



Tennessee Department of Children's Services

Protocol for Court Preparation and Attendance for Foster Care Staff

Supplemental to DCS Policy: N/A

This protocol outlines consistent statewide procedures, expectations and best practices related to involvement with local courts, court testimony by foster care staff, and facilitation of youth attendance for required hearings. The objective is to ensure that all staff demonstrate professionalism and competency when representing the Department of Children's Services (DCS).

Notification of Scheduled Court Dates:

1. The Team Leader (TL) is notified each time the FSW, child, and family are scheduled to appear in court:
 - a) The Family Service Worker (FSW) sends the TL an Outlook appointment of the scheduled court appearance;
 - b) The TL consults with the FSW within 72 hours of the notice to ensure the FSW is prepared for the court appearance; FSW determines if child(ren) are required to appear by contacting DCS legal.
 - c) The TL ensures that the FSW submits all required documents to the court prior to scheduled court hearings (e.g., Permanency Hearings, Foster Care Review Board, Discharge Hearings).
 - d) The FSW and TL will review transportation needs of child(ren) and family prior to any hearings. The FSW will identify any youth for long distance travel requirements and a transportation packet will be submitted within ten (10) days of the court hearing to the regional transportation point person.
 - e) The TL reviews all upcoming court hearings for youth on assigned FSW's caseload on a weekly basis to ensure all required documents have been completed and submitted.
 - f) The FSW follows up with all involved parties to provide notice of the hearing date at least 10 days in advance if in writing or 7 days via email or phone.

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Preparing for Court:

Foster care staff are expected to prepare for court prior to the court date. In preparation, staff should:

- ☐ Be prepared to list their professional title, years of service, time on case, educational background, and work history;

- ☐ Familiarize themselves with their local court system regarding:
 - Timelines;

 - Differences between types of hearings and court dockets, including:
 - a) Preliminary Hearing– the preliminary hearing must take place within seventy-two (72) hours, excluding non-judicial days, but no longer than eighty-four (84) hours after a child’s removal. Tenn. R. Juv. P. 302(a). In this hearing, testimony is given regarding the circumstances of the removal. The evidentiary standard at this proceeding is probable cause. Tenn. R. Juv. P. 302(d)(4).

 - b) Ratification Hearing– the court must review the proposed permanency plan, make any modifications, and ratify the plan within sixty (60) days of foster care placement. Tenn. Code Ann. § 37-2-403(a)(2)(A). DCS must prepare the plan within thirty (30) days of foster care placement. Tenn. Code Ann. § 37-2-403(a)(1)(A).

 - c) Adjudicatory Hearing – should be scheduled within thirty (30) days of the child’s entry into foster care if the child has been removed from the home, or in any event within ninety (90) days of the filing of the petition. These hearings are frequently continued. Tenn. R. Juv. P. 307(b)(1). In this hearing, testimony is given regarding the circumstances of the removal, providing any additional information to satisfy a higher burden of proof. The evidentiary standard at the adjudicatory hearing in a dependency and neglect case or an unruly case is clear and convincing evidence; Tenn. R. Juv. P. 307(e).

 - d) Dispositional Hearing – disposition must take place within fifteen (15) days of the adjudication if the child has been removed, and within ninety (90) days in other cases. Tenn. R. Juv. P. 211(a) and 308(a). This hearing may take place at the same time as the adjudicatory hearing. The standard of proof is a preponderance of the evidence. Tenn. R. Juv. P. 211(e) and 308(e).

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- e) Periodic Review Hearing – conducted by the court or a foster care review board within ninety (90) days of foster care placement and at least every six (6) months thereafter. Tenn. Code Ann. § 37-2-404(b).
 - f) Permanency Hearing – must be held within twelve (12) months of the date of foster care placement, and no less frequently than every twelve (12) months thereafter. Permanency hearings must be conducted by the court and the child must be present for the hearing. Tenn. Code Ann. § 37-2-409. In this hearing, testimony is given regarding the progress made towards permanency including the parent’s compliance and continued appropriateness of current permanency goals.
 - g) Termination of Parental Rights Hearing – Termination of parental rights requires proof by clear and convincing evidence that at least one (1) ground to terminate exists and that termination is in the child’s best interest. Tenn. Code Ann. §§ 36-1-113(c)(1) and (2). The termination grounds are listed at Tenn. Code Ann. § 36-1-113(g).
- Local Rules of Practice and Procedures.
- ☐ Consult with the DCS attorney on cases scheduled to be presented/reviewed in court prior to the court date, to include:
 - Reasons for court involvement;
 - Previous concerns of the judge;
 - Any Child and Family Team recommendations; and
 - An update to the DCS attorney of any changes in the case since the last hearing
 - ☐ Consult with the supervisor and DCS attorney regarding what documentation or photographs, if applicable, are needed for court.
 - ☐ Provide detailed affidavit of reasonable efforts, permanency plan (if not already ratified), ICPC documentation, evidence packet, progress reports or other expedited home study packets as deemed necessary. Documents are to be submitted to the court within the required timeframes designated by the specific court.

Professionalism & Courtroom Etiquette:

Foster care staff are expected to demonstrate professionalism and understand courtroom etiquette, including:

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- ☐ Adhering to the [Protocol for Employee Conduct and Dress Code](#)
- ☐ Arriving at court prior to the scheduled time and notifying the attorney, when there is one assigned or available, of expected time of arrival if there is a barrier in arriving prior to the scheduled time;
- ☐ Silencing all electronic devices;
- ☐ Refraining from unnecessary/unprofessional conversations while court is in session;
- ☐ Refraining from chewing gum or eating (drinks may be appropriate at the discretion of the local court); and
- ☐ Notifying the DCS attorney of whereabouts if there is a need to leave the courtroom (e.g. the Judge orders witnesses to exit or if responsible for on-call duties).

Considerations for Virtual Hearings:

Certain courts may choose to conduct hearings virtually. In these circumstances, it is important to keep in mind that although the hearing is virtual, staff are still expected to demonstrate professionalism and conduct themselves as if they are present in court.

To prepare for and participate in virtual hearings, staff should:

- ☐ Adhere to the [Protocol for Employee Conduct and Dress Code](#)
- ☐ Refraining from chewing gum or eating (drinks may be appropriate at the discretion of the local court);
- ☐ Conduct yourself as if you were at an in-person meeting, including but not limited to refraining from the use of tobacco products as identified in [Policy 1.9 Prohibition of Use of Tobacco and Smoking Products](#)
- ☐ Be prepared to start your media platform prior to the hearing to allow time to address technical issues that may arise;
- ☐ Ensure the internet signal is adequate to participate and consider participating from a local office if a stronger signal is needed;
- ☐ Ensure the computer's camera is turned on during the hearing;
- ☐ Prepare a space to participate in the hearing where you can be sitting and facing the camera to participate with no distractions. Staff should make plans to ensure they do not participate in hearings while driving or conducting other activities or when in the presence of others who are not parties to the case;

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- ☐ Review the background of your image displayed through the camera prior to beginning the hearing and adjust if needed to have an appropriate professional background;
- ☐ Enable the mute function when you are not speaking;
- ☐ Be engaged during the hearing in which you are a participant. If your camera is on, staff should refrain from doing other tasks (answering the phone, doing other work);
- ☐ Consider planning for a communication plan with the other DCS staff on the call (DCS attorney, supervisor, etc.) during the hearing if needed; and
- ☐ Ensure they have left the hearing on the media platform being used when their hearing is concluded.

Communication & Courtroom Procedures:

Foster care staff are expected to communicate clearly and follow courtroom procedures when testifying, which includes:

- ☐ Speaking clearly and making eye contact with the Judge or attorney asking questions and answering questions in a tone that allows for courtroom recording devices to capture testimony;
- ☐ Refraining from use of body language that is either distracting, inappropriate, or would clearly indicate your personal opinions;
- ☐ Refraining from use of slang words or unexplained jargon (e.g. acronyms or abbreviations not commonly referred to outside DCS must be explained if used);
- ☐ Greeting court officers by using professional titles (e.g. stating “Your Honor” when addressing the Judge);
- ☐ Following court officers’ directions;

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- ☐ Avoiding interrupting others, especially the Judge;
- ☐ Waiting one (1) to two (2) seconds before answering questions while on cross-examination so that the assigned DCS attorney may object to the question, if necessary;
- ☐ Avoiding giving additional information unless asked for during cross-examination;
- ☐ Being prepared to take notes and inform the assigned DCS attorney when incorrect testimony has been given by others;
- ☐ Asking that a question be repeated or rephrased if the original question was not understood;
- ☐ Avoiding guessing at an answer. If the answer is unknown, state “I do not know”;
- ☐ Refraining from disclosing internal discussions, consultations and disagreements between DCS staff, supervisors and attorneys, including negotiations and settlement agreements; and
- ☐ Establishing appropriate ways to speak to the court with the assigned DCS attorney prior to the hearing.

Demonstrating Case Knowledge:

Foster care staff are expected to demonstrate a foundational knowledge of the case that is being presented in court, which includes the ability to:

- ☐ Provide names of persons involved in the case;
- ☐ Provide timeframes associated with the case;
- ☐ Articulate the progress, strengths, needs and safety concerns of the youth/family;
- ☐ Discuss background information that supports key decisions, services, permanency outcomes and recommendations;
- ☐ Refrain from asking other parties in the courtroom for help with an answer;

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- ☐ Avoid reading directly from notes as attorneys can request this information to become available; and
- ☐ If the worker is new to the case, they should also prepare by reading the history documented in the record so they can provide information about events that occurred before they were assigned the case.

Demonstrating Unbiased & Objective Information:

Foster care staff are expected to present an unbiased and objective case through factual and evidenced based testimony, which includes:

- ☐ Refraining from personal (emotional) reactions including both verbal (sighing, gasping, etc.) and/or non-verbal (head nodding, eye rolling, etc.) during one's own testimony or testimony of others;
- ☐ Refraining from providing personal opinion, unless specifically asked by the Judge or assigned DCS attorney;
- ☐ Understanding the general rules of evidence and testimony; and
- ☐ Ensuring all documentation provided to the court is nonbiased and does not include personal opinions.

Knowledge of Departmental Policy and State Statutes:

Foster care staff familiarize themselves with departmental policy as well as state statutes and apply that knowledge as necessary during court proceedings by:

- ☐ Articulating a basic knowledge of DCS policy and protocols, when asked;
- ☐ Articulating supervision guidelines and provision of services, when asked;
- ☐ Understanding the roles of the Guardian ad Litem and other attorneys not related to DCS, including:
 - a) Guardian Ad Litem – court-appointed attorney assigned in dependency and neglect proceedings to act as the child's attorney and represent the child's best interest.
 - b) Attorney Ad Litem – court-appointed attorney assigned to act as the child's attorney, representing when the child's wishes differ from the child's best interest (for example, a child who wishes to return to a home in which they have been sexually abused).
- ☐ Refraining from providing documentation or other case information to others, including the Guardian ad Litem and Attorney ad Litem, without consultation with the assigned DCS attorney.

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☐ Understanding the types of adjudications

- a) Dependent and Neglected Child – means a child who for any number of reasons is without a fit parent, guardian, or caretaker. Tenn. Code Ann. §§ 37-1-102(b)(13).
- b) Unruly Child – means a child in need of treatment and rehabilitation who is habitually truant from school; disobedient of reasonable and lawful commands of parent or guardian; commits an offense that is applicable only to a child; or is away from the home or residence without a parent's or guardian's consent. Tenn. Code Ann. §§ 37-1-102(b)(32).
- c) Delinquent Child – means a child who has committed a delinquent act and needs treatment or rehabilitation. Tenn. Code Ann. §§ 37-1-102(b)(11). Delinquent act means an act that constitutes a crime under local, state or federal law, that is not a status offense, and that is not a traffic offense, excluding some specific felony-related offenses.
Tenn. Code Ann. § 37-1-102(b)(10).

Exceptions to Requirements:

Any requirements outlined in this protocol are subject to change upon court order, allowing for objection from the appropriate assigned DCS attorney. DCS must comply with all court orders (verbal and written). If the FSW feels the agency cannot comply with a court order, they must consult with their supervisor and legal staff immediately.