

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 6: Court	Effective Date: June 1, 2021
	Section 14: Children Attending Court Proceedings	Version: 3

POLICY OVERVIEW

Involving a child in court proceedings allows for the court to have the opportunity to observe and interact with the child. The child's attendance may also provide an opportunity for the child's voice to be heard and for the child to present evidence to the court, which is not otherwise available to assist the court in understanding the child's view of what is happening in the child's life.

PROCEDURE

The Indiana Department of Child Services (DCS) and the court will make a determination if it is in the best interest of a child who is under the care and supervision of DCS to attend court proceedings. DCS will consult with other parties (e.g., the child's parent, guardian, or custodian; Guardian ad Litem [GAL]/Court Appointed Special Advocate [CASA], and parent's counsel) to the case in making this determination. If the court allows or orders the child to be present and it has been determined that it would be in the child's best interest to be present at court proceedings, efforts should be made to have the child present. Efforts to ensure the child's attendance at court proceedings will continue throughout the life of the case.

DCS will discuss court proceedings with the child in order to assess the child's understanding of the court process and willingness to attend court. Youth 14 years of age and older shall participate in all court proceedings unless granted an exception by the court due to a physical, mental, emotional, or intellectual disability, and the youth 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. It may be appropriate for youth to attend only a portion of a hearing and then wait in another area of the courthouse or return to school, place of residence, or any other previously planned appointments, if necessary. Attendance in court is mandatory for youth in Collaborative Care (see policy 11.23 Collaborative Care Court Hearings).

- 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 and needs;
 2. The child's age, maturity, and developmental level;
 3. The relevancy of the child's presence; and
 4. Whether the child will need to miss school to attend the proceedings. For each instance where the child will need to miss school to attend court, a separate determination should be made about whether the importance of the child attending that court hearing outweighs the importance of what the child will be missing in school.

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

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, interactions, and information in order to prevent distress to the child.

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 and inform the DCS Staff Attorney of any concerns;
2. Discuss court proceedings with the child in order to assess the youth's understanding of the court process and 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 as to how the court proceeding may impact the child from relevant individuals in the case (e.g., therapists, doctors, child representatives, the child's caregiver, Child and Family Team [CFT] members, GAL/ CASA, and the court);
4. Make a determination as to whether it is in the best interest of the child to attend court proceedings by considering the following prior to the child attending a court proceeding:
 - a. The nature of the court proceeding and its potential impact on the child's emotional and educational stability and needs, as determined by the CFT;
 - b. The child's age, maturity, and developmental level;
 - c. The relevancy of the child's presence; and
 - d. Whether the child will need to miss school to attend the proceedings. For each instance where the child will need to miss school to attend court, a separate determination should be made about whether the importance of the child attending that court hearing outweighs the importance of what the child will be missing in school.
5. Inform the DCS Staff Attorney if the determination is made that it is not in the child's best interest to attend Court and ask the DCS Staff Attorney to file the Motion for Exclusion of the Child with the court. Ensure the DCS Staff Attorney is aware of protective and/or no contact orders, which may be impacted by a child's court attendance;
6. Ensure permission from the court is obtained for the child to attend or be absent from the court proceeding, if required; and
7. Document in the case management system the efforts to engage the child in the court proceedings and actions taken to provide support to the child before, during, and after the hearing.

The DCS Staff Attorney will:

1. File a Motion for Exclusion of Child if a determination is made that it is not in a child's best interest to attend court; and
2. Ensure a request for permission from the court is filed for the child to attend or be absent from the court proceeding, if required.

LEGAL REFERENCES

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

RELEVANT INFORMATION

Definitions

N/A

Forms and Tools

- [Youth Report to the Court](#)

Related Policies

- [11.23 Collaborative Care Court Hearings](#)

ARCHIVED - 5/31/23