
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Effective Date: December 1, 1985
Revision Date: November 6, 2008

Number: G-0303

Child's Rights at Court

Purpose To provide guidelines for ensuring a child's rights to attend and participate in dependency court hearings.

Approved This policy was approved by Mike Ryan, Director of CFS, on November 6, 2008. *Signature on file.*

Background This is a revision of the CFS Policy and Procedure of the same number that was previously titled "Child's Statement to Court."

A child who is the subject of dependency proceedings has the right to be present at those proceedings. The child has the right to address the court and to participate in the hearing, if desired.

The Court will determine whether a child 10 years of age or older was properly notified of the right to attend the hearing and given an opportunity to be present. If that did not occur, the Court will continue the hearing to allow the child to be present, unless the Court finds that it is in the child's best interest to proceed with the hearing.

A child being considered for placement in a foster home has the right to make a brief statement to the court about placement. This right extends beyond the initial placement to any proceedings concerning continued placement or about a decision to return to parental custody. The court may disregard any preferences expressed by the children.

Legal Mandates

- [Welfare and Institutions Code Section 349](#)
- [Welfare and Institutions Code Section 399](#)

POLICY

Advisement

The assigned Senior Social Worker (SSW) must inform all children (capable of understanding the concept) of their right to:

- Be present at any dependency court hearing
- Make a statement to the Court
- Participate in the hearing

The child has a right to make a brief statement to the Court at any hearing at which placement decisions are being considered including those regarding:

- Initial placement in a foster home
- Continued placement in foster care
- A decision to return to parental custody

If the child chooses not to attend the hearing and expresses an opinion about placement issues to the assigned SSW, the child's statements are to be included in the Court report.

Documentation of Advisement in CWS/CMS

The assigned SSW will document the conversation regarding the child's right to be present at the hearing in the contact section of the child's notebook in Child Welfare Services/Case Management System (CWS/CMS). If a child is too young or otherwise unable to understand the rights indicated above, the assigned SSW will document the reasons why the discussion was not held.

Documentation of Advisement in Court Reports

A new heading entitled **Child's Attendance at Court** must be inserted in all court reports on the first page directly following the section entitled **Child's Whereabouts**. This section must include the following information:

- Whether the child was advised of the right to attend the hearing, when, and by whom. **Note:** If the child was not advised, the reason why must be documented
- The child's response to the advisement and whether the child expressed a desire to be present

Note: If there are no safety concerns, include information regarding who will bring the child to Court and where the child will wait, if known. However, if revealing this information would put either the child or the person transporting the child at risk, do not put this information in the report.

Documentation of Child's Placement Wishes in Court Reports

The assigned SSW will include the child's statements regarding placement issues, if any, in the:

- **Child's Statement** section of the Detention and Jurisdictional/Dispositional Hearing Reports
- **Out of Home Placement** section of Status Review Hearing Reports for children in out-of-home care
- **Families Perception of Needs** section of Family Maintenance Status Review Hearing Reports
- **Children's Statement Concerning Placement** in court reports recommending Adoption or Legal Guardianship

Note: A separate heading can be inserted in any report not identified above to include the information.

Transporting Children to Hearings

The assigned SSW is responsible for ensuring that all children who express a desire to attend hearings are transported to Court. Caregivers, relatives, and non-relative extended family members (NREFMs), as well as support staff, may be requested to bring children to Court for the hearing.

Victim Witness Waiting Area

SSWs wishing to drop children off prior to their hearing may do so at the Victim Witness office in the Superior Court–Lamoreaux Justice Center. The following requirements apply:

- The child must be age 6 or over to be left alone. A caregiver must remain with a child under the age of 6
- The child must not have behavior or health problems that require one-on-one supervision. **Note:** A child placed in a group home facility may not be dropped off at the Victim Witness office. Group home staff may, however, wait with the child in the Victim Witness office
- Whenever possible, Victim Witness staff will be notified at least 24 hours in advance that a child will be dropped off
- Unless the hearing is set for a specific time during the day, the child should be dropped off between 8:30 and 9:00 on the morning of the hearing
- Children left in the Victim Witness office must be picked up for lunch at 11:45 a.m. and returned, if necessary, after 1:30 p.m.

- Arrangements must be made to pick up the child immediately at any time when called to do so by Victim Witness staff. Two contact phone numbers are to be provided when the child is dropped off. If the SSW is unable to do this, the SSW must arrange for and initiate a back-up plan providing for an immediate response to the request
- Victim Witness staff must be notified of any medical issues or allergies regarding the child before the child is left in the office.
Note: Victim Witness staff will not administer medication

Information for Caregivers Bringing a Child to Court

Caregivers, or anyone else bringing a child to court, must be instructed to:

- Sign themselves and the child in at the check-in desk at the court house
- Proceed directly to the courtroom
- Notify the bailiff that the children are present for the hearing
- Wait in the hall outside the courtroom to be called for the hearing **OR** go to the Victim Witness office after signing in at the check-in desk, where staff will notify the court room that the child is present for the hearing. The caregiver must remain with the child in the Victim Witness office

Note: The assigned SSW is responsible for reminding the caregiver that visitation orders are still in force with regard to contact between the child and the parents or anyone else involved in the case.

Notification to Court Officers

If the information contained in the **Child's Attendance at Court** section of the report changes and an addendum has not been submitted to reflect the change, the assigned SSW must contact the Court Officer to provide an update on the child's attendance prior to the hearing.

REFERENCES

Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

None.

Other Sources

Other printed references include the following:

None.

REQUIRED FORMS

Online Forms Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
None.	

Hard Copy Forms Forms listed below must be completed in hard copy (including multi-copy NCR forms). ***For reference purposes only***, links are provided to view these hard copy forms, where available.

Form Name	Form Number
None.	

CWS/CMS Forms The following required forms may **only** be obtained in CWS/CMS. ***For reference purposes only***, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
None.	

Brochures Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

PROCEDURE

Required Actions The following actions must be taken whenever a child has a court hearing:

Staff Responsible	Step	Required Action
Assigned Senior Social Worker	1.	Prior to each hearing (when the child is capable of understanding the concepts) discuss: <ul style="list-style-type: none"> • Court attendance • Placement issues, if any

- 2. Insert new heading **Child's Attendance at Court** in all court reports as outlined in "**Documentation of Advisement In Court Reports**" section of this policy, and provide results of discussion with child regarding their right to attend the hearing.
 - 3. Insert child's statement regarding placement issues, if any, in the appropriate section of the court report as outlined in "**Documentation of Child's Placement Wishes in Court Reports**" section of this policy.
- Senior Social Services Supervisor**
- 4. Ensure that the court report contains proper documentation of child's right to be present at the hearing.
- Assigned Senior Social Worker**
- 5. Document all discussion regarding child's right to attend the hearing and placement issues in CWS/CMS in the Contact section of child's notebook.
 - 6. Make transportation arrangements as necessary for each child wishing to attend hearing.
 - 7. Notify Court Officer when child's desire to attend or not attend the hearing changes after the court report has been submitted.
 - 8. Notify the Victim Witness office, when applicable, per "Victim Witness Waiting Area" policy section above.
 - 9. Provide transporter with information contained in "Information for Caregivers Bringing a Child to Court" section of this policy, when applicable.
- Court Officer**
- 10. Contact assigned SSW if there is no information in the court report regarding the wishes of any child (age 10 and over) about being present in court.