

Foster Caregiver Notice and Opportunity to Present Evidence

Current Ohio law

2151.424 Notice and opportunity to present evidence to foster caregiver, relative, or prospective adoptive parent.

(A) If a child has been placed in a certified foster home or is in the custody of a relative of the child, other than a parent of the child, a court, prior to conducting any hearing pursuant to division (F)(2) or (3) of section [2151.412](#) or section [2151.28](#), [2151.33](#), [2151.35](#), [2151.414](#), [2151.415](#), [2151.416](#), or [2151.417](#) of the Revised Code with respect to the child, shall notify the foster caregiver or relative of the date, time, and place of the hearing. At the hearing, the foster caregiver or relative shall have the right to present evidence.

(B) If a public children services agency or private child placing agency has permanent custody of a child and a petition to adopt the child has been filed under Chapter 3107. of the Revised Code, the agency, prior to conducting a review under section [2151.416](#) of the Revised Code, or a court, prior to conducting a hearing under division (F)(2) or (3) of section [2151.412](#) or section [2151.416](#) or [2151.417](#) of the Revised Code, shall notify the prospective adoptive parent of the date, time, and place of the review or hearing. At the review or hearing, the prospective adoptive parent shall have the right to present evidence.

(C) The notice and the opportunity to present evidence do not make the foster caregiver, relative, or prospective adoptive parent a party in the action or proceeding pursuant to which the review or hearing is conducted.

Federal Law

42 U.S.C. § 675(5)(G) provides that states shall institute case review procedures that assure that:

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;

Relevant Attorney General recommendations

- **The Ohio Family Care Association, in collaboration with the Supreme Court of Ohio, the Ohio Department of Job and Family Services, the Public Children Services Association of Ohio, and other members of the Foster Care Advisory Group, should create a fact sheet or guide for foster parents, relatives, or prospective adoptive parents to explain the requirements of court, their rights, and how the court process works (including party status). This guide should provide foster parents with a direct contact to assist them in navigating this system.**

- **Ohio should consider providing training opportunities to juvenile court judges on the importance of foster parent involvement and the requirements around foster parent participation in the court process under Ohio law. Opportunities for training include:**
 - **The Ohio Judicial College**
 - **Ohio Juvenile Judges Association annual and winter conferences**
- **The Supreme Court of Ohio should consider promulgating a juvenile rule to clarify that the foster parent has the right to receive notice of court hearings and to present evidence.**
- **The procedure for sending notice to foster parents is currently unclear in Ohio. This confusion makes it necessary to clarify responsibilities for ensuring that foster parents receive notice of court hearings between the public children services agency and the court. The Supreme Court of Ohio should consider drafting a juvenile rule to create a procedure for local juvenile courts to send notice to foster parents. This procedure should consider the confidentiality of foster parent names and contact information.**
- **The Supreme Court of Ohio should consider revising its current bench card for juvenile court judges to direct judges to request updated foster parent contact information from the child welfare professionals associated with an abuse/neglect/dependency case.**

How other states address this issue

- Some states permit foster parents to choose their method of input, with some states providing for oral testimony and even opportunity for cross-examination of witnesses, and others providing for written information to be submitted.
- Some states have developed forms on which information may be provided.
- At least one state requires a report to be submitted detailing the child’s progress and needs.
- In relation to how notice is given, some states place responsibility for notice with the children services agency (i.e., Burns Ind. Code Ann. § 31-34-21-4). Others require the court to provide such notice (i.e., 2006 Kansas Code - 38-1565).
- California has developed fillable forms for foster parent use in providing information. See attached.
- Foster parents are not required under AFSA to be “parties.”
- Foster parents are not required under AFSA to participate.

Recommendations from US Department of Justice (*Technical Guide to Court Performance Measures in Child Abuse and Neglect Cases*)

- Consider adoption of state law or court rule setting out specific requirements for advance notice that provides for redundant forms of notice
- Require judicial findings on orders regarding who was in attendance at the hearing
- Consider party status for foster caregivers

- Provide judicial trainings emphasizing the importance of advance notice to caregivers and how courts can ensure that notice is given
- Collect data on notice and participation