

AT A GLANCE: APPLA

What is APPLA?

- ❖ Stands for Another Planned Permanent Living Arrangement
- ❖ Might also be called Other Planned Permanent Living Arrangement (OPPLA)
- ❖ Is a goal under federal statute [42 USC § 675(5)(C)(i)]
- ❖ It is referred to as an **alternative permanent placement** in NJ statute [NJSA 30:4C-60]
- ❖ If the permanency plan cannot be reunification, adoption (TPR), guardianship, or permanency placement with a relative, then the permanency plan (or goal) is APPLA.
- ❖ To meet federal requirements, the court order must include information specific to the unique circumstances of that particular case and must specify the compelling reasons for selecting APPLA.

New Jersey Statutes

NJSA 30:4C-60

Within 10 days after the completion of such review, the board shall submit a written report to the Family Part of the Chancery Division of the Superior Court and the division. Such report shall offer one of the following findings, stating the specific reasons therefore:

- That continued placement of the child outside of the home is not in the child's best interest and the child should be returned home within two weeks and that the division or designated agency, as appropriate, shall provide reasonable and available services which are necessary to implement the return home;
- That continued placement outside of the home is in the child's best interest on a temporary basis until the long-term goal is achieved, which long-term goal is:
 - Return to the child's parents or legal guardian,
 - Adoption,
 - Permanent placement with a relative,
 - Kinship legal guardianship,
 - Independent living,
 - Institutionalization, or
 - An alternative permanent placement**

Goal vs. Plan: Do You Know the Difference?

The words "goal" and "plan" are sometimes used interchangeably, which can create confusion. The federal statutes and regulations use the phrases "permanency plan" and "case plan" while NJ often uses the term "goal."

Goal

- ❖ Used to describe the "permanency plan"
- ❖ According to federal statute, the "goal" is one of the 5 options for the ultimate permanent living arrangement for the child: ¹)return to parent, ²)adoption (TPR), ³)guardianship, ⁴)permanent placement with relative, or ⁵)APPLA.
- ❖ The NJ statutes refer to this as the "long-term goal"

Plan

- ❖ Used to describe the "case plan" or the "service plan"
- ❖ According to the federal statute, "case plan" is described as the detailed efforts to get to that arrangement.
- ❖ The "plan" is the manner in which you are going to achieve the "goal" or "permanency plan," including the services that must be employed by the child welfare agency.

So, the "goal" is one of the five permanency options. The "plan" is how you are going to get there.

Questions to be Asked

1. Is an APPLA the only appropriate permanency option?
2. Have the compelling reasons for determining why the other four permanency options would not be in the best interests of the child been clearly explained on the court order? [See 45 CFR § 1356.21(h)(3)]
3. Does the child have a permanent connection to an adult which is outlined in the court order?

If you answered YES to these questions, the court order satisfies federal requirements and the appropriate goal is APPLA.

NJSA 30:4C-61.2(c)(5)

The hearing shall include, but not necessarily be limited to, consideration and evaluation of information provided by the division and other interested parties regarding such matters as:

1. A permanency plan which includes whether and, if applicable, when:
 - a. the child shall be returned to the parent or guardian, if the child can be returned home without endangering the child's health or safety;
 - b. the division has determined that family reunification is not possible and the division shall file a petition for the termination of parental rights for the purpose of adoption; or
 - c. the division has determined that termination of parental rights is not appropriate in accordance with section 31 of [P.L.1999, c. 53 (C.30:4C-15.3)] and the child shall be placed in an **alternative permanent placement**. ("APP" - or "APPLA")

* **Excerpt from The Adoption and Safe Families Act of 1997 (P.L. 105-89) ***
42 USC § 675(5)(C)(i) [Soc. Sec. Act § 475] (Part of Title IV-E)

[A] hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be[.]

- a. returned to the parent,
- b. placed for adoption and the State will file a petition for termination of parental rights,
- c. or referred for legal guardianship,
- d. or (in cases where the State agency has documented to the State court a **compelling reason** for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) **placed in another planned permanent living arrangement**[.] – “APPLA”

[I]n the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living[.]

* **Excerpts from Federal Regulations: Applicable Language** *
45 CFR § 1355.20

Permanency hearing means:

The hearing required by section 475(5)(C) of the Act to determine the permanency plan for a child in foster care. Within this context, the court (including a Tribal court) or administrative body determines whether and, if applicable, when the child will be:

- i. Returned to the parent;
- ii. Placed for adoption, with the title IV-E agency filing a petition for termination of parental rights;
- iii. Referred for legal guardianship;
- iv. Placed permanently with a fit and willing relative; or
- v. **Placed in another planned permanent living arrangement**, but only in cases where the title IV-E agency has documented to the State or Tribal court a compelling reason for determining that it would not be in the best interests of the child to follow one of the four specified options above.

45 CFR § 1356.21(h)(3)

Application of the permanency hearing requirements.

1. To meet the requirements of the permanency hearing, the title IV-E agency must, among other requirements, comply with section 475(5)(C) of the Act.
2. If the title IV-E agency concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in **another planned permanent living arrangement**, the title IV-E agency must document to the court **the compelling reason for the alternate plan**.
3. Examples of a compelling reason [*set forth in the regulation*] for establishing such a permanency plan may include:
 - The case of an older teen who specifically requests that emancipation be established as his/her permanency plan;
 - The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent;

Consequences of non-compliance

45 CFR § 1356.21(b)(2)

Judicial determination of reasonable efforts to finalize a permanency plan.

1. The title IV-E agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care in accordance with the definition at § 1355.20 of this part, and at least once every twelve months thereafter while the child is in foster care.
2. If such a judicial determination regarding reasonable efforts to finalize a permanency plan is not made in accordance with the schedule prescribed in paragraph (b)(2)(i) of this section, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

* **Federal Commentary – 65 Fed Reg 4020, et. seq. (Jan. 25, 2000)** *

1. Page 4036 - Section 475(5)(C) of the Act specifies that the only permanency options the State may set without a compelling reason to do so include reunification, adoption, legal guardianship, or placement with a fit and willing relative. Therefore, “another planned permanent living arrangement” would be any permanent living arrangement that is not enumerated in statute.
2. Page 4036 - The term “compelling reason” is taken directly from the statutory language. Moreover, the term was adopted because far too many children are given the permanency goal of long-term foster care, which is not a permanent living situation for a child. The requirement is in place to encourage States to move children from foster care into the most appropriate permanent situation available.
3. Page 4058 - When ASFA was passed the language from the definition of permanency hearing in section 475(5)(C) of the Act that addressed children remaining in foster care on a “permanent or long term basis” was removed. Instead, the ASFA requires the State to document a compelling reason for establishing a permanency plan that does not call for the child to exit foster care through reunification, adoption, legal guardianship, or placement with a fit and willing relative.