

# A Seat at the Table

Enhancing Youth Participation in Court

April 5, 2024

Mackenzie Fecteau  
Maine Youth  
Leadership Advisory Team

Natalece Washington, JD, CWLS,  
NACC Policy Counsel

**NACC**

National Association  
of Counsel for Children



Promoting  
Excellence



Building  
Community



Advancing  
Justice



What does having a seat at the table mean, really?

## Kenzie

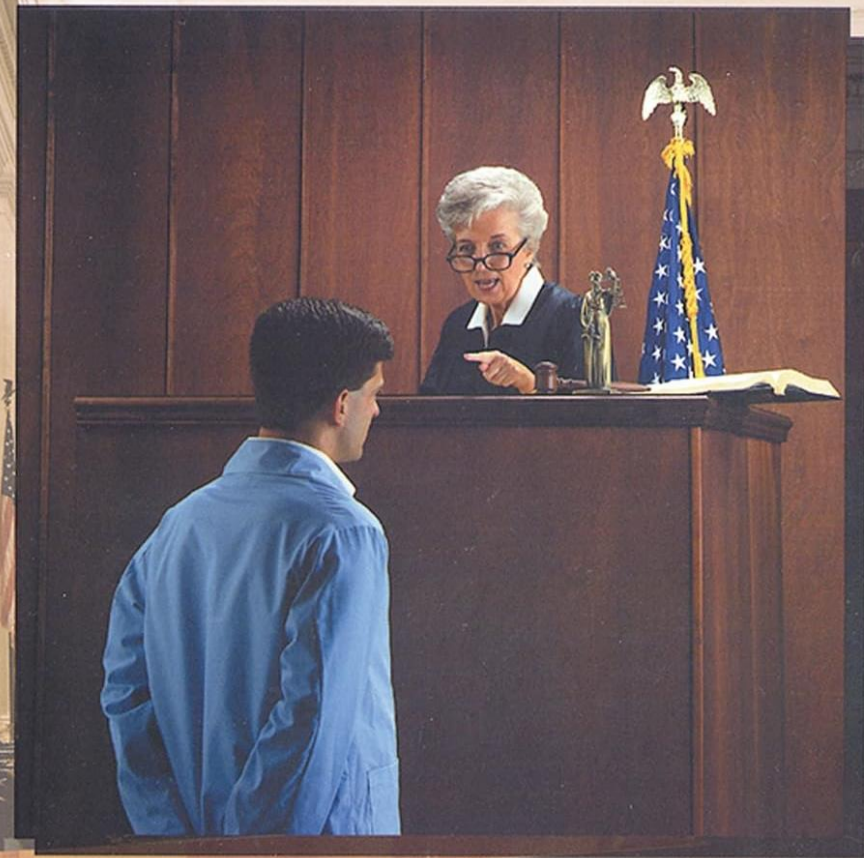
“I don’t think it mattered whether I was there or not.”

# Let's Reframe

Good news! We've  
done it before

## The *Gault* Case

Legal Rights for  
Young People



Thomas J. Billitteri

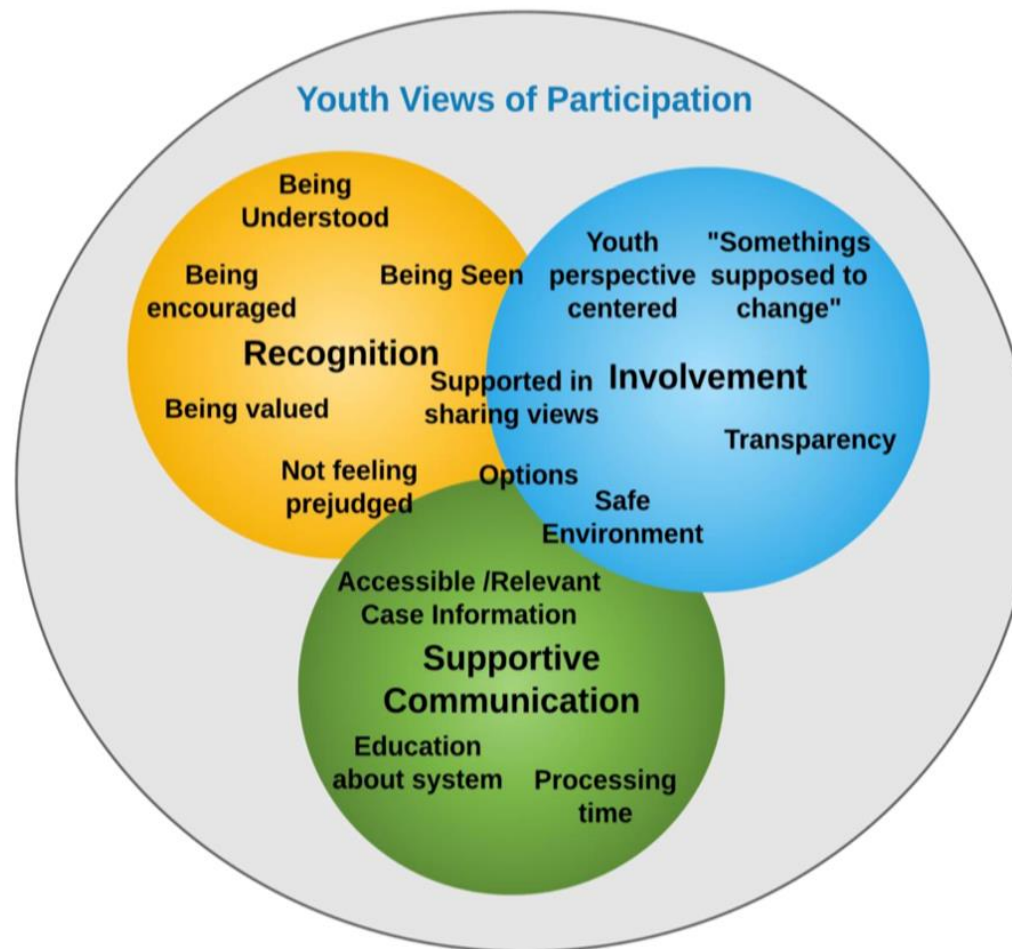


# What Say Youth?

Individuals with lived experience in the child welfare system overwhelmingly indicate a desire to:

- Be heard;
- Be engaged in and helped to understand their legal proceedings;
- Be told what is happening in their case.

Cody, Anna. "Children's Participation Rights in Child Welfare Systems: Identifying Opportunities for Implementation."  
<https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=7617&context=etd>



Youth presence must be...

**EXPECTED**

**SUPPORTED**

**VALUED**

**EXPECTED**

# Parens Patriae





# The Role of Parens Patriae in the Formation of our Dependency Court System

vulnerable

need  
protection

mom, the lawyer  
called me incompetent!



Too fragile  
for court

lack  
capacity

Don't know  
what is in  
their best  
interest



“It’s just a quick review hearing, you won’t miss much.”

“There’s really no need for you to come and miss school.”

“The judge just saw you the last time.”

“You probably won’t even get a chance to speak.”

“I can tell you what happens afterwards.”

# Youth in Court: Nationally Recognized Best Practice

- **2022 ABA Resolution 613**
- **2021 NACC Recommendations for Children and Youth in Neglect and Abuse Proceedings**
- **2012 NCJFCJ Children in Court Policy Statement**
- **2011 ABA Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings**

# Federal Support for Youth in Court

**Child and Family  
Services Improvement  
Act (2006) (42 U.S.C. §  
675(5)(C))**

**Fostering Connections  
to Success and  
Increasing Adoptions  
Act (2008) (42 U.S.C. §  
675(5)(H))**

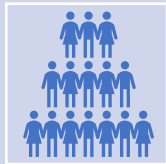
# The Power of a Presumption of Presence



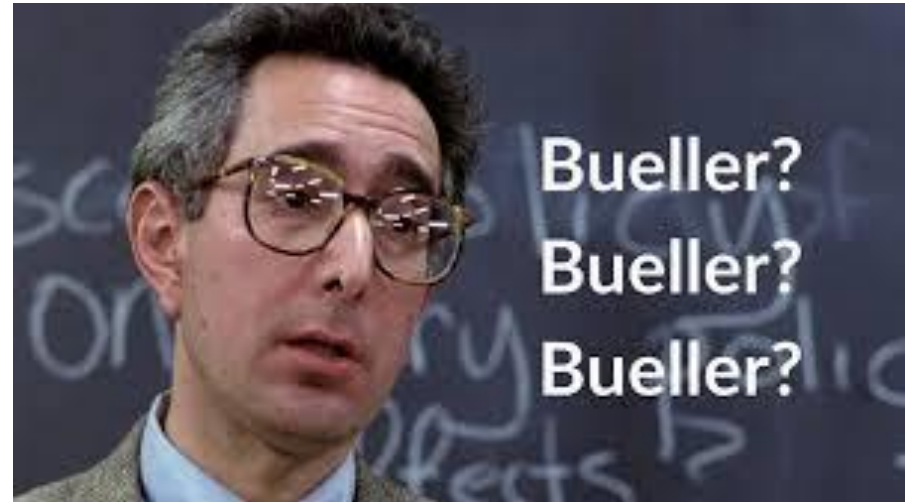
Colorado Youth  
Participation  
Study (2020)



< 12%  
attendance



61% wanted to  
attend



# State Examples

**Louisiana:** 12 and older shall be present in court unless their presence is waived by the court upon motion of their attorney; if under 12, they shall be present upon request of the child's counsel or court.

**Colorado:** Children must receive notice and, when appropriate, be given an opportunity to participate in hearings.

**California:** Presumptive right to be present, represented by counsel, and participate in court hearings. If child not notified or brought the court “shall continue the hearing for that period of time necessary to provide notice and secure the presence of the child.”



# Systemic Shifts



Develop policies or guiding principles for youth presence in court



Set clear standards for notifying youth of hearing



Allow exclusion from all or part of a court hearing if compelling evidence or youth's own (informed) decision

# Reducing Barriers



“We really need to open the floor for youth and break down barriers instead of just expecting them to always be the one who speaks up in an environment that has not previously been welcomed to them.”

– Theo Schwartz, Youth Empowered Solutions to Succeed (YESS) Program, Office of Substance Use and Mental Health, State of Utah

**SUPPORTED**

# Common Concerns

Upsetting to the Child  
School  
No-Contact Order  
Child not wanting to come  
Transportation  
Longer hearings

# The Question of Trauma

- Identify risks and triggers
- Mitigate potential trauma
- Balance harm from exclusion and discovery of decisions made after the fact
- Dismantle myths and assumptions about youth capacity for proceedings
- Consult mental health professional
- Trauma from the lack of certainty and “not knowing”

Mitchell, Monique. (2016) *The Neglected Transition: Building a Relational Home for Children Entering Foster Care*. Oxford: Oxford University Press.



# Preparing Youth for Court



- **Ask** youth what we can do to make them feel safer!
- **Describe** and show pictures of the courtroom
- **Share** who will be at court, their role, and where they sit
- **Explain** what decisions will be made at the hearing
- **Tell** youth what opportunities for input they can have
- **Detail** what attorney or judicial questioning is like
- **Confirm** youth's expressed wishes and preferred case outcomes
- **Engage** the child's therapist, caregiver, or team to assist with the child's specific needs





Court is for babies and toddlers too.

# Preparing Court for Youth

---

Is court safe?

---

Is court accessible?

---

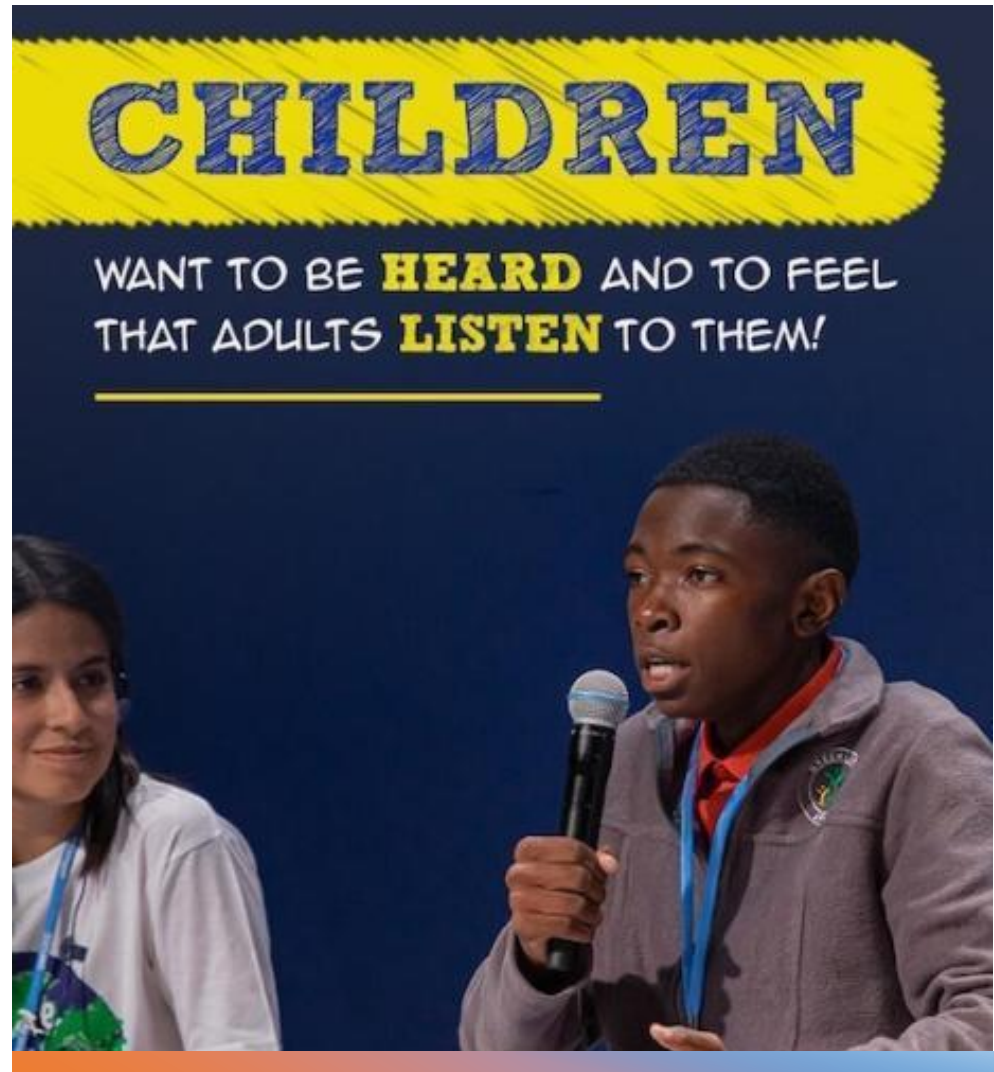
Is court understandable?



**VALUED**

## At the Table

- Treated as equal parties to the case
- Notified of court hearings
- Presence presumed and facilitated
- Heard in hearing
- Involved, Informed, Empowered



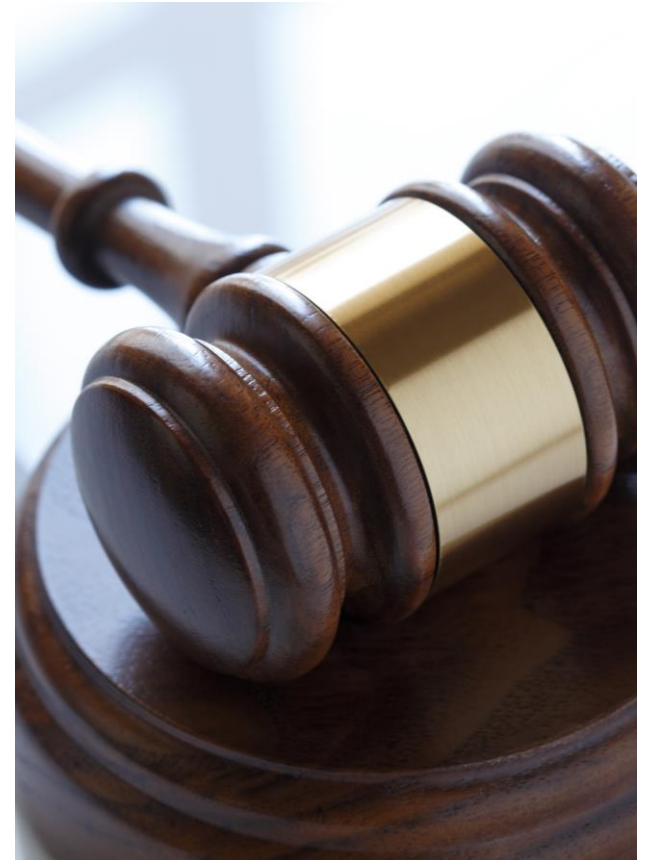
<https://www.unicefusa.org/stories/covid-19-couldnt-stop-young-unicef-supporters-taking-action>



# Variety of Benefits to the Court

---

1. Ascertain youth perspective and expertise
2. Observe youth with caregivers and relatives
3. Determine youth involvement in case/transition planning



97% of youth (ages 4-18) were “glad they came” to court, would want to come again, and 81% said it felt like a “good experience”

The strongest predictor of a child’s attitude towards the child welfare legal process relates to anxiety about not knowing the case outcome

Participation enhanced children’s trust in the process because they felt judges knew enough to make the right decisions

Resources:

1. Claire Chiamulera, Giving Youth a Voice in Court in New Jersey (2015)
2. Stephanie B. Block, Howard Oran, Diane Oran, Nikki Baumrind, Gail S. Goodman, Abused and Neglected Children in Court: Knowledge and Attitudes, 34 CHILD ABUSE & NEGLECT 666, 667 (2010)
3. Vicky Weisz, Twila Wingrove, Sarah J. Beal, April Faith-Slaker, Children’s Participation In Foster Care Hearings, 35 CHILD ABUSE & NEGLECT 4, 267-272 (2011)





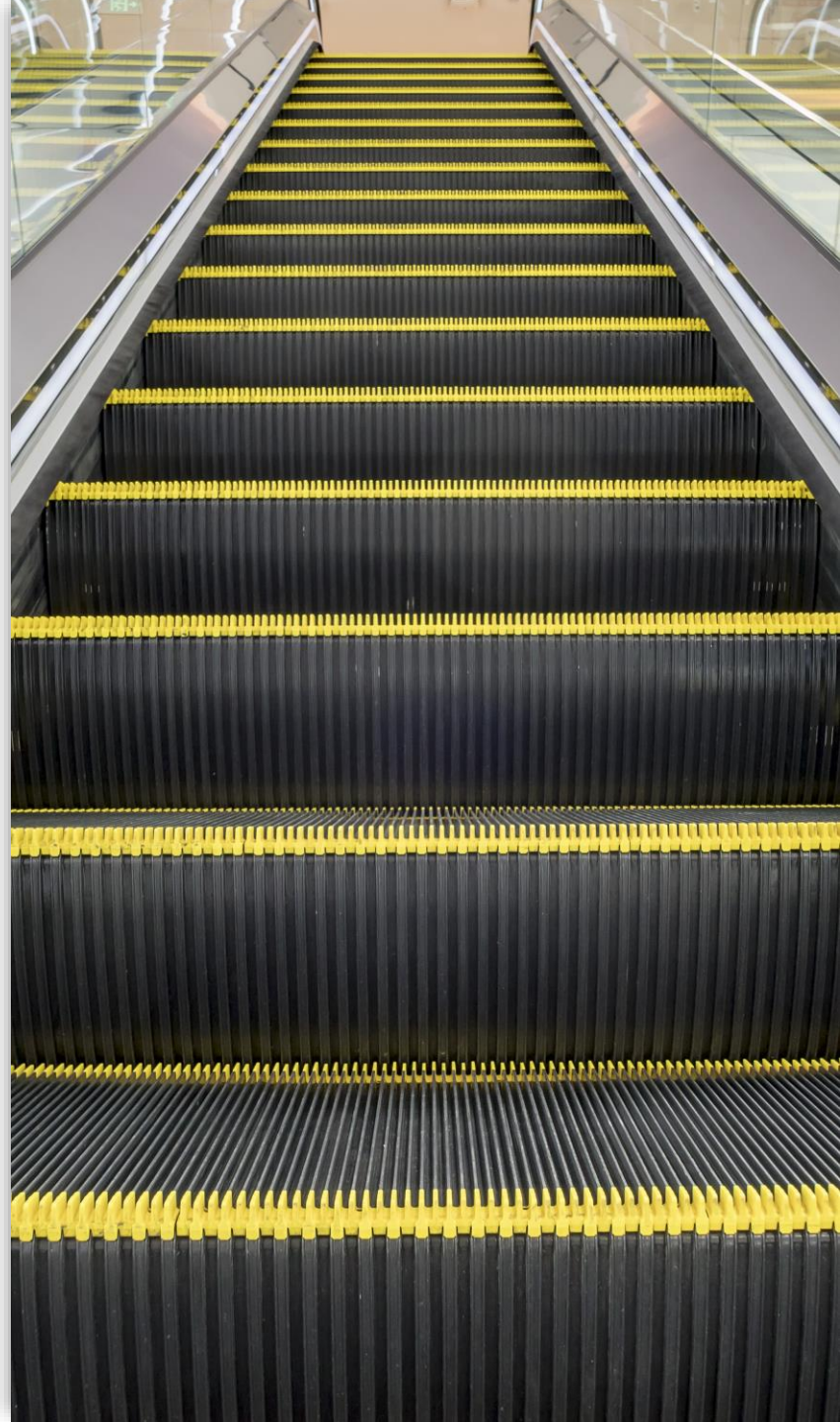
# Benefits to the Youth

---

- Exposure to and engagement in court process
- Updates on parent's case plan progress
- Opportunity to be heard
- Input in key decisions being made
- Ability to make real time challenges to best interest recommendations
- Opportunity to observe judicial ruling

# Next Steps

1. Release ideas that it is not appropriate or necessary for youth to fully participate in their own court hearings
2. Reimagine systems procedures with lived experience experts
3. Plan and deploy a systems response to the expressed interests of Maine youth who want to be seen and heard in court



[www.NACCchildlaw.org](http://www.NACCchildlaw.org)



**Natalece Washington, JD, CWLS**

[Natalece.Washington@NACCchildlaw.org](mailto:Natalece.Washington@NACCchildlaw.org)

**Mackenzie Fecteau, MAINE YLAT**

[mackenziefecteau0@gmail.com](mailto:mackenziefecteau0@gmail.com)

**NACC**

National Association  
of Counsel for Children



Promoting  
Excellence



Building  
Community



Advancing  
Justice