

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 4:</b> Assessment <b>Section 05:</b> Consent to Interview Child	
	<b>Effective Date:</b> October 1, 2022	<b>Version:</b> 7

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## POLICY OVERVIEW

Securing consent from the parent, guardian, or custodian to interview the child prior to the interview is a necessary step in a Child Abuse and/or Neglect (CA/N) assessment, unless exigent circumstances exist. Exhibiting empathy, professionalism, genuineness, and respect is the first step in building a trust-based relationship when engaging with children, parents, and other individuals.

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## PROCEDURE

The Indiana Department of Child Services (DCS) will secure consent (permission) of the child's parent, guardian, or custodian prior to interviewing a child who is the following:

1. An alleged victim of CA/N;
2. An alleged child perpetrator;
3. A potential witness; or
4. An individual who may be able to provide additional information to support the assessment outcome, as outlined in policy 4.04 Required Interviews.

When the parents have joint legal custody of the child and either parent says "no", it is inappropriate to seek permission from the other parent and DCS must either seek a court order for the interview or must determine that exigent circumstances exist to interview the child without parental consent.

Exceptions to the rule requiring consent of the child's parent, guardian, or custodian prior to interviewing the child include:

1. Exigent circumstances override the necessity of consent due to concerns for the alleged child victim's safety and well-being;

**Note:** Exigent circumstances may exist when the child is receiving treatment at a residential facility **and** the alleged perpetrator is an employee or resident of that facility. If the perpetrator is someone other than an employee or resident of the facility, consent of the parent, guardian, or custodian is required.

2. A reasonable number of attempts were made to locate and contact the parent, guardian, or custodian resulting in no contact being made;

**Note:** The number of reasonable attempts will vary depending on the urgency of the assessment. In general, the Family Case Manager (FCM) should attempt to reach the parent, guardian, or custodian by trying each address or phone number between three (3) and five (5) times for an assessment that must be initiated within 24 hours. For an assessment that must be initiated within five (5) days, the FCM should try each address and phone number between five (5) to 10 times. See policy 5.23 Diligent Search for Relatives/Kin and Case Participants.

3. The child is under the care and custody of DCS, and parental rights have been terminated; or

**Note:** For consent to interview a child under the care and custody of DCS when parental rights have been terminated, the assessing FCM will seek permission from the permanency FCM assigned to the child.

4. The child is committed to a Department of Corrections (DOC) facility.

**Note:** For a child who has been committed to a DOC facility, consent to interview is required from the DOC facility superintendent and from a parent, guardian, or custodian. If consent is not obtained from both, DCS must request a court order to interview a child in a DOC facility.

The FCM will:

1. Consider whether exigent circumstances exist. Refer to policy 4.06 Exigent Circumstances for Interviewing Alleged Child Victims for guidance and follow all procedures contained in the policy if exigent circumstances exist;
2. Determine who must give consent to interview if exigent circumstances do not exist;

**Note:** In certain circumstances, DCS will seek consent from individuals other than the child's parent, guardian, or custodian prior to the interview. If an FCM has questions about whose consent is needed to interview the child, they should contact their DCS Staff Attorney for guidance.

3. Make a reasonable number of attempts to contact the person who must give consent;
4. Complete the following if unable to make contact with the required parties after a reasonable number of attempts:
  - a. Document all attempts in the case management system,
  - b. Proceed with the child interview without consent, and
  - c. Complete procedural steps #8 and #9 below.
5. Ask for consent to interview, if contact is made with the required parties, after explaining the following:
  - a. The interview is part of a DCS CA/N assessment,
  - b. The interview must take place to ensure the child's safety,
  - c. The CA/N allegations per the CA/N intake,
  - d. The information gained during the interview is confidential. It will not be released to outside parties unless it is required during a court proceeding. See policy 2.06 Sharing Confidential Information.

**Note:** The parent, guardian, or custodian has the right to know the information gained during the interview.

6. Ask that the required parties sign the Consent of Parent, Guardian, or Custodian to Interview Child(ren) and proceed with the child interview if consent is given. Verbal consent should be used as a last resort. For verbal consent, the FCM should:
  - a. Put the parent, guardian, or custodian on speakerphone,
  - b. Have an individual (e.g., DCS employee, law enforcement agency [LEA], or a school/mental health/medical professional) serve as a witness, and
  - c. Follow-up by obtaining the parent, guardian, or custodian's signature on the Consent of Parent, Guardian, or Custodian to Interview Child(ren) form as soon as possible.
7. Follow all procedural steps in policy 4.08 Entry into Home or Facility;
8. Coordinate with the DCS Staff Attorney to petition a court for the child to be interviewed, either with or without the custodial parent, guardian, or custodian being present, if consent is not obtained and/or the parent, guardian, or custodian places constraints upon the interview process (e.g., "saying the child may only be interviewed in the parent's presence") in which the FCM finds unacceptable, and no exigent circumstances exist;
9. Provide the Notice to Parent, Guardian, or Custodian to Interview with Child form to the parent, guardian, or custodian or the Facility Administrator, if applicable, as soon as possible, but no later than the same day of the interview, in any case where consent was not requested, and the child interview proceeded due to exigent circumstances;
10. Notify the appropriate licensed child placing agency (LCPA), permanency FCM, and/or Probation Officer of the interview, if applicable; and
11. Document actions taken in the case management system. This includes the parent's consent and any constraints the parent, guardian, or custodian places on the interview and whether the constraints were accommodated.

The FCM Supervisor will:

1. Assist the FCM as needed throughout the assessment; and
2. Ensure all information is documented in the case management system.

The DCS Staff Attorney will:

1. File a petition with the court to interview a child if consent is not given and/or the parent, guardian, or custodian places constraints upon the interview process; and
2. Provide guidance to the FCM, as necessary, when there are questions about whose consent is needed to interview the child.

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## RELEVANT INFORMATION

### Definitions

#### Custodian

For the purposes of interviewing children during an assessment of CA/N, a custodian is defined in IC 31-9-2-31(a) as a person with whom the child resides.

#### Exigent Circumstances

Exigent circumstances exist when:

1. DCS has definite and explainable evidence giving rise to a reasonable suspicion that the child or any child residing in the home with the child has been or is in imminent danger of

- being physically abused, sexually abused, or is being neglected such that the child's physical safety is seriously endangered;
2. There is no less intrusive alternative to the department's action that would reasonably and sufficiently protect the child's imminent health or safety; and
  3. One (1) or more of the following applies:
    - a. The parent, guardian, or custodian of the child is the alleged perpetrator of the abuse or neglect of the child; or is allegedly aware of the abuse or neglect of the child and has allegedly not ensured the child's safety.
    - b. There is reason to believe that the safety of the child might be jeopardized; or essential evidence regarding signs or symptoms of abuse or neglect on or in the child's body might not be available; if the department's action is delayed or the child's parent, guardian, or custodian is notified before the department's action.
    - c. The child is a homeless unaccompanied minor and is voluntarily receiving services at an emergency shelter or shelter care facility without the presence or consent of the child's parent, guardian, or custodian.

**Note:** An allegation of educational neglect, with no additional allegations, does not qualify as an exigent circumstance.

### Forms and Tools

- [Consent of Parent, Guardian, or Custodian to Interview Child\(ren\) \(SF 52013\) \(English version\)](#)
- [Consent of Parent, Guardian, or Custodian to Interview Child\(ren\) \(SF 54252\) \(Spanish version\)](#)
- [Notice to Parent, Guardian, or Custodian of Interview with Child \(SF 53130\) \(English version\)](#)
- [Notice to Parent, Guardian, or Custodian of Interview with Child \(SF 55510\) \(Spanish version\)](#)
- [Notice to Parent, Guardian, or Custodian of Interview with Child \(SF 54537\) \(Burmese version\)](#)

### Related Policies

- [2.06 Sharing Confidential Information](#)
- [4.06 Exigent Circumstances for Interviewing Alleged Child Victims](#)
- [4.08 Entry into Home or Facility](#)
- [5.23 Diligent Search for Relatives/Kin and Case Participants](#)

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### LEGAL REFERENCES

- [IC 5-26.5-1-3: "Domestic violence"](#)
- [IC 31-9-2-31\(a\): "Custodian"](#)
- [IC 31-9-2-44.1: "Exigent circumstances"](#)
- [IC 31-33-8-7 \(d\): Scope of assessment by department of child services; order for access to home, school, or other place, or for mental or physical examinations; petition to interview child; order; requirements](#)

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## PRACTICE GUIDANCE- DCS POLICY 4.05

*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.*

### **Parental Consent to Interview Child**

Consider the following when determining whether one (1) or both parents should consent to interview the child:

1. If the child has two (2) parents and **both** parents have physical custody of the child (e.g., the parents are living together) either parent may give consent. However, once either parent has said “no,” it is inappropriate to seek permission from the other parent (this is referred to as “answer shopping.”); and
2. If the child has two (2) parents but the parents **do not** live together, consent must be obtained from the custodial parent (i.e., the parent with physical custody, also referred to as the “custodial parent”).

### **Contact versus Interview**

A contact can be any communication or an in-person observation. An interview occurs when a person is individually questioned about the allegations of a CA/N report. Best practice is that children are not interviewed in the presence of family members or other witnesses. A contact is not always considered an interview.

A contact includes, but is not limited to the following types of communication:

1. Face-to-face at the home, office, or other location;
2. Telephone;
3. Fax;
4. Email;
5. Voicemail;
6. Written correspondence; and/or
7. Virtual (e.g., video conferencing).

### **Consent to Interview Child When Exigent Circumstances Do Not Exist**

The chart below summarizes many, but not all, situations of exigent circumstances. If a Family Case Manager (FCM) encounters a circumstance not covered on this chart, the FCM should use critical thinking skills and seek supervisory guidance as needed.

<b><u>Child's Situation</u></b>	<b><u>Additional Details</u></b>	<b><u>Consent From</u></b>
Child lives at home with parent, guardian, or custodian		Parent, guardian, or custodian.
Child lives in foster home	Parental rights have not been terminated.	Parent, guardian, or custodian. No consent needed from resource parent or LCPA. It is advisable to give advance

		notice to the LCPA, as a courtesy.
Child is on probation		Parent, guardian, or custodian
Child has been committed to DOC facility		Parent, guardian, or custodian and the DOC facility superintendent.
Child is receiving treatment at a residential facility	Alleged perpetrator is an employee or resident of the facility.	Exigent circumstances are assumed to exist; no consent needed.
	Alleged perpetrator is someone other than an employee or resident of the facility.	Assessing FCM contacts ongoing services FCM assigned to child. Ongoing services FCM seeks consent from parent, guardian, or custodian.
Child is under care and custody of DCS	Parental rights have been terminated, but child has not been emancipated.	Assessing FCM seeks permission from ongoing services FCM assigned to child.

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