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## **Chapter 5: Youth in Court**

### ***Goal***

In this chapter, you will learn why it is important for young people to be involved in their court hearings and to advocate for themselves. This information will expand upon issues around engaging and involving youth in planning for their futures.

### ***Objectives***

By the end of this chapter, you will be able to:

- √ Explain why it is important for young people to be involved in planning for their futures and in court hearings.
- √ Determine whether a youth will attend the annual permanency planning hearings, case review hearings and case planning/transition planning meetings.
- √ Support positive youth engagement in court hearings by
  - Preparing ahead of time.
  - Supporting the youth during the court hearing.
  - Debriefing with the youth following the hearing.

## ***Benefits When Youth Participate***

Attending court benefits both youth and the court. Youth have the opportunity to understand the process by seeing the court proceeding in person. They also develop a sense of control over the process when they actively participate. The court learns more about children than simply what is presented in reports.

### **Sense of Control**

When youth are removed from their homes, they generally have little control over why or when that occurs, where they go and what happens to their parents. Important things in their lives are taken away, including the ability to make decisions. They are generally placed in a new home with new caregivers and siblings, go to a new school and have to develop new friends. All of these events are beyond their control. Youth are told there will be a court hearing at which a judge, whom they may never have met, will decide whether they will return home. Sometimes a child advocate identifies a youth's needs and conveys his or her best interests to the court. But when youth are not in court, they may simply be told the outcome and then either continue in the foster home or return to the birth family.

If the goal of the child welfare system is to do what is in the best interests of the child, the child should have input. When youth have adequate representation, they are informed of the process and their role. When youth attend a court hearing, they sense that the judge who is deciding their best interests has listened to them. Regardless of the outcome, youth have reported that simply being heard by the decision maker empowers them and gives

them a sense of control over what is happening to them. They feel they have a part to play and can influence the outcome.

### Understanding the Process

In an ideal situation, the youth has good representation, the social worker regularly communicates with the youth, the birth parents are honest with the youth about the situation, and the foster parents are present in court and openly discuss the case with the youth. However, a youth may not fully understand what is happening without seeing it firsthand. The youth is told that critical decisions are made by a judge in court. Yet in many instances the youth is not involved in that component of the case. When youth attend court, they can ask the advocate questions about what is happening. They hear what the social worker says about their home, school, visitation with parents, etc. They hear what their parents say about their progress. When the judge makes a ruling and discusses why she or he orders something, the youth hears it firsthand and can ask questions.

### Information for the Court

Many questions that the court will have about the case may be addressed in reports by the child welfare agency and child advocate, in parent testimony and in input from other service providers. However, if the court has a question about how often the youth has seen her mother or how the youth is doing in school, the youth can provide the answer.

As with every in-person interaction, having the youth in court makes the case more real for the judge. For example, the court may be deciding whether it is time to change the permanency plan to adoption because the parents haven't complied with the agency's family service plan. If the youth is in court, the court doesn't have to rely on the reports to see how long the child has been in care. The court can see that the child is getting older and needs permanency in his or her life. Indeed, the youth may say this directly to the judge. Even if the youth is not verbal, the court can observe how the youth appears and interacts with others.

If the youth is very young and cannot speak to the judge, being present in court will bring the case to life and help show the case is about a human being with wants, needs, desires and hopes that should be considered. When youth attend the hearing, the court is less likely to focus excessively on the parents' circumstances as opposed to the youth's needs. When only the parents attend court, the focus is on what they have and have not accomplished. When the youth is present, there is equal attention on the youth and what the youth needs.

## ***Considerations About Types of Involvement in Court***

There is no single rule or process that governs a youth's presence and participation in court. However, for older youth in care preparing for adulthood, it is especially critical that they attend and actively participate in court hearings. If it is not feasible or preferable for the youth to participate in the entire hearing, consider the following options:

### **Have the Youth Present Throughout the Hearing.**

In most hearings for older youth, it will be appropriate to have a youth present for the whole hearing, without restricting testimony and information that she or he may hear.

### **Present the Youth's Testimony in Chambers.**

If the youth does not feel comfortable attending entire hearings, consider requesting that the youth meet with the judge in chambers. This opportunity provides the youth with a voice directly to the judge and protects him or her from any potential damage from seeing abusive parents or hearing negative information about parents. Most jurisdictions allow in-chambers meetings between the judge and the youth. All lawyers and a court reporter can be present, and all discussions can be on the record. Recording the interaction protects the parties who are not permitted in chambers (e.g., the parents) by informing them what information the youth has shared.

### **Allow the Youth to Leave the Courtroom if Desired.**

In some instances, youth do not wish to see parents or hear some details about their case. They should be involved to the extent they are comfortable.

### Use Skype or Other Technology to Allow Youth to Participate.

Many courtrooms are set up (or can easily be set up) to allow the youth to participate via computer technology. This allows the young person to actively participate but with the least disruption to the youth's daily schedule.

### ***Determining Whether the Child Will Come to Court***

The presumption should be that the youth will attend court to some extent for all of the reasons stated above. However, there are factors to consider when determining whether the youth will come and how to make the experience most meaningful.

*What are the youth's wishes?* This is the most important question. Most youth have definite feelings about whether they want to attend court. Youth should not be forced to attend the hearing. But if the youth wants to go, every effort must be made to ensure that happens.

*What type of hearing is scheduled?* Some hearings lend themselves to youth participation more than others. If there is a hearing dealing with a legal issue that has little impact on the youth, it may make more sense for the youth to not attend. However, if the hearing concerns visitation with parents or long-term permanency plans, the youth's attendance will be vital.

*How old is the youth?* Some states place age restrictions on youth attending hearings. However, many states *require or strongly presume* attendance for youth over age 12. An older youth can be an information resource for the judge, and it is essential to involve youth in planning for his or her adulthood.

*What is the developmental level of the youth?* Regardless of age, consideration should be given to whether or not the youth understand what is happening during the hearing.

*Will attending court upset the youth?* Abuse and neglect hearings can contain graphic details of abuse that may be troubling for the youth to hear. On the other hand, older youth especially may be very aware of what was happening that caused removal. It may be therapeutic for youth to be exposed to the realities of the situation and hear people being held accountable for their actions. Excluding youth from court can be equally (if not more) upsetting, by stripping youth of the opportunity to come to terms with their past and move on and by precluding youth from having a sense of involvement in and control over the charting of their future.

*Will attending court disrupt the youth's routine?* Generally court proceedings occur during regular school hours. Often multiple cases are scheduled for one day. Youth have to wait until their cases are called, sometimes for hours. School, sports and other extracurricular activities may be disrupted. Yet this concern is not insurmountable. If we value youth participation, scheduling issues and conflicts can be addressed the same way we juggle other important commitments in a youth's life, such as doctor or dentist appointments.

*Will court be confusing or boring to the youth?* Some courtrooms do not have child-friendly waiting areas, and the youth have to bring something to do while they wait. Also, there must be supervision for the youth while waiting. During the hearing, attorneys and judges use words and concepts that the youth may not understand. Youth have to remain quiet and attentive during hearings that can be long and boring to them if they do not understand what is happening. Ensure that the youth has been told what issues will be discussed. Also, allow the youth to bring a glossary of legal terms (see below) to help them understand the language used.

*Who will transport the youth?* Transportation should never be a reason to exclude a youth from participating. Most courts rely on the child welfare agency and foster parents or relatives to transport the youth to and from court. In many cases, youth are placed far from the courthouse and transporting them can be time-consuming and inconvenient. Everyone involved in the youth's case, including the CASA volunteer, can be helpful in finding creative ways to transport. The youth's foster parents have the right to be present and can bring the youth.

*Will the court need additional time for the hearings?* When youth are actively involved in their hearing, the proceeding may take longer. The youth may want to update the court on their status and express any concerns. The judge may also want to spend extra time interacting with the youth who has taken the time to attend court.

## ***Supporting Youth Through Court Hearings***

### **Before Court Hearings**

Most of the concerns that professionals have about youth attending their court hearings can be addressed with proper preparation. The CASA volunteer should play a vital role in preparing the youth.

- Determine whether the youth wants to attend court. Explain that the youth can speak directly with the judge—or attend only a portion of the hearing if they would prefer.
- Decide whether the youth should attend the entire hearing or be excused for certain portions.
- Include in your report to court whether the youth will attend the hearing and any accommodations that should be made.
- Provide the youth with at least two weeks' notice of the hearing.
- Assist, or ask the case worker to assist, the youth with making arrangements with school: Will they miss a class? Can they speak to a particular teacher? Can you call the school to inform them of the absence and ask about school work? Remind youth that they may have to wait for a couple of hours and to bring school work or other things to occupy their time.
- Discuss who will be present at the hearing and what their roles are.
- Arrange an advanced visit to the courthouse. If possible, introduce the youth to the judge who makes the decisions in their case. Show the youth the courtroom and explain where everyone sits and what everyone does.
- Explain your role in the court hearing and that you have to advocate for the youth's best interests. Explain that you will also tell the judge what the youth wants.
- Explain the purpose and goals of the particular hearing and how it fits into the rest of the case. Explain what you expect to happen or what the possible outcomes could be.
- Let the youth know what you are communicating and recommending in your report to the court.
- Ask the case worker to go over the child welfare agency's report to the court (or let the youth read it) and find out whether the youth has any responses, disagreements or questions.
- Find out what the youth wants the judge to know.
- Help the youth prepare for court, including what to wear, how to act and what to say. Speak specifically about what they want the judge to know and practice how to say those things. (See "Questions a Judge May Ask an Older Youth" below.)
- Determine whether the youth wants a supportive person present during the hearing.
- Ensure that arrangements are made to bring the youth to the hearing.

### **During Court Hearings**

The youth may not know many people who are present and may look to you for support during the hearing.

- Ensure that the youth's lawyer (if applicable) knows that you are present and can be supportive.

- If the youth wants to be excused for portions of the hearing, tell the lawyer or the judge.
- If the youth wants to speak to the judge, tell the lawyer or judge.
- If the youth gets upset during the hearing and asks to leave, take the youth out and answer any questions he or she has.
- When the next hearing is being set, ask the youth whether she or he is available for that day and time. Youth who participate in scheduling are more likely to attend.

### After Court Hearings

Court hearings can be confusing. The youth may not be sure what the judge ordered.

- After the hearing, ask the lawyer to speak with the youth to answer any questions.
- Even if the youth does not have questions right away, ensure that she or he knows what was ordered, what will happen next and when the next court hearing will take place.
- If available, review the court order with the youth. If not, you, the lawyer or case worker should make arrangements to contact the youth at a later time to review it and discuss any questions that come up after reflecting on the hearing.
- Encourage youth to contact you with questions.
- Ensure that the case worker contacts the caregiver after the hearing to inform them of anything that happened during the hearing that may have had an impact on the youth.
- Ensure that the case worker contacts the youth's therapist to provide information that might be relevant to the youth's treatment.

### ***Questions a Judge May Ask Older Youth Preparing to Transition Out of Care***

In addition to preparing the youth to answer questions from the judge, answers to these questions may be helpful to include in the summary of the CASA report for the judge.

#### Transition plan

##### 1. Permanent connections

- Where do you go for the holidays?
- Who do you call for support, help, and advice in emergencies? Will those people be available after you exit care?
- Do you keep in touch with family members? Do you know how to get in touch with them?
- Who will you contact after you transition out of foster care if you have questions about health, school and housing?

##### 2. Health

- Who is your doctor? Do you know whether you can continue with this doctor after foster care terminates? If not, who will your doctor be?
- Do you know the process for reapplying for Medicaid, if necessary?



- Do you know how to get access to your medical records or health passport?
  - Do you have a dentist?
  - Do you have health insurance for after you transition?
3. Housing
- Where do you live? Are you going to live there after the case closes? If not, where are you going to live?
  - Do you have information on landlord/tenant rights? Where should you go to get that information?
4. Employment
- Do you have a job? Will that job continue after you transition out of foster care?
5. Education
- Are you in school? What is your plan for future education? What is the plan for post-secondary education or training? What are the supports in place to assist you with continued educational success?
  - What assistance have you received to prepare for and apply to post-secondary education or training, including assistance with financial aid applications?
    - Have you accessed Chafee services and Education and Training Vouchers (ETVs)?
    - Are you eligible for other scholarships or financial assistance programs targeted at youth in foster care, including available state tuition assistance programs?

### ***Legal Terms Defined for Children***

Below is a list of legal terms youth are likely to hear when they come to court. Consider sharing and reviewing this list with the youth you advocate for prior to attending court with him or her.

**Abuse**—When a child is being hit or touched in bad ways.

**Adoption**—The way a child legally becomes part of a new family.

#### **Court Appointed Special Advocate (CASA) or Guardian ad litem (GAL)**

**volunteer**—There may be a CASA or GAL volunteer in your dependency case. This adult will talk to you and your family and then tell the judge what they believe is best for you.

**Court hearing or trial**—A judge listens to the people and attorneys talk about what is happening with your family. After the hearing or trial, the judge decides what should happen to you and how to make sure you are safe. The judge also decides how to make sure your family gets the help they need. Tell your caseworker or attorney if you want to talk to the judge.

**Court**—The court is the building where the judges work, the hearings are held and all the papers are filed in your case. The court is where all the legal decisions are made that will affect what happens to you.

**Dependency case**—A family comes to court because a parent has hurt his or her child or the parent has not taken care of the child.

**Foster family**—A temporary family that a child lives with when his or her parents can't take care of the child. A foster family will make sure that you are safe. They will take care of you until you go home.

**Guardian ad litem (GAL) lawyer**—Helps the judge decide what is best for you. You can meet with your GAL. Your GAL will probably want to talk to you alone to learn more about you.

**Guardianship**—Another person who has the legal responsibility to acts as the parent for a child.

**Judge**—Works in the courthouse and is in charge of what happens in court. The judge decides what should happen to you. The judge makes sure everyone is doing what they are supposed to be doing.

**Lawyers/Attorneys**— A person who goes to college and law school. Lawyers/attorneys give advice and speak for people in court. The judge may give you a lawyer to speak for you. You should meet with your lawyer. Your parents and others involved in the case may also have a lawyer.

**Neglect**—When a child does not have proper food, clothing, a place to live or other things a child needs to live.

**Reunification**—A child goes home to his or her parents when the home is safe for the child.

**Social worker**—Someone who will help you and your family. You can talk to your social worker about how you are feeling and ask her any questions you might have.

**Sources:** New Mexico Supreme Court, Court Improvement Project Task Force. *What's Going On? A Booklet for Children in Foster Care*. New Mexico: Shaening and Associates, 2001; Judicial Council of California. *What's Happening in Court—An Activity Book for Children Who are Going to Court in California*, 2002 ([courtinfo.ca.gov/programs/children.htm](http://courtinfo.ca.gov/programs/children.htm)); North Carolina Court Improvement Services/Resources Subcommittee. *North Carolina Juvenile Court: Child Protection Hearings—A Handbook for Parents, Guardians, Custodians, and Children*, 2001.