§ 1055-b. Custody or guardianship with a parent or parents, relatives or suitable persons pursuant to article six of this act or guardianship with relatives or suitable persons pursuant to article seventeen of the surrogate's court procedure act. (a) Custody or guardianship with respondent parent or parents, relatives or suitable persons. At the conclusion of the dispositional hearing under this article, the court may enter an order of disposition granting custody or guardianship of the child to a respondent parent or parents, as defined in subdivision (1) of section one thousand twelve of this article, or a relative or relatives or other suitable person or persons pursuant to article six of this act or an order of guardianship of the child to a relative or relatives or suitable person or persons under article seventeen of the surrogate's court procedure act if the following conditions have been met:

(i) the respondent parent or parents, relative or relatives or suitable person or persons has or have filed a petition for custody or guardianship of the child pursuant to article six of this act or, in the case of a relative or relatives or suitable person or persons, a petition for guardianship of the child under article seventeen of the surrogate's court procedure act; and

(ii) the court finds that granting custody or guardianship of the child to such person or persons is in the best interests of the child and that the safety of the child will not be jeopardized if the respondent or respondents under the child protective proceeding are no longer under supervision or receiving services. In determining whether the best interests of the child will be promoted by the granting of guardianship of the child to a relative who has cared for the child as a foster parent, the court shall give due consideration to the permanency goal of the child, the relationship between the child and the relative, and whether the relative and the social services district have entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, and, if so, whether the fact-finding hearing pursuant to section one thousand fifty-one of this part and a permanency hearing pursuant to section one thousand eighty-nine of this chapter have occurred and whether compelling reasons exist for determining that the return home of the child and the adoption of the child are not in

the best interests of the child and are, therefore, not appropriate permanency options; and

(iii) the court finds that granting custody or guardianship of the child to the respondent parent, relative or suitable person under article six of this act or granting guardianship of the child to the relative or suitable person under article seventeen of the surrogate's court procedure act will provide the child with a safe and permanent home; and

(iv) all parties to the child protective proceeding consent to the granting of custody or guardianship under article six of this act or the granting of guardianship under article seventeen of the surrogate's court procedure act; or, if any of the parties object to the granting of custody or guardianship, the court has made the following findings after a joint dispositional hearing on the child protective petition and the petition under article six of this act or under article seventeen of the surrogate's court procedure act:

(A) if a relative or relatives or suitable person or persons have filed a petition for custody or guardianship and a parent or parents fail to consent to the granting of the petition, the court finds that the relative or relatives or suitable person or persons have demonstrated that extraordinary circumstances exist that support granting an order of custody or guardianship to the relative or relatives or suitable person or persons and that the granting of the order will serve the child's best interests; or

(B) if a relative or relatives or suitable person or persons have filed a petition for custody or guardianship and a party other than the parent or parents fail to consent to the granting of the petition, the court finds that granting custody or guardianship of the child to the relative or relatives or suitable person or persons is in the best interests of the child; or

(C) if a respondent parent has filed a petition for custody under article six of this act and a party who is not a parent of the child objects to the granting of the petition, the court finds either that the objecting party has failed to establish extraordinary circumstances, or, if the objecting party has established extraordinary circumstances, that granting custody to the petitioning respondent parent would nonetheless be in the child's best interests; or

(D) if a respondent parent has filed a petition for custody under article six of this act and the other parent objects to the granting of the petition, the court finds that granting custody to the petitioning respondent parent is in the child's best interests.

(a-1) Custody and visitation petition of non-respondent parent under article six of this act. Where a proceeding filed by the non-respondent parent pursuant to article six of this act is pending at the same time as a proceeding brought in the family court pursuant to this article, the court presiding over the proceeding under this article may jointly hear the dispositional hearing on the child protective petition under this article and the hearing on the custody and visitation petition under article six of this act; provided however, the court must determine the non-respondent parent's custody and visitation petition filed under article six of this act in accordance with the terms of that article.

(a-2) Custody and visitation petition of non-respondent parent under section two hundred forty of the domestic relations law. Where a proceeding brought in the supreme court involving the custody of, or right to visitation with, any child of a marriage is pending at the same time as a proceeding brought in the family court pursuant to this article, the court presiding over the proceeding under this article may jointly hear the dispositional hearing on the child protective petition under article ten of this act and, upon referral from the supreme court, the hearing to resolve the matter of custody or visitation in the proceeding pending in the supreme court; provided however, the court must determine the non-respondent parent's custodial rights in accordance with the terms of paragraph (a) of subdivision one of section two hundred forty of the domestic relations law.

(b) An order made in accordance with the provisions of this section shall set forth the required findings as described in subdivision (a) of this section where applicable, including, if the guardian and the local department of social services have entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, that a fact-finding hearing pursuant to section one thousand fifty-one of this part and a permanency hearing pursuant to section one thousand eighty-nine of this chapter have occurred, and the compelling reasons

that exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are, therefore, not appropriate permanency options for the child, and shall constitute the final disposition of the child protective proceeding. Notwithstanding any other provision of law, the court shall not issue an order of supervision nor may the court require the local department of social services to provide services to the respondent or respondents when granting custody or guardianship pursuant to article six of this act under this section or granting guardianship under article seventeen of the surrogate's court procedure act.

(c) As part of the order granting custody or guardianship pursuant to article six of this act or granting guardianship under article seventeen of the surrogate's court procedure act, the court may require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any subsequent proceeding to modify the order of custody or guardianship granted pursuant to the article six proceeding or the order of guardianship granted pursuant to article seventeen of the surrogate's court procedure act; provided, however, if the guardian and the local department of social services had entered into an agreement to provide kinship guardianship assistance payments for the child to the relative under title ten of article six of the social services law, the order must require that the local department of social services and the attorney for the child receive notice of, and be made parties to, any such subsequent proceeding regarding custody or guardianship of the child.

(d) An order entered in accordance with this section shall conclude the court's jurisdiction over the proceeding held pursuant to this article and the court shall not maintain jurisdiction over the parties for the purposes of permanency hearings held pursuant to article ten-A of this act.

(e) The court shall hold age appropriate consultation with the child, however, if the youth has attained fourteen years of age, the court shall ascertain his or her preference for a suitable guardian. Notwithstanding any other section of law, where the youth is over the age of eighteen, he or she shall consent to the appointment of a suitable guardian.