

ENGAGING SCHOOL-AGE CHILDREN (AGES 5-11) **IN THE COURT PROCESS: GUIDELINES FOR ATTORNEYS & GALs**

Establishing rapport:

- ***Location:** Ideally, your first meeting with a child should be in a setting familiar to the child (e.g. school, home, park) or at least a child-friendly location. If meeting at court is unavoidable, find a quiet place out of earshot of others.
- ***Manner:** Address the child directly using a soft, supportive voice, positioning yourself at eye-level with the child and making eye contact. Talk slowly, explain your role and state things simply and clearly.
- ***Reaching for feelings:** Develop an awareness beforehand of what this child has experienced. Acknowledge and validate the feelings the child is bringing with him: "You probably wish you didn't have to be here. This must be hard for you."
- ***Questioning the child:** Start by asking questions that do not create any anxiety for the child, such as number of brothers or sisters, where do you go to school, what do you like about school. Ask open-ended questions, "Do you know why you're here?"
- ***Avoid taking notes** unless you absolutely have to.
- *Connect with children by learning what the child likes/dislikes and commenting on it.
- * **Have simple, age-appropriate toys** available.

Communicating with children:

- ***Encourage questions** and comment on how great the questions are.
- * **Ask the child** if he understood what you said. Suggest that the child say it back to you in his own words.
- ***Avoid leading questions.**
 - *Avoid asking "how" questions because they are not likely to elicit much information. For example, "How was school?" Answer: "OK." Instead, ask open ended questions such as: "What is your favorite part of school? What do you do after school? Who do you do that with? Who helps with your homework? Who are your friends?"
- ***Avoid legal jargon** and acronyms. Give simple definitions for legal terms.
- ***Avoid abstract questions.** School-age children will answer them literally. "Are you in school now?" Answer: "No, I'm in the courthouse."

Questions to ask children:

- *Regardless of how you define your role, it is important to determine the child's preference and wishes so they can be taken into consideration.
- *Where appropriate, ask the child if he wants to attend the court hearing. If so, ask why and what she hopes to gain. Help her think about what she wants the judge to know and how she is going to say it. If she doesn't want to attend, ask her what could be done to make it easier for her to be there. Present alternative means of letting the judge know how she feels such as writing a letter. If she does not attend, arrange for a way to contact her if something unexpected comes up.
- *Ask: What do you like about living at home? What would you like to change? What do you wish were different? How safe do you feel at home? What would need to change so that you can feel safe at home?

Factors in deciding when children should attend court hearings:

Child's wishes, age, development, mental health, emotional stability, cognitive ability to understand court hearings, potential trauma, child's fear of parent, whether parent's presence unduly influences child or puts pressure on child to recant, guidance from child's therapist, caretaker, DCF social worker and treatment team, the nature of the hearing and level of conflict, likelihood that child will have to relive graphic details of abuse or hear judge reprimanding parents.

Questions to ask children regarding specific hearings:

Temporary Care Hearing:

*Would you feel safe at home if the judge said that [the abusive adult] had to move out of your home and could not see you or speak to you? If the judge did that, do you think your [caregiver/non-abusive parent] would make sure that [the abusive adult] does what the judge said?

*If you can't live at home, would you like to live with your [Non-Custodial Parent- NCP]? Are there relatives or close friends that you would like to live with? Ask about potential placements by asking: who do you spend most of your time with? Is there a relative to whom you are especially close? Over the holidays, where do you eat dinner? If you could take three people to Disney World, who would you take?

*If you can't live at home and have to move to a different town, do you still want to attend your same school if possible?

*If you can't live at home, how would you like to see your parent/s and other important family members? How often? If not at all, is there something that would make you feel safer when you see them? How about phone calls?

*If parents are separated: how often have you been seeing your [NCP]? How has that time with him/her been going? How often would you like to see him/her?

*Have there been any people working with your family to make things better at home- counselors, parent educators? Do you like them? Do you think it has helped? What still needs to be improved? Have there been friends or family members that have helped to make things safer at home?

Merits Hearing:

*Where age-appropriate, ask the child about the specific allegations of CHINS petition and any proposed merits stipulation.

*When necessary, prepare the child to testify, seeking appropriate accommodations (VRE 611, 807). Role play. Let the child know what questions you will ask and what questions the other lawyers may ask. Familiarize the child with the courtroom.

Disposition Hearing:

*Ask questions about placement, family time, school, services (see above). Ask: What do you like (or not like) about where you're staying now? What changes can be made that would make it better? Do you see your mom and dad? How often? What do you do with them? Do you miss anyone (brothers, sisters, grandparents)? Who do you miss most? Where do you go to school? Who is your favorite teacher? What is your favorite subject? Are you having any problems in school? What do you like to do after school? Where do you want to live?

Post Disposition Review/Permanency Hearing:

- *Ask questions about placement, family time, school, services (see above).
- *Review court orders for outstanding issues and ask if the child is participating in any program that was ordered. Is the child happy with the change in family time/placement that was ordered at the last hearing? Has the child been able to maintain connections with people who are important to him? Is child attending therapy and going to school?
- *Highlight the child's accomplishments.

Things children will need to know:

Beforehand- about the court process:

- *Where appropriate, let the child know that he is entitled but not required to attend the hearing.
- *Tell the child: What the courtroom looks like, who will be in the courtroom, what does each person in the courtroom do, where will the child sit, who will sit next to the child, what is the purpose of the hearing, will the child be expected to speak, what happens if she doesn't want to speak, can the child use other means of telling the judge what she wants (pictures, letters, lists), how is the child expected to behave, what happens if the child misbehaves, who should the child tell if she feels talking is too hard or what to do if she feels she needs a break, can the child leave to go to the bathroom or wait outside the courtroom if she gets upset, can the child bring quiet toys to court, can the child bring a support person or item to court, how should the child dress for court and why is attire important, how long will the hearing last, how long will the child have to wait for the hearing and where will the child wait?
- *Tell the child that he can quietly ask you questions during the hearing but should only speak to the judge when you or the judge ask him to.
- *Explain to the child that an important rule in court is to tell the truth and that it is OK to change an answer, correct a mistake, say that he doesn't understand a question or say that he doesn't know or can't remember if that is the case.
- *Reassure the child that she is in no way responsible for the court proceedings or events. It is the judge who will decide what is in the child's best interests based on what many other people tell the judge, not just on what the child says.
- *Explain: If the judge decides that the child should not be returned home to live, that doesn't mean the child will never go home. Most children eventually return home once the family has worked out the problems. If the judge decides the child cannot safely live at home, the judge will decide whether the child should live with relatives, family friends or a foster parent who will take care of the child until the judge decides she can safely return home. Tell the child that foster parents are trained adults who decided they wanted to help by letting children stay with them at their home and that it is important that the child obey their rules while she stays with them. Let the child know that she can also talk to her foster parents about things that may be bothering her. Explain that even if the child can't live at home, the judge can make sure that DCF provide family time with her parents, brothers and sisters and possibly other people who are important to her. Parents will be required to make home a safe place before the child can return home. DCF can try to arrange for the child to stay in the same school even if that child ends up living in a different town.

After the court hearing:

*Ensure the child understands what happened- what it means for the child and what are the next steps. Ask did anyone use any words today you didn't understand? Is there anything we are missing? Do you have any questions? Have the child tell you what he believed happened and correct any misperceptions/misunderstandings.

* If age appropriate, ask the child what he wants to accomplish before next hearing.

*Thank child for coming to court and encourage the child to attend the next hearing. Be aware of whether the scheduling of the next hearing conflicts with events that are important to the child- field trip, sports event, school play, test- and if so, seek to change it.

Developed by Kate Piper, Esq.

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This material was drawn from: Tools for Engaging Children in Their Court Proceedings: A Guide for Judges, Advocates and Child Welfare Professionals published by the New York State Permanent Judicial Commission on Justice for Children; articles and material provided by Andrea Khoury, ABA Child Law Practice, Vol. 25, No. 10 and Vol. 27, No. 1; article by Claire Sandt Chiamulera, "Foster Children are Talking-Are You Listening", ABA Child Law Practice, Vol. 26, No. 6; Understanding Juvenile Court-A Handbook for Iowa Children; Handbook on Questioning Children: A Linguistic Perspective, by Anne Graffam Walker, ABA Center on Children and the Law; Crisis Counseling with Children and Adolescents- A Guide for Non-Professional Counselors, by William Van Ornum and John B. Mordock.

ENGAGING YOUTH (AGES 12-18)

IN THE COURT PROCESS: GUIDELINES FOR ATTORNEYS AND GALs

Establishing rapport:

Location: Ideally, your first meeting should be in a setting familiar to the youth (e.g. school, home, park) or at least a youth-friendly location. If meeting at court is unavoidable, find a quiet place out of earshot of others.

Manner: Address the youth directly using a supportive voice and making eye contact.

Reaching for feelings: Develop an awareness beforehand of what this youth has experienced. Acknowledge and validate the feelings the youth is bringing with him: "You probably wish you didn't have to be here. This must be hard for you."

Questioning the youth: Start by asking questions that do not create any anxiety for the youth, such as how many brothers or sisters do you have, where do you go to school, what do you like about school? Ask open-ended questions, "Do you know why you're here?"

*Avoid taking notes unless you absolutely have to.

*Connect with the youth by learning what the youth likes/dislikes and commenting on it.

Communicating with the youth:

*Encourage questions and comment on how great the questions are.

*Avoid leading questions. Avoid asking "how" questions because they are not likely to elicit much information. For example, "How was school?" Answer: "OK." Instead, ask open ended questions such as: "What is your favorite part of school? What do you do after school? Who do you do that with? Who helps with your homework? Who are your friends?"

*Avoid legal jargon and acronyms. Give simple definitions for legal terms.

*Share documents that are appropriate for the youth to read. Allow the youth to read them with you present, making sure the youth understands what he is reading.

* Youth need to know what is being decided and have an opportunity to discuss and understand their options.

Questions to ask the youth:

*Regardless of how you define your role, it is important to determine the youth's preference and wishes so they can be taken into consideration.

*Where appropriate, ask the youth if he wants to attend the court hearing. If so, ask why and what he hopes to gain. Help him think about what he wants the judge to know and how he is going to say it. If he doesn't want to attend, ask him what could be done to make it easier for him to be there. Present alternative means of letting the judge know how he feels such as writing a letter. Explore the possibility of having the youth stay only for part of the hearing or speak with the judge without the parents present if permitted. (The other attorneys and court reporter would need to be present in that event.) If the youth does not attend, offer to have him participate by telephone or arrange for a way to contact him if something unexpected comes up.

*Ask: What do you like about living at home? What would you like to change? What do you wish were different? How safe do you feel at home (on a scale 1-10)? What would need to change so that you can feel safe at home (to get it up to a 7 or 8)?

*What is your favorite subject in school? How many times have you changed schools? What is your best subject in school? What kind of grades are you getting? What would help you do better in school?

*What school or community clubs do you belong to? What do you do for fun?

*Tell me something that has happened to you since I last saw you.

*What are the things you believe are important for the judge to know about you, your family &/or the system?

For older youth:

*Have you started to think about college or vocational school? If so, is anyone helping you look at schools and apply for financial aid? What is your intended field of study? Who will you stay with during school breaks?

*When you think about the future, what are you most concerned about?

*Have you started to work with a Youth Development Coordinator? What's your understanding of the supports that are available to you after you turn 18- housing, education, health care? Do you know how to continue treatment or get the services you need after you turn 18? Do you know that if you opt not to work with DCF and YDC beyond age 18 and decide later that you want to come back for help, you can?

*Where are you currently working? Do you enjoy that work? What plans do you have for future employment? Where do you see yourself in 5 (10) years from now?

*Who do you call to share your good news? Who do you talk to when you're upset? Do you have an adult to go to for advice? Who are the adults in your life that you will rely upon after your case is closed?

*[If aging out of DCF custody], have you been formally involved in your discharge planning?

Questions to ask youth regarding specific hearings:

Temporary Care Hearing:

*Would you feel safe at home if the judge ordered [the abusive adult] out of your home? If judge did order [the abusive adult] to move out and not have any contact with you, do you think your [caregiver/non-abusive parent] would make sure that [the abusive adult] follows that order?

*If you can't live at home, would you like to live with your [Non-Custodial Parent- NCP]? Are there relatives or close friends that you would like to live with? Ask about potential placements by asking: who do you spend most of your time with? Is there a relative to whom you are especially close? Over the holidays, where do you eat dinner? If you could take three people to Disney World, who would you take?

*If you can't live at home and have to move to a different town, do you still want to attend your same school if possible?

*If you can't live at home, how would you like to see your parent/s and other important family members? How often? If not at all, is there something that would make you feel safer when you're with them? How about phone calls?

*[If parents are separated]: how often have you been seeing your [NCP]? How has your time with him/her been going? How often would you like to see him/her?

*Have there been any people working with your family to make things better at home- counselors, parent educators? Do you like them? Do you think it has helped? What still needs to be improved? Is there another way that help could be better offered to your family? Have there been friends or family members that have helped to make things safer at home?

Merits Hearing:

*Ask the youth about the specific allegations of CHINS petition and any proposed merits stipulation.

*When necessary, prepare the youth to testify, seeking appropriate accommodations (VRE 611, 807). Role play. Let the youth know what questions you will ask and what questions the other lawyers may ask. Familiarize the youth with the courtroom.

Disposition Hearing:

*Ask questions about placement, family time, school, services (see above). Ask: What do you like (or not like) about where you're staying now? What changes can be made that would make it better? Do you see your mom and dad? How often? What do you do with them? Do you miss anyone (brothers, sisters, grandparents)? Who do you miss most? Where do you go to school? Who is your favorite teacher? What is your favorite subject? Are you having any problems in school? What do you like to do after school? Where do you want to live?

Post Disposition Review/Permanency Hearing:

*Ask questions about placement, family time, school, services (see above).

*Review court orders for outstanding issues and ask if the youth is participating in any program that was ordered? Is the youth happy with the change in family time/placement that was ordered at the last hearing? Has the youth been able to maintain connections with people who are important to him? Is youth attending therapy and going to school?

*Ask the youth if she wants to be adopted. If the response is a quick "no", depending on the circumstances, explore the issue further by asking if she wants a family to go on vacation with, to take care of her when she's sick, to attend her sports activities.

*Ask the youth what plan would he like to have that will provide him with a safe and permanent home?

*Highlight the youth's accomplishments.

Things youth will need to know:

Beforehand- about the court process:

*At least a week before the hearing, contact the youth and his caretaker to make sure they have received notice of the hearing. Let the youth know that he is entitled but not required to attend the hearing.

*Tell the youth: What the courtroom looks like, who will be in the courtroom, what does each person in the courtroom do, where will the youth sit, who will sit next to the youth, what is the purpose of the hearing, will the youth be expected to speak, what happens if she doesn't want to speak, can the youth use other means of telling the judge what she wants (pictures, letters, lists), how is the youth expected to behave, what happens if the youth misbehaves, who should the youth tell if she feels talking is too hard or what to do if she feels she needs a break, can the youth leave to go to the bathroom or wait outside the courtroom if she gets upset, can the youth bring a support person or item to court, how should the youth dress for court and why is attire important, how long will the hearing last, how long will the youth have to wait for the hearing and where will the youth wait?

*Tell the youth that she can quietly ask you questions during the hearing but should only speak to the judge when you or the judge ask her to.

*Explain to the youth that an important rule in court is to tell the truth and that it is OK to change an answer, correct a mistake, say that he doesn't understand a question or say that he doesn't know or can't remember if that is the case.

*Reassure the youth that she is in no way responsible for the court proceedings or events. It is the judge who will decide what is in the youth's best interests based on what many other people tell the judge, not just on what the youth says.

*Explain: If the judge decides that the youth should not return home to live, that doesn't mean the youth will never go home. Most youth eventually return home once the family has worked out the problems. If the judge decides the youth cannot safely live at home, the judge will decide whether the youth should live with relatives, family friends or a foster parent who will take care of her until the judge decides she can go back home. Tell the youth that foster parents are trained adults who decided they wanted to help by letting children stay with them at their home and that it is important to obey their rules while the youth stays with them. Advise the youth that he can also talk to his foster parents about things that may be bothering him. Explain that even if the youth can't live at home, the judge can order that DCF provide family time with his parents, brothers and sisters and possibly other people who are important to him. Explain that parents will be required to make home a safe place before the youth can return home. DCF can also arrange for the youth to stay in the same school even if the youth ends up living in a different town.

After the court hearing:

*Ensure the youth understands what happened- what it means for the youth and what are the next steps. Ask did anyone use any words today you didn't understand? Is there anything we are missing? Do you have any questions? Have the youth tell you what she believes happened and correct any misperceptions/misunderstandings.

*If youth did not attend the hearing, make sure you contact him after the hearing to let him know what happened at the hearing.

* Ask the youth what he wants to accomplish before next hearing.

*Thank the youth for coming to court and encourage the youth to attend the next hearing. Be aware of whether the scheduling of the next hearing conflicts with events that are important to the youth- field trip, sports event, school play, test- and if so, seek to change it.