

	<b>INDIANA DEPARTMENT OF CHILD SERVICES</b> <b>CHILD WELFARE POLICY</b>	
	<b>Chapter 6:</b> Court <b>Section 14:</b> Children Attending Court Proceedings	
	<b>Effective Date:</b> June 1, 2023	<b>Version:</b> 4

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## 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.

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## PROCEDURE

The Indiana Department of Child Services (DCS) and the court will determine 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 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. If the child is ordered to appear, DCS will make arrangements with the child and/or the child's caregiver to attend the hearing. Efforts to ensure the child's attendance at court proceedings will continue throughout the life of the case.

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. If the youth is unable to attend the court hearing, the youth should have a Youth Report to the Court completed and submitted to the court. It may be appropriate for youth to attend only a portion of a hearing. Attendance in court is mandatory for youth in Collaborative Care (see policy 11.23 Collaborative Care Court Hearings).

DCS will follow any protective or no contact orders and make arrangements with the court, as necessary, for the child to attend a 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 protection from harmful material, interactions, and information in order to prevent distress to the child.

The Family Case Manager (FCM) will:

1. Notify the DCS Staff Attorney of any protective or no contact orders regarding the child;

2. Discuss court proceedings with the child, as age and developmentally appropriate, in order to assess the child's understanding of the court process, how it may impact the child, and the child's willingness to attend. The Bench Card Authentic Youth Engagement: A Guide for Courts may help in this discussion with the child;

**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), which would include the Youth Report to the Court.

3. Consult with any other 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) as to how the court proceeding may impact the child;
4. Make a determination, following the discussion with the child and consultation with other relevant individuals in the case, 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;

**Note:** If DCS determines the child 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 child's inability to participate in the hearing.

6. Record the refusal in the case management system if the child refuses to participate in the hearing, and submit documentation to the court regarding the efforts made to obtain the youth's input; 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 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.

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## RELEVANT INFORMATION

### Definitions

N/A

## Forms and Tools

- [Bench Card Authentic Youth Engagement: A Guide for Courts](#)
- Youth Report to the Court- Available in the case management system

## Related Policies

- [5.07 Child and Family Team Meetings](#)
- [6.10 Permanency Plan](#)
- [11.06 Transition Plan for Successful Adulthood](#)
- [11.23 Collaborative Care Court Hearings](#)
- [16.01 Funding for Children in Out-of-Home Care](#)

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## LEGAL REFERENCES

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

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## PRACTICE GUIDANCE- DCS POLICY 6.14

*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.*

### **Arranging for a Child to Attend Court**

Consider the following when making arrangements for a child to attend 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; and
3. Consider requesting that transportation of the child to the hearing be included in the court order, if appropriate.

**Note:** Although parents, resource 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.

### **Child Representatives**

Child representatives are selected by youth who are 14 years of age and older to advise the youth and advocate for/to represent the child's best interests. 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 an adviser and, if necessary, advocate for age-appropriate activities. 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. See policies 5.07 Child and Family Team Meetings, 6.10 Permanency Plan, and 11.06 Transition Plan for Successful Adulthood for additional information.

### **Questions to Determine if Attending Court is in the Child's Best Interest**

Consider the following questions to help determine if it is in the child's best interest to attend court<sup>1</sup>:

1. What is the developmental level of the child?
2. Will attending court upset the child?
3. Will court be confusing to the child or cause additional trauma?
4. Will attending court cause the youth to miss a previously scheduled event (e.g., sporting events, school related activities)?
5. Who will transport the child to and from 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 policy 16.01 Funding for Children in Out-of-Home Care 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?

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

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?

Consider the following questions to help prepare the child for court:

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 the child has recently received?

### **Tips to Involve the Child in Court**

The following tips may help to involve the child in the court proceedings:

1. Have the child present throughout the entire hearing (if it is in the best interest of the child);
2. Discuss with the Staff Attorney, if a request is made, 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; and/or
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.

### **Tips for Making Accommodations Children in Court**

The following tips may assist when making accommodations for children in court:

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 (e.g., FCM, attorney, judge, foster family, reunification, CASA/GAL);
3. Avoid acronyms or legal jargon that a child would not understand;
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; and/or
6. Ensure there is an interpreter, if necessary, for the child.

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