I'll talk about in a minute.

The other way in which a child can be placed prior to approval is based on a compelling reason, and the information about that is in 16519.5. This is a little different than the emergency placement. Compelling reason can be with anybody, it is not only for a relative or NRFM. And so, it can be with a community family as well. These placements, the family has to of completed the home environment section of the RFA process, so that includes all of the background checks and any exemptions that were needed, as well as the home and grounds check. If those items have been completed, then a compelling reason may be made. And we basically really kept that, the definition of compelling reason, open because it's based on the best interest of the child and what the county is determined is the compelling reason. This is a wonderful option, especially for relatives who perhaps were not able to receive an emergency placement, maybe something on that name check came up and they weren't able to move forward with the placement at that point in time, or maybe there was something in the home that they had to address before they could make the emergency placement. So, this is a really positive option for the counties as well as the courts to look at if the child couldn't be placed right away on an emergency basis, to really look at the compelling reason. And just like the emergency placement, any compelling reason, the approval must be completed within 90 days of the placement.

One of the biggest hurdles that our families were receiving, were encountering when they received a placement prior to approval was the lack of funding that was given to them because the AFDC-FC funding, the foster care funding, is not available to our families until they have become approved as a resource family, so oftentimes the families who got these placements might have gone several months without any funding or perhaps minimal funding through CalWORKs. Recently, we had two bills passed to really help us with this issue, this was a big barrier for our relatives. So, through AB 1811 and AB 110, starting March 30th, 2018, there is emergency caregiver funding available for all of our families if they have received an emergency placement pursuant to these codes or compelling reasons placement and they have submitted an RFA application. If those re-, criteria are met, they can start receiving emergency caregiver funding to the date of placement. And it is at the home base rate of $960 a month, the $960 just went into effect July 1st, before that it was $923 a month. So, this is something very exciting for our families now, that they can be receiving this funding. It can go for up to six months or until they are approved as a resource family, or if the county is documented good cause for the delay of the approval that's outside the direct control of the county, that funding can be extended for up to one year.

Judge Zeke Zeidler: Does this is funding also apply to those situations you just, just discussed where there is a criminal hit which is exemptible, and the child welfare director approves that, to this, does that apply to those as well?

Kim Wrigley: Yes, as long as they received an emergency placement because the 361.4 assessment was completed, and they did it as an emergency placement. Yes.

Andrew Cain: One of the great things about not being video recorded is you can look up the internet to answer questions as they're posed.

Kim Wrigley: *(Laughs)*

Andrew Cain: And I looked up the business calendar days question, and it is business days.

Kim Wrigley: Okay, thank you for, thank you for that. With RFA, sometimes we're saying calendar days and business days, so I appreciate that clarification.

Marymichael Smrdeli: So, for the compelling reason, you had talked about the background check. Does the compelling reason approval need a live scan, or it is-?

Kim Wrigley: Yes.

Marymichael Smrdeli: It does need the live scan.

Kim Wrigley: So, they need to have the live scan and if there is any exemptions needed, that has to be completed first. But, if the training is not done or if the family evaluation, the interviews have not been completed, that's okay, those steps do not have to be completed to have a compelling reason placement.

Marymichael Smrdeli: Alright, so now that we've talked about compelling reason and emergency basis placement, I'm going to turn it over to Andrew to, sort of, talk about from his perspective as a child's attorney, what we need to be looking at at detention and best practices and local practices that are happening.

Andrew Cain: So, before I dive into that, Marymichael mentioned that I am a children's attorney and that's been my practice for my entire career, but I did want to emphasize that much of the information that I'm going to be talking about from the perspective of the role the attorney applies to parent's counsel as well. Parents obviously have a very strong interest in where their children are placed when they're out of their care, and so as parent's counsel, you have an equally strong responsibility to make sure that all these issues around RFA are being addressed and enforced in court.

So, one of the first things as counsel that I am looking for is who is the entire constellation of people that can be considered as a resource family? So, that involves, first and foremost, talking to my client. Obviously, depending on their age and their developmental capacity, but talking to them about who they have as people that they want to live with in the event that they're not going to be returned to the care of their parents, whether that's relatives or family friends, and then making sure that information gets shared with the county social worker, and then the outreach to those individuals can begin. Another tool at our disposal is the possibility of using the one-day continuance at detention. The idea that maybe we get to the detention hearing because everything

has happened so quickly, we may not have all of those i's dotted that Kim has been talking about, but we want to make sure that the court is aware of everything that's going on and we can use the court as the enforcement mechanism as necessary. So, utilizing that one-day continuance may provide the opportunity for some of those things to get done in that intervening 24-hour period.

Judge Zeke Zeidler: And one reminder to judicial officers, if you do a one-day trailing, you have to at least make the one required finding, the remaining in the homes of the parents is contrary to the child's welfare under Title IV-E. That's the one required finding you at least have to make that first hearing.

Andrew Cain: As an attorney, if you are having conversations

Kim Wrigley: *(Coughs)*

Andrew Cain: effective resource applicants, your understanding of the system is something that you can share with them as well. Obviously, th-, the county has its requirements, both set of state law as well as requirements that the county has opted to utilize, and so the primary conversations of that nature need to be happening between the child welfare agency and the prospective applicant. But knowing that there's so much information and this is a system that most of, most of the individuals we're talking about are going to be accessing for the first time, you can help play a role in eliminating some of the confusion that might be there and help make the process run more smoothly.

One last thing that I would say is that the question of when there are multiple individuals being, who have expressed interest and might be considered for a resource family status, a couple things to note about that, is first you should be aware of what your county's policies are regarding assessment of multiple people at one time. Santa Clara County, for example, the practice is to only assess one individual at a time. Whereas other counties, they might be more willing to assess multiple individuals at one time. And, and I think it goes without saying that only assessing one at a time could lead to delay in the instance where that first individual doesn't pass or maybe the second individual is ultimately determined to be more appropriate even if the first individual has passed. So, you can be talking with those relatives or those family friends to make sure that as a family, they are aware of what the county policies are if it is one at a time, making sure the identification of who's going to be that one, is done in a smart way. That could be utilizing the child and family team process or through some other informal fashion.

Kim Wrigley: And I'd like to add that it's also important to note that if a family wants an application, they are entitled to an application. So, the county may have a policy and that may be effective, but if other family members come forward and say they want to be assessed, they have the right to be assessed. So, it's important for counties to not hinder a family if they're insisting on an application.

Judge Zeke Zeidler: Because at some point, they might file a 388 later on in the case asking for placement with them and the Court of Appeal is going to look unfavorably on a court that doesn't do the full consideration of that relative placement request, and at some point the Court of Appeal's going to want to know at what point did they come forward seeking placement and what was then then to work towards them.

Andrew Cain: And if that appellate decision ultimately comes down, and you're in a situation where the child has been proceeding down the path of permanency, that appellate decision may now throw a wrench in it. So, it's, it's far, far better practice to make sure you get it right up front rather than have that upheaval on the back end.

Kim Wrigley: Child family team, I think, will be a wonderful process to really have those conversations with the families.

Marymichael Smrdeli: And Judge, what about the court practice? What should the court consider when placing with a relative at detention?

Judge Zeke Zeidler: So, I think a lot of it is what Andrew discussed, but I would say that the first thing I look at at the initial hearing is, I look in the report at what efforts were made to identify relatives and to consider relatives for placement, and then go from there.

So, I start with what the reports show as to what relatives are available and what, why the child isn't with a relative if they aren't yet, and what relatives we should be looking at. I then rely on attorneys to give me information as to what relatives might be considered, and, and who the relatives are. And of course, I'm also looking in the back of the courtroom, every 15 relatives back there who are all saying that they want the child, who for some reason, is still in a foster home.

So, I think that a big one is, helping to identify, helping the attorney, attorney to identify who's going to be the most likely to be approved. In our county, we have a relative caregiver information form that the attorneys can submit, one for each relative that they want to have assessed, and when I look at it, I see on there how many bedrooms they have, who the members of the household are, whether they've ever had any criminal hit, so that form allows me and my county to look at it quickly and know who's going to be the more short-term solution as opposed to the others that might be a longer term solution because of a space and/or criminal hits, etc.

The other one is ordering the agency to provide details in the social study report, however many weeks later you're coming back, add to efforts to identify and evaluate relatives for placement. That's always a big one for me, when the child's not with a relative yet, is making sure that the social study report's going to have details about what efforts have been made to identify and evaluate relatives.

Another thing I do is at any stage in the proceedings, if I'm releasing to a parent over the agency's objection, especially at the initial hearing, if I'm releasing to parent over the agency's objection, then there's a chance that the social study report is still going to be recommending suitable placement. So, I still order them to initiate RFA assessments of relatives since, and, and a lot of times it really needs a court order. Cause a lot of times if the child is with a parent, the agency doesn't want to do, initiate an RFA assessment of a relative or an assessment of relatives because the child's with the parent, why do we need to assess relatives? But, when I place over the agency's objection, I'm going to be ordering the agency to be assessing relatives at that point as well, at any stage in the proceedings. So, in some , in some counties, courts come back for a shorter period of time for what might be called a pre-release investigation hearing for a report assessing the relatives. I, I usually look at what's the likelihood with each relative in deciding whether to come back before the jurisdiction hearing, or to wait for it all to be addressed at the jurisdiction hearing.

Marymichael Smrdeli: And in either of your counties, do you, is there a practice of detaining the child and then allowing the agency to release to a relative pending

Judge Zeke Zeidler: I

Marymichael Smrdeli: the next court hearing?

Judge Zeke Zeidler: If I detained from a parent, if I detain from a parent and the child's not with any parent, I most likely am going to, depending on the situations, consider whether to give the agency discretion to release to a parent in the interim. I almost always give them discretion to detain with a relative in the interim. So, I'm, I'm usually doing that.

Andrew Cain: And, that's a tool pretty frequently used in Santa Clara County as well. As attorneys, knowing that there's some uncertainty as to how that might play out, we often ask for an order that our office be notified in a certain time period before that placement happens, so we could consider utilizing the court process in the event that there's something that we feel needs further review.

Marymichael Smrdeli: Great. So, potential next steps.

Once a child's placed with either a relative, with a relative either on an emergency basis or compelling reason to place, what are the next steps? And, I think we've talked about this, that it would be putting in the RFA application within 5 days, as well as

Kim Wrigley: Yes.

Marymichael Smrdeli: the live scan if you're on the emergency basis.

Judge Zeke Zeidler: And one, one thing that from the court end, I'm often conscious of is, even though they have 90 days to approve, we are getting more consistent in having future hearing reports even though it's not necessarily going to be 90 days out include some sort of RFA checklist, so that we know that it's been preceded, that it's preceded. I've, I've

Marymichael Smrdeli: Is that something you've just implemented in your county or?

Judge Zeke Zeidler: I've been doing it for quite some time, either have the social study report have details about the status of RFA on the current caretaker or an RFA checklist on the current caretaker, and then, of course, you have counties, each county creating its own checklist. Some counties are better than others. I actually had an out of county checklist that was pretty impressive.

Marymichael Smrdeli: And then what funding is available? We talked about the $960 that's now been available as long as there's an RFA application.

Kim Wrigley: And, and the family received placement pursuant to passing that 36.4 assessment or the compelling reason, which means they've started this process. And I like to make that distinction because I know sometimes the courts have ordered placement when the family did not pass the emergency placement process or maybe not at the compelling reason, which is absolutely within the court's authority to do so, and there may be reasons. It's important to know that when that happens, those families are not going to be eligible for the emergency caregiver funding. The law's pretty specific with that.

Judge Zeke Zeidler: One thing that I think we discussed a lot in preparing for this is that a lot of the old case law is still in place as to when the court can and can't place with the relative who doesn't meet the approval standards, and so the courts and the attorneys still need to go back and look at in which situations the court can and can't place with a home that's not approved.

Kim Wrigley: Ab, absolutely.

Marymichael Smrdeli: So, we sort of talked about this, but what if the child does not placed with a relative? And I think that leads us to our, our next discussion, which is these, the Child and Family Team. And RFA, the Resource Family Approval, is looked at as part of Continuum of Care Reform and a big part of Continuum of Care Reform are the child and family teams. The child and family teams are mandated to occur within 60 days of removal and at least every six months if the child, and if the child's receiving specialty mental health services, is actually required every 90 days. And so, I know, just in my practice of going out and looking at counties, that CFTs have not been fully implemented in all counties at all stages. So, this isn't now a legal requirement, it should be, but we realize, at least I realize talking to the counties that I've been to, that it's not actually been fully implemented.

Judge Zeke Zeidler: Well, and the CFT is a term of art. And in our county, we've done before CFT existed,

Kim Wrigley: Yes.

Judge Zeke Zeidler: we had TDMs, we had FGDMs, we had every type of "M" you can have.

Kim & Marymichael Smrdeli: *(Laughs)*

Judge Zeke Zeidler: And eventually, our county started saying to us stop ordering this type, that type, order a team meeting. So, it might be, with a situation like this, it's not necessary for the judge to order a CFT, which is going to be more comprehensive, maybe cover a whole lot of areas, but order a team meeting to occur as soon as possible to address this issue in the relative placement issue.

Kim Wrigley: And, I believe with some of the counties I've been visiting, that they are employing a lot of those mechanisms. You can sometimes get that type of team meeting set up in place very quickly. The child family teams, you know, as those get, as counties get more and more on board, I think that will also be a really great vehicle. And they really are supposed to, even after the 60 days, we've mentioned a couple reasons why you would have a child family team, they are also supposed to be part of the placement decision team, so if a family, a caregiver does have placement of a child and it's going, they're having difficulties, the CFT should be convened to address whatever those challenges are to try and help save the placement, and if that placement is not going to be successful, to make a plan *before* notice is given to try and have a plan in place if they do end up giving notice on a child. So, but yes, you're right, not all counties are up and running smoothly with the child family teams, but most counties have some informal version of such, and definitely encourage them to continue to use those.

Marymichael Smrdeli: So, after detention if the child's not with a, a family member, these are some of the, the tools that you can utilize before the jurisdictional hearing to see whether or not this process can be moved forward more quickly.

So, let's talk about our pre-adjudication options in terms of, sort of, permanency options for our youth, and for our children in place with relatives. And one of them is placement in a guardianship under 360(a). So, we're going to talk, turn to Judge Zeidler now and see if he will talk about what is guardianship under 360(a).

Judge Zeke Zeidler: So, under 360(a), you are pretty much fast-tracking the case directly to guardianship at the jurisdiction, disposition stage of the proceedings.

And, sometimes it's because the parents are in agreement with going directly to guardianship. You have a relative who's interested in guardianship, etc. And the issue that we started now having is it used to be really easy because you went directly the guardianship, closed the case,

and that was it, all happening the same day. And it started with RFA, and with Kin-GAP, those both have really started a discussion as to what is implicated.

Under Kin-GAP, you cannot close a case at, close a court case in guardianship, unless the SOC 369 forms were filled out before you went to guardianship. And that, of course, has issues in the SOC 369 form, identifying what the funding levels are. And now, under RFA, you can't close the court case in guardianship until six months after RFA has been approved, so it's created a conundrum in the courts as to whether we can still do 360(a) guardianships.

I think what some of us are doing is trailing the matter for the RFA approval, getting the RFA approval in the SOC 369 forms, going to guardianship under 360(a), but then continuing the matter out six months to be able to then close the court case, which really, in effect, is undermining the real purpose of 360(a), which was to get it out of the court as soon as possible.

Marymichael Smrdeli: Yes. Andrew, you have anything to add to that?

Andrew Cain: Only that in Santa Clara County, we're seeing some of the same challenges that the judge noted as well. Given our numbers are smaller, of course, it's on a much smaller scale, but anecdotally, I'm aware of situations where we've had to do that delicate dance between wanting to utilize 360(a) in the way that it was intended but being mindful of the funding implication.

Marymichael Smrdeli: And the court can still order the 360(a) guardianship, it would just be that the relative, if it doesn't, if RFA wasn't approved and they weren't in the home for six months, that there would be no funding…

Judge Zeke Zeidler: And they could apply for non-needy caregiver funds conceivable.

Andrew Cain: And these are conversations that we could supplement so that's the ones that are happening between the county and the caregiver.

Marymichael Smrdeli: Okay, so now, it's our next option, after we get through jurisdiction and we get to disposition, is that we always like to place with relatives if we can. At the dispositional hearing, under 361.3. So, the question and the conversation really is what are the requirements now under 361.3 of an approved relative? Is there a difference between a formal placement and a temporary placement? And how does the Resource Family Approval process fit into all of this?

Judge Zeke Zeidler: And I, I think the question that all of us have, that hopefully one of you is going to be able to answer

Marymichael Smrdeli: *(Laughs)*

Judge Zeke Zeidler: is that when a judge specifically places with relatives, it triggers protections under 387 requiring a 387 petition to be filed and 387 procedures to be followed if the child is being moved from relative care to non-relative care, as opposed to when a judge just makes a general suitable placement order.

So, the question many people have had is can the judge at disposition make a specific placement with relative when that home's only approved as an emergency placement and is not RFA approved yet? Because, yes, we can just, we can do disposition before RFA has been approved because that child is in a legal placement, an emergency placement with the RFA pending and in process. The question is does it count as a placement for the purposes of specific relative placement?

Kim Wrigley: So, Welfare Institutions Code 361.2 did clarify that, that a placement can be with an approved relative or with a relative pending completion of the Resource Family Approval, but that's they've been assessed to that 361.4 or compelling reasons. So, that was why that amendment went into effect this year, was to try and clarify that very question.

Marymichael Smrdeli: Okay. And as judge, as the judge has previously said, our case law is still in effect in terms of approval process prior to, prior to the RFA process and prior to this law change.

So, if any of the attorneys have, or judges have any questions about formal orders versus temporary placement orders, there are some appellate cases regarding that and whether or not an emergency placement just morphs into a formal placement, if does not, the court has to make formal orders. And the case is *In Re M.L.*, it's a 2012 case, the cite is (2012) 205 Cal.App.4th 210.

And, I believe, that there's All County Letters that are, gone out to the agencies to clarify that these are, that 361.2 that, does apply

Kim Wrigley: Well.

Marymichael Smrdeli: to 361.3 hearings in that the court can order a specific.

Kim Wrigley: I am not sure about the All County Letters if, if there was one that was completed clarifying that change. But I, yeah, I did, I, my shop did not issue an All County Letter from, for that specific topic.

Marymichael Smrdeli: Okay. So, we've talked about this a little bit, the difference between statement with an approved relative versus general placement order, when would an attorney advocate for a specific versus general placement order, and what happens if there's an identified relative, but the recommendation is not to place? I tell our table

Judge Zeke Zeidler: We have, we have, we have covered all this.

Marymichael Smrdeli: We have!

Well, I'm going to ask to Andrew to talk a little bit about the specific versus general placement order. As an attorney, what, if you would argue even though the RFA process is not a, has not been completed, even though the court can make a specified relative placement order, if there's situations where you would feel that that wasn't appropriate?

Andrew Cain: Well, I think it's really just putting a finer point on what the judge said a few minutes ago. That you have the due process protections that come into place, that this is the section 387 protections. That would give notice, an opportunity to be heard in a, in a situation where there is a proposed move from a relative to higher level of care. And if you are in a factual situation where you know, for example, that there may have been a dispute at the outset about whether the kid was even going to be placed on a home in the first place. Let's say, as the attorney you were advocating for it over the county's recommendation, and so at that point, you know that the county has already raised some red flags about that home, and that months down the road those red flags could heighten. And you, as an advocate, want to make sure that you have the opportunity to be in court and argue about that possible change in placement down the road. That to me would be perhaps the primary example of when you would want to be advocating for that specific placement. We know that we have statutory protections around notice being given to attorneys and other interested parties when placement changes are going to happen, and we know that the child welfare agency can still move placements if it's in an emergency situation. And just speaking again from one county's perspective, the, the frequency with which those notice provisions, those informal notice provisions, are used are not perhaps as much as I would like to see. Often the notice is happening after the fact. And so, we would want to not be in a position where the move has already happened. And then, we want to go into court, and argue about whether that, whether the child should remain in that home. And so, taking as many steps as you can to preserve the ability for the court to make a ruling on the appropriateness of the move before it happens, I think is in the best interest of the child, and in the best interest of everybody else involved, and that'd be why, what, another reason why you'd want to consider it.

Kim Wrigley: I'd like to add if you don't mind, on the third bullet here, there is a really excellent opportunity here for the courts. One of the, one of the things we've been seeing that is still confusing is the compelling reason placement. This is very new for counties and I think some, some people may still be confused thinking that if you could not make an emergency placement with a relative, that the relative had to finish the RFA process and be approved before you could do placement. So, this is an opportunity where the courts can ask questions of the county that, about compelling reason, is there a reason why we cannot use that to place this child with this relative before they're fully approved, if they weren't able to complete the 361.4 assessment? So, I think this is one area where the, the courts can be really beneficial and helpful with counties as they're learning all these new steps with RFA as well.

Andrew Cain: And I, I would echo that sentiment. Being in the courts and seeing some of the confusion around the two different types of temporary placement and at least *anecdotally* not being aware of an instance in my county where compelling reason has been used, there is a great opportunity for education.

Marymichael Smrdeli: And I know that a lot of counties have had a practice of carving out relative placement. Going forward with disposition and then carving out the relative placement hearing to happen post disposition. And I would just encourage everyone that if you have a child placed with a relative and on an emergency basis or compelling reasons place, that we should not be carving out that assessment, we should be going for-,

Kim Wrigley: *(Cough)*

Marymichael Smrdeli: we should be going forward with dispo in its entirety in at the dispo-, dispositional hearing.

Judge Zeke Zeidler: And, the court should be ordering that, whether the child's with the relative or not yet, the court should be ordering that the six-month review report is, is detailed with an update as to the status of RFA.

Marymichael Smrdeli: So, one of the issues that were, that Resource Family Approval, as Kim had mentioned earlier was, sort of, helping with was to move some of the adoption home study in the old world, to the front end of the case so, we wouldn't be, we wouldn't be backed up so much at the back end of the case. And so, when we talked about Resource Family Approval, we need to sort of talk about how concurrent planning and RFA are connected and how we can make sure that we're, that we're, sort of, on the same page, that we're looking at all permanency options for youth when, when we're, when we're looking at concurrent planning in terms of returning home as well as whatever the permanent plan for the child will be if the child cannot be returned to the parent.

So, post to this dispositional placements, under 358, that whenever a placement is made relatives must, whenever a new placement is made, relatives must be considered. And so, this may be a reason to look at what policies and practices are in your county about how many relatives can get assessed at a time. If you're only doing one at a time and that placement no longer works, then your pending another place-, your pending another approval emergency basis or compelling reason or, I don't, emergency placement can only be made at the first end or can it be made?

Kim Wrigley: If there's a sudden unavailability of a caregiver that's requiring a change in placement, that can occur at any point in time, that type of emergency placement, and that's 361.45.

Marymichael Smrdeli: Right, so, so again you may want to look at your county's practices to see if you can maybe approve more than one relative at a time if that first relative is not looking too stable.

Also, we talked about 387. Just in my practice of going throughout the counties, I haven't seen, I've seen different practices regarding 387 because of the dispositional orders, even if a child is being placed with a relative or is with a relative at disposition, it's not all attorneys or courts' practices to make that a specific order. So, the practice of 387 positions is not, is, is not uniform throughout the state, so I would just encourage those as we talked about pro-, prior, if at the dispositional hearing, the court does order the child be placed with a relative, that if that child is, has to be moved, that a 387 petition be filed and that that relative be able to have the due process rights in court that they are afforded.

Judge Zeke Zeidler: And, of course, if that court is not making specific relative placement efforts triggering 387 and instead is making general suitable placement orders, there's always the avenue on the relatives end of filing a 388 asking for placement.

Marymichael Smrdeli: Correct. And then we've talked about, a little bit about the 387 in the RFA process about whether emergency placement is, is needed and then, if a rela-, if a child's only detained with a relative and there's no placement order, does a petition need to be filed? Does a 387 petition need to be filed? And it does, it does not under case law, so we really need that specific placement order in order to trigger the 387 process.

Okay. And then removing from a relative. If a child is with a relative and RFA is not approved. So, we have cases where emergency is either by the compelling re-, compelling to place or emergency basis for placement. And for some reason, we go through the RFA process and the family just does not pass the RFA process, but for all other purposes, this seems like an appropriate placement for the child. And so, the question is at that point, if the court gets a order or a report that says basically RFA is not approved for this child with his family, what are our options for the court? And… I would say…

Go ahead.

Kim Wrigley: Oh, I was just going to add, just because the courts may not be aware of this, but when a county is considering that they may need to deny the approval of a resource family, and this is for all applicants not just relatives, they're required to have a legal consult with our state enforcement attorneys to discuss: does there appear to be enough evidence to support a denial? And really, helping the county to determine what are the issues? What have you done to try to mitigate those issues?

So, if we are getting to the point of a denial, if all those steps have occurred properly, then there has been a lot of eyes that have been looking at the denial, and not to say that there's not other factors to be considering, but these, the due process side of the Resource Family Approval, I'm

imagining the juvenile court is not as, as familiar with, and that's where the state hearings or the Office of Administrative Law does get involved. But there are a lot of eyes that are looking on it to help the family through that process, if they choose to appeal the denial.

Andrew Cain: And does the, the consult that you talked about also apply if the county wants, if there's the a move to rescind a previously approved?

Kim Wrigley: Yes, yes.

Marymichael Smrdeli: So RFA, or the Resource Family Approval does not remove the court's authority to place with the relatives, it would just mean that that funding would not go to that relative. So, akin to the 360(a) guardianship discussion we had, these relatives would not be eligible for state or federal funding.

Kim Wrigley: Absolutely. And the approval of placement decisions, I like to keep reiterating it, are separate decisions that are always made.

Andrew Cain: And going back to the comment I made about rescission, one of the things that comes up, even came up this week for me in a conversation with one of my colleagues, is that exact question of what happened if a caregiver had been approved and then that approval was rescinded for some new circumstance that came up? And same logic applies there, you don't have to automatically remove that child from the home. It can still be something that is allowed or if even, if the county seeks to remove, you can litigate it in court.

Kim Wrigley: And article 11 or article 12, I'm sorry, I don't have it pulled up at the moment, really discusses all the steps entailed in denying or rescinding an approved, a resource family. So, if you're interested in looking at the due process for them, it would be, I think it's article 12, I think, we had to shift some things.

Marymichael Smrdeli: Okay, great.

So now, we've sort of talked about, we're up to sort of the statutory review hearings in our cases, you know, concurrent planning, termination or continued reunification services, whether the RFA process should be approved, if not, what the delays are, and any issues with funding.

Judge Zeke Zeidler: And, I'm always very concerned in my first status review report, that concurrent planning efforts have been addressed, and that I know that the agency has been identifying, working to identify what is the concurrent plan and working to do any further approval that are needed that we'll talk about later in the .26.

Marymichael Smrdeli: So, once determina-, determination of recer-, reunification services, the court orders assessment. And so, I just wanted to take a minute to talk about, or have maybe Kim talk about, the different types of assessments under 366.26(i), 366.22, 366.25 and what's needed.

Kim Wrigley: I think, actually, this might be a, a better, oh no? Ah, I was wondering if Lori Fuller wanted to take this on.

I mean, the Resource Family Approval, at this point in time, should be completed, which means you have information necessary to complete the requirements that are set forth in those, those statutes there.

Just like in the adoption world, you weren't necessarily being provided the adoption home study, but the courts do need some information about the family in order to move forward. If, to identify a prospective adoptive parent or potential guardian. So that written report with Resource Family Approval can be used for the social worker to summarize the necessary information to provide to the court when they're considering termination of reunification services. But that's at that point in time where they're going to be ordering the 366.26 hearing along with the assessment.

So, we've got the Resource Family Approval, which will provide you the family information, and then there's still the necessary requirements needed to do a child assessment, which is where I believe Lori will talk more on that?

Lori Fuller: In a, in a moment when we get to the 3-, 366.26 hearing.

Marymichael Smrdeli: Okay.

Judge Zeke Zeidler: So, I think at the time of setting the .26 hearing, even if the law discusses what's required in a 26 report, it's important for the court to have some sort of standing language in their minute orders. My minute orders all say that for the .26 hearing, if the home has not been approved to adopt the child, then the adoptions worker's to be present.

I have a receipt of report far in advance of my .26 hearing too, so that I can know if there are going to be any problems with notice that we have enough time to resolve and work on, and I, the earlier the court can be getting the .26 report to know where there are holdups and, and be aware of holdups and the home being approved to adopt the child which are about to discuss, the better.

So, I think it's very important at any hearing where you're terminating reunification services that some very clear standing language is what the court expects for that to .26 report and that .26 hearing.

Marymichael Smrdeli: So, I think we just talked about this.

When ordering a report under 366.26, the report should talk about what's needed to finalize permanency, what's still outstanding, whether it be something outstanding through the RFA process or something with the child-specific in a childhood, and

Kim Wrigley: *(Cough)*

Marymichael Smrdeli: that is moving forward.

Okay, Lori, I'm going to turn this over to you in terms of fit and willing relative as an new permanency option.

Lori Fuller: Okay, thank you, Marymichael.

One thing as we were preparing for today's webinar, a number of, of things were discussed and that we thought that this would be a timely, a good time to kind of talk about some of the changes that have occurred in the law in the last few years that are around concurrent planning issues, permanency issues. And one of those is the passage of SB 794 in 2015, which added placement with a fit and willing relative as a permanency option. So, that is now a, a possible placement type that a county and, and court can consider. However, it should be noted that while it is a new placement option, it still carries with it some other considerations in, in these cases of placement with a fit and willing relative, it's a situation where perhaps that relative does that want to provide a different type of permanence at that time, and they've, the court has determined that the children cannot be removed because it would cause some kind of detriment to the child's well-being. And that's in 366.26(c)(4)(B).

The other thing that's important to note with this placement is that the county must continue to provide services that will address the barriers to a more permanent plan. So, the goal of, of permanency, of Continuum of Care Reform, of RFA, all of these, is for a child to be in the most stable permanent plan possible for that child with their, their family situation. And so, even with placement with fit and willing relative, in an ideal world, perhaps an adoption or a legal guardianship or a return home might still be the best plan for that child. So, there will be requirements that the county continue to address any barriers to those type of permanency options and provide that information in their documentation to the court at the subsequent permanency hearings.

Judge Zeke Zeidler: And, at the subsequency post permanency hearings, in addition to looking at adoption or guardianship and can we go to a more permanent plan of adoption or guardianship, the Title IV-E and Continuum of Care Reform now also requiresus to address at those post permanency hearings, efforts to identify other relatives for placement. And just because the child is with a relative as a fit and willing relative, doesn't mean that we don't have to, at each 6-month review, look at what efforts have been made to identify other relatives who might be able to find more permanence.

Lori Fuller: Right. There's several examples where perhaps a relative might have been looked upon early in the case, and they may have had someone residing in the home that, you know, would be a detriment to that being the best plan for that child at that time, but things change. So, you always want to continue looking for relatives as the judge has stated and open up the possibility of perhaps the guardianship or an adoption with a different relative.

Marymichael Smrdeli: And I do want to say that placement with a fit and willing relative is new to juvenile dependency. It has been a permanent plan in juvenile delinquency proceedings for a very long time.

Judge Zeke Zeidler: Right.

Marymichael Smrdeli: So this is a new, so if you are a juv-, a judge that is practicing in juvenile justice or a public defender or a probation officer listening to SBs, this plan has been with you for a longer period of time. It is, it is newer to the dependency world.

Lori Fuller: Thank you.

Another thing that SB 794 did was it aligned California law with the Public Law 113-183, with respect to Another Planned Permanent Living Arrangement, known as APPLA. The new provisions limit a permanent plan of APPLA to be ordered for children 16 and older and for nonminor dependents only.

Other considerations, if a permanent plan of APPLA is selected and ordered for a child, again, these are the things that the, the county must continue to do, to look at other permanency options for the child. So, they are required to describe the intensive and ongoing efforts to find a more permanent plan option. They need to outline the steps that are taken to ensure the youth's care provider is providing reasonable and prudent parent standard. Another consideration is the youth must be insured, it must be ensured that the youth has provided opportunities to engage in age- or developmentally-appropriate activities. And the social worker needs to include in their case plan, documentation of all these intensive and ongoing efforts.

One other item that we just want to reiterate, I'm, I'm sure it's familiar to most, but while we're exploring all of these different permanency options, wanted to go over again that if a child is with a relative, that relative does not want to adopt, however, the child is adoptable if the relative chooses to take a legal guardianship, the court can grant that guardianship without consideration of moving the child to an adoptive home.

Marymichael Smrdeli: And Lori, I just want to go back for one second

Lori Fuller: Sure.

Marymichael Smrdeli: on that the applications that we were talking about. This intensive and ongoing efforts requirement in the social workers report, I would just encourage attorneys and judges to make sure to look for evidence of that in the report,

Lori Fuller: Yeah.

Marymichael Smrdeli: because I don't know how well that portion of APPLA is being rolled out in the county, currently.

Lori Fuller: Right. Thank you for pointing that out. One thing that we are hearing about, as this is still a relatively new concept

Kim Wrigley: *(Coughs)*

Lori Fuller: in terms of it only being available to our 16 and older youth, some of these provisions are still somewhat unfamiliar to counties and they're coming on board, you know, as, as quickly as they can. But it is important for the court to help them by, by looking for some of these things in the reports.

Judge Zeke Zeidler: I, I, I, be-best practices is that if the child is not in adopt, a plan heading to adoption or in, in guardianship, if the child is in any of the other three options, placement with a fit and willing relative, APPLA for the kids sixteen and up, or a planned permanent living arrangement that placement in foster care with the goal of return to parent, adoption, guardianship, or placement with a fit and willing relative, I think, best practice is that every six month review hearing is that the court's going to keep the child in that plan to make a finding that the child's not adoptable and that guardianship's still not appropriate. And that there, and, of course, we have to make the finding of reasonable services have been provided to plan towards more permanence for the child.

Marymichael Smrdeli: Right, so those efforts should be documented in all reports. And I think sometimes, at least in the reports that I review, some of that information is not making it all the way into the reports about the efforts that the agency's made to finalize the permanent plan for the child, especially if they're with a relative and they've been with this relative for a long time, it doesn't seem like, it seems like maybe some of those efforts take a backseat to the stability of the placement.

Okay. So, now we're going to talk about adoptions and Resource Family Approval versus the home study, because one of the things that we were hoping with Resource Family Approval is that there would be no more home studies and therefore that, that once a family was approved that we would be, sort of, moving towards adoption and finalization more quickly. So, I'm going to ask Lori to, sort of, talk about what the difference is.

Kim Wrigley: Actually, Lori can chime in, I'm going to talk a little bit first about that.

It is, it is very interesting when you look at the data that we talked about earlier. You can see that there does seem to be a trend with some our counties that we are achieving permanency through adoption sooner. Again, I can't say that the correlation there is strictly because of the Resource Family Approval being done up at the front end versus the back end of adoption.

But, when we really look at RFA and adoption, what we need to look at really is the written report versus the home study. And the written report really, actually, has a lot more information as a part of it than the old adoption home study did. When you look at the adoption regulations and the adoption law, it's pretty bare minimum as to what is actually required on a minimum level to assess a family. And, a lot of what we took from the written report and the requirements for RFA, in terms of the interviews of a family and the assessment, really came from the adoption world. So, we do have a lot of those standards included in the written report, so the assessment of the family, which was the home study, is now part of the family evaluation that you see summarized in the written report. But, we also additionally have a lot more information about the home and grounds, which in adoption world, had less standards as part of the process when looking at a home.

Same thing with the criminal exemption process. Adoptions world absolutely looked at criminal history, but in a less formalized way with the exception of non-exemptibles and the Adam Walsh requirements. But otherwise, it was looked at in less formalized way, whereas in RFA, it's a very formalized procedures.

I also like to mention a little bit of a difference here that I think a lot of people are not aware of, in the adoption world training was actually not required, it was not a required. Now, most agencies did and that was absolutely best practice, whereas in RFA it is. And then, we are updating our reports on an annual basis where in adoption world, it was updated every two to three years.

So, when folks have concerns about whether or not RFA is a suitable, I don't want to say substitute, but moving towards RFA ver-, moving away from the adoption home study, I like to make it clear that it is, and those are some of the reasons why.

And the RFA statute, I keep going back to that, 16519.5 in the Welfare and Institutions Code makes it very clear that the families that are approved meet these requirements and this, this is in lieu of an adoption home study. And that comes straight out of statute. So, if there's concerns about needing to order an adoption home study, those requirements are captured within RFA, for the most part, in the assessing of family. So, they have that approval because it's in lieu of.

Lori will talk about in a minute here, just a couple of the little nuances we need to look at. And, the chart that you see up here is, is one we're still working with, it's not all the way where I would like it to be, but when you're looking at this chart it really is showing you that before RFA, when family first came into the system, they got licensed or they got approved as a relative

in a very bare minimum way. You, you, their home was good, their criminal history was cleared, and you really didn't know anything more until you ceased reunification services to the family and the adoption home study was then ordered. And now, you need to start learning more about the family themselves versus what their home looks like. So then, all of a sudden, you had to cram all this learning in about the family and as quick a time period as you need it.

And on that pre-RFA line, I actually need to amend it, that line should actually be extended because it actually takes more time to get all of that. In this new RFA world, you may not have as much as you did at the finalization of adoption home study upfront, but you know a lot more than you used to. And it's gradually growing and growing and growing, so that when reunification services are stopped, you are at where you need to be a lot faster than you might have needed to be in the old RFA world. And that's why-

Judge Zeke Zeidler: Some of us, that purple line started angling at the six,

Everyone: *(Laughs)*

Judge Zeke Zeidler: and not at the 18, for many of us by order of department to initiate the adoptive home study.

Lori Fuller: Right. And I, I will add that best practice has always been that, at the soonest possible moment when a family expressed an interest in providing permanency at the adoption level for a child, that they be referred to an agency who could begin an adoption home study. So, it's, it's not that it would always start it as you, you said made clear, at the final stages, but sometimes it, it just, it wasn't. Con-, concurrent planning is, is an on-going developing kind of concept and I think that RFA really helps it along at being something that's addressed at the front end.

Kim Wrigley: Yeah. And I think, you know, in the, in the adoption world, sometimes the concurrent planning may have been getting established. But, particularly, with a relative they were resistant to take that real final step of starting in a home study because there was still the, the hope that the family member would reunify, so sometimes we may have had the concurrent plan, and they had said, "Yes, we will provide permanency, if the child doesn't get home." So, sometimes hard for those families to start.

Now, it's a requirement for you to have, maintain a placement. So, I think as families get more familiar and workers get more familiar that, that will alleviate some of that as well, some of that.

Marymichael Smrdeli: And, I just have two things. One, is I've seen many reports in my day and continue to do them that says, "Concurrent planning will be done once reunification ends." So,

Lori Fuller: Oh, no.

Marymichael Smrdeli: please if anyone, if there's an attorney, a judge, worker, anybody listening to this, please make sure that from the beginning there's a concurrent plan and-

Judge Zeke Zeidler: Let's, let's go back to the

Kim Wrigley, Lori Fuller, Marymichael Smrdeli: *(Laughs)*

Judge Zeke Zeidler: initial hearing whereif I placed with, if I, if I leave the child with the parent at the initial hearing, I order family maintenance services. If the child's not with the parent the initial hearing, I order the department to provide the parents with reunification services. I know some counties only order referrals or voluntary services. And I ordered the agency to be providing the child with concurrent permanency planning services at the initial hearing.

Kim Wrigley: Concurrent planning is just that, concurrent planning, it's not a one-time deal later on. *(Laughs)*

Judge Zeke Zeidler: And, it's

Kim Wrigley: It's a common.

Judge Zeke Zeidler: been in place in California since 1998.

Kim Wrigley: Yes.

Marymichael Smrdeli: Yes. And, I would like to say that at every hearing, the court has to make a reasonable services or reasonable efforts finding, so the court should be considering whether concurrent planning is being done early on in the case. And, the other thing I would like to ask, because this has been coming up often, is what happens if, even though the family is gone to their Resource Family Approval process, if a court orders an adoption home study? What, what happens is that our world's going to blow up,

Lori Fuller: *(Laughs)*

Marymichael Smrdeli: and because I've been told that the courts should not be ordering adoption some studies, and so, I just want to know what, what legally would happen and what, is it, is it different with the court to be seeing something different? What, what would happen as we transition our judicial officers from, sort of, language of, you know, the old-world

Lori Fuller: Right.

Marymichael Smrdeli: of adoption home studies versus, now, RFA. What

Kim Wrigley: *(Laughs)* The world will not blow up.

Marymichael Smrdeli: what can we do?

Marymichael Smrdeli: Ok, I'm just checking. Just checking, in case.

Kim Wrigley: And, I'll, you know, in, in the room here if you have different thoughts, my thought is if the judge does order an adoption home study, the worker can come back and say, "It's done, the written report is my adoption home study. We're, we're, we're good to go. And, here's," the step Lori will talk about, "here's what we're doing to address these few hanging chads."

Lori Fuller: Remaining steps.

Kim Wrigley: Yes.

Judge Zeke Zeidler: I would, I would disagree with that.

Kim Wrigley: Okay.

Judge Zeke Zeidler: I think that the ado-, what, what judges think of as the adoptive home study includes the hanging chads that she's going to discuss.

I think the way to deal with it is to not think of the word "adoptive home study" as a term of art anymore, but to think of it, that when the judge is asking for an "adoptive home study," what that judge is asking for is the exactly what you're about to address, confirmation that everything is in place to finalize adoption in that home.

Lori Fuller: Absolutely.

Judge Zeke Zeidler: That there are no impediments pending.

Lori Fuller: Right.

Judge Zeke Zeidler: So, I think that that the agency just needs to stop thinking of it as a term of art.

Kim Wrigley: Mhm.

Judge Zeke Zeidler: And, thinking about it as what exactly is it that judge wants? What that judge wants is what you're about to discuss.

Kim Wrigley: I, I, I woul-, I think that's suitable. I, I would agree with that. And I think, you know, as we all become more familiar, we'll start to change some of our terminology to be more consistent with what the intent of, of RFA, and, now, the adoption world, moving forward. But that's, I would agree with that.

Lori Fuller: Yeah, me too.

Judge Zeke Zeidler: And, after you discussed the hanging chads, I'll say exactly what language should be in the report instead of "adoption home study."

Kim Wrigley, Lori Fuller, Marymichael Smrdeli: *(Laughs)*

Lori Fuller: Okay.

Marymichael Smrdeli: So, go ahead.

Kim Wrigley: Are we ready to move on?

Marymichael Smrdeli: Ready to move on to RFA and adoption.

Lori Fuller: Okay. Before I kind of go into the steps to move from an RFA to a finalized adoption, I want to caveat it with saying that as, as Kim mentioned several times, this process is something we're learning. We're learning about how RFA fits together with adoption and to, to be quite honest, some of the pieces of how you get from there to here are newer in development. So, so the things I'm going to talk about today are taking into consideration what has changed with RFA, what the RFA statutes are, and, sort of, intermingling that to what's currently in adoption, both in statute and in regulations.

However, what our, the department is soon to be releasing is an All County Letter that is going to address all of the steps to move from RFA to adoption. And once that letter is issued, that will take precedence over some of the things that are currently conflicting with adoption regulations.

That also being said, we are in the process of updating the adoption regulations to align with both RFA and how adoption moves forward into the future. So, it's very important for folks to know that if you're looking at doing an adoption today before that letter has been issued, you're going to follow the adoption regulations that are in place. But, once that letter is issued, there's going to be a couple of changes that will lay out how, how you go forward up and until we are able to issue updated regulation.

Kim Wrigley: And Lori, when you say to "still follow the adoption regulations," that would be except for assessing a family?

Lori Fuller: Correct. I'm, I'm, thank you for pointing that. I'm specifically talking about all of the pieces that have been post approval in an RFA sense to finalizing adoption.

So, when a resource family expresses a, a desire to adopt, and these are things that should be talked about from the beginning as part of concurrent planning, and are parts of the resource family assessment, they however, when it, it moves officially to a plan of adoption, they will begin working with the county designated adoption program, and that's meant to be a kind of global term that could be the county adoption units if they do their own adoptions, it could also be an adoption agency if that county does any kind of contracting with either the regional, the state's adoptions regional offices, or another adoption agency that's licensed. So, th-, at that point they would begin working with an adoption worker.

Now, best practice suggests that the RFA and the adoption workers definitely start to collaborate as early as is appropriate in each case so that the family and children have good support from all sides throughout the process. As Kim was talking about earlier and, and we talked a little bit about who can have the written report, definitely it's the RFA worker's responsibility to provide the adoption agency with a copy of the resource family certificate and the written report and any updates to the Resource Family Approval.

Another thing that's, that's confusing a lot of folks in, we're getting a lot of questions on, is once a family starts the adoption steps, do they or do they not need to continue with the Resource Family Approval process? The answer is very clear. They, they need to and must maintain the Resource Family Approval all the way until finalization. So, it does add, you know, a few more components to what's going on in a child and family's life at this stage. So, they will continue to have their RFA worker to support them and do any updates that come due during that period of time. The, the child placing agency continues to main- response, maintain responsibility for the child and works cooperatively with the adoption program who is responsible for the family.

Another thing that we've talked a little bit about here is .26 hearings and .26 reports. The child placing agency, so the county, is responsible to prepare the 366.26 report and submit it to the juvenile court. What this requires, because there's an RFA written report, possibly an adoption agency, all of these folks need to work together to make sure that the child placing agency has the information they need to prepare an adequate .26 report. Nothing in the statute about what needs to be provided to the court of the .26 hearing has changed. So, all of the elements that have always been a part of a .26 assessment are still required.

Then, the next thing I want to talk a little bit about is what are aspects of what the adoption program, adoption worker is required to do, and the, their responsibilities. This isn't an exhaustive list, but it covers quite a few, are gathering the additional required documents which I'll go over specifically in a moment. They need to provide information and documentation to the prospective adoptive family about the adoption assistance program, they need to provide them information about post-adoption services that are available in their area, and also something that's, that's a little bit newer in law as well, is a focus on making sure that families are aware of

the importance of picking providers like mental health providers for children that have some level of adoption or guardianship, some kind of permanency confidence. A lot of times what we hear from families post-adoption is, “I, we were having these issues. I took the child to see a therapist. Nothing's changing.” And, and what tends to be underlying that is that some of the, the child's issues may be a part of their experiences, their trauma related to their time in foster care as well as their road to adoption. And it's really critical that someone have an idea of those concepts and the, the treatment approaches that work best with that child in that family. So, that's the role of the adoption worker, is to make sure that that family understands that might be what they need, either at that time or down the road a little bit.

They will participate in collaboration with the, the county placing agency to do the adoptive placement activities. That process is adoptive placement agreement and some other accompanying forms and processes that occur at that time.

They also will be doing the post placement supervision, and what is meant here by “post placement supervision” is that requirements for supervising the child and family after the formal adoptive placement agreement has been signed. It's not when the physical placement of the child in that home happens, so that can be a little confusing. And the, the requirements around those have not changed, they're still in regulation and they're, it, it depends on how long the child's been in the home, how many visits will be required. But there's nothing new there that you can, folks can refer back to the existing adoption regulations for more information on those requirements. The adoption worker will also be involved in all the finalization activities, again, a, a set of processes and forms, things to be filed with the court and things of that nature.

If it's determined that additional adoption related training has been recommended for the file, the family, that is often going to be provided by the adoption worker and/or agencies. For resource families who are approved as resource families and thinking to adopt but they don't have placement of a specific child at that point, the adoption program will be the one to assist them with identifying the children whose needs they can best meet. Sometimes this has been referred to as the “matching process.” And, so that would be their role, they may or may not be caring for other children. And, all of that will still happen in the normal ways with the, the resource family, RFA worker, and the county, but it would be the role of the adoption agency to help them work with the other agencies involved to identify a child for adoption.

Marymichael Smrdeli: Alright, now I think these are the hanging chads, right? That we were talking about?

Lori Fuller: These are.

Kim Wrigley: *(Laughs)*

Marymichael Smrdeli: Okay.

Lori Fuller: Yes. And again, I'm going to say it one more time. This is, these additional requirements are based on current statutes and are things that we're, we're learning more about and, you know, we want to continually be responsive to RFA and what's happening with RFA families. And so, at any point in time, some of this could change. But for the moment, the additional-

Judge Zeke Zeidler: And, and, and a reason this is an issue is because I, we're still getting reports

Lori Fuller: Right.

Judge Zeidler: from workers in, in our county where they'll say, "Oh, the home study, the RFA is the home study. And, the family is already RFA approved." And that's all they put. And then-

Andrew Cain: Hm. Hm.

Judge Zeke Zeidler: once you start asking questions, these are the things you start learning.

Lori Fuller: Right. So

Kim Wrigley: And that would be because we, this part is a newer on our end. We've been focusing so much on getting families approved. There's been some challenges and delays in us getting to this piece to identify those issues. So, this this is fairly new for workers, yes.

Lori Fuller: And, another piece of that that's important to point out, as, as Kim said, that there was significant changes and we talked about all of those in between version 4.1 and 5.0, and some of these items here couldn't be finalized and determined until that was all finalized so that you knew what was still a requirement of RFA.

That, that all being said, the additional things that are, are required now are: If an applicant has ever been married, verification of the marriages and divorces by obtaining copies of those certificates and divorce decrees is required. If a couple is legally separated or if only one parent is seeking to adopt, then the consent of the spouse, per Family Code 8603, is required. This is also referred to often as a spousal waiver, and it is required to remove the non-adopting parent from any responsibility or liability for that child.

What we have found historically in adoptions is, is sometimes folks have been estranged or separated for a very long time, however, they have not been formally divorced. So there needs to, this process, you know, ensures that that other parent is never responsible for the child their spouse is adopting, if they don't want to be a part of that and adopt as well. And, again, this is existing regulation, it has not changed. And most likely, I, I think all of this type of thing will continue.

And Kim talked a little bit about the references in the RFA process and how if it was sort of a barrier to completing that aproa, that approval timely, there's, they can document reasons why they couldn't get those, those two references. So, at this juncture, it would be necessary for at least two references to be on, on file and completed. So, if, if they've been obtained in a, the Resource Family Approval process, they'll be a part of the written report, don't need to happen again.

Another statutory requirement in Family Code 8732, currently, is that a TB test of all adults in the home. So, that is a continuing requirement. Again, things can change, but currently that's in statute. What we want to point out, though, is that if a person in the household receives a, a positive test for TB and requires some kind of follow-up treatment, that does not need to stop the process and delay going through to the finalization. It would be incumbent upon the worker, of course, to work with the family to ensure that everyone's safe and that they're getting the treatment they need.

Judge Zeidler: And now, I have a question about whether there are two other hanging chads.

Lori Fuller: Okay.

Judge Zeke Zeidler: Now it's sounds from the beginning of the presentation, like we would need confirmation that they did the CPR and first aid, since RFA can be approved with them not having done it and they have to do it within a certain period. And two, if they did not do three home visits, does adoption require there to have been three home visits or not?

Lori Fuller: That's a good question.

Kim Wrigley: Yeah.

So, CPR or first aid was actually never required for adoption.

Judge Zeke Zeidler: Okay, great.

Kim Wrigley: So that's not an issue. And that would be incumbent upon the re-, the county to ensure that's occurring, and us on the state when we conduct annual reviews we'll work with the counties to see if that is not happening on a recurring basis. So, that would not impact adoptions at all.

Because the RFA process does replace the assessment of the prospective adoptive applicant in the old form and we are saying that it's a minimum of two interviews for each applicant, that is all that is necessary. And those, those three visits that people are familiar with in the old world was never in statute, so that's why we're able to not make that a requirement. The, the TB and these references, those are actual statutory items in the Adoption Codes, which is why they're

still part of the necessary steps to finalize an adoption. But, because the number of visits with a the family's not in statute, we can create the standards necessary. And so, that's how we're able to say the RFA process and their two interviews is sufficient.

Lori Fuller: And, and I wanted to just add to that. That as part of the process of completing the .26 assessment and all the requirements therein that must be, you know, provided to the court, there will need to have, they will need to have additional interviews with the child and the family to meet those requirements. And so, nothing there has changed. It's not a part of what is RFA or what was the home study, but we're still confident that that interaction is happening in order to meet those requirements. So, it, it makes us feel pretty secure that ongoing contact with the child and the family are occurring.

So, one, one last piece of information

Kim Wrigley: *(Cough)*

Lori Fuller: that we wanted to provide about adoption and RFA are some clarifications about the adoption of Indian children. So, folks probably are, are, are familiar that there's a specific process for families who would like to adopt Indian children, and they've been in, in practice and in statute for a very long time. As Kim said earlier that tribally approved homes are outside of the requirements of resource family approval, so for tribally approved homes that want to adopt, they must complete an adoption home study in order to adopt. So, they do not go through RFA, but they must do your traditional adoption home study. So, this is a little bit new as a concept since most home studies are no longer being conducted for our families adopting children in the child welfare system, but this would be the exception and agencies can still do these home studies.

For tribally approved homes who wish to complete a tribal customary adoption, they must complete a specific type of tribal customary adoption home study as outlined in the ICWA statues.

Tribally specified homes, which are different from tribally approved homes, they are required to go through the RFA process to be approved for placement of foster child. So, they will have been RFA approved, however, it's a little bit different to how that RFA may or may not be used for these situations. This would be up to the tribe. So, they, they could use the RFA written report as the document and, and things that are required to finalize an adoption. Those families would of course have to do these additional requirements that we talked about in the last slide, but it is at the discretion of the tribe. So, the tribe may actually want the family to go through an adoption home study and have, be approved of that way, and that is their choice to either do it themselves or have their designee conduct a, a adoption home study.

Marymichael Smrdeli: Okay, great thanks.

Sorry.

So, we've learned a lot about adoptions in the RFA process. So, really, what can the court and attorney do to address delays? Cause we are still seeing some delays through RFA approval, through adoption, finalization of adoption. I would like to, we have some, some thoughts here about barriers and obligations to the court oversight roles that I'm going to turn to the judge and Andrew to talk about and, sort of, sort of, what the attorneys and judges can do to hasten this process.

Andrew Cain: From the attorneys' perspective, it's all about the diligence that you do before you get to court. You have your six months, typically, that's intervening between hearings. And you can be communicating with the caregiver and with the social worker to make sure that all of these things that need to be addressed, both the very specific requirements we talked about, and the, the hanging chads is that, that we've called them, have been addressed. And then, if you're not feeling that it's being satisfactorily done, then you could ask for a court hearing.

At court, separate from any interim hearings you may request, at the statutory hearing, the most effective tool that I have found is to start raising the specter of the court not being able to make the finding that the county has taken all the, all reasonable steps necessary to finalize the permanent plan. That impacts funding. And, that is a time when the agency starts getting, starts really heightening their attention when that issue comes up.

And, I can speak specifically that in my county, we had one particular bench officer who actually has rotated another assignment recently, but he really took this on as one of his seminal issues. And, he would often bring the county back, bring everybody back between the sixth month hearing on a fairly frequent basis if he was not being shown to his satisfaction that all those steps are being taken. Because we're all hesitant for that particular finding to be made, but if it's necessary, we will. Before we get to that point, we can utilize interim reviews or other types of hearings to bring everybody back and show that those various steps are being taken.

Judge Zeke Zeidler: And, I, I think it's really important for children who aren't with relatives that the court is continually asking for the agency to identify efforts that have been made, to locate relatives, to identify relatives, to assess relatives, having some sort of checklist on the status of RFA approval for relatives who a child's not with.

When the child is with the relative, having RFA checklists and, and reports with details on the status of, of what is the holdup in RFA and what is still needed.

And then, that brings us to the .26 hearing, really making sure that the agency is being ordered in that .26 report to address whether there are any impediments to finalization, and/or another way to phrase it, whether this home has been approved to adopt this child. One of those two ways of phrasing it, but so that the, at some point within every county, there's an understanding that the .26 report needs to be detailed as to what, if anything, is still outstanding, whether it's a divorce

decree, marriage license, spousal labor, etc. And not just relying on RFA being approved to think that that means that everything is in place to finalize the adoption once parental rights have been terminated.

I know a lot of judges, many judges in the state will not terminate parental rights until everything is in place for finalization. It's very clear that you don't have to have all that in place to find, to terminate parental rights, but I think courts feel much more comfortable knowing that once they terminate parental rights, everything's in place to send the request for acknowledgement to the state and as soon as that acknowledgement is received back for the adoptive placement papers to be signed and for finalization to be able to occur.

Kim Wrigley: And I'd like to just add that sometimes we're seeing delays occurring because of a misunderstanding about the RFA process either from the county-end or sometimes from the courts-end. And so, the department is very committed to providing any type of technical assistance to counties, to courts, one-on-one. We can come and visit a county, we can come and visit a court, webinars, you know, we're very committed to helping everyone understand the RFA process, the adoption process. So, if you are interested in understanding a little bit more or you think that there's something that just doesn't sound right to you, I know at the end of this our contact information is provided. We're very committed to any, just like our families with the pre-approval training, there's flexibility in how that's offered, we have a lot of flexibility and what we can offer courts, counties, families about the RFA process and we're very committed to providing that.

Marymichael Smrdeli: Great. And then this is one last issue which is, it should be post-TPR issues instead of post-adoption issues, but it's this case, this T.W. talks about the removal from a prospective adoptive parent past the termination of parental rights and court's

Kim Wrigley: *(Cough)*

Marymichael Smrdeli: ability to decide the removal.

So, with that I am going to say thank you all for listening. I want to thank Andrew and Kim and Judge Zeidler and Lori for being on this webinar for us today.

For those of you who are listening, please fill out your evaluations. You do get continuing education credits for this webinar. Please fill out your certificates and just to state again that this presentation is as of August 24th, 2018 and the laws that are in place at this time. And if laws change and things happen, we will update you as we can. So, thank you everyone. Our, the contact information is, is on your slide and have a great day. Bye.