



STATE OF DELAWARE
Office of the Child Advocate
Court Appointed Special Advocate
Program Guide

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Acknowledgements

February 2, 2017

Dear Colleagues:

The Office of the Child Advocate has created this guide for one of its legal representation programs, the Court Appointed Special Advocate (CASA) Program, to not only inspire CASA Volunteers to best advocate for abused and neglected children as the child's "voice" in Family Court, but to assist Child Attorneys and CASA Coordinators in their respective roles as a triad of support for a Child.

In creating this guide the primary focus was on: expectations of all team members; the relationship with the Child and how to best communicate with the Child; the relationship with the team, other parties, and the community; and professional and ethical considerations to consider.

OCA would like to thank the North Carolina Guardian Ad Litem program for the sharing of their time and resources.

We believe this guide will offer all some practice guidance as you fulfill your role as an advocate for a child in need. Thank you for your commitment, time, passion and professionalism as you advocate for children. You are all essential to the Office of the Child Advocate and the CASA Program's mission and we could not do this important work without you.

Best Regards,

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CASA Program Director

Introduction

The Office of the Child Advocate (OCA) was created in 1999 in response to numerous child deaths in Delaware resulting from child abuse. These cases pointed to deficiencies in the child protection system that could only be remedied through the collaborative efforts of Delaware's many child welfare agencies. The General Assembly determined that an office to oversee these efforts, staff the Child Protection Accountability Commission (CPAC), and provide legal representation on behalf of Delaware's dependent, neglected, and abused children was necessary. Pursuant to 29 Del. C. § 9005A, OCA is mandated to coordinate a program of legal representation for children, including the Court Appointed Special Advocate (CASA) Program; to periodically review all relevant child welfare policies and procedures with a view toward improving the lives of children; recommend changes in procedures for investigating and overseeing the welfare of children; to assist the Office of the Investigation Coordinator in accomplishing its goals; to assist CPAC in investigating and reviewing deaths and near deaths of abused and neglected children; to develop and provide training to child welfare system professionals; and to staff CPAC.

While OCA has many statutory duties, legal representation of children is a significant part of OCA's mission. OCA accomplishes its charge to represent children through the employment of four full-time Deputy Child Advocates (DCAs), contract Child Attorneys, a substantial and dedicated pool of volunteer Child Attorneys supervised by a Managing Attorney, and a robust and committed pool of community volunteers that serve as Court Appointed Special Advocates and are supervised by CASA Coordinators.

The purpose of the CASA Program is to provide independent and quality advocacy for abused and neglected children who are the subject of Court proceedings. The program provides carefully selected, thoroughly trained, and responsibly supervised volunteers to work in conjunction with a Child Attorney to represent the best interests of these children and advocate for a safe, permanent, nurturing home for each child. The Delaware CASA Program is a member in good standing of the National CASA Association and operates in accordance with established national standards and state law.

The role of each member of the Child’s CASA advocacy team is essential. This guide is intended to provide practical guidance to assist the advocacy team in fulfilling their duties in a manner consistent with Delaware law and guidelines of the Delaware OCA and CASA Program.

Part One: Delaware CASA Program within the Office of the Child Advocate

A. History of CASA relocation into the Office of the Child Advocate

Since its inception in 1983, Delaware's CASA Program had been located within the Family Court of the State of Delaware. Delaware was one of the last states to have its CASA program housed within the same Court in which it advocates, and national best practices dictated that the CASA program should be relocated outside of Family Court. With this in mind, Senate Bill 188 was introduced in the Delaware Legislature in April of 2016 and proposed relocating the CASA program to the Office of the Child Advocate. The bill passed on June 30, 2016 and was signed by the Governor in September 2016 with a six month delay until implementation (*see Appendix A* for Office of the Child Advocate Statute – Title 29, Ch. 90A).

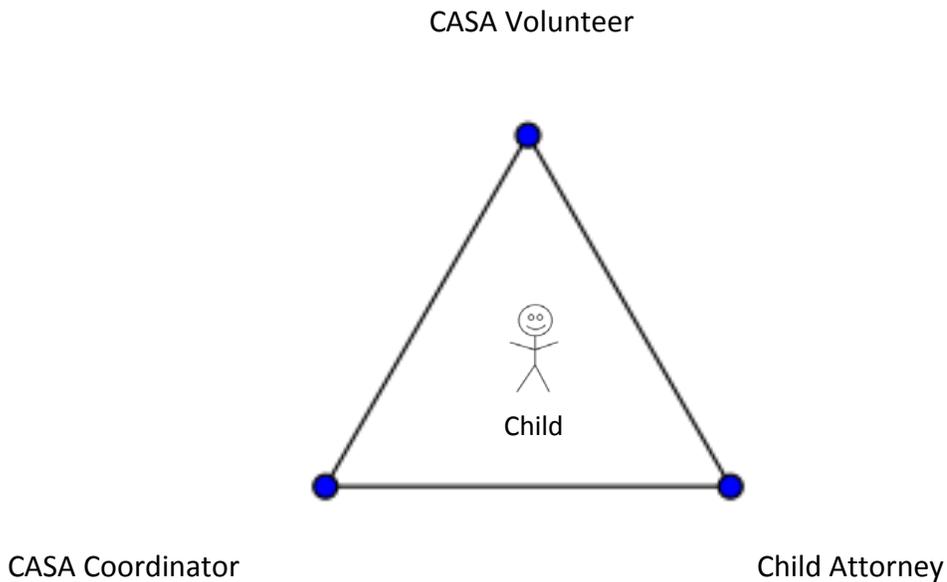
The effect of the bill was to create one office in the State that provides legal representation and advocacy for all of Delaware's abused and neglected children. The bill changed the role of the contract attorneys from representing the CASA Volunteer to directly representing the Child, in conjunction with the CASA Volunteer. The bill also provided updates to practice and procedure that are more aligned with national best practices. These changes included: (1) mandating that *every* child in the custody of the Department of Services for Children, Youth and their Families (DSCYF) has an Attorney, (2) authorizing the appointment of CASA Volunteers to work in conjunction with Child Attorneys with all the same duties, rights and protections, and (3) establishing that the Child is a party to the proceeding.

The CASA Program relocated as a program within OCA on March 6, 2017 with the continued goal of advocating for abused and neglected children in Delaware's child welfare system.

B. CASA Advocacy of Children in Family Court

The CASA Program advocates for children in Family Court proceedings, primarily those children in foster care, through a team approach. The CASA Volunteer assists the Child Attorney in making sure an independent investigation is conducted, the Child's best interests are represented to the Court, and the duties as set forth in 29 Del. C. §9007A ("Legal Representation of Children") are fulfilled. This is the role the CASA Volunteer has performed since the program's inception. The Child Attorney and CASA Volunteer work together as a

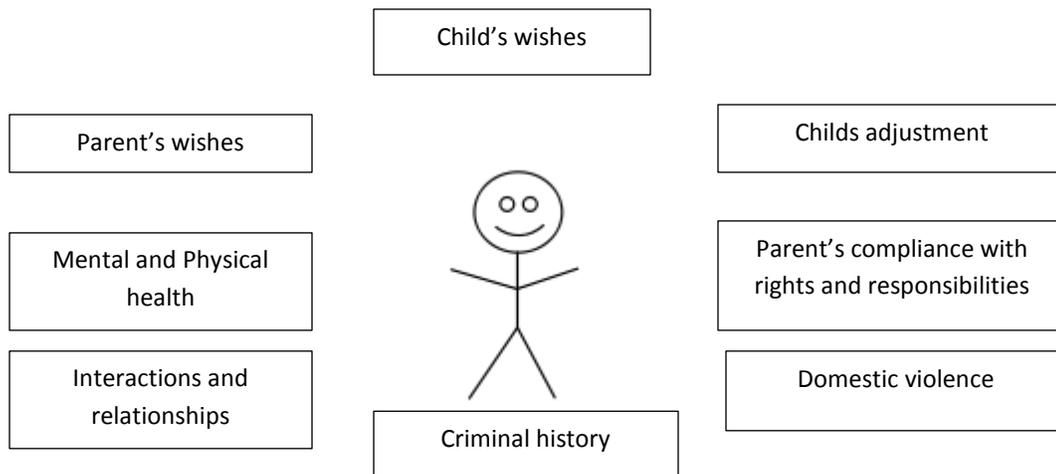
team, with the Child Attorney primarily in charge of legal duties and the CASA Volunteer in charge of fact gathering and meeting with the Child. The CASA Coordinator completes the team by supporting the CASA Volunteer and facilitating communication between the CASA Volunteer and Child Attorney. This creates a “triad” of persons who are advocating for and supporting the Child. Each person has different, but intertwined, roles and responsibilities which are discussed in detail in Part Two of this guide.



C. Best Interests Advocacy

The Child’s “best interests” are at the core of advocating for the Child. The focus on “best interests” advocacy will guide the CASA Volunteer and Child Attorney in determining how to best advocate for both the needs and wishes of the Child.

The factors in determining the “best interests of the child” are enumerated in Section §722 of Title 13 of the Delaware Code. The Court does not consider whether more of the factors weigh in favor of a specific outcome; rather, the Court looks at the factors as a whole and considers what factors may weigh more heavily under the particular circumstances. The relevant factors that are considered by the Court are:



Delaware Code, Title 13 §722:

- (1) The wishes of the Child's parent or parents.
- (2) The wishes of the Child.
- (3) The interaction and interrelationship of the Child with his or her parents, family members and other residents of the household or person who many significantly affect the Child's best interests.
- (4) The Child's adjustment to their home, school, and community.
- (5) The mental and physical health of all individuals involved.
- (6) The parents past and present compliance with their rights and responsibilities to the Child.
- (7) Evidence of domestic violence.
- (8) The criminal history of any party or any resident of the household.

The CASA Volunteer and Child Attorney use these factors as a guide to promote and protect the best interests of the Child. Each Child and situation is unique; therefore, it is important to learn as much as possible about the Child's life in order to advocate what is in the best interests of that Child both in and out of the courtroom. The primary concern of the CASA Volunteer and the Child Attorney is the Child's best interests, with an understanding that the Child's wishes are an important component of the best interests factors.

Part Two: Roles and Responsibilities

A. Role and Responsibilities of the CASA Volunteer

The CASA Volunteer fulfills the role as the guardian *ad litem*¹ for children in foster care. In this role the CASA Volunteer is responsible for working with the Child Attorney to conduct an independent investigation and make a recommendation to the Court as to what is in the Child's best interests. In addition, the CASA Volunteer should ensure that the Court is aware of the Child's wishes.

In carrying out the duties as set forth in 29 Del. C. 9007A, the CASA Volunteer is responsible for the following:

- Have direct contact with the Child on a monthly basis in order to carry out an independent investigation of the Child's circumstances and determine what the Child wants. This direct contact should include regular monitoring of the Child in his or her home environment.
- Assist the CASA Coordinator in identifying records to be requested including, but not limited to, DFS, mental health, medical, and educational records, and review all records when received.
- Interview, and maintain regular contact with, pertinent persons involved in the Child's life. These people may include: birth parents, relatives, foster parents, group home staff, social workers, therapists, and teachers.
- With assistance from the CASA Coordinator, determine what services the Child needs and formulate recommendations to meet the Child's needs.
- Communicate and consult with the CASA Coordinator and the Child Attorney regularly, and prior to each hearing.

¹ The Child Abuse Prevention and Treatment Act (CAPTA), requires each State to have provisions and procedures in place to assure that every child who is the subject of an abuse or neglect proceeding is appointed a guardian ad litem (GAL), and that the GAL receive training appropriate to the role prior to being appointed to represent the child in the proceeding regardless of whether the GAL is an attorney or CASA. The CAPTA requirement is met as long as the GAL is trained before he or she is appointed to represent a child.

- Ensure that any age-appropriate child is given the opportunity to come to Court and meaningfully participate in the Court hearing, using the Youth Involvement in Court tools to facilitate participation.
- Prepare a CASA Volunteer report to be submitted to the CASA Coordinator and Child Attorney two weeks prior to each Court hearing. The report should, at a minimum, include: wishes of the Child, the Child's needs and resources available to meet the needs of the Child, and recommendations for achieving the stated permanency plan for the Child.
- Review Court orders as received and follow up with the responsible persons to ensure that the orders of the Court are being properly executed.
- Notify the CASA Coordinator and Child Attorney if an order of the Court is not being followed or other issues arise that necessitates the case's return to Court prior to the next scheduled hearing.
- Attend all Court hearings and provide testimony to the Court as needed or as desired by the CASA Volunteer.
- Provide monthly report to the CASA Coordinator regarding case work, including client contact.

CASA Volunteers advocate for the Child's best interests in and outside the Courtroom and use a team approach to ensure the Child's best interests are served. The CASA Volunteer ensures he or she has regular contact with both the CASA Coordinator and the Child Attorney regarding the case.

B. Role and Responsibilities of the CASA Coordinator

The CASA Coordinator provides support and supervision to the CASA Volunteer. The CASA Coordinator undertakes many important responsibilities to ensure that the case is progressing in the Child's best interests. The duties of the CASA Coordinator that relate to representation of the Child include the following:

- Send petitions, appointment orders, and other legal documents to the CASA Volunteer and Child Attorney upon receipt.
- Request records as identified by the CASA Volunteer, and assist in reviewing those records as necessary. Share those records with the Child Attorney as well.
- Consult with the CASA Volunteer to ensure all the needs of the Child are identified and assist in identifying appropriate resources to meet those needs.
- Notify the CASA Volunteer of all Court hearings, Child Placement Review Board (CPRB) meetings, and any relevant information they receive regarding the case.
- Consult with the Child Attorney to ensure communication and coordination.
- Attend Court hearings for the CASA Volunteer as needed.
- Attend team meetings, school meetings, and home visits as needed or requested by the CASA Volunteer.
- Assist the CASA Volunteer in ensuring that the orders of the Court are being followed.
- Consult with the CASA Volunteer throughout the life of the case to ensure regular contact with the Child is taking place and adequate investigation and monitoring of the case.
- Communicate with the CASA Director promptly when a CASA Volunteer is not fulfilling his or her duties.
- In conjunction with the CASA Volunteer and Child Attorney, identify facts and changes in situations that may necessitate Court action.
- Review all Court orders and provide copies to the CASA Volunteer promptly.

The CASA Coordinators know the assigned cases and CASA Volunteers well, and will determine his or her level of involvement in a case based on this knowledge. There are cases where the CASA Coordinator will be intimately involved in all decision-making, and others

where he or she will simply be monitoring and supporting the CASA Volunteer and Child Attorney regarding case status and to be sure that the duties of the CASA Volunteer are being executed. Regardless of involvement level in a particular case, the CASA Coordinator must ensure regular contact between themselves, the CASA Volunteer, and Child Attorney regarding shared cases.

C. Role and Responsibilities of Child Attorney

The Child Attorney provides direct legal representation to children, primarily to those in foster care. While the Child is the client, the Child Attorney works in conjunction with the CASA Volunteer and CASA Coordinator to ensure the best interests of the Child are represented in Court. In carrying out the statutory obligations as set forth in 29 Del. C. 9007A, the Child Attorney is responsible for the following duties:

- Review the petition that brought the Child into DSCYF custody.
- Review the case with the CASA Volunteer and CASA Coordinator to determine the need for witnesses and evidence at upcoming hearings.
- Issue subpoenas as needed and secure documents to be admitted into evidence.
- In conjunction with the CASA Volunteer and CASA Coordinator, identify and clarify issues in dispute as well as areas of agreement.
- Discuss case issues with other parties to determine areas of agreement and communicate potential settlements with the CASA Volunteer and CASA Coordinator.
- Interview witnesses to prepare them for Court testimony.
- Review the report of the CASA Volunteer prior to the hearing and clarify issues with the CASA Volunteer and/or CASA Coordinator as necessary.
- With assistance from the CASA Volunteer and CASA Coordinator, explain to the Child, in an age-appropriate manner, the duties of the Child Attorney, the role of the CASA Volunteer, and the rights of the Child as set forth in Section 2522 of Title 13 (if the Child is in DSCYF custody).

- Advocate for the needs of the Child in Court, including those services necessary to ensure that the stated permanency plan for that Child is reached promptly.
- Inform the Court of the Child’s wishes, and let the Court know if the wishes of the Child and the best interests of the Child are potentially in conflict.
- Consult with the CASA Volunteer and CASA Coordinator regularly, and offer support and advice as needed. The Child Attorney should be easily accessible to the CASA Volunteer or CASA Coordinator.
- Consult directly with the Child as requested by the Child, CASA Volunteer, or CASA Coordinator; or as deemed necessary by the Child Attorney.
- With assistance from the CASA Volunteer and CASA Coordinator, ensure that any age-appropriate child is afforded the opportunity to come to Court, and meaningfully participate in the Court hearing.
- If the Child is appearing in Court, meet with the Child prior to the hearing to discuss expectations and answer any questions the Child may have, utilizing the “Youth in Court” training tools to facilitate participation.
- Appear, when needed, on behalf of the Child in related Court proceedings, including juvenile expungements and school discipline matters.
- Review all Court orders and consult with the CASA Volunteer and the CASA Coordinator to ensure that all orders of the Court are being followed.
- File answers to pleadings, and motions or petitions as necessary, in consultation with the CASA Volunteer and CASA Coordinator.
- Conduct discovery and participate in all depositions, negotiations, hearings, Court conferences, related proceedings, and appeals.
- Share any case related information or documentation with the CASA Volunteer and CASA Coordinator.

The Child Attorney will rely on a team approach to meet their duties and responsibilities to the Child. Regular contact with the CASA Volunteer and CASA Coordinator is an essential element of the client representation. The Child Attorney is not required to meet with the Child

regularly, but they should consult with the Child if requested by the Child, the CASA Volunteer, or the CASA Coordinator. The Child Attorney should also make every effort to meet with and prepare the Child prior to a Court hearing in which the Child is participating.

D. Relationship Among the Team

A very important consideration of the “triad” is that each person is a core member of the team representing the Child’s best interests. Team work and communication are key components to the success of the representation of the Child. As stated above, the CASA Volunteer will generally have the direct relationship with the Child; however, it is extremely important that there is consistent communication between the CASA Volunteer and Child Attorney regarding what is going on in the Child’s life. The two should work together in making decisions regarding what is in the best interests of the Child. The Child Attorney and CASA Volunteer should also discuss the testimony of the CASA Volunteer prior to hearings. It is presumed that the CASA Volunteer will be a witness called by the Child Attorney; however, there may be circumstances when the CASA Volunteer does not believe his or her testimony is needed and the Child Attorney agrees. If the CASA Volunteer wants to testify then he or she should always be accommodated.

The role of the CASA Coordinator is to ensure that communication between the CASA Volunteer and Child Attorney is taking place, and that the CASA Volunteer is fulfilling his or her obligations, including seeing the Child regularly. The CASA Coordinator should be involved in conference calls or meetings between the CASA Volunteer and Child Attorney whenever possible so that he or she can properly supervise the CASA Volunteer, and provide valuable input.

Conflict Resolution

In order to zealously advocate using a team approach, Child Attorneys and CASA Volunteers should question, challenge, and sometimes disagree with each other. Each team member’s responsibilities should be carried out without interference from the other members of the team. Every team member should also be working with the same information from which to base his or her opinion. However, Child Attorneys and CASA Volunteers have different roles and approach their cases in different ways. The CASA Volunteer makes a significant

investment of time through his or her investigation and evaluation of the case. The CASA Volunteer regularly meets with the Child and has spoken with the important persons in the Child's life. The information shared with the Child Attorney has been gathered with his or her own eyes and ears. Therefore, if the Child Attorney and CASA Volunteer have a conflict regarding a factual issue, and the facts are agreed upon, the CASA Volunteer should receive deference from the Child Attorney. If the conflict is related to a legal issue, then the Child Attorney should receive deference from the CASA Volunteer. The CASA Coordinator should be involved in facilitating communication regarding potential conflict and resolution of same between the CASA Volunteer and Child Attorney.

If a circumstance arises where a CASA Volunteer and the Child Attorney cannot agree despite assistance from the CASA Coordinator, the conflict shall be referred to the CASA Director and Child Advocate for resolution. A resolution of the conflict must occur outside the Courtroom. The CASA Volunteer and Child Attorney shall abide by the joint decision of the CASA Director and Child Advocate. The only exception to this is if the Child Attorney feels that the decision raises an ethical dilemma, and he or she can no longer zealously advocate for the Child. In that case, the Child Attorney may need to withdraw from the case (*see Appendix B – CASA Stakeholders Cheat Sheet*).

Part Three: Relationship with the Child

A. Child's Rights

In most cases the CASA Volunteer will be the person to primarily develop a relationship with the Child, with the Child Attorney available to the Child at Court hearings and as needed or requested. Regardless of whether the Child meets with the Child Attorney, the statute requires that the team determine how the different roles and responsibilities of the CASA Volunteer, CASA Coordinator, and Child Attorney will be explained to the Child (when age-appropriate). An explanation of the different roles should also be provided to the Child's caregivers whenever possible.

In clarifying the different roles to the Child, it is best to explain that the Judge asked the CASA Volunteer and Child Attorney to learn about the Child's family and life so they can tell the Judge what is best for him or her. The CASA Volunteer listens to the Child's story and talks with all the important people in the Child's life. The CASA Volunteer then works with both the Child Attorney and the CASA Coordinator to make sure that the Child's needs are being met. The CASA Volunteer and Child Attorney will also tell the Judge about the Child and what he or she needs. The Judge can then make the best decision for the Child based on that information. A simple explanation as described above should work for most children over the age of five. More details can be given if the Child is older or more mature. (See Appendix C – North Carolina GAL Program – Explaining Attorney and Volunteer Roles to the Child).

It is also important that the Child understand the rights of children in foster care. Those rights are explained clearly in a one page handout that can be reviewed with the Child and given to them to keep. (See *Appendix D* for – Rights of Children in DSCYF Custody and appendix E for Rights of Children in DSCYF Custody – Explaining the Rights to the Child).

B. Interaction with the Child

Building a relationship with the Child depends on frequent and regular contact. If there are circumstances (i.e. distance of placement) that make it impossible to visit with the Child regularly then the CASA Volunteer should meet with the CASA Coordinator to develop a plan to establish an appropriate relationship with the Child.

It is not always quick and easy to develop a trusting relationship with a child who has been abused or neglected. Below are some guidelines for helping the CASA Volunteer and Child Attorney to communicate with the Child:

- Be open and ready to listen and learn about the Child.
- Communicate and interact in an age-appropriate manner.
- Consider the Child's developmental level.
- Consider the Child's cultural and ethnic identity.
- Start on the Child's level: ask about what they are interested in; find common ground on which to build a relationship; understand the Child's point of view.
- Explain the role of the team to advocate for him or her.
- Manage expectations and do not make promises that cannot be kept.
- Ask the Child about their wishes concerning their placement, visits, services that they have or need, and anything else about their situation.
- Communicate regarding the status of Court hearings and interests of the Child that may be affected by the Court's decision.
- Explain to the Child decisions about what is in the Child's best interests and how the team came to that conclusion, even if it is against the wishes of the Child.
- Remember that it can, and likely will, take time to build a trusting relationship with the Child.
- Inform the Child when your role has concluded.
- Ensure confidentiality in all communications with the Child.

It is important to protect confidential communication with the Child, however, it must also be explained to the Child under what circumstances the CASA Volunteer or Child Attorney may be compelled to disclose their confidences. Prior to any disclosure, the CASA Volunteer or Child Attorney should make every effort to discuss the intent and reason for disclosure with the Child. See Part 5 of this guide for more information about confidentiality.

While the CASA Volunteer's role in developing a relationship with the Child is extremely important, there are some restrictions that are discussed below:

- The CASA Volunteer should not provide transportation for the Child as it would expose the CASA Volunteer to personal risk or liability; however, transportation may be provided by the CASA Coordinator.
- The CASA Volunteer should not take the Child into his or her home, provide shelter for the Child, or provide any services to the Child or their families.
- The CASA Volunteer should not use social networking sites to have a social connection with the Child in a manner outside the statutory role.

C. Youth Involvement in Court

Talking with the Child about their ability to participate in Court is a statutory responsibility of the CASA Volunteer and Child Attorney. OCA has many resources, including a questionnaire, guide, and web-based training, to assist the CASA Volunteer and Child Attorney in leading this discussion with the Child. A simple way to begin the conversation is to explain to the Child that there are a lot of ways that children can participate in Family Court hearings regarding their placement in foster care. The CASA Volunteer may want to ask the Child what he or she thinks about the following options:

- Sit in the courtroom for the entire hearing and answer the Judge's questions in the courtroom
- Sit in the courtroom for the entire hearing and meet with the Judge separately either before or after the hearing
- Sit in the courtroom for part of the hearing and leave when _____ occurs
- Remain outside the courtroom during the hearing and meet with the Judge before or after the hearing
- Participate by phone
- Meet with the Judge at a different time than the hearing
- Write a statement to the Judge, which can be read aloud during the hearing or given to the Judge.

- Ask the CASA Volunteer or Child Attorney to participate and communicate for you and report back

The CASA Volunteer and Child Attorney should keep in mind that there are ways for most children, regardless of age, to participate in Family Court. (See *Appendix F* for Youth Involvement in Court – Guide and *Appendix G* for Youth Involvement in Court – Questionnaire).

Part Four: Key Relationships

A. Relationship with Other Parties and Legal Counsel

The CASA team will also work closely with other parties to the case. These parties are usually the Division of Family Services (DFS) caseworkers and the Child's parents. All parties are generally represented by separate attorneys. The attorney for DFS is referred to as the DFS Deputy Attorney General (DFS DAG). The attorneys for parents are referred to as Parent Attorneys. The Child Attorney will have more of the direct contact with the attorneys representing the other parties. The rules of professional responsibility require Child Attorneys to contact the attorneys of represented parties to ask permission before speaking with their client directly.

It is expected that the CASA Volunteer will have a majority of the direct contact with the DFS worker and the parents, and then provide the Child Attorney with the status and updates regarding these contacts. The CASA Volunteer and Child Attorney should communicate with each other about contacts with other parties, especially when those conversations affect how one may advocate for the Child.

Relationship with the DFS Worker and other DSCYF Employees

The Department of Services for Children, Youth and Their Families has three divisions that can potentially be involved with the Child. If the Child is in foster care then DFS is always going to be involved. However, the Child may also be involved with the Division of Youth Rehabilitative Services (YRS) if he or she is involved with the juvenile justice system. The Child could also be involved with the Division of Prevention and Behavioral Health (PBH) if there are significant mental health needs that require services beyond typical outpatient therapy. If the Child is involved with YRS or PBH then the CASA Volunteer will need to reach out to those assigned workers in addition to the DFS worker. The relationship between the CASA Volunteer and DSCYF workers is based upon gathering information, and maintaining a professional and respectful relationship is the best way to guarantee the prompt and free exchange of information.

Relationship with the Child's Parents

The CASA Volunteer will also have contact with the parents of the Child. The CASA Volunteer's relationship to the parents is generally limited to observation of parent and child interactions and reporting to the Court about the parents' progress on their case plans. In visiting the Child and his or her family, the CASA Volunteer must remember that the purpose of the visit is to examine conditions and progress towards remediation of those conditions that led to removal of the Child. The CASA Volunteer will also observe interaction between the Child and his or her family members. The focus is on the best interests of the Child, keeping personal issues and biases separate.

Relationship with the Other Parties' Attorneys

The CASA Volunteer's interaction with the DFS DAG and Parent Attorneys are generally limited to Court hearings. The Child Attorney may have more frequent contact as legal issues are discussed in between Court hearings. It is important to remember that it is the job of the DFS DAGs and Parent Attorneys to zealously advocate for their client's position, just as the CASA Volunteer and Child Attorney advocate for the Child, so it is important to interact with them in a respectful manner regardless of their position.

If the attorney for another party (i.e. DFS DAG or Parent Attorney) contacts the CASA Volunteer regarding the case, it is the right of the CASA Volunteer to not speak with that attorney. The CASA Volunteer should contact the CASA Coordinator to discuss the pros and cons of speaking directly with the attorney.

B. Relationship with the Community

Relationship with Foster Care Provider or Caregivers

Children can be placed in a variety of settings such as foster homes, group homes, Residential Treatment Centers, and relative or non-relative caregivers. Regardless of where the Child is placed, visits to see the Child in his or her placement should be made by appointment. If the Child resides in a group home, Residential Treatment Center, or with a relative or non-relative then contact can be made directly. If the Child is in a foster home supervised by a private foster care agency (i.e. Children & Families First, Children's Choice, Pressley Ridge, etc.) then the CASA Volunteer should contact that foster care provider to find out their policy on

caregiver contact. The integrity and privacy of the home should be respected at all times. The purpose of the contact with the caregiver is to gather information, make observations about the appropriateness of the placement, and suggest resources to help meet the needs of the Child.

The CASA Volunteer is not the caregiver's source of information about the case or an advocate for the foster care provider. While it is the duty of the CASA Volunteer to update the Child on what is going on in the case, it is best to refer the caregiver back to the DFS worker if they have questions.

If the CASA Volunteer has any concerns regarding the Child's safety in the placement, he or she should notify the CASA Coordinator and DFS. If the concerns are not remedied by DFS then the CASA Volunteer should continue to keep the CASA Coordinator and Child's Attorney informed.

Relationship with Service Providers

The Child's parents will likely have a case plan outlining services to help the family towards reunification. Those services may include substance abuse treatment, mental health counseling, medical appointments, and employment services. Although records requests will be submitted by the CASA Coordinator, the CASA Volunteer may have to make contact with these providers as part of the investigation process. Requests for information are to be made in a professional manner that allows reasonable time for the providers to comply with the request. The Order of appointment should be included with any request for records.

If the information is related to mental health or substance abuse treatment then the Order of appointment will not suffice due to federal laws protecting that information. The Child's parents will have to sign consent to release that information or a "Motion to Release Records" will need to be filed by the Child Attorney. Any request for consent should be directed to the parent's attorney and a need to file a motion should be discussed with the Child Attorney.

Part Five: Professionalism and Ethical Considerations

A. Professionalism

All members of the team are required to carry out his or her responsibilities with professionalism. Each member should exercise sound judgment, maintain professional boundaries, safeguard the Child's confidentiality, and maintain the credibility of the CASA Program.

The CASA Volunteer and Child Attorney are appearing on behalf of the Child in Family Court proceedings. The Court is looking to the CASA Volunteer and Child Attorney to provide independently-gathered information and recommendations that are in the Child's best interests. Contact with the Judge regarding the Child and case is limited to the Courtroom – there should not be conversations with the Judge regarding the case outside of the Court hearings.

CASA Volunteers are expected to conduct themselves in a professional manner both in and outside of Court. Professionalism is both an attitude and the manner in which the CASA Volunteer goes about doing his or her job. In order to maintain professionalism it is expected that the CASA Volunteer will do the following:

- Attend Court hearings involving the Child unless extenuating circumstances arise. If the CASA Volunteer is unable to attend a hearing then the CASA Coordinator should be notified as soon as possible.
- Maintain confidentiality by not divulging any information about the case to an unauthorized person or leaving confidential information where other people might read it.
- Dress appropriately in business attire when acting in the role as a CASA Volunteer, both in and outside of Court.
- Wear the CASA Program identification badge whenever acting in the role as a CASA Volunteer.

B. Maintaining Advocacy Skills

OCA provides numerous trainings and educational opportunities to Child Attorneys throughout the year, and CASA Volunteers are invited and encouraged to attend many of those as well. Child Attorneys are required to attend trainings and seminars to increase their knowledge and stay current on significant changes to statute and case law that impact child welfare proceedings.

The Delaware CASA Program is a member of the National Court Appointed Special Advocates Association. National CASA standards require CASA Volunteers to complete both pre-service training and annual continuing education training. The content of the pre-service training includes topics in the National CASA standards to ensure that individuals are fully prepared to carry out their role. In support of National CASA standards, it is required that CASA Volunteers complete twelve hours of continuing education annually. The CASA Program provides plenty of opportunities to reach this standard including monthly in-service trainings in each County – this equates to 36 opportunities statewide for CASA Volunteers to fulfill their training obligation. CASA Volunteers may also complete their continuing education through reading materials or on-line training as approved by the CASA Coordinator.

A CASA Volunteer may encounter situations or issues that go beyond his or her knowledge, expertise or comfort level. The CASA Coordinator and Child Attorney are resources to provide more information or training opportunities to learn more about those topics or subjects. Continuing education about a variety of issues that children in foster care encounter is very important in the representation of the Child.

C. Ethics

Duty to Report

By law, the CASA Volunteer and Child Attorney must immediately report any suspected child abuse or neglect to the DFS hotline (1-800-292-9582). The person with the most first-hand knowledge of the suspected abuse or neglect should make the most immediate contact with the hotline whenever possible. The CASA Coordinator should also be notified of the need to make a report.

Self-Reporting Responsibilities

The CASA Volunteer has the duty to inform his or her CASA Coordinator and the CASA Director of any personal allegations of abuse or neglect or any criminal charges.

Confidentiality

It is important to protect confidential communication with the Child, however, it must also be explained to the Child under what circumstances the CASA Volunteer or Child Attorney may be compelled to disclose their confidences. If the Child discloses abuse or neglect or makes statements regarding their safety (i.e. threatens to hurt themselves) then that must be reported to DFS. The CASA Volunteer should reach out to the CASA Coordinator for guidance about the disclosure and who needs to be notified. Prior to any disclosure, the CASA Volunteer or Child Attorney should make every effort to discuss the intent and reason for disclosure with the Child.

As stated in the Delaware Code Title 29 §9008A, all employees, contactors and volunteers (including CASA Volunteers) shall not be subject to suit directly, derivatively or by way of contribution or indemnification for any civil damages under the laws of Delaware resulting from any act or omission performed during or in connection with the discharge of his or her duties with the Office within the scope of his or her employment or appointment, unless the act or omission was done with gross or wanton negligence, or maliciously, or in bad faith. In simple terms, if the CASA Volunteer or Child Attorney operates within the bounds of the CASA Program, and its professional expectations, you cannot be found liable for in any suit against you.

D. Resignation and Termination from the CASA Program

A CASA Volunteer commits to the program for at least one year with the hope that he or she will continue with the program until the Child reaches permanency. Many CASA Volunteers stay with the program for many years. If the CASA Volunteer wishes to end his or her service then that resignation should be given to the CASA Coordinator in writing. At the end of a case the CASA Volunteer is required to return all case material, files, and records in a timely manner.

A CASA Volunteer may be removed from a specific case, or from the CASA Program, if the obligations to the Child are not met or if the program's policies and procedures are not

followed. The Delaware CASA Program is most concerned that the best interests of the Child are protected and promoted.

A CASA Volunteer will automatically be suspended from all assigned cases if they have any pending criminal charges, or if he or she is the subject of a child abuse or neglect investigation. A CASA Volunteer may also be removed from a case if he or she has developed a conflict of interest, developed a bias, lost objectivity, or due to a breach of confidentiality..

If a CASA Volunteer is suspended, terminated or resigns then he or she must immediately return his or her CASA Program identification badge.

Afterword

The learning journey of the CASA Volunteer begins with pre-service training but will continue throughout his or her work with the Delaware CASA Program. The team approach of the CASA Volunteer, the Child Attorney, and the CASA Coordinator will result in effective, high-quality advocacy on behalf of children. This guide is intended to be a reference tool for the CASA Volunteer, CASA Coordinator, and Child Attorney to quickly and easily consult, but the CASA Program and other OCA staff are always available to assist and support the members of the advocacy team.

Advocating for the best interests of a child in Family Court requires a commitment of time and effort, as well as a passion for making a difference. It also requires an ongoing commitment to professionalism and learning so knowledge and advocacy skills continue to build over time.

The commitment of the CASA Volunteer, as the voice for the Child, is greatly appreciated by the CASA Program, Office of the Child Advocate, Family Court, and the Child.

Appendices

Appendix A

TITLE 29

State Government

Departments of Government

CHAPTER 90A. OFFICE OF THE CHILD ADVOCATE

§ 9001A Intent and purpose [Effective Mar. 5, 2017]

The General Assembly hereby declares that the welfare of the children of this State shall be safeguarded by the establishment of an Office of the Child Advocate, with a Child Advocate who shall also serve as Executive Director of the Child Protection Accountability Commission. The Child Advocate shall be responsible for effectuating the purposes of the Commission. The Advocate shall also coordinate efforts on behalf of the children; work with advocacy groups; promote system reform; recommend changes in law, procedure and policy necessary to enhance the protection of Delaware's children; and to implement and coordinate programs providing legal representation on behalf of a child, including the Court Appointed Special Advocate Program. In order to effectuate these goals, the Child Advocate shall be an attorney duly licensed to practice law in Delaware.

§ 9002A Definitions [Effective Mar. 5, 2017]

For the purposes of this chapter, unless the context indicates differently:

- (1) "Abuse" or "abused child" is as defined in § 901 of Title 10.
- (2) "Adult" means a person who has reached his or her eighteenth birthday;
- (3) "Attorney" means an attorney authorized to practice law in the State, who is employed or contracted by the Office, or who volunteers for the Office, including Deputy Child Advocates and attorneys who work in conjunction with Court Appointed Special Advocate volunteers.
- (4) "Best interests" as defined in § 722 of Title 13;

- (5) "Child" or "children" means persons who have not reached their eighteenth birthday;
- (6) "Child welfare proceeding" means any Family Court proceeding and subsequent appeal therefrom involving custody, visitation, guardianship, termination of parental rights, adoption and other related petitions that involve a dependent, neglected or abused child or a child at risk of same as determined by a Family Court Judge;
- (7) "Commission" means the Child Protection Accountability Commission;
- (8) "Court" means primarily the Family Court, but may mean any court of this State;
- (9) "Court Appointed Special Advocate volunteer" or "CASA" means a volunteer authorized and appointed under § 9010A of this title, who is supervised by a coordinator and who works in conjunction with the child's attorney to accomplish the duties set forth in § 9007A(c) of this title.
- (10) "Department" means the Department of Services for Children, Youth and Their Families of the State;
- (11) "Dependency" or "dependent child" is as defined in § 901 of Title 10.
- (12) "Division" means the Division of Family Services of the Department of Services for Children, Youth and Their Families;
- (13) "Investigation Coordinator" is as defined in § 902 of Title 16.
- (14) "Neglect" or "neglected child" is as defined in § 901 of Title 10.
- (15) "Office" means the Office of the Child Advocate.
- (16) "Permanency" means the safe, stable, custodial environment in which a child is raised and the life-long relationship that child establishes with a nurturing caregiver.

§ 9003A Appointment and dismissal.

The Child Advocate shall be appointed by the Executive Committee of the Child Protection Accountability Commission and shall serve at its pleasure.

§ 9004A Appropriation for expenses.

The General Assembly may annually appropriate such sums as it may deem necessary for the payment of the salary of the Child Advocate, the assistants, and the staff, and for the payment of actual expenses incurred by the Office of Child Advocate.

§ 9005A Duties of the Child Advocate [Effective Mar. 5, 2017]

The Child Advocate shall perform the following duties:

- (1) Take all possible actions, including programs of public education and legislative advocacy, to secure and ensure the legal, civil, and special rights of the children.
- (2) Review periodically relevant policies and procedures with a view toward the rights of children.
- (3) Refer any person making a complaint or report required by Chapter 9 of Title 16 to the Division of Family Services, and, if warranted, to an appropriate police agency. If a complaint or report includes an allegation of misconduct against a Department employee, the complaint or report must also be referred to the Secretary of the Department.
- (4) Recommend changes in the procedures for investigating and overseeing the welfare of children.
- (5) Make the public aware of the services of the Office and the Commission, its purpose, and how it can be contacted.
- (6) Apply for and accept grants, gifts, and bequests of funds from other state, federal, and interstate agencies, as well as from private firms, individuals, and foundations, for the purpose of carrying out the Office's and the Commission's lawful responsibilities. The funds must be deposited with the State Treasurer in a restricted receipt account established to permit funds to be expended in accordance with the provision of the grant, gift, or bequest.
- (7) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the Division, the Attorney General's Office, the courts, the medical community, and law-enforcement agencies.

- (8) Review and make recommendations concerning investigative procedures and emergency responses pursuant to this chapter.
- (9) Develop and provide quality training to Division staff, Deputy Attorneys General, law-enforcement officers, the medical community, family court personnel, Court Appointed Special Advocate volunteers, educators, day care providers, and others on the various standards, criteria, and investigative technology used in these cases.
- (10) Develop and administer programs to ensure the legal representation of children in this State, which includes the Court Appointed Special Advocate Program.
- (11) Submit an annual report analyzing the work of the Office that may be included in the Commission's annual report, or submitted separately.
- (12) Serve as the Executive Director of the Commission.
- (13) Provide staff support to the Commission, including assisting the Commission in investigating and reviewing the deaths or near deaths of abused or neglected children.
- (14) Hire employees or contract for services as necessary to assist the Commission in investigating and reviewing the deaths or near deaths of abused or neglected children and performing its other duties under subchapter III, Chapter 9 of Title 16, within the limitations of funds appropriated by the General Assembly or obtained from other sources.
- (15) Hire the Investigation Coordinator and staff to assist the Investigation Coordinator in accomplishing the duties assigned in § 906 of Title 16, including contracts for services as necessary to accomplish its goals.
- (16) Take whatever other actions are necessary to help the Commission accomplish its goals.

§ 9006A Confidentiality [Effective Mar. 5, 2017]

- (1) All records of the Office pertaining to the care and treatment of a child are confidential, including the identity of any person seeking assistance from the Office on behalf of a child. Information contained in those records may not be disclosed, except for good cause shown

on order of a court, or if, in the judgment of the Commission, disclosure of identifying information to an appropriate governmental agency is in the best interests of the child.

(2) Anyone participating in good faith in seeking assistance from the Office on behalf of a child pursuant to this chapter shall have immunity from liability, civil or criminal, that might otherwise exist, and such immunity shall extend to participation in any judicial proceeding resulting from such a referral.

(3) All information and records received, prepared or maintained by the Office pertaining to the duties of the Investigation Coordinator and its staff are confidential as set forth in § 906 of Title 16. All information and records received, prepared, or maintained pertaining to the duties of the Investigation Coordinator, as well as all access provided to obtain such records, shall not be used to perform any other duties of the Office unless otherwise permitted by law.

§ 9007A Legal representation of children [Effective Mar. 5, 2017]

(a) *Purpose.* —

(1) The General Assembly has recognized the need to safeguard the welfare of abused, neglected and dependent children in this State. As such, it has charged the Office of the Child Advocate with ensuring legal representation in child welfare proceedings. To this end, the Office shall coordinate with the Family Court to implement and administer a program for representation of children. The Office may assist the other courts of this State as needed to coordinate legal representation of children.

(2) In determining whether to represent an abused, neglected or dependent child, or a child at risk of same, the Office may communicate with any child at issue and may have access to all information relating to that child and child's family held or maintained by the Department or the Family Court.

(3) This section shall be liberally construed so that these purposes may be realized.

(b) *Appointment.* —

(1) In the event that the court determines that a child is in DSCYF Custody pursuant to Chapter 25 of Title 13, the court shall sign an order appointing an attorney to represent the child. If a child is otherwise in need of legal representation in a child welfare

proceeding, the Office may file a motion with the court requesting appointment, which shall be granted if the court determines it is in the best interests of the child. The court may also issue an order appointing an attorney sua sponte under this statute subject to the resources of the Office. That order shall impose all the duties, rights and responsibilities set forth in this section. Upon request from the Office or any party, the court may also appoint a Court Appointed Special Advocate volunteer to work in conjunction with the child's attorney to accomplish the duties set forth in subsection (c) of this section. Upon entry of the order, the attorney and Court Appointed Special Advocate volunteer, if one is appointed, shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances.

(2) The appointment shall last until the attorney or Court Appointed Special Advocate volunteer is released from responsibility by order of the court, or until his or her commitment to the court ends.

(3) Upon appointment of an attorney, the child shall be a party to any child welfare proceeding in which the child is the subject, and shall possess all the procedural and substantive rights of a party including those set forth in § 732 of Title 13.

(4) Upon presentation of the order of appointment, any agency, hospital, school, organization, division or department of the State, doctor, nurse or other health-care provider, treatment facility, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney or Court Appointed Special Advocate volunteer to inspect and copy any records relating to the child and parents, and guardian or petitioner where the court deems appropriate, involved in the case of appointment without consent of the child, parents, guardian or petitioner. Release of mental health and substance use records shall comply with applicable federal law requiring consent or a court order.

(c) *Duties and rights.* — The attorney's duty is to the child. The scope of the representation of the child is the child's best interests. The attorney and the Court Appointed Special Advocate volunteer, in addition to other Office employees, contractors and volunteers shall have the duty of confidentiality to the child unless disclosure is necessary to protect the child. As such, the attorney or Court Appointed Special Advocate volunteer shall:

- (1) Represent the best interests of the child in all child welfare proceedings, and explain to the child, taking into account the child's ability to understand the proceedings, the duties of the attorney, the role of the Court Appointed Special Advocate volunteer, and the rights of the child set forth in § 2522 of Title 13, if the child is in DSCYF custody;
- (2) Be trained by the Office of the Child Advocate or a course approved by the Office prior to representing any child before the court. The attorney or Court Appointed Special Advocate volunteer shall be required to participate in ongoing multidisciplinary training regarding child welfare.
- (3) Be employed, contracted or an approved volunteer with the Office and shall be appointed by the court;
- (4) Conduct an independent investigation of the circumstances of a case of appointment, which shall include but not be limited to interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records and reports;
- (5) Present evidence to the court in support of his or her position;
- (6) Be provided with notice of every court proceeding and receive copies of every pleading;
- (7) Participate in all depositions, negotiations, discovery, pretrial conferences, hearings and appeals;
- (8) Have access to all records regarding the child and his or her family maintained by the Department;
- (9) Monitor cases to which he or she is appointed to assure that the terms of the court's orders are fulfilled and permanency for the child is achieved through reunification, adoption, permanent guardianship, guardianship, placement with a fit and willing relative, or alternatively, by another planned permanent living arrangement so long as the child is at least 16 years of age;
- (10) Receive reasonable notice from the Division of changes in placement, school or any other change of circumstances affecting the child;

(11) Receive reasonable notice from the Division of any founded complaint involving:

- a. The child, where the child is the alleged victim;
- b. The residence in which the child lives; and/or
- c. The home-based daycare which the child attends;

(12) Request a hearing before the court when the plan on behalf of the child is not implemented, is not meeting the child's needs, or upon completion of a Division investigation;

(13) Request any appropriate relief from the court on behalf of the child;

(14) Appear, when appropriate, on behalf of a child before the Violent Crimes Compensation Board, to pursue a claim on behalf of the child, as set forth in Chapter 90 of Title 11; and

(15) Ascertain the wishes of the child, give appropriate weight to the child's wishes understanding his or her age and emotional development, and make the child's wishes known to the court. If the attorney concludes that the child's wishes conflict with his or her position or the position of the Court Appointed Special Advocate volunteer, if one is appointed, he or she will make the child's wishes known to the court, and notify the court of the conflict so the court can determine if a conflict exists. If the court determines a conflict exists, the court shall determine how to remedy the conflict such that the child's best interests and wishes are represented.

(d) Criminal investigations and/or prosecutions. Notwithstanding any provision of this chapter to the contrary, the Office of the Child Advocate shall in no way intervene in any pending criminal investigation or prosecution, and shall provide no legal representation or advice to any suspect, defendant or respondent in any open criminal investigation or prosecution.

§ 9008A Indemnification from liability.

No attorney, director, investigator, social worker or other person employed or contracted by or volunteering for the Office of Child Advocate shall be subject to suit directly, derivatively or

by way of contribution or indemnification for any civil damages under the laws of Delaware resulting from any act or omission performed during or in connection with the discharge of his or her duties with the Office within the scope of his or her employment or appointment, unless the act or omission was done with gross or wanton negligence, or maliciously, or in bad faith.

§ 9009A Extended jurisdiction — Child abuse, dependency and neglect.

Notwithstanding any provision in this chapter to the contrary, the Office of the Child Advocate is authorized to provide representation under this chapter to youth for whom jurisdiction has been extended under § 929 of Title 10.

§ 9010A Court Appointed Special Advocate Program [Effective Mar. 5, 2017]

The Court Appointed Special Advocate Program shall provide legal representation to children through the Office of the Child Advocate, and shall be administered as follows:

- (1) The Program shall include volunteers who have demonstrated an interest in children and their welfare and have participated in background checks, interviews and training courses conducted by the Office to determine his or her fitness to serve. Volunteers will serve at the pleasure of the Child Advocate, but may also be removed by court order. Volunteers shall participate in ongoing training as determined by the Office. Volunteers will be sworn in by the court upon completion of all requirements and shall not serve as a volunteer prior to being sworn.
- (2) Volunteers shall be supervised by coordinators and a Program Director employed by the Office of the Child Advocate.
- (3) The Child Advocate will establish the number, qualifications and responsibilities of the coordinators and the Program Director. The Program Director and coordinators shall be exempt from Chapter 59 of Title 29, and notwithstanding any provision of this Code to the contrary, the Program Director and coordinator positions shall not be covered by Chapter 13 of Title 19 and shall have no rights thereunder.
- (4) Attorneys shall be hired or contracted by the Child Advocate to provide legal representation to children appointed under this section. Volunteers and coordinators will

work in conjunction with the child's attorney to accomplish the duties set forth in § 9007A(c) of this title.

(5) The CASA shall be a party to any child welfare proceeding or any other proceeding in which the court has appointed the CASA.

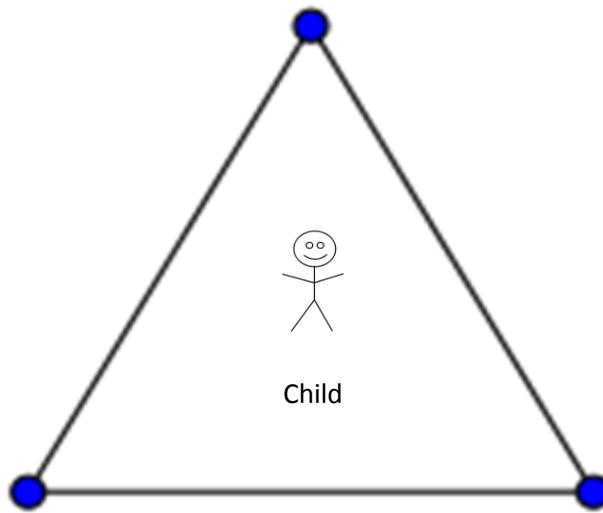
Appendix B

CASA Volunteer Duties

- Direct regular contact with child client
- Review records regarding the child and family
- Interview pertinent persons in child's life
- Ensure child's needs are identified and identify appropriate resources to meet those needs.
- Attend all meetings regarding the child (i.e. IEP meetings, team meetings, etc.)
- Attend all Court hearings and provide testimony as needed or desired

Shared Duties

- Advocate for child
- Communicate and consult with each other regularly
- Ensure that child understands the different roles and duties of the triad.
- Ensure that orders of the Court are being properly executed
- Monitor case until permanency is achieved



Conflict Resolution

- Conflict between the CASA Volunteer and Child's Attorney shall be settled by the CASA Coordinator in consultation with the CASA Director and Child Advocate
- Factual disagreement defers to the CASA Volunteer and issues of law defer to the Child's Attorney

CASA Coordinator Duties

- Request records and provide records to CASA volunteer
- Consult with CASA volunteer throughout case to ensure regular contact with child is occurring and needs of the child are being met
- Maintain awareness of all cases assigned and be available to discuss when necessary
- Attend team meeting, school meetings, and visits to the child as need or requested

Child's Attorney Duties

- Represents the child in Court proceedings and provide the child with meaningful opportunity to participate
- Identify witnesses and prepare them for testimony
- Issue subpoenas as needed and secure documents to be admitted into evidence
- Advocate for needs of child in Court
- Ensure regular contact with the child is occurring
- Inform the Court of the Child's wishes

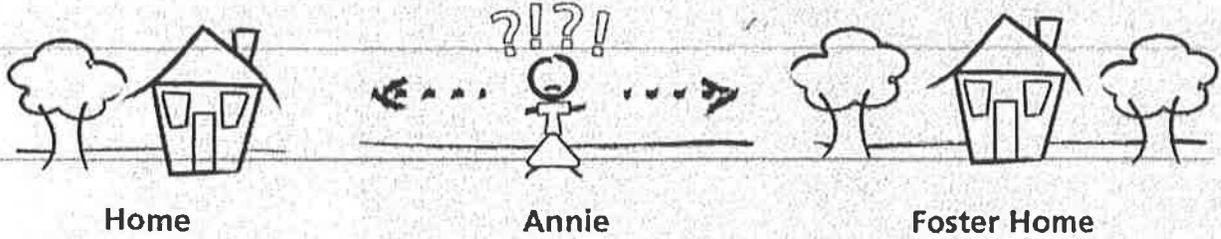
Legal Implications

- **Party status**- Both the child and CASA volunteer are parties in the proceeding
- **Service**- Accomplished through CASA Coordinator (CASA volunteer) and Child's Attorney (child)
- **Scope of Representation**- Child's attorney represents the child in conjunction with the CASA volunteer, and the scope of that representation is the child's best interests
- **Duties in Court**-CASA volunteer provides factual testimony; Child's Attorney litigates the case

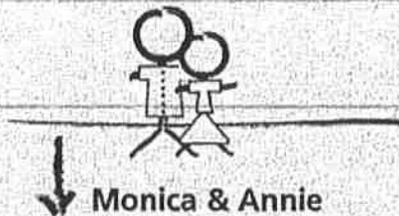
Appendix C

The Problem

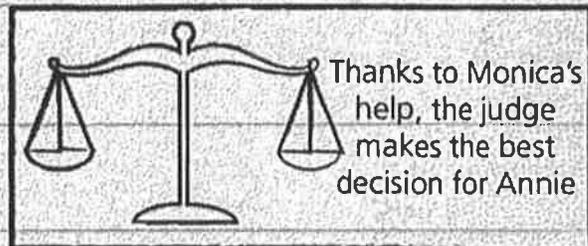
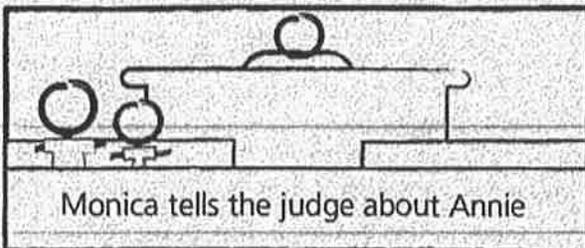
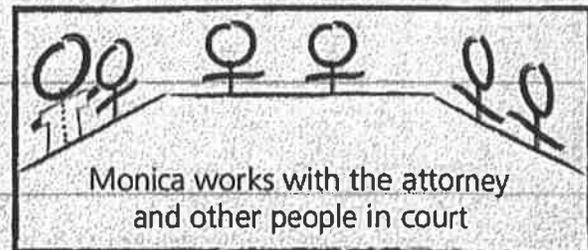
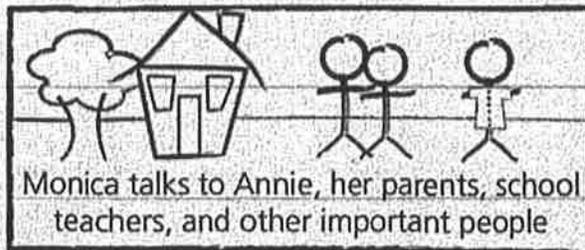
Annie's home wasn't safe for her, and now a judge needs to make a decision about where she will live.



The Solution



The judge asks someone called a Guardian ad Litem (GAL) volunteer and an attorney to learn about Annie's family and home life so they can tell the judge what's best for her. The GAL volunteer, Monica, listens to Annie's story.



The Result

Because of Monica's work, Annie now has a safe place to live.



Appendix D

Rights of Children in DSCYF Custody*

*13 Del. C. §2522
(P.L. 113-183)



Knowledge

- To be told why I am in foster care
- To know the people on my planning team
- To participate in plans about me in foster care, independent living, and transition
- If I am 14 or older to have two people of my choice be part of my planning team
- To have regular private contact with my DFS worker
- To have regular private contact with my attorney and/or Court-Appointed Special Advocate (CASA)
- To be told about and participate in my court hearings and to speak to my Judge about the decisions being made about me

- To live in a safe place without abuse or neglect
- To receive water, food, shelter, and clothing to meet my own individual needs
- To receive appropriate placement services
- To contact and visit my parents, brothers and sisters in foster care, my own child in foster care, and other individuals. If I can't see my family, I have the right to know why
- To have information about me kept private, as required by law



Safety

- To have help getting needed medical, vision, and dental care
- To have help getting mental health care or substance abuse treatment if I need it
- To have help getting an education
- To stay in the school I am attending when I first come into foster care, if possible, and to remain in that school if any changes in placement occur
- To receive independent living services and supports at age 16 if eligible and if resources are available
- To have help getting my credit history report beginning at age 14
- To have help to participate in activities and events that support my interests and development
- To be given my birth certificate, social security card, driver's license or identification card, health records, and credit history report when I leave foster care
- To report any violation of my rights or the rights of others without punishment
- To get help with any violation of my rights by telling my attorney, CASA, or Judge



Support

My rights were explained to me and I was given a copy to keep.

Youth: _____ Date: _____

DFS Worker: _____ Date: _____

Appendix E

You are responsible for going over the Rights of Children in DSCYF Custody with your client, using the youth version of the Rights. The youth version is included in the court youth packet. Below is suggested language you can use with your client when explaining the rights.

Knowledge

THE RIGHT	THE EXPLANATION
→ To be told why I am in foster care	Parent(s) or guardians are currently unable to provide necessary care to the youth. Talk about what that looks like in the youth’s particular case.
→ To participate in plans about me in foster care, independent living, and transition	Youth should be invited to team meetings and his or her input should be included when making decisions.
→ If I am 14 or older, to know the people on my planning team and to have two (2) people of my choice be part of it.	Youth can choose any two people (ex: teachers, coaches, foster parents, etc.) approved by DFS to be a part of the team. Others on the team include DFS worker, IL provider, or Child Attorney and CASA Volunteer
→ To have regular, private contact with my DFS worker	DFS or foster care agency worker will meet with youth individually at least once a month to discuss needs and decisions.
→ To have regular, private contact with my Attorney and CASA Volunteer	Child Attorney and CASA Volunteer will meet with youth individually on a regular basis to discuss needs and decisions. (Discuss with youth what regular contact should be and what type of contact is preferred).
→ To be told about and participate in my court hearings and to speak to my Judge about decisions being made about me	Child Attorney and CASA Volunteer should make sure youth knows about all court hearings and youth should be encouraged to participate in the way he or she feels most comfortable. Youth Guide and Questionnaire should be used here by Child Attorney and CASA Volunteer to explore options and make appropriate arrangements.

Safety

→ To live in a safe place without abuse or neglect	No child or youth should ever live in an abusive or neglectful home. Inform your DFS worker, Attorney, CASA Volunteer or Judge if you do not feel safe.
→ To receive water, food, shelter, and clothing to meet my own individual needs	All basic needs must be provided to the youth. Inform your DFS worker, Attorney, CASA Volunteer or Judge if you feel your needs are not being met.
→ To receive appropriate placement services	Youth is entitled to be placed in a foster home or group home that is appropriate for them and their needs.

→ To contact and visit my parents, brothers and sisters in foster care, my own child in foster care, and other individuals. If I can't see my family, I have the right to know why	DFS or foster care agency worker will set up visitation with family members. If this cannot be done, youth should be informed as to why this cannot happen.
→ To have information about me kept private, where required by law	Most information about the youth is confidential. However, there is information that must be shared with others including treatment providers and the Court.

Support

THE RIGHT	THE EXPLANATION
→ To have help getting mental health care or substance abuse treatment if I need it	Team members should help youth get their desired or required health care or treatment.
→ To have help getting an education	Youth will have help in getting an education and accessing any education related services.
→ To stay in the school I am attending when I first come into foster care, if possible, and to remain in that school if any changes in placement occur	Youth can stay in their school of origin, if possible. If this is not possible, all efforts to stay in school should be made.
→ To enjoy age and developmentally-appropriate activities and experiences that allow me to grow and mature	Team members should explain the reasonable and prudent parent standard with youth, informing them of their right to participate in extra-curricular, enrichment, cultural and social activities
→ To receive independent living services and supports at age 16 if eligible and if resources are available	Once the youth turns 16, IL services will be provided, if the youth is eligible. Services will include housing, employment, education, medical coverage and community resources.
→ To have help getting my credit history report beginning at age 14	Team members will help youth get credit history report. If there is a problem with the youth's credit, support will be given to help repair credit.
→ To be given my birth certificate, social security card, driver's license or identification card, health records, and credit history report when I leave foster care	Team members will be sure that youth who have been in care at least 6 months get this information before the youth exits foster care and has hard copies with them upon leaving DSCYF custody.
→ To report any violation of my rights or the rights of others without punishment, and to get help with any violation.	Team members should help youth with reporting any violation and assist in taking appropriate action if any violations have occurred.

Appendix F

**GUIDE FOR PLANNING MEANINGFUL
YOUTH PARTICIPATION IN FAMILY COURT**

This is a comprehensive tool designed to aid the Child Attorney or CASA Volunteer through a discussion with youth about his or her participation in Family Court hearings. This guide is meant to be used in combination with the *Youth Questionnaire to Facilitate Meaningful Family Court Involvement*.

Name of Youth: _____ Next Hearing Type: _____
Date and Time of Next Hearing: _____ Name of Judge: _____
Age of Youth: _____

SECTION A – IDENTIFYING HOW THE YOUTH WILL PARTICIPATE

Youth have options regarding their participation in Family Court hearings. A youth's age and intellectual development should always be a significant factor in determining his or her mode of participation. Discuss the various options with your client to determine which option is best for each hearing:

1. If the youth chooses to attend the hearing consider these possible options:
 - a. The youth may stay for the entire hearing in the courtroom and answer the Judge's questions in the courtroom.
 - b. The youth may stay for the entire hearing in the courtroom and meet with the Judge separately either before or after the hearing.
 - c. The youth may stay for part of the hearing in the courtroom and leave when _____ occurs.
 - d. The youth remains outside the courtroom during the hearing and meets with the Judge before or after the hearing.
 - e. Other – Ask the youth if he or she has other ideas about participation in the hearing process.

2. If the youth chooses not to attend the hearing he or she can still participate through one of these possible ways:
 - a. Participate in the hearing by phone. (This option is particularly helpful if the youth is placed in an out-of state placement.)
 - b. Meet with the Judge at a different time from the hearing.
 - c. Write a statement to the Judge to be shared by the Child Attorney or CASA. (You can use Court Form 207).
 - d. Ask the Child Attorney or CASA Volunteer to participate and communicate for the youth and report back.
 - e. Other

SECTION B – IDENTIFYING AND RESOLVING BARRIERS TO PARTICIPATION

There are specific topics that the Child Attorney or CASA Volunteer should discuss with their youth client in order to help the youth understand what will happen at the hearing.

1. Who will be at the court hearing and why?
2. What topics will be talked about at the hearing?
3. What is this court hearing supposed to do?
4. What are the parts of the court hearing?
 - a. For example who talks first, next, last?
 - b. When will the youth talk, if the youth chooses to?
5. Where will the youth/others sit during the hearing?
6. Why is it important for the youth to be there?
7. Where will the youth wait before or during the hearing?

After discussing the basic framework for the court hearing, determine if there are any special issues that need to be addressed to aid the youth's meaningful participation in Family Court. Examples of barriers to participation in a court proceeding may include:

1. The youth has a mental health, intellectual or physical disability.
2. The youth is very angry and does not trust anyone connected with the system.
3. The youth does not want to hear very painful things that could be brought up in Family Court.
4. The youth does not want to see his or her parents.
5. The youth is placed very far away.
6. The youth has another activity scheduled at the same time that is important to him or her to attend.
7. The youth is not doing well or there are behavioral issues that may make Family Court tense and uncomfortable for the youth.
8. The youth had an unpleasant Family Court experience when he or she last attended.

If barriers exist, make arrangements to help the youth participate. Examples of arrangements to address an issue could include:

1. Have a counselor, therapist, nurse or treatment provider present or available.
2. Request a specific time block for the hearing.
3. Request that furniture be moved to accommodate medical equipment or assistive technology.
4. Request that breaks in the hearing take place as needed.
5. Have a friend or mentor accompany the youth to Family Court.
6. Arrange for a place to wait that is not as chaotic as a waiting room.
7. Prepare a colloquy or script with the youth to provide structure to the Family Court appearance.
8. Have the youth write a letter that he or she reads or presents to the Family Court.
9. Have the youth present for only a portion of the Family Court hearing.
10. Have the Child Attorney or CASA Volunteer address with Family Court any prior negative experience and youth feedback.

SECTION C – PREPARATION FOR FAMILY COURT

Youth need to be given specific details in advance of the hearing in order to be sure that they will be able to participate meaningfully and feel comfortable at the hearing.

1. Explain your role to the youth and share the Child Attorney or CASA Volunteer brochure.
2. Determine if the youth would like a tour of the courthouse.
3. Show a picture of the Judge.
4. Notify the youth of the court hearing and determine how the youth will be transported to Family Court.
5. Explain to the youth that the Family Court proceedings are recorded for future use.
6. Explain that sometimes hearings run long or there may be a wait in the courthouse before entering the hearing.
7. Explain to the youth the kinds of decisions that will be made at the court hearing depending on the stage of proceeding.
8. Explain to the youth who will be present in the court room and their respective roles.
9. Address good things happening in the youth's life to ensure those are presented to the Family Court.
10. Address any problems that the youth is having, since those may also need to be addressed at Family Court.

SECTION D – LOGISTICAL PREPARATION



1. Finalize and confirm the youth's transportation to Family Court.
2. Remind the youth that cell phones are not allowed in the courthouse.
3. Contact any support people (other than staff or treatment providers) to accompany the youth to Family Court and make arrangements to ensure their appearance.
4. Address any concerns the youth might have about seeing family or anyone else in the waiting area. Arrangements to ensure that waiting is as comfortable as possible for the youth can be made, such as:
 - a. Wait in another Family Court waiting room if available.
 - b. Inform the Family Court of your concerns, and ask to wait in an office or other space in the courthouse (example: OCA office).
5. Ask the youth what activities might help stave off boredom. Some options include:
 - a. Read.
 - b. Play cards, games.;
 - c. Look at college catalogues.
 - d. Do homework.
 - e. Explain or complete forms that many older youth need to complete, such as the FAFSA, ETV application, scholarship applications, etc.
 - f. Other.
6. Ask the youth if they have something they want to bring as a comfort item such as a special stuffed animal, small blanket, or other security item.
7. Bring an extra pad of paper and pen for the youth so that the youth can write notes or questions during the proceeding.

*The AGAL and CASA may not bring the youth's cell phone into the courthouse. As such, ensure that the youth has a safe place to leave a cell phone if the AGAL or CASA transports the youth to court.

SECTION E – DURING COURT

It is necessary not only to prepare the youth before court and to debrief with the youth after court, but to accompany the youth during the actual court process.

1. If the Child Attorney has not transported the youth to court, then immediately seek out your youth client and answer any questions he or she may have upon arrival to the courthouse.
2. Introduce the youth to any persons he or she may not know who are sitting in the waiting area.
3. If possible, review any documents provided to you by the other parties with the youth prior to entering the courtroom, including the case plan of the parents.
4. Explain who the parties are seated in the courtroom and review each of their roles if not introduced in the waiting area.
5. During opening remarks, advise the Court how the youth would like to participate in the hearing, and any accommodations that need to be made. Introduce the youth to the Judge when applicable. If the Judge has not offered for opening remarks, the Child Attorney should stand up and ask to address this as a preliminary matter.
6. If possible, sit next to the youth or near the youth with a pad of paper, so that the youth can write down questions or concerns. Make sure to explain to the youth that the pad of paper can be used to communicate thoughts or questions to you.
7. Prior to questioning each witness, consult with the youth as to any questions he or she wants you to ask.
8. Before concluding the questioning of each witness, ask the court for a moment to consult with the youth as to any other questions he or she wants you to ask that you did not cover.
9. For each witness, try to have the witness focus on the youth's strengths as well as challenges. If the witness discusses only problems or concerns with the youth, ask the witness to provide positive statements regarding what the youth is doing well.
 - a. Keep in mind that adolescents regularly make mistakes like missing school, violating curfew, refusing to do chores, talking back, showing disrespect, etc. This is NORMAL adolescent development. Most adolescents do NOT have Court hearings to review their adolescent "choices." As such, try and keep the Court and counsel focused on this normalcy.
 - b. Keep the youth as calm as possible during difficult testimony, and help the youth to take a break as necessary.
10. Provide ongoing support to the youth during the hearing, making sure to explain difficult terms or further clarify information.
11. At the appropriate time, speak up for the youth, announce youth's desire to speak for him or herself (if applicable), and answer follow up questions from attorneys or the judge. Ensure that substantive issues that the youth wants brought up should have already been at least partially addressed through witness testimony (direct and cross examination).

SECTION F – DEBRIEFING

It is important to debrief with youth clients to ensure they understand what happened in the Family Court hearing and prepare the youth for what is going to happen in the future.

1. Explain what, if anything will change after the court hearing.
2. Ask if there was anything that happened today that did not make sense to the youth.
3. Explain the proceedings as appropriate, discuss:
 - a. Progress on parent's case plan.
 - b. Evidence regarding the youth's well-being.
4. Ask if anything was surprising during the hearing.
5. Ask if the youth felt that his or her concerns and wishes were presented to the Family Court.
6. Inquire as to whether the youth would like to participate in a similar or different fashion at the next hearing.
7. Ask if the youth understands what will happen next.

Appendix G

**YOUTH QUESTIONNAIRE TO FACILITATE
MEANINGFUL COURT INVOLVEMENT**

Instructions: This is a short questionnaire designed as a tool to guide the Child Attorney or CASA Volunteer through the discussion about participation in Court. Participating in Court is important because it gives essential information to the people responsible for making important decisions about the youth's life. ***This document should not be handed to the youth or shared with others.***

This document should be completed by Child Attorney or CASA Volunteer.

Name of Youth: _____ Next Hearing Type: _____

Youth's Age: _____ Name of Judge: _____

Date and Time of Next Hearing: _____

SECTION A – HOW DOES THE YOUTH WANT TO PARTICIPATE?

There are a lot of ways a youth can participate in Family Court hearings about placement in foster care. Ask the youth what he or she thinks about the following suggestions or if he or she has idea for another way to participate.

Do you want to go to the court hearing? Yes___ No___

If yes, you have some options for how you will participate, which option would you like?

- Sit in the courtroom for the entire hearing and answer the Judge's questions in the courtroom
- Sit in the courtroom for the entire hearing and meet with the Judge separately either before or after the hearing
- Sit in the courtroom for part of the hearing and leave when _____ occurs
- Remain outside the courtroom during the hearing and meet with the Judge before or after the hearing
- Other

If no, you still have some options for participation, which option would you like?

- Participate by phone
- Meet with the Judge at a different time than the hearing
- Write a statement to the Judge, which can be read aloud during the hearing or given to the judge (You can use Court Form 207).
- Ask the Child Attorney and CASA Volunteer to participate and communicate for you and report back
- Other

SECTION B – CONCERNS ABOUT PARTICIPATION

Details and information about the court hearing may help youth feel prepared for the court hearing. The Child Attorney and/or CASA Volunteer will tell the youth the details about this hearing. The Child Attorney and/or CASA Volunteer want to know about the youth’s feelings, concerns and needs to prepare for the court hearing. The following questions may help guide the Child Attorney and/or CASA Volunteer in preparation for the court hearing:

How do you feel about participating in the court hearing in Family Court?

How do you feel about seeing your parents and other adults in the court hearing?

Would you like to talk about the topics that may be discussed at the court hearing?

Are you concerned about any topics that may be discussed at the court hearing?

Are there any special requests or needs that will make your participation more meaningful?

What times are better for you when scheduling future hearings?

SECTION C – PREPARATION FOR FAMILY COURT

The Child Attorney and CASA should gather information that the youth would like to share in Family Court through the following questions.

Tell me three good things that are happening in your life that we can share at Family Court: (You can include things like: school, hobbies, a job, an award received, test scores, an important relationship with friends or family, etc.)

- 1.
- 2.

3.

Are there any problems you are having that you want to talk about at Family Court?

Do you want any help getting ready to participate in Family Court? (Check any that apply)

- Go over questions that you may answer
- Practice your answers
- Help writing a letter to the judge
- Practice reading the letter you wrote

Would you like someone to come to Family Court with you, someone besides me and your DFS worker? (For example, a friend, IL worker, relative, teacher, therapist, nurse, etc.)

Yes___ No___

Name of person: _____

Contact information: _____

Is there anyone you think you may see at the hearing that causes you to feel concerned or nervous?

Yes___ No___ If yes, why?

Do you have any questions about participating in the hearing?

Yes___ No___

What would you like to do if we have to wait before the court hearing?

- Read
- Play cards or games
- Look at college catalogues
- Do homework
- Work on forms such as the FAFSA, ETV application, scholarship applications, etc.
- Other _____

SECTION D – ORGANIZING FOR THE FAMILY COURT HEARING

There are some details that need to be discussed and completed to be prepared for the court hearing.

Do you know how you will get to Family Court?

- | | |
|---|---|
| <input type="checkbox"/> Transportation Company | <input type="checkbox"/> Independent Living Case Worker |
| <input type="checkbox"/> DFS Case Worker | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Foster Parent | |

Name of person or agency responsible: _____

Contact Information: _____

Do you need breaks during the hearing?

Yes___ No___

Would you like to make a list of items to remember to bring to Family Court? For example:

- | | |
|---|---|
| <input type="checkbox"/> A statement | <input type="checkbox"/> Forms such as the FAFSA, ETV application, scholarship applications, etc. |
| <input type="checkbox"/> A book | <input type="checkbox"/> Small comfort item |
| <input type="checkbox"/> Cards or games | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> College catalogues | |
| <input type="checkbox"/> Homework | |
| <input type="checkbox"/> An Award | |
| <input type="checkbox"/> Report Card | |

SECTION E – DURING COURT

Upon arriving to the courthouse, immediately go to the youth (if the Child Attorney has not transported the youth to Court):

- How are you? How is your day going?
- Do you know the people seated here waiting?
- Do you have any questions for me before we go into Court?

- Other than what we already prepared for, is there anything else you want to make sure is covered today?
- If any documents need to be reviewed, go over them.

Once seated in the courtroom, ask the youth a few questions:

- Do you know who everyone is ?
- Do we have our pad of paper and a pen to write notes or questions?
- If you get uncomfortable, are there ways that I can help you feel more comfortable?
- Do you understand everything that's being discussed?
- Have I covered all of your questions with the witnesses who have testified? Is there anyone else we should hear from that is present?
- Are we ready to speak up to the Judge? What does the judge need to hear from you?
- Other _____

SECTION F – AFTER THE COURT HEARING

Reviewing what happened after Family Court can help ensure that youth understands the information from the court hearing and informs the Child Attorney and/or CASA Volunteer about any concerns that the youth may have as a result of the court hearing.

Did the court hearing change anything?

Yes___ No___ If Yes, what? _____

Was anything confusing?

Yes___ No___ If Yes, what? _____

Did you like or dislike the way you participated?

Yes___ No___ Why? _____

Did you feel like you were able to express your wishes and concerns?

Yes___ No___

Did the hearing have any surprises?

Yes___ No___ Why? _____

Do you know what is supposed to happen now?

Yes___ No___ Why? _____

Do you know when the next court hearing is scheduled?

Yes___ No___ Date? _____



Remember: Cell Phones and electronics are not permitted in the Family Court.