

BEST PRACTICES CHILD PARTICIPATION IN DEPENDENCY COURT ATTORNEY GUIDE

The Minor's Right to Attend Court Proceedings; Notification and Discussion with Minor

Minor's counsel should speak with the minor at least two weeks, or as soon as possible, prior to the court date to discuss the minor's right to attend and participate in that proceeding.

- This contact may be made by phone or in person
- Counsel should discuss the following with the minor, in age appropriate language:
 - What the proceeding, including mediation is about
 - Who is expected to be present at the proceeding
 - How the proceeding will be conducted and what options are available for the minor's participation (i.e., in chambers meeting, staggered appearances)
 - A realistic explanation of whether the matter is likely to be continued or if substantive matters will be decided
 - Help the minor weigh options as to what might be best for them, e.g., catching up at school vs. going to a particular hearing (also see below, under Ambivalent Minor)
 - Explain alternatives to attendance at proceedings
 - Let minor know that you can explain his or her ideas and requests
 - Offer minor the option of writing a letter to the judicial officer and help them put it together
- When you represent a sibling group, each minor should be talked with separately so that none of them feel pressure to participate, or not participate, because of a sibling's preference

When a Minor Decides Not to Attend a Court Proceeding

- Notify the Court Officer of minor's decision if you are not going to be present
- Determine if there is new information that the minor wishes to convey to the court and either;
 - Present a separate declaration, including the information; or
 - Be present in court and make the statement on the record

When a Minor Is Ambivalent About Attending a Court Proceeding

Assist the minor in weighing the importance of appearing at a court proceeding with other life concerns including, but not limited to, missing school, travel time, emotional cost of participation versus the type of proceeding in question.

When a Minor Decides to Attend a Court Proceeding

After discussion, if the minor wants to attend the court proceeding:

- Contact the social worker to set up transportation arrangements
- Contact the caretaker, who should call the minor's school to ensure the school's cooperation with regard to missed assignments and an excused absence

Setting up a Safety Plan with the Courtroom Clerk or Mediator

Assess any safety concerns related to the minor's appearance at the proceedings and consider, and discuss with minor, different ways for the minor to participate in the proceeding.

- The mediator should be notified if your client is intending to attend a mediation
- The court or mediator should be advised of any special accommodations that may be necessary to ensure the child's safety, both physical and emotional
 - Is it better for the minor to participate in the proceedings in chambers?
 - Should the case be called before other cases?
 - Would it be better if the minor doesn't see one, or both, of his or her parents?
 - Make special arrangements with the court or assigned mediator to arrive at a different time or through a different entrance
 - The mediator can assist with finding a safe room for the minor, as needed
 - What areas of discussion the minor will be present to hear
 - What areas of discussion the minor will **not** be present to hear
 - Any other pertinent plans for the emotional well being of the minor
- If the minor needs to be supervised when not directly participating in the proceeding (because of age, or some other factor), be sure to build that supervision into your plan, so that you can attend to legal issues while still attending to the minor's needs (mediators cannot supervise minors)
- Consider the following:
 - Bringing a support person for the minor
 - Helping the minor write down ideas or a letter, of those things s/he wants the court to hear and who will read or present those in court
- Set realistic expectations for the minor
 - Parents will be told what minor says even if it's said in chambers, if court is going to take that information into consideration
 - Things don't change quickly, even if the Judge is persuaded by the minor's requests
 - The minor's ideas and requests are important to the court, but that doesn't mean that the Judge will order what the minor wants
- Prepare the minor for who will be at court and what might be said
 - Explain legal terms, like "permanent" plan or "risk" or "detriment"
 - Things that could be said about their parents
 - Things that could be said about the minor
 - Questions the minor might be asked by the Judge or other counsel

Consider the following:

Before the Court Proceeding

- Advising the caretaker and/or therapist of the minor's participation at court in advance so that you can work with them to plan how the minor should participate in the proceeding.
- Allowing the minor to see the courtroom before the proceeding, if possible
- Reminding the minor that he or she has not done anything wrong (it's easy to forget that they feel responsible for everything)
- Knowing your client and his or her level of maturity and emotional status so that you can best protect them before, during and after the proceedings
- Explaining the roles of the various involved professionals to the minor
- Being extra careful to maintain courteous and respectful interactions with other professionals and the minor's parents;
 - you are a role model for your client
 - confrontation can create further detriment to the minor
- Explaining to the minor, if you see other professionals or parties in your case fighting, that s/he's not responsible for their conflict
- Giving the minor clear explanations of what to expect at each step of the proceeding
- Giving any minor parent, information about the court's childcare center
- Assisting any minor who is aging out, or otherwise being emancipated, with resources, particularly with regard to housing and job assistance

During the Court Proceeding

- Paying close attention to the minor's affect so that you can request a recess if the minor is having any difficulty
- Being prepared to change previously made plans for the minor's participation in the proceedings, dependent on what happens at court
- Being careful that the minor's participation in the proceedings does him, or her, no further harm

After the Court proceeding

- Gauging the minor's reaction to the proceeding
- Making sure that the minor understands any orders
 - Answer questions
 - Reassure them, as needed
 - Help them put the proceeding in a context they can understand
- Contacting the caretaker and/or therapist as soon as possible after the court proceeding, as may be necessary, to advise them of:
 - Anything negative or difficult that may have come up at the proceeding;
 - The minor's reaction to the proceeding; and
 - Any other information that might be useful to them in working with the minor and/or understanding their emotional state