

Caseworker and Witness Preparation for Court and Testimony
NYPWA Summer Conference 2024
July 15, 2024 9:00am to 10:30 a.m.

- 1. Types of Hearings** **9:00am – 9:10am (10 m)**
 - a. 1022/1027/1028- whether children’s interests require protection
 - i. §1022 pre-petition application
 - ii. §1027 post-petition if Respondent not present or present without counsel and did not waive right to counsel at §1022
 - iii. §1028 post-petition application to return child temporarily removed, if no 1027 (where Resp present and had counsel) or upon good cause shown
 - iv. §1089 Permanency Hearing
 - b. Fact-Finding- whether or not child has been abused or neglected
 - c. Disposition- the consequences of the fact-finding

- 2. Evidence §1046** **9:10am – 9:20am (10 m)**
 - a. Hearsay v. Non- Hearsay
 - i. **Hearsay** is evidence that is Material (relates to the issues) and Relevant (tends to prove or not prove an issue); applies to §§ 1022, 1027, 1028, 1089 and dispo hearings
 - ii. **Non- Hearsay** is evidence that is Material (relates to the issues), Relevant(tends to prove or not prove an issue) and Competent (rules of evidence and not hearsay if permitted); applies to fact-finding hearings
 - b. Depends on the type of hearing- which evidence is admissible

- 3. Preparing to testify- presentation, knowledge and mental state** **(50 m)**
 - a. Mentally** **9:20am – 9:30am (10 m)**
 - i. Know the facts- the petition, the history
 - ii. Dress appropriately
 - iii. Bring notes- marked for easy reference
 - iv. Review documents that will be offered into evidence
 - v. Emotions, anxiety- case is not about you
 - b. Physically** **9:30am- 9:40am (10 m)**
 - i. Dress appropriately- comfortable, professional
 - ii. Sitting, mannerisms- sit back in the chair keeps your chest open which helps with nervousness and breathing
 - iii. Use the bathroom
 - iv. Voice- loud, clear and slow
 - c. Direct exam** **9:40am -9:55am (15 m)**
 - i. Purpose is to develop the story, slow and methodical, must build on each statement until the whole story is told
 - ii. The Questions- Who, What, Where, When, Why and How?
 - iii. Remember your preparation
 - iv. Refreshing recollection
 - v. Documents in evidence
 - vi. Objections – sustained means don’t answer the question; overruled means answer the question

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d. Cross exam

9:55 am – 10:10 am (15 m)

- i. Purpose is to either point out something that you don't know about the story you just told OR things that you know about the story that are helpful to their client
- ii. The Questions- should be Yes or No- sometimes gray area
- iii. Tone of voice
- iv. Don't explain-keep it simple- yes or no answers when possible
- v. Emotions, anxiety- this isn't about you
- vi. There's always redirect

4. Top ten tips

10:10am – 10:20am (10 m)

1. Be truthful.
2. Listen Carefully to the Question -- and wait until the entire question is asked.
3. Answer Only the Question That Was Asked.
4. Take Your Time -- Think Before Answering Each Question.
5. Don't Guess at the Answer -- if you don't know, say you don't know! If you don't remember, say you don't remember!
6. Ask for Clarification if you don't understand a question - never attempt to answer a question that you don't really understand.
7. Be Cooperative, But Don't Be Forced into an Inaccurate Answer.
8. Don't Fight with the Questioner or Show Anger or Impatience with the Questioner
9. Be consistent!
10. Try to Relax on the Witness Stand

5. Questions

10:20am – 10:30am (10 m)