

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 16-04**

**Children in Court Policy
in Abuse and Neglect Proceedings**

WHEREAS, the District of Columbia Family Court Act of 2001, Pub. L. 107-114 Stat. 2100 (2002) provides that a child alleged to be neglected shall be a party to the court proceeding; and

WHEREAS, the Children in Court Policy was created by the Children in Court Workgroup of the Child Abuse and Neglect Subcommittee; and

WHEREAS, the Children in Court Policy is intended to define the role a child may play during abuse and neglect proceedings depending on the child's age and developmental level, and is expected to improve the Court's responsibility to ensure children's participation in court proceedings when appropriate;

NOW, THEREFORE, it is by the Court,

ORDERED, that the Children in Court Policy shall take effect on the date of this order and shall provide the opportunity for children in the abuse and neglect system to meaningfully participate in their case proceedings; and it is further

ORDERED, that the Children in Court Policy is attached to this Administrative Order.

SO ORDERED.

BY THE COURT

Date: April 28, 2016

/s/
Lee F. Satterfield
Chief Judge

Copies to:

Judicial Officers
Executive Officer
Clerk of the Court
Division Directors
Library

Children in Court Policy



Objective/Mission Statement:

The purpose of this policy is to improve outcomes for children and youth in the abuse and neglect system by providing the opportunity for meaningful participation in their case proceedings.¹

Policy

All provisions of this policy are to be applied in light of the individual child's age and developmental level and based on the best interests of that child.

1. A child has the right to be present at all hearings.

A child is a party in interest in the case.² Children of all ages should be encouraged to attend and participate in all hearings. Even children who are too young or otherwise unable to communicate their wishes (i.e. children with disabilities affecting cognitive and/or communication skills) can provide valuable information to the Court through their behavior, appearance, and interactions with others.

Each child is recommended to attend a minimum of one hearing every twelve months,³ but a child also has the right to decline. No child will be forced or coerced into attending against his or her will.

¹ This policy does not supersede current statutory authority or case law. It is not intended to address the testimony of children as witnesses.

² See D.C. Code §§ 16-2304, 16-2356, and 16-2385(2013); D.C. SCR Neglect Rule 10(a) ("The parties to a neglect proceeding shall include ... the child alleged to be neglected").

³ In accordance with the federal Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183, children aged 16 or over with the APPLA goal should attend the two permanency hearings held each year, as required by D.C. Code

2. A child has the right to be fully informed about each hearing and its purpose.

Children should receive meaningful and age-appropriate notice of and preparation for each hearing. A child's Guardian *ad Litem* ("GAL") is responsible for ensuring that the child is fully informed and adequately prepared.⁴

The GAL should collaborate with the child's social worker and parent, foster parent, caretaker, or guardian to prepare the child for a hearing. Whenever possible, a child should be familiarized with the courtroom environment in advance of the hearing.

The GAL should provide age and developmentally appropriate information to the child, such as:

- Who will be present at the hearing and their respective roles
- The order of the proceedings and how long it may take
- The issues that will be discussed
- Questions the judge is likely to ask
- Available options for the child to participate
- Whether the child wants to speak with the judge
- The purpose of court reports and the kind of information they provide
- The rules participants are required to follow
- Possible outcomes

Foster parents attending hearings should be provided with the same information that is given to the child.⁵

The judge should explain the purpose and structure of each hearing and ruling to the child. A judge must be conscious of the child's age and development when explaining the proceeding. The judge should use plain language, define legal terms, and allow the child to ask questions.

The GAL should meet with the child after each hearing. The GAL should discuss the hearing, answer any questions the child has, and ensure that the child understands the outcome including any court order, what will happen next, and when the next hearing will be held. If, for any reason, a child is unable or unwilling to attend a hearing, the GAL shall ensure that the child is fully informed about what happened at the hearing.

Section 16-2323, at which their APPLA goal is reviewed. The federal statute requires judicial inquiry of the youth into the youth's satisfaction with the permanency plan and services, among other topics.

⁴ See Child Abuse and Neglect Attorney Practice Standards, D.C. SCR-Neglect Appx., Rule A-5 (2013).

⁵ Federal law also requires the Agency to provide written notice to foster parents for each hearing.

3. The Court's decision about a child's attendance at a hearing is based on the child's best interests.

The Court determines whether a child should attend a particular hearing based on the child's best interests and the wishes of the child, including considerations of safety and emotional wellbeing, and in consultation with the parties, social workers, therapists, and GALs).

At each hearing, the record and the court order should note whether or not the child was present. The GAL shall confirm that the child received notice and an explanation of the hearing and present the child's reasons for not attending. If the child did not attend, the Court should make additional findings as to why the child did not attend.



Factors to consider in determining a child's best interests include:

- The child's expressed wishes
- The child's age and developmental level
- The matters to be addressed at the hearing (e.g. procedural vs. substantive)
- The opinion of an expert, treating physician or therapist that attendance at a hearing would have a damaging or negative impact on the child
- Any actions that could be taken to lessen negative impact on the child
- If the child has any conflicting appointments (i.e. important school obligations, field trip, sporting event, or other important extracurricular activity).⁶

⁶ The Court should make an effort to schedule hearings that minimize the disruptions to a child's school and extracurricular activities.

4. Alternate means of participation should be available for a child who expresses concern about attending a hearing.

If the Court determines that it is not in the child's best interest to attend a hearing, the Court should explore alternate means of participation.

If, after receiving notice and an adequate explanation of the proceedings, a child does not wish to attend a hearing, the GAL should explain and encourage alternative options for participating. The GAL should notify the Court and parties of the child's decision.

Possible alternatives include, but are not limited to:

- Attendance for only a portion or portions of the hearing⁷
- Temporary exclusion of a parent or guardian from the courtroom while the child is present
- The judge can hold a bench conference with the child or the parties to avoid excluding the child from the courtroom
- The judge can meet with the child and his or her GAL in chambers or a jury room⁸
- Participation by telephone
- The Court may use video or webcam technology when available to minimize disruption to the child's schedule, and avoid negative associations associated with seeing parents or other parties the child may not wish to see
- The child can write a letter to the judge expressing his or her opinions about any relevant issues⁹

5. Transportation.

Transportation should never be a barrier to a child's participation in a hearing. Young children should be brought to court by their caretakers or social workers. Older youth can be brought to court by a foster parent, group home, or the Agency, or when appropriate, the Agency should provide funds for transportation by taxi, bus, train or other option. Foster parents should be notified in advance when they are expected to transport the child to a hearing.

⁷ The Court's daycare center is available to citizens of the District of Columbia who need care for children, ages 2 to 12 years, while they are conducting business in the court. The child must be toilet trained. There is no charge to persons using this service. The child's immunization record must be provided on the child's second visit to the center. Lunch is not provided.

⁸ Such a meeting must comply with relevant statutes, case law, Court rules, judges' and attorneys' rules of ethics and standards, and attorney practice standards.

⁹ The child must be advised that the letter would be distributed to all parties.

6. Training of judicial officers, Guardians *ad Litem*, Attorneys, Courtroom staff, and others.

Judges, GALs, attorneys, social workers, foster parents, courtroom staff and others should participate in ongoing training on relevant topics such as child development and age appropriate communication.

This training may occur through brown bag lunches, the Neglect and Delinquency Practice Institute, or periodic Family Court Training programs.

