

**PROTOCOLS RELATIVE TO  
CHILDREN AND YOUTH IN COURT  
RSA 169-C CHILD PROTECTION CASES**

**FOR USE IN THE NEW HAMPSHIRE CIRCUIT COURTS**



**DEVELOPED BY THE FRANKLIN AND CONCORD MODEL COURT PROJECT  
IN COOPERATION WITH THE  
NEW HAMPSHIRE COURT IMPROVEMENT PROJECT**

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## INTRODUCTION AND ACKNOWLEDGMENTS

In 2008, the National Council of Juvenile and Family Court Judges (NCJFCJ), with support from the New Hampshire Court Improvement Project (CIP), selected the Franklin and Concord courts to become part of a positive and innovative national Model Court grant program directed at developing and implementing best practices in abuse and neglect proceedings. In 2010, the Franklin and Concord Model Court Project committed to providing children and youth an opportunity to participate in RSA 169-C post-adjudicatory court hearings involving their parents. This commitment is consistent with positions taken by both the NCJFCJ and American Bar Association. As a result, the Model Court developed new protocols, encouraging and supporting children and youth to attend court hearings or, alternatively, to participate in court hearings by submitting a letter, drawing and/or photograph to the court through their CASA GAL or GAL. It is expected that the participation of children and youth will result in better outcomes, both in terms of their permanency and well-being.

Beginning in July 2011, draft protocols were piloted in the Franklin and Concord courts for all current and new RSA 169-C cases. The participation of children and youth in court, consistent with those protocols, was evaluated for over six months. The evaluations completed by court users were invaluable in providing information about the experience of having children and youth attend court hearings and about the value of their participation and impact on judges and stakeholders. The feedback, which was overwhelmingly positive, has been incorporated into the 2012 *Children and Youth in Court Protocols*.

Insofar as these protocols suggest any interpretation of the law, the reader should bear in mind that the interpretation of the law, as it applies to any given case, is within the sole province of the trial judge, subject to the ultimate review by the New Hampshire Supreme Court. The 2012 *Children and Youth in Court Protocols* do not create substantive rights that do not currently exist and should not be considered as superseding any constitutional or statutory rights of parties to proceedings related to abuse and neglect.

The 2012 *Children and Youth in Court Protocols* are the result of a significant and continued collaboration of the Franklin and Concord Circuit Courts, representatives from CASA of New Hampshire, the Division for Children, Youth and Families, the New Hampshire Bar Association and members of the Franklin and Concord communities. Initial input for these protocols was also solicited from youth, as well as foster and adoptive parents. Our gratitude is owed to them and all who have participated in this important project.

Special thanks go to Kristy Lamont, who has kept the engine of the Model Court Project running smoothly. Special thanks are also extended to the project's consultant, David Sandberg, who has helped guide the project's development of these protocols, and to Marge Therrien from the Circuit Court Administrative Office, who worked patiently with us as we drafted, edited and finalized the protocols. A grateful thank you also goes to CASA's President/CEO, Marcia Sink, who chaired the Children and Youth Protocol Committee, and the following other members of the Model Court's Executive Committee and Protocol Committee, who gave countless hours of their time to make this project happen:

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As with other protocols we've developed, the *2012 Children and Youth in Court Protocols* are intended for use in the New Hampshire Circuit Courts. The Model Court Children and Youth Protocol Committee met for a year to develop "best practices" that are intended to further children and youth having a positive and personally meaningful experience in court – beyond merely appearing at hearings. These "best practices" are set forth in the *2012 Children and Youth in Court Protocols*. There may be logistical issues in some courts, but as discovered in Franklin and Concord, they can be accommodated. It may also be challenging for some court users to adapt to a changing court culture. But it is expected that judges, by giving the subjects of their decision making a voice, will obtain a greater understanding of their needs and expectations, resulting in better outcomes for all. The experience in Franklin and Concord tells us that when children and youth, as well as pre-schoolers, are directly involved, we truly have a family court.



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## CHILDREN AND YOUTH IN COURT IN RSA 169-C CASES

### INTRODUCTION

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

In undertaking this initiative to have children and youth have an opportunity to participate in RSA 169-C post-adjudicatory court hearings, New Hampshire’s Franklin and Concord Model Court and Court Improvement Projects (CIP) joined a growing number of states that recognize that the long-standing practice of shielding children and youth from court proceedings, however well-intended, often does not benefit them or the judges who make critical life decisions about them. Moreover, emerging research appears to largely dispel concerns about children and youth being traumatized by appearing in court. (1) These findings comport with our own experience in the Franklin and Concord courts where draft Children and Youth in Court Protocols were piloted and evaluated. The response to these protocols was and continues to be overwhelmingly positive.

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

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(1) See e.g. V. Weisz et al, “Children and Procedural Justice”, 44 Court Review: The Journal of the American Judges’ Association at 36 (2007-2008). See also Hon. William G. Jones (ret.), “Making Youth a Meaningful Part of the Court Process”, Juvenile and Family Justice Today at 20 (Fall 2006).

**PROTOCOL 1 THE COURT, PARTIES AND ADULT CAREGIVERS TO ENCOURAGE CHILDREN AND YOUTH TO PARTICIPATE IN SPECIFIED RSA 169-C COURT HEARINGS**

The court, parents, CASA GAL or GAL, the Division for Children, Youth and Families (DCYF), and adult caregivers, including foster parents, pre-adoptive parents and relative caregivers, should encourage and support all interested children and youth, **whether residing at home or in an out-of-home placement**, to attend and/or “otherwise participate” in **specified RSA 169-C court hearings**, beginning with the dispositional hearing.

At the option of a child/youth, and not ordered by the court against a child/youth’s wishes, a child/youth may participate in **specified RSA 169-C court hearings** by:

- Attending all or part of the hearing.
- Speaking with the judge in the presence of all parties or outside the presence of all parties with the judge and a member of the court staff.
- Observing the court hearing.
- “Otherwise participating” in the court hearing by submitting a letter, drawing and/or photograph to the judge and all parties through a CASA GAL or GAL.

“Youth” includes the age group 14-20 years of age. “Child/children” include the age group 5-13 years of age. “Pre-schoolers” include the age group 0-4 years of age, and their more limited involvement in court hearings is addressed in its entirety in **Protocol 2C**.

**COMMENT**

The goals of the Children and Youth in Court Protocols are to enhance:

- children/youth’s feelings of being acknowledged, valued and heard by talking with the judge at RSA 169-C court hearings, and/or communicating with the judge by submitting a letter, drawing and/or photograph; and
- a judge’s understanding of the children and youth about whom the judge makes significant life decisions.

**PROTOCOL 2 SPECIFIED RSA 169-C COURT HEARINGS IN WHICH CHILDREN, YOUTH AND PRE-SCHOOLERS ATTEND AND/OR “OTHERWISE PARTICIPATE”**

Children and youth, **at their option**, and pre-schoolers may attend and/or “otherwise participate” in the following specified RSA169-C court hearings.

**A. Youth (14-20 Years of Age)**

- Dispositional Hearing;
- All Review Hearings;
- Permanency Hearing; and
- Post-Permanency Hearings in RSA 169-C cases.

**B. Children (5-13 Years of Age)**

- Dispositional Hearing;
- All Review Hearings;
- Permanency Hearing on a **case-by-case basis**; and
- Post-Permanency Hearings in RSA 169-C cases.

Permanency hearings, at times, can be contentious and stressful, thereby warranting a case-by-case determination by the court whether a child 5-13 years of age should be invited to attend all or part of a permanency hearing. If it is determined by the court at a prior hearing that the child will be excluded from the entire permanency hearing, the court should:

- Encourage an interested child to “otherwise participate” by submitting a letter, drawing and/or photograph to the judge and all parties through a CASA GAL or GAL;
- Via the child’s CASA GAL or GAL, have the child convey any views the child has of the proposed permanency plan, pursuant to Family Division Rule 4.5, and/or any thoughts or feelings she/he may want the court to know; and/or
- If requested by a child, meet following the permanency hearing, consistent with Family Division Rule 4.5.

**C. Pre-Schoolers (0-4 Years of Age)**

***The more limited involvement of pre-schoolers in RSA 169-C court hearings is addressed in its entirety in this protocol.***

Pre-schoolers should attend the following specified RSA 169-C court hearings:

- *3-Month Review Hearing;*
- *9-Month Review Hearing; and*
- *Initial RSA 169-C Post-Permanency Hearing. (The first hearing after the permanency hearing).*

**1. Arranging Transportation for Pre-Schoolers to Appear at the 3-Month and 9-Month Review Hearings and Initial RSA 169-C Post-Permanency Hearing**

*DCYF shall discuss transportation arrangements with parents, foster parents, pre-adoptive parents and relative caregivers so that pre-schoolers are able to appear at the 3-Month and 9-Month Review Hearings and initial Post-Permanency Hearing. Whenever possible, the pre-schooler will be transported by the adult with whom he/she is residing. In the event the adult with whom the pre-schooler is residing is unable to transport him/her to the 3-Month and 9-Month Review Hearings and initial Post-Permanency Hearing, best practice is for DCYF to collaborate with the CASA GAL or GAL to identify an adult the child/youth knows and with whom the child/youth is comfortable who is able to provide transportation.*

**2. Pre-Schoolers Attending the 3-Month and 9-Month Review Hearings and Initial RSA 169-C Post-Permanency Hearing**

*Best practice is for the court to spend 5 minutes at the outset of a 3-Month and 9-Month Review Hearing and initial Post-Permanency Hearing at which a pre-schooler is present **welcoming and engaging** with the pre-schooler. The court should also observe any interaction the child has with his/her parents and/or adult caregivers.*

*Thereafter, and absent the pre-schooler being unduly distracting or a party objection sustained by the court, the pre-schooler should be allowed to **stay for the remainder of the hearing**. This practice has the added benefit of the adult who transported the pre-schooler to the hearing, be it parent, foster parent, pre-adoptive parent or relative caregiver, being able to remain for the entire hearing.*

***If the court sustains a party objection or the pre-schooler is unduly distracting**, the court should (a) ensure that the pre-schooler has been acknowledged and thanked for coming to court, and (b) speak with the adult (if present in the courtroom, such as a foster parent, pre-adoptive parent or relative caregiver) who transported the pre-schooler to the hearing about the pre-schooler's status, and then excuse the adult and the pre-schooler from the hearing.*

**COMMENTS**

*Pre-schoolers are distinguished from children and youth by their general inability to make an informed decision about whether to attend a hearing. Based on the positive experiences of judges nationally and in the Franklin and Concord Model Court Project, this Protocol makes the substituted judgment that the court should see pre-schoolers at the 3-Month and 9-Month Review Hearings and initial Post-Permanency Hearing. The purpose of pre-schoolers being present at these hearings is to ensure that the court is able to see them at least once every six months.*

*In both removal and non-removal cases, best practice is for the adult who transports the pre-schooler, be it parent, foster parent, pre-adoptive parent or relative caregiver, to arrange for another adult known to the child/youth to accompany them to the RSA 169-C court hearings. In this way, if a pre-schooler is unable to remain for the entire hearing, the foster parent, pre-adoptive parent or relative caregiver can remain at the hearing while the other adult waits with the pre-schooler outside the courtroom until the hearing concludes.*

### **PROTOCOL 3 CHILDREN AND YOUTH'S EXPECTATIONS**

Based on the roles and responsibilities of the court and its staff, CASA GAL or GAL and DCYF, as described in **Protocols 4 through 7**, children and youth, **in removal and non-removal cases**, will have the following expectations about their participation in RSA 169-C court hearings involving their parents:

**1. Letter from the Judge:** A child/youth's CASA GAL or GAL will give him/her a letter from the judge inviting the child/youth to attend and/or "otherwise participate" in specified RSA 169-C court hearings involving their parents.

**2. Option to Attend RSA 169-C Court Hearings and "Otherwise Participate" in Hearings:** At the option of a child/youth and not ordered by a judge, a child/youth may attend specified RSA 169-C post-adjudicatory court hearings.

Either in addition to attending a court hearing or as an alternative to attending, a child/youth may "otherwise participate" by submitting a letter, drawing and/or photograph to the judge through the child/youth's CASA GAL or GAL. All parties will receive a copy of what a child/youth submits. A child/youth may receive assistance from the CASA GAL or GAL to "otherwise participate".

**3. Preparation for a Court Hearing:** A CASA GAL or GAL will prepare a child/youth interested in attending an RSA 169-C court hearing, including giving the child/youth general information about an upcoming hearing and the opportunity to watch the video "**Court . . . I'm Going**".

**4. Transportation:** DCYF will discuss transportation arrangements with parents, foster parents, pre-adoptive parents and relative caregivers so that an interested child/youth will be able to attend a court hearing. Whenever possible, a child/youth will be transported by the adult with whom he/she is residing. In the event this adult is unable to transport, best practice is for DCYF to collaborate with the CASA GAL or GAL to identify an adult the child/youth knows and with whom the child/youth is comfortable who is able to provide transportation.

**5. Court Security:** Court Security Officers will make a child/youth feel welcomed and as comfortable as possible upon entering the court building. There is court security at a courthouse to make sure everyone stays safe.

**6. Waiting for and Sitting in a Court Hearing:** A child/youth may sit with whomever he/she would like while waiting for a hearing to be called. When in the courtroom, a child/youth may sit with any party, including his/her parent(s), CASA GAL or GAL, or with his/her foster parents or relative caregivers.

If there is an RSA 169-C Order of Protection involving a child/youth and his/her parent(s), or other no contact orders or circumstances that warrant it, the CASA GAL or GAL will make prior arrangements with the court staff for the child/youth to wait in a separate room before going into the court hearing.

**7. Attending a Court Hearing:** The judge will spend a few minutes at the outset of the court hearing making the child/youth feel welcomed and as comfortable as possible.

Unless otherwise determined by the court, a child/youth will attend the entirety of a hearing unless the child/youth decides for any reason to leave before the hearing ends. If a child/youth will not stay for the entire hearing, the judge will give the child/youth an opportunity to speak with the judge before leaving.

**8. Speaking in Court:** If a child/youth chooses to speak during a court hearing in the presence of the parties, the child/youth will be treated with respect and not examined, cross-examined or interrupted while speaking.

**9. Meeting with the Judge:** At the option of a child/youth, he/she may meet with and speak to the judge and a member of the court's staff, either during or after a court hearing. If requested by a party, the meeting will be recorded.

**10. De-briefing about the Court Hearing:** Within 48 hours of a court hearing, the CASA GAL or GAL will contact the child/youth in person or by telephone. The CASA GAL or GAL will talk to the child/youth about his/her experience attending the court hearing, whether it was a positive one and if he/she would like to fill out a survey about the experience.

#### **PROTOCOL 4 THE COURT STAFF'S ROLE**

Court staff shall support children and youth attending specified RSA 169-C court hearings and/or "otherwise participating" as follows:

- **Coordinating the Judge's Letter Inviting Children/Youth to Attend RSA 169-C Court Hearings.**
- **Scheduling Hearings, Including When Children/Youth and Adult Caregivers Are Available.**
- **Issuing Notice of Hearings to Foster Parents, Pre-Adoptive Parents and Relative Caregivers.**
- **Responding to Requests for Children/Youth to Visit the Courthouse Prior to Hearings.**

- **Court Security Officers (CSOs) Welcoming Children and Youth in Court.**
- A. Coordinating the Judge’s Letter Inviting Children/Youth to Attend RSA 169-C Court Hearings**

Court staff shall provide the CASA GAL or GAL with multiple letters from the judge inviting children/youth to attend RSA 169-C specified court hearings and/or to “otherwise participate” in these hearings.

## **COMMENTS**

A sample letter inviting children/youth to attend RSA 169-C court hearings is available through the New Hampshire Court Improvement Project. It sets forth the information that judges are encouraged to include in their letters to be consistent with these protocols.

Based on the experience in the Franklin and Concord Model Court Project, best practice is for the court staff to periodically provide the **CASA supervisor or GAL** with multiple letters from the judge inviting children/youth to attend RSA 169-C court hearings. If possible, these letters should be on letterhead and include an original signature of the judge, both of which may mean a great deal to many of the children and youth receiving the letter. When additional letters are needed, the **CASA supervisor or GAL** should notify the court staff and request that multiple letters from the judge be provided.

**For new cases**, the CASA GAL or GAL will personally present the letter to the child/youth prior to the dispositional hearing but not until and unless the court makes a finding of abuse or neglect. **For ongoing cases**, the CASA GAL or GAL shall personally present the letter from the judge to the child/youth as soon as possible and sufficiently in advance of the next scheduled hearing.

- B. Scheduling Hearings, Including When Children/Youth and Adult Caregivers Are Available**

When scheduling an RSA 169-C court hearing, to the extent possible court staff should take into account the following:

- 1. Availability of the Child/Youth**

The court staff should select a date and time that least conflicts with a child/youth’s school schedule and any important activities, **as provided to court staff by the child/youth or the CASA GAL or GAL in the cover sheet** attached to the court report. In addition, the court staff should schedule hearings later in the day for cases that involve educational neglect and high school-age youth.

However, if a child/youth is unable to attend a court hearing on the only available date and time, best practice is for court staff to schedule the hearing as to be held in a timely manner. In such cases, the court and parties should discuss the option of the court meeting with the child/youth, consistent with **Protocol 7 A, 4**, and as soon after the hearing as possible.

## **2. Availability of Foster Parent, Pre-Adoptive Parent or Relative Caregivers**

In removal cases, the court staff should select a date and time that least conflicts with the schedule of a foster parent, pre-adoptive parent or relative caregiver who, typically, plays a vital role in transporting a child/youth to and from court hearings that a child/youth wants to attend and in reporting to the court on the status of the child/youth.

## **C. Issuing Notice of Hearings to Foster Parents, Pre-Adoptive Parents and Relative Caregivers**

In removal cases and pursuant to Family Division Rule 4.4, court staff shall provide notice to foster parents, pre-adoptive parents and relative caregivers of all review hearings, permanency hearings, and post-permanency hearings. Best practice is for court staff to also provide these persons with notice of dispositional hearings. Family Division Rule 4.4 also provides foster parents, pre-adoptive parents and relative caregivers an opportunity to submit a letter or report to the court.

To accomplish this, DCYF shall:

- In removal cases, provide to the court at the **adjudicatory hearing** the name and address of the individual with whom the child/youth is residing. If removal occurs after the adjudicatory hearing, DCYF should notify the court, and parties, about the placement and provide all contact information.
- If there is a subsequent change in placement, promptly notify the court, and parties, about the placement and provide the name and address of the individual with whom the child/youth is residing.

## **COMMENTS**

As part of its Program Improvement Plan, DCYF introduced statewide, in July 2012, a Hearing Notice sent by CPSWs to assure that foster parents, pre-adoptive parents and relative caregivers have timely and consistent notification of all court hearings subsequent to the dispositional hearing. These hearings include: review hearings, permanency and post-permanency hearings. TPR proceedings are excluded from DCYF's written notification requirement.

The Hearing Notice includes the type of court hearing that is scheduled, the date and time of the hearing and the court location. In the Hearing Notice

foster parents, pre-adoptive parents, and relative caregivers are told the following:

*If you choose to attend the upcoming hearing, you will be given an opportunity to present information to the judge about the status of the child(ren) in your care. Please note that although your attendance at this hearing is encouraged, your participation at it does not make you a party to the case.*

*If you cannot attend the upcoming hearing but would like to submit a letter or report you must do so by sending your letter/report to the assigned CPSW at the address provided above **at least 14 calendar days before the scheduled hearing** to ensure that your letter/report is included with the CPSW's report to the court. The CPSW will provide your letter along with the CPSW's report to the court and all parties to the case (this may include the parent(s), child(ren), CASA/GAL, attorneys, etc.).*

*The letter/report that you submit to the Court should not advance a particular position or plan for the child but should instead focus on the **status of the child(ren)** in your care. Your letter/report should not seek to advance your opinions or advocate a particular permanency plan for a child. Please include your general observations about the behavior of the child(ren) while in your home and the relationship of the child(ren) with any members of your family. You may also want to discuss visits and/or connections between the biological parents and the child(ren), as well as any visits and connections with siblings. Other areas that you may wish to address include any educational, social, medical and/or mental health considerations concerning the child(ren) or any special problems experienced by the child(ren). Please feel free to also include in your comments any other information that in your opinion affects the health, safety or well-being of the child(ren) in your care.*

#### **D. Responding to Requests for Children/Youth to Visit the Courthouse Prior to Hearings**

If requested by a party, court staff should, if possible, arrange with the party for a child/youth to visit the courthouse prior to the child/youth's first appearance at a court hearing.

#### **COMMENTS**

Whenever possible, courts are encouraged to sponsor an **Open House**, which provides another opportunity for children and youth to visit the courthouse, meet the judge and court staff and, it is hoped, begin to feel more comfortable about coming to court and attending RSA 169-C court hearings.

In the Franklin and Concord Model Court Project, an Open House was coordinated by DCYF's Foster Care Resource Worker in collaboration with the

court clerk and a local foster parent. Children and youth were invited to the Open House as well as foster parents and relative caregivers, CASA staff and DCYF's CPSWs. The openness of the judge and court staff played a significant role in the success of the Open House, especially the opportunity to have a judge speak to a group of children and youth and convey to them why it is so important they attend court hearings.

#### **E. Court Security Officers (CSOs) Welcoming Children and Youth in Court**

Best practice is for Court Security Officers to be informed about the judge's letter inviting children/youth to attend RSA 169-C court hearings, the reasons for children and youth attending these hearings, and the special importance of children and youth being made to feel welcomed and as comfortable as possible, including when a child/youth first enters the courthouse and while waiting outside the courtroom or in a separate area for a hearing to be called.

### **PROTOCOL 5 THE COURT'S EXPECTATIONS OF THE CASA GAL OR GAL AND ITS ROLE**

The court's expectations of the CASA GAL or GAL is to carry out the following responsibilities pertaining to children and youth attending and/or "otherwise participating" in specified RSA 169-C court hearings:

- **Ensure the Child/Youth Receives and Understands the Judge's Letter Inviting the Child/Youth to Attend Specified RSA 169-C Court Hearings.**
- **Request a Separate Waiting Area When There is an RSA 169-C Order of Protection or Other Circumstances that Warrant it.**
- **Prepare the Child/Youth for Attending RSA 169-C Hearings, including watching the video "*Court . . . I'm Going*".**
- **Assist the Child/Youth to "Otherwise Participate".**
- **Complete a Standard Cover Sheet and Submit it with the CASA GAL or GAL's Court Report.**
- **De-Brief the Child/Youth after Court Hearings Attended by the Child/Youth.**

Notwithstanding the CASA GAL or GAL being the party the court expects to carry out these responsibilities, it is recognized that in the course of DCYF's ongoing casework and discussions with children and youth, DCYF may need to provide supplemental information about attending court hearings and/or "otherwise participating". This may include DCYF responding to a question a child/youth may have based on discussions with the CASA GAL or GAL such as preparing for attending a court hearing or "otherwise participating" by submitting a letter, drawing and/or photograph.

If a DCYF visit with a child/youth occurs prior to the CASA GAL or GAL presenting the judge's letter inviting the child/youth to attend specified RSA 169-C court

hearings, DCYF should, to the extent possible, have a limited discussion with the child/youth and let him/her know the CASA GAL or GAL will soon present and discuss the judge's letter and, if interested, prepare the child/youth to attend court hearings. In such circumstances, DCYF should notify the CASA GAL or GAL when a child/youth asks questions about the judge's letter and court hearing and the nature of any discussion with him/her.

**A. Ensure the Child/Youth Receives and Understands the Judge's Letter Inviting the Child/Youth to Attend Specified RSA 169-C Court Hearings**

The court shall expect the CASA GAL or GAL to ensure the child/youth, in **removal and non-removal cases**, receives and understands the judge's letter inviting the child/youth to participate in specified RSA 169-C court hearings by:

- Getting from court staff multiple letters from the judge that should be on letterhead and with an original signature of the judge. As needed, additional letters should be requested from court staff. **See Protocol 4, A.**
- **For new cases**, presenting the judge's letter to the child/youth in hand as close in time as possible to the court's issuance of an adjudicatory order and prior to the dispositional hearing. If the court takes the matter under advisement at the adjudicatory hearing, the CASA GAL or GAL shall not present the letter to the child/youth unless and until the court issues a finding of abuse or neglect in its adjudicatory order. **For ongoing cases**, the CASA GAL or GAL shall personally present the letter from the judge to the child/youth as soon as possible and sufficiently in advance of the next scheduled hearing.
- Discussing the judge's letter with the child/youth, and answering any questions the child/youth may have, consistent with a child/youth's age and developmental status.
- Emphasizing that attending a court hearing to which the child/youth has been invited is at the child/youth's option, and that the child/youth may "otherwise participate", either in addition to attending a hearing and/or as an alternative to attending a hearing. A child/youth may "otherwise participate" by submitting a letter, drawing and/or photograph to the judge and all parties through his/her CASA GAL or GAL.
- Encouraging a child/youth who expresses interest in attending an RSA 169-C court hearing and/or "otherwise participating" in such a hearing.
- Inquiring of a child/youth who does not want to attend an RSA 169-C court hearing or "otherwise participate" as to his/her reason(s), and, thereafter, including any stated reason(s) in the standard cover sheet attached to the CASA

GAL or GAL's court report, and reassuring the child/youth that there are no negative consequences for not participating.

- In some instances, there may be discussion about ways to improve a child/youth's experience in court, such as the child/youth preparing "reminder notes".

## **COMMENTS**

The CASA GAL or GAL should request that whomever the child/youth is residing with provide the CASA GAL or GAL with a **school calendar** to facilitate the court's scheduling of future hearings at a date and time that least conflict with the child/youth's schooling.

The 2011 Program Improvement Plan (PIP) for New Hampshire DCYF/DJJS calls for the implementation of a statewide process to send out a notification letter of court hearings to youth, foster, pre-adoptive and relative caregivers in a timely manner. The judge's letter, delivered by the CASA GAL or GAL to children and youth, allows the agency to meet this requirement.

### **B. Request a Separate Waiting Area When There is an RSA 169-C Order of Protection or Other Circumstances that Warrant it**

In cases where there is an Order of Protection pursuant to RSA 169-C:16, I (d)(1) and/or RSA 169-C:19, II(a)(1) for a parent to stay away from a child/youth, the CASA GAL or GAL shall contact a court staff member the day before a scheduled post-dispositional hearing to request that a separate room within the courthouse be made available, apart from the parent(s) against whom there is an Order of Protection, where the child/youth and any accompanying adult(s) can wait until the hearing is called.

## **COMMENTS**

In cases where there is a criminal no contact order involving a child/youth and his/her parent(s), the CASA GAL or GAL should inform the court about the order in its standard cover sheet. DCYF should also inform the court and parties about such an order in its court report.

There may be other circumstances warranting a child/youth waiting in a separate room in the courthouse, such as a no contact provision in an RSA 173-B domestic violence order or a child/youth being unable to come to a court hearing if it means waiting in close proximity to a parent or other family member. In such circumstances, the CASA GAL or GAL should inform the court about these circumstances in its standard cover sheet and DCYF should inform the court and parties about it in its court report.

**C. Prepare the Child/Youth for Attending RSA 169-C Hearings, Including Watching the Video “Court . . . I’m Going”**

The court shall expect the CASA GAL or GAL to prepare a child/youth who expresses an interest in attending an RSA 169-C court hearing by discussing the following with the child/youth:

- **When** the hearing will be held, who will be at the hearing, and the purpose of the hearing.
- **Who will transport** the child/youth to the hearing. (Typically, the adult with whom the child/youth resides will provide transportation. In the event this adult is unable to transport, best practice is for DCYF to collaborate with the CASA GAL or GAL to identify an adult the child/youth knows and with whom the child/youth is comfortable who is able to provide transportation.)
- The court **security process** when entering the courthouse.
- **Where and with whom the child/youth may wait** before and during the hearing (typically, the child/youth may sit with whomever they would like while waiting for the hearing to be called and, when they are in the courtroom, any party or foster parent or relative caregiver).
- In removal cases, **whether the child/youth will be able to see and/or speak with his/her parent(s)** before and/or after the hearing (typically, the child/youth will be able to speak with his/her parent(s) in the courthouse before and/or after the hearing unless the court has issued an RSA 169-C Order of Protection that prohibits contact between a child/youth and one or both of his/her parent(s) or there are other no contact orders or circumstances that warrant it).
- The option of the child/youth **speaking/asking questions at the hearing** with just the judge and a member of the court’s staff, with the understanding the judge may not be able to do what the child/youth requests.
- The option of simply **observing** all or part of a specified hearing.
- The opportunity of the child/youth to also **“otherwise participate”** by submitting a letter, drawing and/or photograph to the judge and all parties through his/her CASA GAL or GAL.
- If a child/youth is interested in talking to the judge, the benefit **of the judge hearing from the child/youth**, although the judge may not be able to do what the child/youth requests.

- The opportunity to watch the **video “Court . . . I’m Going”**, produced by the Franklin and Concord Model Court Project and New Hampshire Court Improvement Project.

**In cases where the court’s adjudicatory order is not issued until sometime after the adjudicatory hearing and a child/youth wants to attend the dispositional hearing**, there may be insufficient time for the CASA GAL or GAL to comprehensively prepare the child/youth. In such cases, the CASA GAL or GAL’s preparation of a child/youth may necessarily be summary in nature but should be sufficient to allow the child/youth to attend the dispositional hearing with a general understanding of what to expect at the courthouse and in the courtroom.

Following the initial preparation of a child/youth that attends an RSA 169-C court hearing and thereafter wants to attend another court hearing, the CASA GAL or GAL should **re-visit preparation basics** to ensure the child/youth remembers/knows what to expect at the courthouse and in the courtroom. In some instances, a subsequent preparation may also include discussion about ways to improve a child/youth’s experience in court, such as the child/youth preparing “reminder notes” if the child/youth forgot to tell the judge everything she/he wanted to say at a prior hearing.

## **COMMENTS**

Best practice is for the CASA GAL or GAL to let the child/youth know that a standard **cover sheet** will be attached to the court report submitted to the judge and all parties, including his/her parent(s).

If time allows, it would be beneficial for a child/youth to **visit the courthouse and courtroom** prior to his/her first appearance in court. If possible, the CASA GAL or GAL should work with DCYF, court staff and the child’s parent or adult with whom the child/youth is residing to arrange for a child/youth to visit the courthouse. If a visit is not possible, the CASA GAL or GAL should provide the child/youth with a sketch of the courthouse interior, including the waiting area and the layout of the courtroom and where each party and the judge typically sit.

### **D. Assist the Child/Youth to “Otherwise Participate”**

In cases where the child/youth would like to “otherwise participate” in an RSA 169-C hearing by submitting a letter, drawing and/or photograph to the judge, the court’s expectation is that the CASA GAL or GAL shall:

- Assist the child/youth in preparing the letter, drawing and/or photograph as requested by the child/youth or, for pre-schoolers 0 to 4 years of age, as determined by the CASA GAL or GAL.

- Explain to the child/youth that copies of any such submissions to the judge must be provided to all parties, including the child/youth's parent(s).
- Include any letter, drawing and/or photograph with the CASA GAL or GAL's court report, and ensure that any letter, drawing and/or photograph is submitted to the court and other parties at least five (5) calendar days prior to the hearing.

**E. Complete a Standard Cover Sheet and Submit it with the CASA GAL or GAL's Court Report**

The court's expectation is that the CASA GAL or GAL shall complete and submit a standard cover sheet with the CASA GAL or GAL court report. The cover sheet will support the judge's welcoming and engaging a child/youth attending an RSA 169-C court hearing by including information such as a child/youth's preferred name or nickname to be called, any recent achievements and/or special interests/activities the child/youth may have or is engaged in.

**COMMENTS**

In cases where there is a criminal no contact order involving a child/youth and his/her parent(s), the CASA GAL or GAL should inform the court about the order in its standard cover sheet. DCYF should also inform the court and parties about such an order in its court report.

There may be other circumstances warranting a child/youth waiting in a separate room in the courthouse, such as a no contact provision in an RSA 173-B domestic violence order or a child/youth being unable to come to a court hearing if it means waiting in close proximity to a parent or other family member. In such circumstances, the CASA GAL or GAL should inform the court about these circumstances in its standard cover sheet and DCYF should inform the court and parties about it in its court report.

**F. De-Brief the Child/Youth after Court Hearings Attended by the Child/Youth**

The court's expectation is that the CASA GAL or GAL shall de-brief with the child/youth **within 48 hours of a court hearing** at which the child/youth attends. This contact with the child/youth may be in person or by telephone.

The de-briefing shall include but not be limited to the following:

- The child/youth's **understanding** of what took place at the hearing and any decision the judge may have made.

- The child/youth's **thoughts and/or feelings** about the hearing and whether attending the hearing was a positive/negative experience for the child/youth and reasons for.
- The child/youth's suggestions about anything the CASA GAL or GAL, DCYF or the court could do to **make the child/youth feel more comfortable** about attending future hearings and/or "otherwise participating".
- In some instances, there may be discussion about ways to improve a child/youth's experience in court, such as the child/youth preparing "reminder notes" if the child/youth forgot to tell the judge everything she/he wanted to say at a prior hearing.
- Whether the child/youth would like to fill out a survey about his/her court experience.

## **PROTOCOL 6 THE COURT'S EXPECTATIONS OF DCYF AND ITS ROLE**

The court's expectation of DCYF is to carry out the following responsibilities pertaining to parents, foster parents, pre-adoptive parents, and relative caregivers so that parents and adult caregivers will be supportive of children and youth interested in attending and/or "otherwise participating" in RSA 169-C court hearings:

- **Inform Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers about the Judge's Letter Inviting Children/Youth to Attend Specified RSA 169-C Court Hearings.**
- **Encourage Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers to be Supportive of Children and Youth Interested in Attending RSA 169-C Court Hearings.**
- **Prepare Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers When a Child/Youth Wants to Attend an RSA 169-C Court Hearing.**
- **Inquire of Parents, Foster Parents, Pre-Adoptive Parents or Relative Caregivers about Transporting a Child/Youth to an RSA 169-C Court Hearings.**
- **Provide the Court With Contact Information for Foster Parents, Pre-Adoptive Parents and Relative Caregivers.**
- **De-Brief Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers.**

Notwithstanding DCYF being the party the court expects to carry out these responsibilities, it is recognized that in the course of the CASA GAL or GAL's discussions with parents, foster parents, pre-adoptive parents and/or relative caregivers, the CASA GAL or GAL may be asked to provide supplemental information about children and youth attending court hearings and/or "otherwise participating"

and/or parents or adult caregivers attending these hearings. This may include the CASA GAL or GAL responding to a question from any of these adults based on discussions with DCYF.

If a CASA GAL or GAL visit with a child/youth occurs prior to DCYF discussing with parents or adult caregivers the letter from the judge inviting children and youth to attend specified RSA 169-C court hearings and “otherwise participate”, the CASA GAL or GAL should, to the extent possible, have a limited discussion and let the parents and/or adult caregivers know that DCYF will soon discuss the judge’s letter inviting the child/youth to attend court hearings. In such circumstances, the CASA GAL or GAL should notify DCYF when a parent and/or adult caregiver asks questions about the judge’s invitation letter and court hearing and the nature of any discussion with these adults.

**A. Inform Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers about the Judge’s Letter Inviting Children/Youth to Attend Specified RSA 169-C Court Hearings**

The court’s expectation is that DCYF shall inform parents and, in removal cases, foster parents, pre-adoptive parents and relative caregivers about the judge’s letter inviting children/youth to attend in specified RSA 169-C court hearings. DCYF shall also inform parents, foster parents, pre-adoptive parents and relative caregivers about the reasons for the court inviting children and youth to participate in court hearings and that they may “otherwise participate” by submitting a letter, drawing and/or photograph to the judge and all parties through the child/youth’s CASA GAL or GAL.

DCYF should discuss with parents and, if applicable, adult caregivers that the decision to attend a court hearing and/or “otherwise participate” should be at the option of the child/youth, as reflected in the judge’s letter, and will not be ordered by the judge.

**COMMENTS**

**For new cases**, DCYF should inform parents, foster parents, pre-adoptive parents and relative caregivers that if the court takes the matter under advisement at the adjudicatory hearing, the CASA GAL or GAL, pursuant to **Protocol 5 A**, shall not present the judge’s letter to the child/youth unless and until the court issues a finding of abuse or neglect in its adjudicatory order. **For ongoing cases**, the CASA GAL or GAL shall personally present the letter from the judge to the child/youth as soon as possible and sufficiently in advance of the next scheduled hearing.

The 2011 Program Improvement Plan for New Hampshire DCYF calls for the implementation of a statewide process to send out a notification letter of court hearings to youth, foster, pre-adoptive and relative caregivers in a timely manner. The judge’s letter, delivered by the CASA GAL or GAL to children and youth, allows the agency to meet this requirement.

**B. Encourage Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers to be Supportive of Children and Youth Interested in Attending RSA 169-C Court Hearings**

The court's expectation is that DCYF shall encourage parents and, in removal cases, foster parents, pre-adoptive parents and relative caregivers to be supportive of children and youth who express interest in attending court hearings and/or to "otherwise participate" by submitting a letter, drawing and/or photograph to the judge and all parties through the child/youth's CASA GAL or GAL.

**COMMENT**

In the event the adult with whom DCYF is speaking is opposed to the child/youth attending an RSA 169-C court hearing, best practice is for the child/youth to go to the courthouse the day of the hearing and for the parties at the outset of the hearing to address with the court whether the child/youth will attend all or any part of the hearing.

**C. Prepare Parents, Foster Parents, Pre-Adoptive Parents, and Relative Caregivers When the Child/Youth Wants to Attend an RSA 169-C Court Hearing**

When a child/youth wants to attend a court hearing, the court's expectation is that DCYF shall discuss the following with the parent(s) and, in removal cases, whomever the child/youth is residing with, be it foster parent, pre-adoptive parent or relative caregiver:

- **When** the hearing will be held, who will be at the hearing, and the purpose of the hearing.
- **Who will transport** the child/youth to the hearing (typically, the adult with whom the child/youth resides will provide transportation).
- The **court security process** when entering the courthouse in cases where a parent, foster parent, pre-adoptive parent or relative caregiver has not previously attended a court hearing.
- **Where and with whom the child/youth may wait** before and during the hearing (typically, the child/youth may sit with whomever they would like while waiting for the hearing to be called and, when they are in the courtroom, any party, including a parent(s), DCYF or CASA GAL or GAL, or a foster parent or relative caregiver).
- In removal cases, **whether the parents will be able to see and/or speak with the child/youth before and/or after the hearing** (typically, parents will be able to speak with the child/youth in the courthouse before and after the hearing)

unless the court has issued an RSA 169-C Order of Protection that prohibits contact between a child/youth and his/her parents).

In cases where there is a criminal no contact order involving a child and his/her parent(s), DCYF should inform the court and parties about such an order in its court report. The CASA GAL or GAL should also inform the court about the order in its standard cover sheet. There may be other circumstances warranting a child/youth waiting in a separate room in the courthouse, such as a no contact provision in an RSA 173-B domestic violence order or a child/youth being unable to come to a court hearing if it means waiting in close proximity to a parent or other family member. In such circumstances, DCYF should inform the court and parties about it in its court report and the CASA GAL or GAL should inform the court about these circumstances in its standard cover sheet.

- In non-removal cases, **whether there is a relative or adult known to a younger child/pre-schooler who can accompany the parent and younger child/pre-schooler** in the event the child/pre-schooler is unable to remain for the entire hearing and needs to be attended to outside the courtroom until the hearing concludes.
- **Which adult will be the support person** (a party, foster parent or relative caregiver) in the courtroom for younger children if they become disruptive or upset.
- The option of the child/youth **speaking/asking questions at the hearing** with just the judge and a member of the court's staff with the understanding the judge may not be able to do what the child/youth requests.
- The option of the child/youth simply **observing** all or part of a specified hearing.
- The opportunity of the child/youth to "**otherwise participate**" by submitting a letter, drawing and/or photograph to the judge and all parties, including parents, through the child/youth's CASA GAL or GAL.
- In removal cases, the **foster parent, pre-adoptive parent or relative caregiver**, pursuant to Family Division Rule 4.4, will be **invited to attend/speak at court hearings and/or submit a letter/report** focusing on the child/youth's status (vs. advancing a particular position or plan).

**In cases where the court's adjudicatory order is not issued until sometime after the adjudicatory hearing and a child/youth wants to attend the dispositional hearing**, there may be insufficient time for DCYF to comprehensively prepare the parent(s) and, in removal cases, foster parent, pre-adoptive parent or relative caregiver. In such cases, DCYF's preparation of a parent and, as applicable, foster parent, pre-adoptive parent or relative caregiver may necessarily be summary in nature but should

be sufficient to provide these adults with a general understanding of what to expect at the courthouse and in the courtroom when a child/youth attends a dispositional hearing.

Following the initial preparation of a parent(s) and, in removal cases, foster parent, pre-adoptive parent or relative caregiver when a child/youth wants to attend a hearing, DCYF, as deemed warranted by DCYF, should **revisit preparation basics** with a parent(s) and, as applicable, foster parent, pre-adoptive parent or relative caregiver whenever a child/youth expresses interest in making additional appearances at RSA 169-C court hearings.

**D. Inquire of Parents, Foster Parents, Pre-Adoptive Parents or Relative Caregivers about Transporting a Child/Youth to an RSA 169-C Court Hearings**

The court's expectation is that DCYF shall discuss transportation arrangements with parents and, in removal cases, foster parents, pre-adoptive parents and relative caregivers for children and youth who want to attend an RSA 169-C court hearing. Whenever possible, the child/youth will be transported by the adult with whom the child/youth is residing.

In the event this adult is unable to transport, best practice is for DCYF to collaborate with the CASA GAL or GAL to identify an adult the child/youth knows and with whom the child/youth is comfortable who is able to provide transportation.

**E. Provide the Court with Contact Information for Foster Parents, Pre-Adoptive Parents and Relative Caregivers**

In removal cases and pursuant to Family Division Rule 4.4, court staff shall provide notice to foster parents, pre-adoptive parents and relative caregivers of all review hearings, permanency hearings, and post-permanency hearings. Best practice is for court staff to also provide these persons with notice of dispositional hearings. Family Division Rule 4.4 also provides foster parents, pre-adoptive parents and relative caregivers an opportunity to submit a letter or report to the court.

To accomplish this, DCYF shall:

- In removal cases, provide to the court at the **adjudicatory hearing** the name and address of the individual with whom the child/youth is residing. If removal occurs after the adjudicatory hearing, DCYF should notify the court, and parties, about the placement and provide all contact information.
- If there is a subsequent change in placement, promptly notify the court, and parties, about the placement and provide the name and address of the individual with whom the child/youth is residing.

## COMMENT

As part of its Program Improvement Plan, DCYF introduced statewide, in July 2012, a Hearing Notice sent by CPSWs to assure that foster parents, pre-adoptive parents and relative caregivers have timely and consistent notification of all court hearings subsequent to the dispositional hearing. These hearings include: review hearings, permanency and post-permanency hearings. TPR proceedings are excluded from DCYF's written notification requirement. The Hearing Notice includes the type of court hearing that is scheduled, the date and time of the hearing and the court location.

### **F. De-Brief Parents, Foster Parents, Pre-Adoptive Parents and Relative Caregivers**

Following all RSA 169-C court hearings attended by a child/youth and prior to the next hearing, the court's expectation is that DCYF shall de-brief with the parent(s) and, in removal cases, the adult with whom the child/youth is residing, be it foster parent, pre-adoptive parent or relative caregiver, by:

- Inquiring about the **adult's view of the child/youth's thoughts and/or feelings** about the hearing and whether attending the hearing was a positive/negative experience for the child/youth and reasons for.
- Inviting the **adult's thoughts about anything DCYF, the CASA GAL or GAL or the court** could do to make the child/youth feel more comfortable about attending future hearings and/or "otherwise participating".
- **Reminding foster parents, pre-adoptive parents and relative caregivers of their continuing opportunity to attend review hearings, permanency hearings and post-permanency hearings** and/or to submit a letter or report focusing on the child/youth's status (vs. advancing a particular position or plan), pursuant to Family Division Rule 4.4.

## **PROTOCOL 7 THE COURT'S ROLE**

The court's role as it pertains to children and youth attending and/or "otherwise participating" in specified RSA 169-C court hearings is as follows:

- **General Considerations.**
- **The Court's Interaction with Children and Youth Who Attend RSA 169-C Court Hearings.**
- **The Court's Orders for RSA 169-C Court Hearings.**

## **A. General Considerations**

### **1. Review the Standard Cover Sheet to the CASA GAL or GAL's Court Report**

Prior to conducting a hearing, the court should review the cover sheet to the CASA GAL or GAL court report pertaining to the appearance or non-appearance of the child/youth at the hearing. For a child/youth that will attend, the cover sheet will include, for example, a child/youth's preferred name to be called or nickname, any recent achievements, and any special interests/activities the child/youth may have. If the child/youth does not plan to attend, the cover sheet should include any known reasons for the child/youth deciding not to attend the hearing, such as a conflict with school or another activity, and if the child/youth is interested in meeting with the judge after the scheduled court hearing.

### **2. Review Any Letter, Drawing and/or Photograph Submitted by a Child/Youth**

Prior to conducting a hearing, the court should review any letter, drawing and/or photograph submitted by a child/youth. During the hearing, the court should ensure that all parties received a copy of any letter, drawing and/or photograph, and should comment on the letter, drawing and/or photograph. If the child/youth is not in attendance, the court should ask the CASA GAL or GAL to thank the child/youth for "otherwise participating", and inquire of the parties whether there is anything the court or the parties can do that would enable a child/youth to attend future RSA 169-C court hearings.

### **3. Presume that Children and Youth Who Appear at Specified RSA 169-C Hearings Will Remain for the Entire Hearing**

The court should presume that children and youth who appear at specified RSA 169-C hearings will remain for the entire hearing. This best practice has the added value in removal cases of allowing the adult who transports the child/youth to and from the hearing, be it the foster parent, pre-adoptive parent or relative caregiver, to be present for the entirety of the hearing.

In the event the court and/or a party has an objection about a child/youth attending the entirety of an RSA 169-C hearing, the court should first reassure the child/youth and any adult caregiver in removal cases who transported the child/youth that the adult is entitled to be heard, pursuant to Family Division Rule 4.4, and that regardless of the court's ruling, the child/youth and adult caregiver will have an opportunity to speak with the court prior to the hearing concluding. In weighing any objection, best practice is for the court to give maximum consideration to youth remaining for the entirety of a hearing, given that youth typically know why the child protection system is involved with their family.

## COMMENTS

In the event a parent, foster parent or relative caregiver is opposed to a child/youth attending an RSA 169-C court hearing, best practice is for the child/youth to go to the courthouse the day of the hearing and for the parties at the outset of the hearing to address with the court whether the child/youth will attend all or any part of the hearing.

In both removal and non-removal cases, best practice is for the adult who transports the child/youth, be it parent, foster parent, pre-adoptive parent or relative caregiver, to arrange for another adult known to the child/youth to accompany them to the RSA 169-C court hearings. In this way, if a child/youth is unable to remain for the entire hearing, the foster parent, pre-adoptive parent or relative caregiver can remain at the hearing while the other adult waits with the child/youth outside the courtroom until the hearing concludes.

A CASA GAL or GAL, as a party, should be included in any discussions, whether pre- or post-dispositional, about a child/youth remaining/not remaining for the entirety of a hearing, and should also be included in all chamber conferences at which the other parties or their representatives are present. If a child/youth will not remain for the entirety of a hearing, the court should not ask any party, including the CASA GAL or GAL, to leave the hearing to wait outside the courtroom with the child/youth.

#### **4. Offer Children and Youth an Opportunity to Meet with the Judge Outside the Parties' Presence**

In cases where the child/youth wants to speak with the judge but is unable to do so in the presence of a party or parties or would feel more comfortable speaking with just the court, the judge should meet with the child/youth in the presence of a member of the court's staff during or after the hearing. Before this meeting, the court should ask the parties if there is any objection to a meeting with the judge, child/youth and court staff member without a record. If there is an objection, the meeting shall be recorded.

If there is an RSA 169-C Order of Protection that requires one or both parents to stay away from the child/youth, the court should presume it will meet with the child/youth outside the presence of the parties, including the parent(s) against whom the order has been issued.

## COMMENTS

In cases where there is a criminal no contact order involving a child/youth and his/her parent(s), the CASA GAL or GAL should inform the court about the order in its standard cover sheet. DCYF should also inform the court and parties about such an order in its court report.

There may be other circumstances warranting a child/youth waiting in a separate room in the courthouse, such as a no contact provision in an RSA 173-B domestic violence order or a child/youth being unable to come to a court hearing if it means waiting in close proximity to a parent or other family member. In such circumstances, the CASA GAL or GAL should inform the court about these circumstances in its standard cover sheet and DCYF should inform the court and parties about it in its court report.

Finally, during the six month period that these protocols were piloted in the Franklin and Concord courts, it was apparent that most children and youth felt more comfortable meeting alone with the judge and a member of the court's staff. Therefore, these **protocols favor flexibility in the when, where and how a judge meets with a child/youth and a member of the court staff**, subject to a recording being made of any such meeting if there is a party objection.

## **B. The Court's Interaction with Children and Youth Who Attend RSA 169-C Court Hearings**

### **1. Welcoming the Child/Youth and Making the Child/Youth Feel Comfortable**

The court should spend a few minutes at the outset of the RSA 169-C hearing making the child/youth feel welcomed and comfortable by:

- Acknowledging the child/youth by his/her preferred name or nickname, as noted in the CASA GAL or Gal's cover sheet, and thanking him/her for coming to the hearing as well as for any letter, drawing and/or photograph the child/youth may have submitted to the court.
- Referencing a child/youth's recent achievement and/or special interests/activities, as noted in the CASA GAL or Gal's cover sheet.
- Telling the child/youth that he/she is not required to speak at the hearing but if the child/youth wishes to he/she may do so either in the presence of the parties or just with the judge and a member of the court staff present.
- Telling a child/youth who would like to speak with the judge when the child/youth will be able to do so.
- Telling the child/youth that if she/he would like to speak with the judge, the child/youth will be able to ask the judge questions, and may also tell the judge anything the child/youth would like the judge to know.

- Telling the child/youth that she/he may leave the hearing at any point if the child/youth is not comfortable remaining or would like to leave for some other reason.
- The court should consider sitting with the child/youth at a table in the courtroom or at the judge's bench when welcoming the child/youth and/or during some other portion of the hearing when all parties are present.

## **COMMENT**

The court's welcoming of the child/youth typically takes place in the presence of the parties at the outset of a hearing, and plays a key role in terms of whether a child/youth will feel comfortable and valued by the court as the hearing progresses.

## **2. Engaging Interested Children/Youth in Discussion**

Immediately following the court establishing a welcoming environment for the child/youth or at a later point in the hearing or as soon after the hearing as possible, the court should spend additional time engaging with a child/youth who wishes to speak with the court by:

- Assuring the child/youth that she/he is not at fault for the case being in the court system.
- Inviting the child/youth to ask the judge any questions the child/youth may have.
- Encouraging the child/youth to share any information the child/youth would like.
- Asking the child/youth what she/he thinks would be the best outcome for him/her.

## **COMMENT**

For additional guidance, please refer to the Judicial Bench Cards developed by the American Bar Association, Center on Children and the Law, Bar-Youth Empowerment Project. The Judicial Bench Cards include the following:

- ❖ Engaging Young Children (Ages 0-12 Months) in the Courtroom.
- ❖ Engaging Toddlers (Ages 1-3) & Preschoolers (Ages 3-5) in the Courtroom.
- ❖ Engaging School-Age Children (ages 5-11) in the Courtroom.
- ❖ Engaging Adolescents (Ages 12-15) in the Courtroom; and
- ❖ Engaging Older Adolescents (Ages 16+) in the Courtroom.

### **3. Concluding the Court's Discussion with the Child/Youth**

- Encouraging the child/youth in any areas where the child/youth may be experiencing difficulty.
- Encouraging the child/youth, if interested, to attend future RSA 169-C hearings and/or "otherwise participate" by submitting a letter, drawing and/or photograph.
- Asking the child/youth if there is anything else the child/youth would like to tell the judge or ask of the judge before the meeting concludes.
- Thanking the child/youth for coming to court.

#### **COMMENT**

Concluding the court's discussion with the child/youth in a thoughtful Manner contributes to a child/youth's feelings that they were truly heard and valued by the judge.

### **C. The Court's Orders for RSA 169-C Court Hearings**

The court shall include the following in its orders for dispositional, review, permanency and RSA 169-C post-permanency hearings:

- Whether the child/youth attended the court hearing to which she/he was invited and/or chose to "otherwise participate" by submitting a letter, drawing and/or photograph.
- If the child/youth attended the hearing, whether the court met with the child/youth and a member of the court's staff outside the presence of the parties, and whether at a party's request a record was made of the court's meeting with the youth; and
- If the child/youth did not attend the hearing and/or "otherwise participate", the reasons for this, if known.

# NH Circuit Court Locations

For more information, visit Circuit Court pages  
at [www.courts.state.nh.us](http://www.courts.state.nh.us)

All Circuit Courts: 603 271-6418

In addressing each court, the preferred method is:  
#\_\_ Circuit - \_\_\_\_\_ Division - Location.

