

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 6: Court	Effective Date: July 1, 2015
	Section 14: Children Attending Court Proceedings	Version: 2

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will be diligent in efforts to include all children under the care and supervision of DCS in court proceedings. DCS will make a determination if it is in the child’s best interest to attend court proceedings. Efforts to ensure the child’s attendance at court proceedings will continue throughout the life of the case. If it is determined to be in the best interest of the child to attend court proceedings, preference should be given to having the child present, providing the court allows or orders the child be present.

Note: Children 14 years of age and older shall participate in all court proceedings unless granted an exception by the court ([see Practice Guidance](#)).

DCS will consider the following prior to the child attending a court proceeding:

1. The nature of the court proceeding and its potential impact on the child’s emotional and educational stability;
2. The child’s age, maturity, and developmental level; and
3. The relevancy of the child’s presence.

DCS will discuss court proceedings with the child in order to assess the youth’s understanding of the court process and his or her willingness to attend. DCS should consult with the child care provider (i.e., parent, relative caregiver, foster parent, and residential treatment facility), the Child and Family Team (CFT), doctors, therapists, psychologists, child representatives (see Practice Guidance), the Guardian ad Litem (GAL)/Court Appointed Special Advocate (CASA), the court, or any other relevant individuals within the case to identify possible concerns regarding the child attending a court proceeding.

If the child is unable to attend the court proceeding, he or she should be empowered and given an opportunity to have his or her voice heard. This can be accomplished by having the youth, who was previously determined to be at the appropriate age, maturity, and developmental level, write a letter to the court or participate by electronic means (video/teleconference).

Note: Youth age 14 years and older should have a [Youth Report to the Court](#) completed and submitted to the court by the youth if the youth is unable to attend the court hearing.

DCS will follow any protective or no contact orders that would be violated if the child attends a court proceeding. As needed, DCS will obtain permission from the court for the child to attend the court proceeding.

When a child attends court proceedings, DCS will make efforts to provide support for the child before, during, and after the proceedings by offering seclusion or protection from harmful material and activities in order to prevent child distress.

Code References

1. [IC 31-34-15-2: Time for completion](#)
2. [IC 31-34-15-4: Form; contents](#)

PROCEDURE

The Family Case Manager (FCM) will:

1. Verify there are no protective or no contact orders that may be violated if the child attends a court proceeding;
2. Discuss court proceedings with the child in order to assess the youth's understanding of the court process and his or her willingness to attend;

Note: If it is determined the child will not be attending a court proceeding, efforts should be made to allow the child's voice to be heard by participation through alternative means (e.g., video/teleconference or writing a letter).

3. Obtain feedback from relevant individuals in the case, such as the CASA, GAL, therapists, doctors, child representatives ([see Practice Guidance](#)), or CFT members, as to how the court proceeding may impact the child;
4. Make a determination as to whether it is in the best interest of the child to attend court proceedings;

Note: Children 14 years of age and older shall participate in all court proceedings unless granted an exception by the court ([see Practice Guidance](#)). It may be appropriate for a child to attend only a portion of a hearing and then wait in another area of the courthouse or return to his or her place of residence, school, or any other previously planned appointments, if necessary.

5. Ensure permission from the court is obtained for the child to attend or be absent from the court proceeding, if required; and
6. Document in the the case management system the efforts to engage the child in the court proceedings.

PRACTICE GUIDANCE

Benefits of Involving Children in Court Proceedings

If a child is present in the courtroom, the court has the opportunity to observe and interact with the child. The child may be able to provide evidence not otherwise available to assist the court in understanding the child's view of what is happening in his or her life.

Questions to Consider in Determining if Attending Court is in the Best Interest of the Child¹

1. What is the developmental level of the child?
2. Will attending court upset the child?
3. Will court be confusing to the child?
4. Will attending court cause the youth to miss a previously scheduled event (e.g., sporting events, school related activities, etc.)?
5. Who will transport the child to the court hearing?

Note: In some circumstances, caregivers may qualify to receive assistance with travel expenses when transporting children to and from court hearings. See policies [16.1 Clothing, Personal Items, and Permitted Per Diem Expenses](#) and [16.2 Assistance for Unlicensed Relative Placements](#) for more information.

6. Will the court need additional time for the hearing?
7. What type of hearing is scheduled?
8. Who will be available to provide support and supervision for the child before, during, and after the hearing if needed?
9. Does the child have behaviors that will disrupt the hearing? If yes, how can these behaviors be managed to allow the child to attend the court proceeding?

Questions to Help Prepare for Children's Involvement²

1. What is the child's role in the proceedings?
2. Does the child have important information about the allegations in the petition?
3. Has there been a recent change in the child's placement?
4. Do you need the child's input about the placement?
5. Do you need the child's input regarding the child welfare services he or she has recently received?

Getting Children to Court

1. Request the hearing date to be set at a convenient time for the child and transporter.
2. Inform the child and transporter as soon as the hearing is set in order to plan.
3. Consider requesting that transportation of the child to the hearing be included in the court order, if appropriate.

Note: Although parents, foster parents, and placement providers (LCPA staff) may provide transportation for the child to and from court hearings, there may be times when the FCM must provide the transportation.

Tips for Accommodating Children in Court, when applicable

1. Provide age-appropriate reading material describing the court process to the child.
2. Provide an age-appropriate list of legal terms and definitions that may be used during the hearing, such as: FCM, attorney, judge, foster family, reunification, CASA, GAL, etc.
3. Avoid acronyms or legal jargon that a child would not understand.

¹ Khoury, A. (2006, December). Seen and Heard: Involving Children in Dependency Court. *Child Law Practice*, 25(10).

² Khoury, A. (2007, November). With Me, Not Without Me: How to Involve Children in Court. *Child Law Practice*, 26(9).

4. Reinforce the importance of the child being present and having a voice.
5. Ensure there are activities available for the child in the event of a delay or waiting period.
6. Ensure there is an interpreter, if necessary, for the child.

Tips for Involving Children in Court Proceedings, when applicable

1. Have the child present throughout the entire hearing (if it is in the best interest of the child).
2. Request to have the child's testimony heard in-chambers with the judge or with the judge and attorneys in order to discuss the case if the child finds the courtroom too intimidating.
3. Arrange an advance visit to the courthouse.
4. Have the child wait in a private or separate waiting area for the hearing.
5. Exclude the child from hearings where testimony may be difficult or harmful to the child.
6. Ensure there is an adult present to care for the child before and during the hearing if the child is only staying for a portion of the hearing.
7. Have a discussion with the child after the hearing to process what took place during the hearing and answer any questions the child may have.

Collaborative Care Youth

Attendance in court is mandatory for youth in collaborative care. See policy [11.23 Collaborative Care Court Hearings](#).

Exclusions to Court Participation for Youth Age 14 years and Older

If DCS determines the youth is unable to participate effectively in the court hearing due to a physical, mental, emotional, or intellectual disability, DCS will provide the court with documentation regarding the reasons for the youth's inability to participate in the hearing. If the youth refuses to participate in the hearing, DCS must record the refusal and submit documentation regarding the efforts made to obtain the youth's input.

Child Representatives

Beginning at the 14 years of age, youth may select up to two (2) child representatives. The child representatives must be at least 18 years of age, members of the CFT, and may not be a foster parent or FCM. The youth may select one (1) of the child representatives to also be his or her adviser, and if necessary, advocate for age appropriate activity. Child representatives are subject to the approval of DCS, and they may be rejected if there is cause to believe that they would not act in the best interest of the child.

FORMS AND TOOLS

[Youth Report to the Court](#)

RELATED INFORMATION

N/A