



STATE OF IOWA



KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

IOWA CHILD ADVOCACY BOARD
CASA and ICFCRB Programs
BETH MYERS, CHAIRPERSON
JAMES A. HENNESSEY, ADMINISTRATOR

CAB Information Memorandum, CASA Program #6

RE: Process for Non-Juvenile Court Subpoena of a CASA Advocate

Effective Date: October 11, 2019

To: ALL ICAB STAFF

- A. In recent months, CASA Volunteers (Coaches and Advocates) have been asked more frequently to provide testimony or documentation in a criminal or civil court matter.
- B. The CASA Program, along with legal counsel for the Department of Inspections and Appeals has received guidance from the Iowa Attorney General's office to develop a policy and related procedures regarding the subpoena of CASA Advocates or Coaches (herein referred as Volunteer), to provide testimony or produce documentation for a legal matter that is not based in the juvenile court.
- C. This memo provides direction for non-juvenile court related subpoenas. Policy, instructions, guidelines and procedures involved with this issue will be included in the next CASA Policy and Procedure Manual to be released July 1, 2020, but the policy goes into effect now.
- D. As a reminder, if a volunteer is called to testify in their assigned CASA child's CINA matter, they are encouraged to do so. In order to provide support to the volunteer, please meet with them prior to testimony if possible and arrange for their coach (or yourself if necessary) to attend the hearing with them. The volunteer should take their current CASA report to the witness stand, but should not take other documentation unless approved by their Coordinator.
- E. If a volunteer is subpoenaed to produce documents for the child's CINA matter, please contact the CASA Program Manager or ICAB Administrator for further assistance.

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1. PROCEDURE: Volunteer subpoena to testify or produce documentation for non-juvenile court legal matter.

- A. To protect confidentiality and ensure the Iowa CASA program remains in compliance with Iowa Code, this procedure must be followed when a volunteer learns they may be subpoenaed in a non-juvenile matter.
1. CASA Volunteers will be trained that they cannot verbally or through fax or email, accept for a subpoena to provide testimony or documentation in a non-juvenile court matter. They will be asked to tell the coordinator immediately upon learning they may be asked to testify or receive a subpoena. These steps are outlined in *CASA P&P Resource 57-A, Guidelines for Handling Subpoenas; CASA Volunteers*.
 2. When a Volunteer informs the Coordinator after learning they may be subpoenaed, the coordinator will follow the steps outlined in *Resource 57-B Procedures for CASA Advocate Testimony Requests: CASA Coordinators*.
 3. If the attorney or other legal party persists and issues an appropriately served subpoena, follow the steps outlined in *Resource 57-C, Guidelines for Handling Subpoenas: CASA Coordinators*.
 4. The CASA Program Manager will consult with legal counsel for Dept. of Inspections and Appeals and the Attorney General's office who will investigate the subpoena and determine if the circumstances legally allow the volunteer to testify, produce documentation, or if it is necessary to file a motion to quash the subpoena.
 - a. If a motion to quash is filed, the judge presiding over the criminal/civil matter will make a judgement on the motion. The CASA Program and volunteer shall proceed in accordance with the judge's ruling.
 - b. If it is determined the Volunteer's testimony would be relevant in the criminal/civil matter, a motion to quash will not be filed and DIA Legal Counsel with assistance from AG's office will file a *Notice of Position for Testimony, Resource 57-D*. This resource notes that while the CASA Volunteer may be able to provide information to the court, doing so may be in violation of Iowa Code.
 - c. If the court denies a motion to quash or it's determined the volunteer's testimony would be relevant, the volunteer must then appear in accordance with the subpoena. The CASA Coordinator will attend this hearing with the volunteer.

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5. When called to testify, if it is believed the volunteer will be asked questions related to child-abuse information, they should read the highlighted portions of the instructions in *Resource 57-E, CASA Testimony in Criminal/Civil Case Involving Child Abuse*.
 - a. If the testimony provided is not related to child abuse (i.e. volunteer is to provide testimony on parent's character or progress in the CINA case), the Volunteer will follow the instructions and read the statement on *Resource 57-F, CASA Testimony in Criminal/Civil Case Which DOES NOT Involve Child Abuse*.

2. PROCEDURE for TRAINING Volunteers on this policy

- A. Current CASA Volunteers will be trained on this new policy in the months of October and November 2019 using *Resource 57-A* and the attached document, *Advocate-Coach Policy Addition Regarding Subpoena's effective 10-11-2019*.
- B. New CASA Volunteers will be trained during pre-service, module 6. Please add a note to your current facilitator guide in Module 6 to review this policy as you review Advocate Policy and Procedures. This change will be permanently made to the facilitator guide in future iterations of the CASA Pre-Service Module 6.
- C. Because Volunteers are often approached by attorney's in more informal settings and conversations when staff are not present, such as at a CINA-related hearing or via email, it is important for volunteers to understand they should never agree to provide testimony or documents in a non-juvenile case. This key piece of information will help make the remainder of the process run smoothly. Overall, as a program, we need our Volunteers assistance in discouraging attorneys from issuing subpoenas in non-juvenile matters if the Advocates are approached for this purpose

3. EFFECTIVE DATE

- A. This policy and accompanying procedures and resources are effective October 11, 2019.