

	<b>INDIANA DEPARTMENT OF CHILD SERVICES</b> <b>CHILD WELFARE POLICY</b>	
	<b>Chapter 2:</b> Administration of Child Welfare Services <b>Section 25:</b> Dual Status	
	<b>Effective Date:</b> September 1, 2022	<b>Version:</b> 2

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## POLICY OVERVIEW

Each child is screened for dual status (see Definitions) during the preliminary inquiry (see Definitions) process in both the Juvenile Justice and Child Welfare systems to determine if a dual status assessment team is appropriate.

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## PROCEDURE

The Indiana Department of Child Services (DCS) will ensure each child is screened to determine whether the child meets the statutory criteria to be identified as Dual Status with DCS and Juvenile Probation. DCS will coordinate with the Juvenile Probation Department to better serve children involved in both the Juvenile Justice and Child Welfare systems. A Memorandum of Agreement (MOA) will be established between the local DCS office and the local Juvenile Probation Department. See the Dual Status Resource Guide.

**Note:** The MOA must be signed by the Juvenile Court Judge(s) with jurisdiction, the Chief Juvenile Probation Officer, and the DCS Agency Director.

The FCM will:

1. Ensure the child's current or past involvement with the Juvenile Probation Department is determined during each Child Abuse and Neglect (CA/N) Assessment;
2. Ensure all youth 14 years of age and older who are in foster care (see Definitions) receive the Indiana DCS Bill of Rights for Youth in Foster Care and are informed of their rights;
3. Complete the Dual Status Screening Tool Report, including a recommendation to the Court as to whether or not a Dual Status Assessment Team (DSAT) assessment should be ordered in conjunction with filing either a Child in Need of Services (CHINS) petition or an Informal Adjustment (IA);
4. Prepare a Preliminary Inquiry and submit it, along with the Dual Status Screening Tool Report, to the DCS Staff Attorney for filing with the court;
5. Participate on the DSAT when ordered by the court to provide information concerning past DCS involvement specific to the identified child;

**Note:** The Local Office Director (LOD) will appoint a representative to the DSAT when there is not an open case with DCS or an assigned FCM.

6. Ensure consent has been obtained by having the parent, guardian, or custodian sign the DSAT Informed Consent to Release and Exchange of Information form if the youth has

an open involvement or history of involvement with the Juvenile Probation Department (see Practice Guidance for additional information);

**Note:** If the youth has an open involvement or history of involvement with DCS at the time of a delinquency act, the Juvenile Probation Department will obtain the signature of the parent, guardian, or custodian on the informed consent form. **The FCM should confirm the appropriate consent has been received prior to sharing confidential information.**

7. Share available relevant information during the DSAT. The Information Sharing Guide is a tool that may be used to assist in the information sharing process (see Practice Guidance);

**Note:** The FCM should confirm the parent, guardian, or custodian has signed the DSAT Informed Consent to Release and Exchange Information form before information about the child's history may be shared. If the parent's signature cannot be obtained, a court order must be requested, authorizing the sharing of information within the DSAT.

8. Assist DSAT with developing a recommendation to the court; and
9. Follow the orders of the court.

**Note:** Court orders for a Dual Status child who does not have current DCS involvement must be reviewed by DCS Management and Legal staff. If the child is dually adjudicated and the recommendation following the DSAT is for residential treatment, a referral to Maximus for the 30-Day Assessment must be completed by the FCM and the QRTP Determination Report should be reviewed with the assigned PO (see policy 5.24 Child-Focused Treatment Review [CFTR]).

The LOD will appoint a representative to the DSAT when there is not an open case with DCS or an assigned FCM.

The DCS Staff Attorney will file the Preliminary Inquiry and the Dual Status Screening Tool Report with the court.

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## RELEVANT INFORMATION

### Definitions

#### Dually Adjudicated (Dual Status)

A dually adjudicated case is defined in 31-41-1-2 as "a child who is alleged to be or is presently adjudicated to be a child in need of services under IC 31-34-10 or IC 31-34-11 and is alleged to be or is presently adjudicated to be a delinquent child under IC 31-37-12 or IC 31-37-13".

#### Dually Identified Youth

Youth involved with juvenile justice system/probation and have history in the child welfare system but not current involvement with DCS.

#### Dually Involved Youth

Youth who have current involvement with both the juvenile justice system/probation and DCS (may not yet be adjudicated as either a JD or a CHINS).

## Foster Care

Foster care is defined as 24-hour substitute care for children placed away from their parent, guardian, or custodian and for whom the State agency has placement and care responsibility.

## Preliminary Inquiry (PI)

A PI is a written report prepared by DCS, which includes the child's background, current status, and school performance. The report relates the facts and circumstances that establish the reason for DCS involvement in both CHINS and IA cases.

## **Forms and Tools**

- [DSAT Informed Consent to Release and Exchange Information](#)
- [Dual Status Resource Guide](#)
- Dual Status Screening Tool Report – available in the case management system
- [Memorandum of Agreement \(MOA\) \(2021\)](#)
- [Dual Status Youth MOU \(2017-2021\)](#)
- [Indiana Bill of Rights for Youth in Foster Care \(English\)](#)
- [Indiana Bill of Rights for Youth in Foster Care \(Spanish\)](#)
- [Information Sharing Guide](#)
- Preliminary Inquiry – available in the case management system
- Recommendation of the Dual Status Assessment Team – available in the case management system
- Referral to Dual Status Assessment Team – available in the case management system

## **Related Policies**

- [5.24 Child-Focused Treatment Review \(CFTR\)](#)

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## **LEGAL REFERENCES**

- [IC 31-34-7-1: Preliminary inquiry](#)
- [IC 31-34-7-2: Provision of preliminary inquiry and recommendation to attorney for department](#)
- [IC 31-34-9-2: Authorization to file petition; evidence; finding; determination for dual status assessment](#)
- [IC 31-34-10: Chapter 10. Initial Hearing on Child in Need of Services Petition and Issuance of Summons](#)
- [IC 31-34-10-2: Initial hearing; service of petition and summons; determination of referral for dual status assessment; CHINS petition; additional initial hearings](#)
- [IC 31-34-11: Chapter 11. Factfinding Hearing on Child in Need of Services Petition](#)
- [IC 31-34-23: Chapter 23. Modification of Dispositional Decrees](#)
- [IC 31-37-12: Chapter 12. Initial Hearing and Issuance of Summons](#)
- [IC 31-37-13: Chapter 13. Factfinding Hearing](#)
- [IC 31-37-22: Chapter 22. Modifications of Dispositional Decrees](#)
- [IC 31-41-1: Chapter 1. Definitions](#)
- [IC 31-41-1-2: "Dual status child"](#)
- [IC 31-41-1-4: "Dual status assessment"](#)
- [IC 31-41-2: Chapter 2. Dual Status Assessment Team](#)
- [IC 31-41-2-3: Dual status team meeting; considerations](#)
- [IC 31-41-2-4: Statements communicated in a dual status assessment team meeting](#)

- [IC 31-41-2-5: Dual status team considerations](#)
- [IC 31-41-2-6: Dual status team reports; recommendations](#)
- [IC 31-41-3-1: Determination of lead agency](#)

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## **PRACTICE GUIDANCE- DCS POLICY 2.25**

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

### **Determination of Referral to the Dual Status Assessment Team**

In accordance with IC 31-34-10-2(e), the juvenile court shall determine if a child should be referred to a DSAT. In making this determination, the juvenile court should take into consideration the “length of time since the delinquent act or the incident of abuse or neglect”.

### **Dual Status (IC 31-41-1-2)**

A child may be considered a dual status child if one (1) of the following is met:

1. A petition alleging the child is a CHINS has been filed, or the child is presently adjudicated to be a CHINS; and a petition alleging the child to be a delinquent child has been filed, or the child is presently adjudicated to be a delinquent child;
2. The child is presently named in an IA and is adjudicated a delinquent child;
3. The child is presently named in a delinquency IA and is adjudicated to be a CHINS;
4. The child was previously adjudicated to be a CHINS in which wardship was terminated or the child participated in an IA that concluded before the current delinquency petition;
5. The child was previously adjudicated to be a delinquent child in a case that has closed or participated in a delinquency IA which was concluded prior to a CHINS proceeding; or
6. The child is eligible for release from commitment of the Department of Correction (DOC), but the child’s parent, guardian, or custodian cannot be located or is unwilling to take custody of the child.

### **Dual Status Assessment Team Participants**

The DSAT must convene within 10 days of the court order in accordance with IC 31-41-2-3. The court will designate a facilitator who will convene the meeting.

IC 31-41-2-2 defines the membership of the DSAT to include:

1. The FCM (or a representative appointed by the LOD if an FCM is not currently assigned to the case),
2. The probation officer (or a probation officer appointed by the Court if a probation officer is not currently assigned to the case), and
3. A facilitator (may be the FCM, PO, or another person appointed by the juvenile court).

The dual status assessment team may include:

1. The child if the juvenile court deems the child is age appropriate;
2. The child's public defender or attorney;
3. The child's parent, guardian, or custodian;
4. The child's parent's attorney;
5. A prosecuting attorney;
6. The attorney for the DCS;
7. Court Appointed Special Advocate (CASA) or a Guardian ad Litem (GAL);
8. A representative from DOC;
9. A school representative;
10. An educator;
11. A therapist;

12. The child's foster parent; and
13. A service provider appointed by the team or the juvenile court.

### **Dual Status Assessment Team Role**

If ordered by the Court, the DSAT shall consider:

1. In accordance with IC 31-41-2-3(c):
  - a. Allegations of abuse or neglect suffered by the child, and
  - b. Allegations that the child is a delinquent child.
2. In accordance with IC -31-41-1-4:
  - a. Status,
  - b. Best Interests,
  - c. Need for services, and
  - d. Level of needs, strengths, and risks of the child.

### **Dual Status Assessment Team Topics**

In accordance with IC 31-41-2-4, statements communicated in a DSAT meeting are not admissible as evidence against the child in any judicial proceeding and are not discoverable in any litigation. Facts or circumstances surrounding a pending delinquency petition should not be discussed.

IC 31-41-2-5 outlines that the DSAT shall consider the child's best interests and well-being, which includes:

1. The child's mental health status, including any diagnosis;
2. The child's school records, including attendance and academic achievement level;
3. The child's statements;
4. The statements of the child's parent, guardian, or custodian;
5. The impact of the child's behavior on any victim;
6. The safety of the community;
7. The child's needs, strengths, and risk;
8. The need for a parent participation plan;
9. The efficacy and availability of services and community providers;
10. Whether appropriate supervision of the child may be achieved by the dismissal of a delinquency adjudication in deference to a CHINS adjudication;
11. Whether appropriate supervision of the child may be achieved by combining a delinquency adjudication or an IA with a CHINS petition;
12. The child's placement needs;
13. Restorative justice practices that may be appropriate;
14. Whether a CHINS petition or IA should be filed or dismissed;
15. Whether a delinquency petition or IA should be filed or dismissed;
16. The availability of coordinated services, regardless of whether the child is adjudicated to be a CHINS or a delinquent child;
17. Whether the DSAT recommends the exercise of dual adjudication and, if so, the lead agency to provide supervision of the child; and
18. Any other information considered appropriate by DSAT.

### **DSAT Recommendations**

In accordance with IC 31-41-2-6, the DSAT will make recommendations to the Court regarding:

1. Whether the court should proceed with an additional initial hearing regarding the CHINS petition and dismiss a pending delinquency petition or IA at the conclusion of a CHINS adjudication.

2. Whether the court should proceed with an additional initial hearing regarding a petition alleging that the child is a delinquent child and dismiss a pending CHINS petition or IA upon conclusion of the delinquency adjudication;
3. Whether the court should proceed with an additional initial hearing and adjudication or IA concerning both a CHINS petition and a delinquency petition;
4. Which agency should be the lead agency in a child's supervision;
5. Services to be included in a dispositional decree; and
6. Any other matters relevant to the child's best interests.

### **Lead Agency When a Child is Adjudicated in Both Systems**

IC 31-41-3-1 suggests that the DSAT may recommend a "lead agency". However, in absence of a recommendation, the court making the "later adjudication" (which case was last adjudicated) may determine whether DCS or probation will act as the lead agency. In making the determination, the court shall consider:

1. The child's social and family situation;
2. The child's experiences with DCS;
3. The child's prior adjudications of delinquency;
4. The recommendations of the DSAT; and
5. The needs, strengths, and risks of the child.

### **Petition for Modification in the Delinquency Case**

DCS may **not** file a petition for modification in the delinquency case, even when DCS is the lead agency. The statute states the court may require DCS and the Juvenile Probation Department to work together in the supervision of a dual status child and for the purposes of filing a modification under IC 31-34-23 or IC 31-37-22.

### **Sharing DCS and Delinquency Information at the Dual Status Assessment Team Meeting**

The DSAT Informed Consent to Release and Exchange Information has been developed to allow information regarding the child's CHINS and Delinquency matters to be shared within the DSAT to assist in making recommendations to court. The Information Sharing Guide is a tool that may be used to assist in the process of sharing information between juvenile probation and DCS.

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