

## Division of Family and Children Services Supporting Caregiver's Right To Be Heard

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### **BACKGROUND**

Foster and adoptive parents, including relative care givers, have the right to receive notice of hearings relating to the children in their care and the right to be heard at those hearings. "Hearings" means periodic reviews and permanency. Courts must consider their oral or written testimony along with all testimony and evidence presented.

Specifically O.C.G.A. §15-11-58(p) states the following: *in advance of each review or hearing to be held with respect to a child pursuant to this Code section, **the court shall provide written notice or shall direct that a party shall provide written notice of such review or hearing, including their right to be heard at such review or hearing, to the custodian of the child, to the foster parents of the child, and to any preadoptive parents or relatives providing care for the child, consistent with the form and timing of notice to parties; provided, however, that this provision shall not be construed to require a custodian, foster parent, preadoptive parent, or relative caring for the child to be made a party to the hearing solely on the basis of such notice and opportunity to be heard. At each such hearing the court in its discretion, based upon the evidence, may enter an order accepting or rejecting any report of the Division of Family and Children Services of the Department of Human Resources, ordering an additional evaluation, appointing a guardian ad litem, or undertaking such other review as it deems necessary and appropriate to determine the disposition that is in the child's best interest. The court's order may incorporate all or part of the report of the Division of Family and Children Services of the Department of Human Resources. In its order the court shall include findings of fact which reflect the court's consideration of the oral and written testimony offered by the parents, the custodian of the child, the foster parents of the child, any preadoptive parents or relatives providing care for the child who are required to be provided with notice and a right to be heard in any review or hearing to be held with respect to the child, and the Division of Family and Children Services of the Department of Human Resources. A disposition may be made under the terms of this Code section only if the court finds that such disposition is in the best interest of the child.***

### **ISSUE**

Supporting the court process to notify caregivers of hearings and informing caregivers of their *right to be heard* at such hearings supports DFCS' partnership with caregivers as well as has the potential to improve permanency outcomes for children as additional case perspectives may be included in court findings. Additionally, as per the state's Federal Program Improvement Plan, DFCS is committed to 1) supporting the Court Improvement Project's (CIP) annual survey of foster parents to identify notification problem areas, 2) support CIP trainings on the *right to be heard*; and, 3) based upon CIP and other feedback, create a plan to address barriers to caregiver notice and participation in court hearings.

Results from the most recent CIP survey of 124 care givers revealed the following about notification of hearings: Always notified **15.3%** (19); Notified most of the time **20.2%**(25); Notified some of the time **21.0%**(26); Rarely notified **15.3%**(19); and Never notified **26.6%**(33). About 50% knew about their rights and 50% of survey respondents did not.

To gather a fuller picture, additional responses were gathered from DFCS staff and private partners regarding the following two questions and possible solutions:

1. What is the current process for notifying caregivers of hearings?
2. What are the barriers to notifying caregivers of hearings? Are there any disincentives for staff compliance?

What is the current process for notifying caregivers of hearings?

As expected, the majority of respondents to this question stated that notification was provided to caregivers via a phone call or email. A private provider stated that caregivers are “typically notified by phone by the DFCS case manager a few days or sometimes the day of a hearing.”

It should be noted that the actual responsibility of notification to caregivers remains a court function; the law states that the court shall provide written notice or shall direct that a party provide notice of a hearing. That notwithstanding, DFCS staff has taken an active role in supporting notification. Additionally, DFCS is normally the party directed by the court to provide said notice of a hearing to the caregiver.

What are the barriers to notifying caregivers of hearings? Are there any disincentives for staff compliance?

The following summary of barriers was revealed:

1. A private provider stated their case managers have a lack of knowledge regarding the court process, thus making it difficult for them to provide clarifying and supportive information to their caregivers.
2. Private agency caregivers may receive notice, but the private agency case manager does not.
3. Short or same day notification of hearings (which may or may not be a DFCS-caused issue, i.e. the case manager did not receive earlier notice either) creates caregiver participation issues related to child care, transportation, and getting time off from responsibilities (work, for example) to attend.
4. Foster parents who are notified and show-up for court indicate they are rarely asked to actually participate at the hearing. They often see the “notification” as a request for them to come just as a means of ensuring the child’s attendance.
5. There are variation across the state as to how notification actually occurs.
  - a. The court does not have a uniform system for providing notice to non-party caregivers.
  - b. The court may neither provide the notice or direct DFCS or another party to provide the notice; therefore, no one knows who is responsible for providing notice.
  - c. The court or the party that has the responsibility of providing notice may not have the names or contact information for non-party caregivers.
6. Caregivers overall don’t know or understand their rights.

**PLAN**

Based upon a synthesis of information and survey results from the CIP, four areas have been targeted for improvement. Improvement in these areas should have the greatest impact on the number of caregivers notified and who actually exercise their rights.

- A. Knowledge:** Ensure that staff and caregivers understand their *right to be heard*

**Action Step I. Support training through the Georgia Adoptive and Foster Parent Association of Georgia (AFPAG)** Continue to support AFPAG/CIP training at AFPAG conferences; and at regional conferences / county trainings throughout the state. AFPAG has an active partnership with Juvenile Court Judge Britt Hammond. Judge Hammond and AFPAG conduct approximately three workshops per month on court process, which includes the *right to be heard*.

**Action Step II. IMPACT Pre-Service and In-Service Training** Information on the *right to be heard* will be included in the redesign of **IMPACT Pre-Service** training. Information

will be included in Module 3: Permanency Planning and in Module 10: The Wrap-Up. **IMPACT In-service**, which delineates new expectations for foster parent skill and knowledge development during the first year of service, includes *Foster Parenting 101*. *Foster Parenting 101* will include a full discussion on the Foster Parent Bill of Rights and include a further discussion on the *right to be heard*.

Both the pre-service and in-service curriculums are under-development; the final versions will be available for review by December 2009. They will be used in the Innovations Zones first and rolled-out statewide beginning August 2010.

**Action Step III. Disseminate information through The Practitioner** The practitioner is a monthly newsletter published by the State Office. The first issue was published August 2009. The target audience is front-line DFCS and private agency staff. At least one article will be included on the *right to be heard* by January 2009 and thereafter at least once a year.

**Action Step IV. Child Placing Agencies** Private agency providers may use IMPACT training or other approved courses. If they choose to use an alternative training platform for pre-service and in-service, they must include substantive information on the *right to be heard* at pre-service and as an annual training offering.

- i. Include requirement in the next provider's contract revision.

**B. Notification:** The court's written notification to caregivers requirement notwithstanding, DFCS will provide an additional caregiver notification through letter, email, in-person (during home and office or other visits) and by phone.

**Action Step I. Case manager notification** DFCS case managers must document notification to caregivers for all hearings in GA SHINES within the case narrative. The narrative must indicate when notification was given, whether or not the caregiver intends to participate in-person or through a written statement. After hearings, the case narrative must reflect the results of the hearing and include whether or not the caregiver participated and if not, why not.

- i. Publish supporting Social Services Policy by December 31, 2009.

**C. County Strategy:** Each county department and the local court need a partnership plan for notifying caregivers.

**Action Step I.** DFCS regional directors, through their county departments, will develop a written strategic partnership plan with their juvenile court system regarding the *right to be heard* by December 31, 2009. The completed report will be published for the February 26, 2010.

**D. Self-Advocacy:** Caregivers must take an active role in ensuring their own rights.

**Action Step I.** Through a one-time mass mailing **veteran caregivers** will be provided with a home visit check-sheet to support their contacts with casemanagers including questions regarding court dates. Additionally, caregivers will be provided with sample documentation of a "written testimony" and with general information regarding providing verbal testimony. New caregivers will be provided the same information as an addendum to the Foster Parent Manual.

- i. Mailing will be developed in partnership with AFPAG and ready for review by January 29, 2010.
- ii. Mass mailing date will be no later than March 31, 2010.

**OUTCOME MEASURES**

- A. Compare year-to-year results of the Court Improvement Project surveys of caregivers at AFPAG conferences.
- B. Partner with AFPAG to survey local foster parent associations on notification of hearings and frequency that rights are exercised.