

**Multnomah County Family Court Enhancement Project**  
**Procedural Fairness Workshop**

***Judge's Introductory Remarks –***

General:

- Use “plain language” at all times
- Make eye contact
- Introduce yourself and state nature of proceedings (e.g., FAPA calendar, trial, hearing on X)
- If stacked calendar, explain how cases will be called; state that will try to get through calendar as quickly as possible while giving each case time it needs

Greeting:

- Good morning/afternoon; apologize if starting late
- Introductions (use parties' names, not petitioner/respondent)
- Are you ready to proceed today? Have everything you need?

Overview:

- Purpose of hearing/trial
- Confirm with each party the relief they seek
- Indicate possible outcomes

Procedure:

- Give legal standard for relief requested
- State who has burden of proof and what that burden is
- Order of presentation:
  - Each side gets a turn to speak and present witnesses/evidence
  - Other side can ask questions (if cross-examination is permitted)
  - Judge can ask or rephrase questions
- Emphasize that each side will be heard in turn – no interruptions; will have opportunity to explain or correct misstatements when it's your turn
- Rules of evidence
  - Talk about what you saw and heard, not what someone else told you
  - Talk about things that matter to this case; if something seems off-topic, you'll have to explain why it's important here
- Objections –
  - When it happens, don't answer until judge instructs you
  - If deemed appropriate, could mention common objections
  - Relevance – has to make a difference to this case
  - Hearsay – can't talk about something happening based on what someone told you – talk about what you saw/heard
  - If one party has counsel and the other is self-represented, could indicate that technical objections (e.g., asked and answered, beyond the scope, leading, etc.) won't be entertained

Housekeeping:

- Pad of paper/pen provided for notes
- For trials and hearings of two or more hours: specify protocol for requesting a break
- Judge may check computer or make notes but is paying attention
- Witnesses excluded/no talking about testimony
- Indicate whether a ruling will be issued at the hearing or taken under advisement
- Thanks for patience

## ***Judge's Concluding Remarks, Decision, and Dismissal***

### Close of parties' presentations:

- Ask parties if they have anything to add
- If any evidence was marked but no decision on admission (especially if offered by self-represented litigant), ask whether admission is sought and rule

### Decision:

- **If decision is announced**
  - State burden of proof (in plain language, e.g., more likely than not)
  - State that considered all evidence and testimony, weighed credibility and demeanor of witnesses, and based on that evaluation, reached decision
  - State ruling on each issue before the court (e.g., decision-making, parenting time, child support, other monetary/property issues) and provide reasons
  - Explain effect of order on the parties: how parenting plan will work, any compliance required by order (e.g., counseling, BIP, protection order/no-contact terms, substance abuse treatment) and how it will be tracked
  - Explain options for enforcement and penalties for noncompliance; if review hearings are to be held, explain their importance and consequences for missing them
  - Explain how to modify and when it would be appropriate to seek modification
- **If taken under advisement**
  - State when a decision will be rendered and how parties will be informed
  - State what terms govern the parties until the ruling issues (e.g., current order remains in place; give verbal instructions)
  - Written order should include all items in the previous section

### Special provisions for protection order hearings:

- **If protection order is granted**
  - Petitioner met burden
  - Provide clear terms regarding children and any parenting plan; limit any contact between parties (eliminate if at all possible)
  - Clear explanation to respondent of restrictions and consequences for violation, particularly regarding firearms (include instructions for relinquishment, if applicable); mention NCIC/interstate enforceability
  - Petitioner should keep order handy
  - Remind petitioner of appropriate ways to modify
- **If protection order is denied**
  - Petitioner has not met burden at this time
  - Respondent should keep order handy
  - Petitioner can always come back if there is need

### Dismissal (regardless of who prevailed):

- Ask if there are any questions
- Provide resource list to both parties
- Dismiss petitioner first
- Wait 15 minutes and then dismiss respondent