



THE SUPREME COURT *of* OHIO

# YOUTH ENGAGEMENT IN COURT PROCEEDINGS

TOOLKIT





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## YOUTH ENGAGEMENT IN COURT PROCEEDINGS TOOLKIT



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## TABLE OF CONTENTS

	Page
INTRODUCTION	1
OVERVIEW: YOUTH ENGAGEMENT IN COURT	
PROCEEDINGS PROJECT	3
Recommendations Summary	4
SAMPLE MODEL RULE FOR YOUTH ENGAGEMENT	
IN COURT PROCEEDINGS	5
Rationale for Model Rule	6
Current Policy & Practice Guidance	8
YOUTH ENGAGEMENT RESOURCES	9
TIPS FOR YOUTH IN COURT	11
APPLICABLE FEDERAL AND STATE LAW AND RULES	15
Federal Law	15
42 U.S.C. § 675(5) (C) (iii)	15
State Law (Ohio Revised Code)	16
2151.35 Procedure for hearings in juvenile court.	16
2151.414 Hearing on motion requesting permanent custody	17
2151.417 Review of child’s placement, custody arrangement or case plan.	18
Ohio Rules of Juvenile Procedure	19
Ohio Juv.R. 2(Y)	19
Ohio Juv.R. 4 (A)	19
Ohio Juv.R. 15(A)	19
ADVISORY COMMITTEE ON CHILDREN AND FAMILIES	21
Charge	22



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## INTRODUCTION

Every day in cases involving abuse, neglect or dependency, juvenile courts have to make difficult decisions that impact a child's sense of safety and well-being. These decisions affect important aspects of a child's life, such as connections to family, friends, neighborhood, school, and participation in activities. Ohio institutes safeguards to require advocates for children in the courtroom, such as a child's attorney and a guardian ad litem. However, best practices recommend that the child be present and have a voice.

In 2006 the federal government recognized the importance of the child's voice with the passage of the Child and Family Services Improvement Act (PL109-288), which required that the court consult with the child, in an age appropriate way, about their permanency plan at any permanency hearings. To further strengthen a youth's voice in permanency decisions, the federal government increased this requirement in 2014 with the passage of the Preventing Sex Trafficking and Strengthening Families Act (PL 113-183), requiring that children in a Permanent Planned Living Arrangement be asked about the desired permanency outcome at each permanency hearing. National best practices set forth by the American Bar Association (ABA) Center for Children and the Law and the National Council of Juvenile and Family Court Judges also encourage the engagement of children in permanency hearings, even if it is only a portion of the hearing.

This toolkit is designed to provide an overview of the recommendations and best practices that courts may use to engage children in hearings. The toolkit provides the rationale, based on research and legislation, behind the recommendations. Finally the toolkit provides a tip sheet for youth, to help them become familiar with the court process and let them know how they may be able to participate.



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## OVERVIEW: YOUTH ENGAGEMENT IN COURT PROCEEDINGS PROJECT

In 2013, in recognition of the importance of inclusion of children and youth in proceedings that impact their lives, the Supreme Court of Ohio Advisory Committee on Children and Families charged the Subcommittee on Responding to Child Abuse, Neglect, and Dependency to “promote expanded and more effective youth engagement in court proceedings.”

Children and youth who are involved with child welfare and foster care systems have life-changing decisions made about them by caseworkers, attorneys and judges. Often the voice of the child in these proceedings is not heard directly. With this understanding in mind, a work group of the Subcommittee spent a year conducting research, studying promising practices, and discussing ways to support Ohio’s courts in better engaging youth who are involved in child protection proceedings.

The Youth Engagement work group began by reviewing federal and state law and court rules on inclusion of youth in court proceedings. Legal research was supplemented by a review of literature on this topic and the identification of promising practices here in Ohio and in other jurisdictions. The work group determined early on that the most effective way to reach courts with recommendations in this area would be to develop an online toolkit with model court rules, forms, and notices. Thus, one of the first priorities for the work group was the development of a model local court rule to speak to the inclusion of youth in court proceedings, one that emphasizes the importance of inclusion of children and youth, as appropriate, in proceedings related to them and which provides various means by which children and youth may participate.

To support implementation of the model rule, the work group developed a resource list and tips to help support youth participation in hearings, as well as suggestions for other forms and notice templates. In addition to model rules and forms, the toolkit will include relevant state and federal laws, resources and commentary, and a youth-focused component aimed at assisting youth in making their voices heard.

This work culminated in a recommendation to the Advisory Committee on Children and Families to approve the implementation of the online toolkit, which will be offered and hosted by the Supreme Court of Ohio. The Advisory Committee conducted an independent review of the toolkit components and offered suggestions to enhance its effectiveness. These suggestions were incorporated and the recommendations were accepted for implementation. Also, as a result of the work group’s research and recommendations, education on youth inclusion was added to the Judicial College and GAL courses.

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## Recommendations Summary

The Advisory Committee on Children and Families charged the Subcommittee on Responding to Child Abuse, Neglect and Dependency (Subcommittee) to make recommendations that would promote expanded and more effective youth engagement in court proceedings.

After legal research and review, the Subcommittee makes the following recommendations:

1. All courts with juvenile jurisdiction should be encouraged to adopt a local rule regarding meaningful participation of the youth that come before the court as a result of abuse, neglect or dependency. The rule should include the following items:
  - a. Statement that the youth:
    - i. Is a party to all proceedings of which s/he is the subject.
    - ii. Has right to get notice of, and to attend, all proceedings to which s/he is a party.
    - iii. Should be encouraged by adult supporters and court personnel to attend all proceedings.
  - b. Presumption that youth wish to attend all proceedings of which s/he is the subject.
  - c. Alternate ways that the youth may participate in a proceeding of which s/he is the subject.
  - d. Ability of the court to excuse the youth from participation for specified criteria that are outlined within the rule.
2. To support courts' ability to effectively engage youth, the following items should be distributed to all Ohio's judicial officers with juvenile jurisdiction:
  - a. Model Rule Regarding Youth Attendance at Court Hearings
  - b. Toolkit for Meaningful Youth Engagement in Court Hearings

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## SAMPLE MODEL RULE FOR YOUTH ENGAGEMENT IN COURT PROCEEDINGS

### Rule \_\_\_\_ Youth Attendance at Hearings

- (A) A youth or child who is the subject of an abuse, neglect or dependency case is a party to his/her case and has the right to notice of adjudicatory and dispositional hearings in accordance with the Ohio Rules of Juvenile Procedure.
- (B) The Court shall presume that all youth who are subject to an abuse, neglect or dependency case do wish to attend all hearings related to the case unless the youth, or the youth's attorney, Guardian ad Litem or Court Appointed Special Advocate acting on his/her behalf, expresses otherwise. A youth or child who is the subject of an abuse, neglect or dependency case has the right to attend and is to be encouraged to attend or otherwise participate in any and all hearings related to his/her case if he/she so desires.
- (C) At the Court's discretion, a youth or child may participate in such hearings by: attending all or part of the hearing; speaking with the Court in the presence of all parties; speaking to the Court in camera; observing the hearing; otherwise participating by submitting a letter, drawing and/or photograph to the Court and all parties through a Guardian ad Litem or Court Appointed Special Advocate, kinship caregiver, or the child's attorney.
- (D) The Court has discretion to excuse a child or youth from any hearing or any portion of a hearing in the case if the Court finds that to be in the child's or youth's best interest based on factors such as the age of the child, the child's capacity for understanding and participating in the hearing, the nature of the proceeding, and other relevant factors aligned with the child's best interest in the case.

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## Rationale for Model Rule

### Ohio Laws & Juvenile Rules

#### Ohio Juv. R. 2(Y)

“Party” means a child who is the subject of a juvenile court proceeding, the child’s spouse, if any, the child’s parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child’s custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

#### Ohio R.C. § 2151.417(F)

The court shall give notice of the review hearings held pursuant to this section to every interested party, including, but not limited to, the appropriate agency employees who are responsible for the child’s care and planning, the child’s parents, any person who had guardianship or legal custody of the child prior to the custody order, the child’s guardian ad litem, and the child. The court shall summon every interested party to appear at the review hearing and give them an opportunity to testify and to present other evidence with respect to the child’s custody arrangement, including, but not limited to, the following: the case plan for the child; the permanency plan, if one exists; the actions taken by the child’s custodian; the need for a change in the child’s custodian or caseworker; and the need for any specific action to be taken with respect to the child. The court shall require any interested party to testify or present other evidence when necessary to a proper determination of the issues presented at the review hearing. In any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court shall consider in-state and out-of-state placement options and the court shall determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child. In any review hearing that pertains to a permanency plan for a child, the court or a citizens board appointed by the court pursuant to division (H) of this section shall consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child.

#### Ohio R.C. § 2151.414(D)(1)

In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A) (4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

- a) The interaction and interrelationship of the child with the child’s parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;
- b) The wishes of the child, as expressed directly by the child or through the

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child's guardian ad litem, with due regard for the maturity of the child;

- c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;
- d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;
- e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

For the purposes of division (D)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

### **Ohio R.C. § 2151.35(A)(1)**

Except as otherwise provided by division (A)(3) of this section or in section 2152.13 of the Revised Code, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time.... Except cases involving children who are alleged to be unruly or delinquent children for being habitual or chronic truants and except as otherwise provided in section 2152.13 of the Revised Code, all cases involving children shall be heard separately and apart from the trial of cases against adults. The court may excuse the attendance of the child at the hearing in cases involving abused, neglected, or dependent children. The court shall hear and determine all cases of children without a jury, except cases involving serious youthful offenders under section 2152.13 of the Revised Code.

### **Federal Law**

42 U.S.C. § 675(5)(C)(iii) (Child and Family Service Improvement Act of 2006) provides that states shall institute case review procedures that assure that:

[P]rocedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful adulthood, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child[...]

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## Current Policy & Practice Guidance

“I think each youth that has their head on their shoulders should have their opinions heard of what they would like or want to do in their life. They should be able to go to Court hearings, team meetings, case reviews, or anything else that involves the youth. I think youth should be given the opportunity to attend meetings that have to deal with their life, if you are mature enough for the information. Your team members should work with you to have more responsibilities as you get older, including having your voice heard. Youth should always have a caring, adult supporter to use as a sounding board for their opinions.” *The Overcoming Hurdles in Ohio Youth Advisory Board Foster Youth Rights Handbook* (2009).

“The presence of children in court proceedings that affect them is invaluable, even when they are too young to express themselves.” Hon. Leonard P. Edwards (ret.), Past President, National Council of Juvenile and Family Court Judges

“Foster youth want to be involved in decisions about their lives, especially with respect to placements, permanency, school, and visitation. Youth and professionals agree that the first-hand information they can contribute allows courts to make better decisions. The data show the importance of the adage that many youth have been telling policy-makers for years – ‘Nothing about us without us.’” *Summary of Engaging Youth in Court a National Analysis* (2015) Elstein, S. G., Kelly, K., & Trowbridge, S., Retrieved from [http://www.americanbar.org/content/dam/aba/administrative/child\\_law/youthengagement/NationalAnalysisFinal.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/child_law/youthengagement/NationalAnalysisFinal.authcheckdam.pdf)

“Thus, it is our belief that many children and youth, in removal and non-removal cases, who are able to talk with a judge feel better about themselves; and that, in turn, judges obtain a greater understanding of these children and youth by virtue of being able to see them and, with the exception of very young children, talk with them. In the process, judges are often “de-mystified” in the eyes of these children and youth, and become real persons who are interested in their well-being. Additionally, there is restorative benefit to children and youth hearing first-hand from the judge that they are not at fault. Lastly, for older children and youth, the opportunity to speak with a judge also offers a potentially powerful antidote to feelings of helplessness and having no say in their lives.” *Protocols Relative to Children and Youth in Court, RSA 169-C Child Protection Cases for use in the New Hampshire Circuit Courts* (2012)

“Child and youth attendance in court reflects best practice ... Youth empowerment and youth investment are some of the main reasons to involve youth in their court hearings. Judges can also establish important relationships with young people and learn a lot about their lives when they take the opportunity to meet and interact with the children and youth whose cases come before them.” *Technical Assistance Brief Supports Child and Youth Engagement in Court*; Khoury, A. [http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.8173527/k.A895/JP\\_2\\_Khoury.htm](http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.8173527/k.A895/JP_2_Khoury.htm)

“Children should be included in their proceedings unless they choose not to or the court finds it harmful to the child to be present. Judges should also encourage youth to participate in the courtroom.” “*Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham.*” *Nevada Law Journal* 6, July 27, cited in *ABA Child Law Practice* (December, 2006).

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## YOUTH ENGAGEMENT RESOURCES

- American Bar Association Engaging Youth in Court website: Provides resources, research and tools for engaging youth in court
- American Bar Association Youth Empowerment Project
- New Hampshire Court Improvement Project, Children and Youth in Court Protocols (2012)
- Ohio Youth Advisory Board Foster Youth Rights Handbook (2015)
- Seen, Heard, and Engaged: Children in Dependency Court Hearings. Technical Assistance Bulletin. (2012) National Council of Juvenile and Family Court Judges
- Seen and Heard: Involving Children in Dependency Court, Khoury, Andrea. (2006) American Bar Association, Child Law Practices
- Technical Guide to Court Performance Measures in Child Abuse and Neglect Cases, US Department of Justice:
- Tools for Engaging Children in Their Court Proceedings: A Guide for Judges, Advocates and Child Welfare Professionals. (2008) New York State Permanent Judicial Commission on Justice for Children.



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## TIPS FOR YOUTH IN COURT

If you have been placed out of your home with a relative, foster parent, in a group home or other placement, there will be several court hearings to decide whether you can go home. You have a right to attend any of your court hearings. If you are attending a court hearing for the first time, you may feel nervous, confused, afraid or even sad. These are normal reactions when important decisions are being made and you don't know what to expect. This guide gives you a few tips to help you through your hearings and make sure that your voice is heard when decisions are made that effect your placement.

### Before the Hearing

- You have the right to be at your hearing. If you would like to attend, let your Guardian ad Litem (GAL), attorney, or caseworker know that you want to go to court.
- Arrange transportation prior to the court date so that you know how you will get there and who will take you.
- Let your GAL, attorney, or caseworker know whether you would like to visit the court house/room before your hearing.
- Make sure to arrive to court early if your GAL or attorney plans to walk you through the courthouse, and introduce you to the bailiff, court reporter, or other staff.
- You can bring a support person to be with you in court and talk to when you are finished.
- If you are hearing impaired or your primary language is not English, the court must provide you with a qualified interpreter.
- If you are unable to attend court, you can write a letter to the judge or magistrate. Give the letter to your GAL, attorney or caseworker and they can bring it to court. This letter will not be private; everyone involved in the case will be able to read the letter.

### During the Hearing

- Prepare yourself to see the parent or people that caused your case to come before the court.
- Let your GAL or attorney know whether you need a separate place to wait for the court hearing.

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## During the Hearing

- Many courts have rules about appropriate clothing; ask your GAL, attorney, or caseworker about what is acceptable. Some courts do not allow shorts, halter tops, hats or other items.
- Make sure to stand when the judge or magistrate enters or exits the courtroom. The court officer will tell you when to sit and stand. If you are unsure when you can sit down, you can sit once the judge is seated.
- Always call the judge or magistrate “Your Honor.” Always be respectful of the judge or magistrate.
- Only speak when the judge or magistrate asks you to. Always speak directly to the judge or magistrate when questions are asked.
- If you would like to speak, ask for permission from the judge or magistrate or raise your hand.
- Stand when you are talking with the judge or magistrate.
- Present information in a clear and concise manner – write it out before you go to court so it can be reviewed and you won’t forget anything.
- Think about your answer before you give it.
- Remember, the truth is the right answer.
- If you don’t remember how something happened, say “I don’t remember.”
- If you don’t understand a question, say “I don’t understand the question.”
- If you are asked if something happened, and it did not, say so.
- Never get into an argument or interrupt when another person is speaking.
- You are able to tell the judge or magistrate what you want or about something that is bothering you about your case. The judge or magistrate may not give you what you want, but they will take what you say into consideration.
- It is ok to change your mind from one hearing to the next. Let the judge or magistrate know of any changes.
- Make sure to speak clearly as most court hearings are recorded by audio or by a court reporter. Do not shake your head as a response to questions.
- If you feel uncomfortable at any time, you may leave the hearing.
- When your hearing is completed make sure to exit the courtroom immediately.
- Have discussions outside the courtroom or in a private place.

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## Who Is at the Hearing

There will be several people at the hearing. Here is a list of some of the people who are involved.

- **Judge or Magistrate** – This is the person who listens to what everyone has to say and makes the final decisions about your case.
- **Caseworker** – The caseworker visits you and your family to make sure you are safe and your family has the help they need. It is important you talk to your case worker and let them know if you need anything. The case worker shares this information with the court so they can make decisions about your case.
- **Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA)** – The GAL or CASA talks to you, your family, and others. The GAL or CASA tells the court what they think is best for you.
- **Attorney** – An attorney represents people at court. You, your parents, and the caseworker may have attorneys at court. Your attorney talks to you about your case and tells the court what you want. If you have questions about court, you can contact your attorney for help.
- **Bailiff** – The bailiff makes sure that everyone in the courtroom is safe and following the rules of the court.
- **Interpreter** – If you or your family speak a language other than English and want someone to tell you what is being said in the language that you speak, the court will have someone there to speak your language. If an interpreter is not there, you can request one.
- **Court Reporter** – If the court does not have a recording system, there will be a court reporter to write down everything that is said in court.

## After the Hearing

- Talk to your GAL, attorney, and/or caseworker about what happened at the hearing. Make sure you understand all of the court orders and any decisions that were made during the hearing.
- Do not leave the courthouse until you know the next steps in your case.

## Take Time

After the hearing you may feel sad, upset or angry, even if things went as planned. It is normal to have a wide range of feelings after court. To help with these feelings talk to a friend, relative, caregiver or other support person, take several deep breaths, exercise/play or enjoy a relaxing activity.

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## Resources

ABA Bar-Youth Empowerment Program with Florida's Children First, Inc. (2008). *Hearing Your Voice: A Guide to Your Dependency Court Case*.  
<http://floridaschildrenfirst.org/pdf/HearingYourVoiceForDistribution.pdf>

Ohio Youth Advisory Board. (2015) Foster Youth Rights Handbook.  
<http://www.odjfs.state.oh.us/forms/file.asp?id=2720&type=application/pdf>

For more information on the Ohio Youth Advisory Board, visit: Foster Action Ohio,  
<https://fosteractionohio.org/> or <http://www.pcsao.org/programs/ohio-youth-advisory-board>

Family and Youth Advocacy Center - A legal clinic for youth involved in child welfare and juvenile justice court systems. For more information on services, call 614.236.6768 or visit <http://familyyouthlaw.org/fyac.php>

## Other Websites for Youth in Care

Foster Club, Ohio group page: <https://www.fosterclub.com/groups/ohio>

Foster Action Ohio: <http://fosteractionohio.blogspot.com/>

Youth M.O.V.E. Ohio: <https://ohioyouthmove.org/>

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## APPLICABLE FEDERAL & STATE LAW AND RULES

*(Applicable sections highlighted)*

### Federal Law

#### 42 U.S.C. § 675 - Definitions

As used in this part or part B of this subchapter:

- (5) The term “case review system” means a procedure for assuring that—
  - (C) with respect to each such child,
  - (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;

#### 42 U.S.C. § 675a- Additional case plan and case review system requirements

- (a) Requirements for another planned permanent living arrangement

In the case of any child for whom another planned permanent living arrangement is the permanency plan determined for the child under section 675(5) (C) of this title, the following requirements shall apply for purposes of approving the case plan for the child and the case system review procedure for the child:

- (2) Redetermination of appropriateness of placement at each permanency hearing

The State agency shall implement procedures to ensure that, at each permanency hearing held with respect to the child, **the court or administrative body appointed or approved by the court conducting the hearing on the permanency plan for the child does the following:**

- (A) Ask the child about the desired permanency outcome for the child.**

- (b) List of rights

The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include—

- (1) a **document that describes the rights of the child with respect to** education, health, visitation, and **court participation**, the right to be provided with the documents specified in section 675(5) (I) of this title in accordance with that section, and the right to stay safe and avoid

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## APPLICABLE FEDERAL & STATE LAW AND RULES - *cont.*

exploitation; and

(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

### State Law

#### Ohio R.C. § 2151.35 Procedure for hearings in juvenile court.

(A)(1) Except as otherwise provided by division (A)(3) of this section or in section 2152.13 of the Revised Code, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time. The court may exclude the general public from its hearings in a particular case if the court holds a separate hearing to determine whether that exclusion is appropriate. If the court decides that exclusion of the general public is appropriate, the court still may admit to a particular hearing or all of the hearings relating to a particular case those persons who have a direct interest in the case and those who demonstrate that their need for access outweighs the interest in keeping the hearing closed.

Except cases involving children who are alleged to be unruly children for being habitual truants or alleged to be delinquent children for violating court orders regarding their prior adjudication as unruly children for being habitual truants, and except as otherwise provided in section 2152.13 of the Revised Code, all cases involving children shall be heard separately and apart from the trial of cases against adults. The court may excuse the attendance of the child at the hearing in cases involving abused, neglected, or dependent children. The court shall hear and determine all cases of children without a jury, except cases involving serious youthful offenders under section 2152.13 of the Revised Code...

(B)(1) If the court at an adjudicatory hearing determines that a child is an abused, neglected, or dependent child, the court shall not issue a dispositional order until after the court holds a separate dispositional hearing. The court may hold the dispositional hearing for an adjudicated abused, neglected, or dependent child immediately after the adjudicatory hearing if all parties were served prior to the adjudicatory hearing with all documents required for the dispositional hearing. The dispositional hearing may not be held more than thirty days after the adjudicatory hearing is held. The court, upon the request of any party or the guardian ad litem of the child, may continue a dispositional hearing for a reasonable time not to exceed the time limits set forth in this division to enable a party to obtain or consult counsel. The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed. If the dispositional hearing is not held within the period of time required by this division, the court, on its own motion or the motion of any party or the guardian

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ad litem of the child, shall dismiss the complaint without prejudice.

(C) The court shall give all parties to the action and the child's guardian ad litem notice of the adjudicatory and dispositional hearings in accordance with the Juvenile Rules.

(F) In cases regarding abused, neglected, or dependent children, the court may admit any statement of a child that the court determines to be excluded by the hearsay rule if the proponent of the statement informs the adverse party of the proponent's intention to offer the statement and of the particulars of the statement, including the name of the declarant, sufficiently in advance of the hearing to provide the party with a fair opportunity to prepare to challenge, respond to, or defend against the statement, and the court determines all of the following:

- (1) The statement has circumstantial guarantees of trustworthiness;
- (2) The statement is offered as evidence of a material fact;
- (3) The statement is more probative on the point for which it is offered than any other evidence that the proponent can procure through reasonable efforts;
- (4) The general purposes of the evidence rules and the interests of justice will best be served by the admission of the statement into evidence.

(G) If a child is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition. On motion of the prosecuting attorney, guardian ad litem, or any party, or in its own discretion, the court may order that the deposition be videotaped. Any deposition taken under this division shall be taken with a judge or referee present. If a deposition taken under this division is intended to be offered as evidence at the hearing, it shall be filed with the court. Part or all of the deposition is admissible in evidence if counsel for all parties had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination and the judge determines that there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as a result of participating at the hearing.

Ohio R.C. § 2151.414 Hearing on motion requesting permanent custody.

(D)(1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

- (a) The interaction and interrelationship of the child with the child's parents,

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**APPLICABLE FEDERAL & STATE LAW AND RULES - *cont.***

siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

- (b) **The wishes of the child, as expressed directly by the child** or through the child's guardian ad litem, with due regard for the maturity of the child;
- (c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;
- (d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;
- (e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

**Ohio R.C. § 2151.417 Review of child's placement, custody arrangement or case plan.**

(F) **The court shall give notice of the review hearings held pursuant to this section to every interested party, including, but not limited to,** the appropriate agency employees who are responsible for the child's care and planning, the child's parents, any person who had guardianship or legal custody of the child prior to the custody order, the child's guardian ad litem, **and the child.** The court shall summon every interested party to appear at the review hearing and **give them an opportunity to testify and to present other evidence** with respect to the child's custody arrangement, including, but not limited to, the following: the case plan for the child; the permanency plan, if one exists; the actions taken by the child's custodian; the need for a change in the child's custodian or caseworker; and the need for any specific action to be taken with respect to the child. The court shall require any interested party to testify or present other evidence when necessary to a proper determination of the issues presented at the review hearing. In any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court shall consider in-state and out-of-state placement options and the court shall determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child. In any review hearing that pertains to a permanency plan for a child, **the court**

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**or a citizens board appointed by the court pursuant to division (H) of this section shall consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child.**

## **Ohio Rules of Juvenile Procedure**

### **Ohio Juv.R. 2 Definitions**

(Y) **“Party” means a child who is the subject of a juvenile court proceeding,** the child’s spouse, if any, the child’s parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child’s custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

### **Ohio Juv.R. 4 Assistance of Counsel; Guardian Ad Litem**

(A) Assistance of counsel. **Every party shall have the right to be represented by counsel and every child, parent, custodian, or other person in loco parentis the right to appointed counsel if indigent.** These rights shall arise when a person becomes a party to a juvenile court proceeding. When the complaint alleges that a child is an abused child, the court must appoint an attorney to represent the interests of the child. This rule shall not be construed to provide for a right to appointed counsel in cases in which that right is not otherwise provided for by constitution or statute.

### **Ohio Juv.R. 15 Process: Issuance, Form**

(A) Summons: issuance. **After the complaint has been filed, the court shall cause the issuance of a summons directed to the child, the parents, guardian, custodian, and any other persons who appear to the court to be proper or necessary parties.** The summons shall require the parties to appear before the court at the time fixed to answer the allegations of the complaint. **A child alleged to be abused, neglected, or dependent shall not be summoned unless the court so directs.**

A summons issued for a child under fourteen years of age alleged to be delinquent, unruly, or a juvenile traffic offender shall be made by serving either the child’s parents, guardian, custodian, or other person with whom the child lives or resides. If the person who has physical custody of the child or with whom the child resides is other than the parent or guardian, then the parents and guardian also shall be summoned. A copy of the complaint shall accompany the summons.



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## ADVISORY COMMITTEE ON CHILDREN AND FAMILIES HISTORY & BACKGROUND

The Supreme Court Advisory Committee on Children and Families was originally created by Chief Justice Thomas J. Moyer in 2002, with the purpose of providing ongoing advice to the Chief Justice and the Justices and staff of the Supreme Court. The Advisory Committee's duties include the promotion of statewide rules and uniform standards concerning the establishment and operation of programs for children and families in Ohio courts, the development and delivery of services to Ohio courts on matters involving children and families (including education programs for judges and court personnel), and the consideration of any other issues necessary to assist the Court and its staff regarding children and families in Ohio courts.

The advisory committee consists of no more than 24 members who are appointed by the Chief Justice. Membership is broad-based and multi-disciplinary so as to represent a cross section of interests related to the issues of children and families in the courts, and represent the gender, racial, ethnic, political, and geographic diversity of Ohio. While the advisory committee itself is limited in size, over one-hundred professionals participate on the advisory committee and its subcommittees and workgroups.

The advisory committee has issued reports on Family Law Reform, Guardian ad litem Standards, and Responding to Child Abuse, Neglect, and Dependency. As a result of these reports the Supreme Court adopted Rule of Superintendence 48 on Guardian ad litem Standards, collaborated on the establishment of Ohio's Alternative Response, and adopted changes to Rule of Superintendence 44 on Court Records, to clarify which Domestic Relations and Juvenile court records are considered confidential.

Current work by the advisory committee has focused on adult guardianship standards in probate court, the need for quality parent representation in child welfare cases, youth and caregiver engagement in court proceedings, and juvenile justice recommendations.

Additional information on the advisory committee, including its current member roster and reports, is at [sc.ohio.gov/Boards/familyCourts/default.asp](http://sc.ohio.gov/Boards/familyCourts/default.asp).

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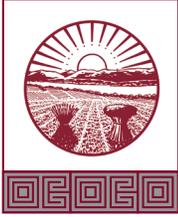
## Charge of the Advisory Committee on Children and Families

As issued by the Chief Justice of the Supreme Court of Ohio, the advisory committee shall provide ongoing advice to the Court and its staff regarding all of the following:

- 1) The promotion of statewide rules and uniform standards concerning the establishment and operations of programs for children and families in Ohio courts;
- 2) The development and delivery of services to Ohio courts on matters involving children and families, including education programs for judges and court personnel;
- 3) The consideration of any other issues the advisory committee deems necessary to assist the Court and its staff regarding children and families in Ohio courts.

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# THE SUPREME COURT *of* OHIO

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