

District 17B
Stokes and Surry Counties Juvenile Courts
Supporting Families in Crisis

Abuse, Neglect, Dependency Rules

**Our mission is to provide services
which are family-focused,
individualized and coordinated,
timely, courteous, professional,
and respectful.**

Stokes and Surry Counties' Juvenile Courts believe that functional families are the cornerstone of a successful community. The mission of our Juvenile Court is to provide a less adversarial forum for the fair, just, and prompt resolution of family issues of abuse, neglect, and dependency. The Juvenile Court will utilize the least intrusive intervention necessary, provide individualized response by linking families with appropriate community resources, and work to ensure the safety of children. We pledge to protect and preserve the rights of family members, treating all with courtesy, professionalism, and respect.

Effective November 1, 2007

STATE OF NORTH CAROLINA

THE GENERAL COURT OF JUSTICE

**ORDER ADOPTING REVISED RULES
FOR JUVENILE ABUSE/NEGLECT/DEPENDENCY COURT**

Pursuant to Rule 2 of the General Rules of Practice for Superior and District Courts, and N.C.G.S. 7B-100, the attached Revised Local Rules (**additions: Rules 6.9, 6.10, 7.5**) for Juvenile Court are hereby adopted and are effective June 15, 2010, and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

The Revised Rules supersede all previous Rules for Juvenile Abuse, Neglect, and Dependency cases in the District Court Division of the 17B Judicial District, Stokes and Surry Counties.

It is so ordered this the 4th day of June, 2010.

**CHARLES M. NEAVES, JR
CHIEF DISTRICT COURT JUDGE
JUDICIAL DISTRICT 17B**

**JUDICIAL DISTRICT 17B
DISTRICT COURT
JUVENILE COURT DIVISION
ABUSE, NEGLECT, DEPENDENCY CASE MANAGEMENT PLAN**

**Adopted October 15, 2007
Effective November 1, 2007
Revised April 20, 2009, June 4, 2010**

RULE 1 Scope

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected or dependent, and in proceedings of termination of parental rights, in conjunction with the North Carolina General Statutes.

RULE 2 General Provisions

2.1 These local rules establish procedures for Juvenile Court, which are designed to fulfill the purposes of the North Carolina Juvenile Code. To that end, these rules serve the following purposes:

- a) To help the court oversee case planning,
- b) To help eliminate unnecessary delays in court proceedings, and
- c) To help the parties present issues and evidence to the court in an efficient and simple manner.

2.2 These rules shall, at all times, be construed in such manner as to promote justice and avoid delay. Attorneys shall adhere to the Canons of Ethics and the Code of Professional Conduct as promulgated by the North Carolina State Bar.

2.3 It is recognized that these rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, all parties shall act in accordance with the orders of the Chief District Court Judge.

2.4 The Court Improvement Project Director (CIP Director) shall maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts and in accordance with these Local Rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and to ensure compliance with statutory scheduling requirements for juvenile cases.

2.5 These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of Superior Court for Stokes and Surry Counties and may be cited accordingly.

2.6 The CIP Director shall distribute a copy of these rules and any subsequent amendments hereafter to each member of the Juvenile Bar in Stokes and Surry Counties.

2.7 There shall be an atmosphere of mutual respect. The Court and all parties -- including but not limited to DSS, the GAL, parent(s), juvenile(s), and any service providers -- and their attorneys shall at all times show respect to one another. Differences and disagreements regarding the proper course to be taken on particular issues shall be addressed in a dignified manner.

RULE 3 Construction and Enforcement

3.1 These rules shall be construed to accomplish the purposes set forth in Rule 2. The Court may impose sanctions against a party or an attorney who fails to comply with these rules; however, no rule shall be construed, applied or enforced in a manner that will endanger or harm a child or prejudice the rights of a party.

RULE 4 Determination of Counsel

4.1 Upon the filing of a petition alleging abuse, neglect, or dependency, the clerk shall issue a Juvenile Summons and Notice of Hearing form and appoint separate provisional counsel to represent each parent named in the petition and any other respondent named in the petition against whom an allegation is made.

- (a) The summons shall contain the appointed attorney's name, business address, and telephone number for each respondent and the date of hearing.
- (b) A copy of the summons shall be provided to each respondent named in the petition.

4.2 After the first hearing in a case, an attorney appointed to represent a respondent who has not been served and who does not appear at the hearing, shall not be responsible for further appearances until the clerk notifies the attorney that the respondent has been served.

4.3 At the first hearing after service on the respondent, the Court shall review the issue of counsel and dismiss the provisional counsel if the respondent:

- (a) Does not appear at the hearing;
- (b) Does not qualify for court appointed counsel;
- (c) Has retained counsel;
- (d) Waives the right to counsel.

4.4 If counsel becomes aware of a juvenile or domestic case involving the same children in another court, counsel shall inform the CIP Director or the Juvenile Clerk.

4.5 Before appointing a specific attorney, the clerk shall ensure that the attorney will be available for the Child Planning Conference and the first hearing in the case and, to the best of the attorney's knowledge, for every stage of the proceeding. The Clerk may make this determination either by talking with the attorney or by pre-arrangement with one or more

attorneys on the appointment list. It shall be the continuing responsibility of counsel to immediately inform the clerk by the quickest means available of any inability to attend a Child Planning Conference.

4.6 In any case in which a petition for termination of parental rights is filed, the Clerk shall provisionally appoint the same attorney to represent the parent in the termination proceeding (if the parent whose rights are sought to be terminated has been represented by an appointed attorney in a prior abuse, neglect, or dependency proceeding). The petitioner shall mail the attorney a copy of the summons and petition. If the parent fails to apply or to qualify for court-appointed counsel by the date of the hearing on the petition, or waives court-appointed counsel, the appointment of court-appointed counsel shall not be approved by the Court. In the event the termination of parental rights proceeding is filed as a Motion in the Cause, pursuant to North Carolina General Statute 7B-1102, the current appointed counsel, including the Guardian ad Litem, shall continue representation, unless that attorney has properly moved the court to withdraw.

RULE 5 Responsibilities of Attorneys

5.1 An attorney who represents a party in a case scheduled for hearing shall appear at calendar call at 9:00 am unless excused by the Court or by agreement of all other parties. An attorney who has a conflict in another Court shall comply with the relevant rules relating to priority, and it shall be the responsibility of the attorney to keep the Courtroom Clerk informed of his or her location at all times. Juvenile Court for Abuse, Neglect, and Dependency shall have priority among the other District Courts.

5.2 After a parent's attorney or juvenile's attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings as long as the child continues within the jurisdiction of the Court. Leave of Court to withdraw from a case shall only be granted for compelling reasons.

5.3 Attorneys shall notify the CIP Director of any Secured Leave, Continuing Legal Education or other conflict with court within ten days.

RULE 6 Calendaring

6.1 The juvenile calendar shall be maintained by the Clerk assigned to Juvenile Court in conjunction with the CIP Director. No case shall be scheduled on such calendar except by said Clerk or with the consent of the Presiding Judge. If the need arises for Non-Secure Custody hearings to be heard at times other than regular juvenile court sessions, these hearings can be scheduled by the Presiding Judge in conjunction with the Juvenile Clerk and the CIP Director, and shall be scheduled on the next available court date.

6.2 At or before the conclusion of each hearing, the next hearing date shall be set.

6.3 Court calendars shall be prepared and provided at least ten days prior to court to the Guardian ad Litem Office (herein after referred to as GAL), Department of Social Services (herein after referred to as DSS), the DSS attorney, and the GAL Attorney Advocate. Attorneys for the respondents shall be provided with a listing of their matters scheduled for that calendar.

6.4 Juvenile Court will be held on specified days each month as set forth in the District Court Schedule. The court has the discretion to set special sessions of DSS court and to peremptory set matters as necessary and as in the best interest of the child or children involved in said matter.

6.5 At the conclusion of the calendar call, the DSS Attorney shall announce the order in which cases are to be called and the approximate time required to complete each case. The Court shall to the extent possible, establish a schedule in order for attorneys, parties, and witnesses to address business elsewhere while waiting for their cases to be reached. Attorneys who are excused until a certain time shall return at that time and shall keep the Courtroom Clerk informed of their location until that time.

6.6 Pre-Hearing Conferences may be scheduled by the CIP Director to allow the DSS attorney, the GAL attorney, and the attorney for the parties to discuss reviews, adjudications, and dispositions and to reach agreements where possible.

6.7 The date assigned for the adjudication hearing shall not be more than sixty (60) days from the date of filing of the petition for abuse, neglect and/or dependency and not more than ninety (90) days from the date of filing of the petition for termination of parental rights.

6.8 An order to transfer a case to another jurisdiction shall be presented to the court for signature within seven (7) days of the hearing. When an order has been signed by a judge transferring a case to another jurisdiction, the clerk shall transfer the case within seven (7) days of the date of the signed order.

6.9 When the Court changes the permanent plan for a child to adoption, the Court shall schedule the matter for another review hearing within 60 days of the date of plan change. The Court will examine at that hearing the filing of the termination of parental rights action, and can also consider said hearing as the pretrial hearing, following the requirements of Local Rule 6.10.

6.10 Upon the filing of a Termination of Parental Rights Motion or Petition, the Clerk shall schedule the action for a pretrial hearing. The Court shall conduct said hearing, considering retention or release of provisional counsel; whether a Guardian ad Litem should be appointed for the child if not previously appointed; whether summons, service of process, and notice requirements have been met; any pretrial motions; any issues raised by any responsive pleading; and any other issue properly addressed as a preliminary matter. The Court shall schedule contested TPR actions for a hearing within 90 days of the filing of the action. The Court may combine the pretrial and adjudicatory hearings.

RULE 7 Continuances

7.1 No extension of time or continuance beyond the time specified by statute, order, or these Rules shall be granted, except for good cause. The consent of the parties alone is not good cause for an extension or continuance. Absence of reports which are dispositional in nature may be good cause to continue the disposition, but not good cause to continue the adjudication. In considering granting a continuance, the Court should consider the availability of the parties and all witnesses, whether such continuance would promote the purposes of these rules, protect the rights of the parties and the best interest of the juvenile, and promote the ends of justice.

7.2 Whenever possible, motions for continuance shall be made in writing and served on all the parties as soon conflict is known. Service may be obtained by hand delivery, mail, or facsimile transmission. Parties shall be notified as soon as possible prior to the scheduled hearing. All parties shall have an opportunity to be heard on the motion.

7.3 All orders for extension or continuance shall appear on the record, state supporting reasons, and set the next hearing date. The order of continuance shall include the names of each person present.

7.4 Juvenile Abuse, Neglect, and Dependency court shall be the court of priority among the district courts within the judicial district. Where conflicts arise, judges and attorneys in conflicting courts should communicate with one another to facilitate the most efficient disposition of their cases.

7.5 In the event a motion for continuance is made by any party in a matter scheduled for adjudication, the Judge shall hold a Pre-Adjudication Conference in chambers with counsel to make a determination about the need for a continuance, to have counsel share exhibit and witness lists, to select a timely court date if the Judge allows said continuance.

RULE 8 Service of Summons and Petition and Notice to Parties

8.1 From the date the petition is filed unto the adjudication hearing the petitioner shall have a continuing duty to identify and locate any respondent who has not been served with a copy of the summons and petition and to have the summons and petition served on any such respondent.

8.2 All petitions, summonses, notices, and any other documents relevant to the proceedings shall be served in accordance with NCGS§7B-406 through 7B-408.

8.3 Under the U.S. Code Sec. 629h (b)(1), the Court shall ensure that notice is taking place by the Department of Social Services to foster parents, pre-adoptive parents and relative caregivers of a child in foster care of any proceedings held with respect to the child.

RULE 9 Child Planning Conferences

In order to provide more expedient services to families whose children are alleged to be abuse, neglected, or dependent, the Court has initiated a procedure involving a Child Planning Conference.

9.1 Whenever a petition is filed alleging that a juvenile is abused, neglected, or dependent, a Child Planning Conference shall be held within 7 days in cases involving non-secure custody. Petitions filed on the day prior to each county's designated CPC day shall be continued to the eighth day for good cause, in accordance with Rule 7, in order to allow more time for notice/service. Parties, through their attorneys, may request a non-secure custody hearing through the Clerk's Office to be scheduled on the 7th day, in those instances. The Clerk shall notify all parties of said hearing. In cases not involving non-secure custody, a Child Planning Conference shall be scheduled prior to the adjudication hearing, but no less than 7 days prior. The purpose of the Child Planning Conference is to expedite the process of establishing stability for the child by bringing all the interested parties and community resources together in a timely fashion to begin the planning process for the child's well-being.

9.2 The Juvenile Clerk with assistance of the CIP Director will schedule the time for the Child Planning Conference, and will note it on the juvenile summons that is served on the parents. The Juvenile Clerk will notify the DSS Attorney, the DSS social worker who filed the petition, the attorneys provisionally appointed for the parents, the GAL Attorney, and the GAL at the time of the filing of the petition.

9.3 The Child Planning Conference will be conducted by the CIP Director. The conference will be attended by the DSS social worker and any supervisor in that department who wishes to attend, the Guardian ad Litem, the Guardian ad Litem Attorney Advocate, the parents, the parents' attorneys, the DSS Attorney, a representative of the appropriate mental health agency, and a representative of the school when a juvenile taken into DSS custody is also a student in a public school in that county.

9.4 At the Child Planning Conference, the participants will endeavor to determine if there are relatives of the child or children living in the vicinity of that county who may be an appropriate placement for the child or children and what services, if any, can be provided to the family prior to adjudication, such services being those including mental health or any other service provider available.

9.5 The CIP Director will determine whether or not paternity has been established, try to determine addresses for parties not served, and complete the Memorandum of Agreement among the social workers, the parents, and the parents' attorneys.

9.6 Each person attending the Child Planning Conference shall execute the Confidentiality Agreement which will require that no one discuss any information obtained outside of that conference setting. It should also be understood by all parties that the Child Planning Conference is non-prejudicial to the parents in terms of the adjudication.

9.7 The CIP Director will also attempt to facilitate determining whether or not additional non-secure custody hearings will be necessary or if the parties through their attorneys can waive the necessity for a further non-secure hearing.

RULE 10 Discovery

10.1 All requests for discovery may be obtained subject to the North Carolina Rules of Civil Procedure and NCGS§7B-700.

10.2 Requests for discovery shall be made in a manner to not delay scheduled hearings and shall not serve as grounds for continuance for other than good cause found by the court.

RULE 11 Stipulation in Abuse, Neglect and Dependency Cases/Adjudication

11.1 If the parties agree to stipulate to certain findings and/or conclusions and/or provisions of the Court's decree, the Court shall determine, before accepting the stipulation in open Court, that the parties understand the content and consequences of the stipulation, and that they voluntarily consent to the stipulation. The Court's findings shall be set forth on the record.

11.2 In lieu of stipulation, in order to protect the parent's constitutional rights or for any other reason, a parent may choose not to resist the entry into evidence of the petition, court summary, medical reports or other documents forming the basis of adjudication. A statement that a party does not resist the findings/stipulations shall be deemed a sufficient finding of fact. Further, a parent may choose not to resist a determination by the Court that a juvenile is abused, neglected and/or dependent.

RULE 12 Disposition Report

12.1 Prior to the Adjudication Hearing, DSS shall prepare a disposition report to be provided to the Guardian ad Litem, all parties and their counsel, and pro se parties seven (7) days prior to court, which shall include at least the following:

- (a) A description of the placement plan for the child and how that plan is appropriate to the needs of the child;
- (b) A description of the plan of services for the child and their family, and how that plan is appropriate to the needs of the child;
- (c) A statement of changes in parental behavior which are needed to correct the conditions that led to the neglect, dependency or abuse and the actions the parents must take; and
- (d) If there is a recommendation that the child be removed from the home, the report shall also include:
 - (1) a statement of the efforts by DSS to prevent the need for placing the child outside the home;

- (2) a description of the efforts by DSS to reunify the family, including services which have been offered, provided or rejected;
 - (3) a statement of why the child cannot be reasonably protected from the identified problems while remaining in the child's home;
 - (4) the identity of all relatives and friends who have been contacted about providing a placement for the child;
 - (5) a suggested visitation plan for the child;
 - (6) a statement of the child's special needs and how they may be met; and
 - (7) the identity and location of the child's siblings and statement of steps required to maintain contact between the siblings and reunify the family.
- (e) if reunification efforts are not to continue, reasons shall be specifically given in the report.
 - (f) The GAL for the child may also prepare a dispositional report to assist the Court in reaching for a disposition that will best serve the needs of the child. Copies of the recommendations of the GAL shall be provided to DSS, all parties and their counsel, and pro se parties seven (7) days prior.
 - (g) The Court will not review the dispositional report prior to the adjudication hearing unless the parties have settled all adjudication issues or unless the parties otherwise agree.

12.2 The DSS Attorney must prepare a proposed order conforming to NCGS§7B-807, in that the order must be reduced to writing, signed, and entered within 30 days of the completion of the Adjudication and Disposition hearings.

RULE 13 Stipulated Dispositions

13.1 Before accepting a stipulated disposition, the Court shall inquire of the parties in open court to determine that they understand the contents of the stipulation and its consequences; and that they voluntarily consent to its terms.

13.2 The Court's finding shall be set forth in the record. A party's nonresistance to entry shall be acceptable in the Court's discretion.

RULE 14 Review of Cases

14.1 The Court shall conduct an intensive review of each case, as provided by statute, within ninety days (90) of disposition and at least every six (6) months thereafter. The Court may set a review hearing for any case at any time, on its own motion, or upon motion of any party. When possible, notice of the review hearing shall be given in open Court at the end of the prior hearing.

14.2 Unless previously set in open Court with all parties present in that setting, the Clerk shall mail a notice of hearing at least fifteen (15) days prior to the date set for the review hearing to such of the following persons as may be involved in the case: the parents or their respective

attorneys, the child, if he/she will be twelve (12) years of age or more at the time of the review, the GAL Program, the GAL Attorney Advocate, the foster parents, pre-adoptive parents, or other caretakers, and any other person or agency specified by the Court Order.

14.3 The DSS Attorney or designee shall deliver a written Court Summary to all counsel, unrepresented parties, and the GAL office at least seven (7) days prior to the review hearing which summarizes the progress in the case since the last hearing and DSS recommendations. Office of the Guardian ad Litem shall deliver a written Court Summary to all counsel, unrepresented parties, and DSS at least seven (7) days prior to the review hearing which summarizes the progress in the case since the last hearing and GaL recommendations.

14.4 The party who files any additions and/or objections of said court reports bears the burden of producing evidence at the subsequent review hearing.

14.5 The DSS Attorney must prepare a proposed order conforming to NCGS§7B-906, in that the order must be reduced to writing, signed, and entered within 30 days of the completion of the hearing.

14.6 The Court shall maintain the case on the calendar at all times for as long as juvenile court jurisdiction in the case continues unless the Court orders that no further reviews are required. At or before the conclusion of each hearing, a subsequent hearing date shall be set.

14.7 Once a case has been adjudicated by a judge, subsequent hearings regarding the case shall be heard by the same judge, unless circumstances require otherwise. This includes TPR hearings involving the same children.

RULE 15 Permanency Planning Hearings

15.1 The Court shall conduct an intensive permanency planning hearing of each case, as provided by statute, within twelve (12) months of the initial removal from the home, and within thirty (30) days of the judge ordering that reunification efforts shall cease. The Court may set a permanency planning hearing for any case at any time, on its own motion or upon motion by any party. Notice of the permanency planning hearing may be given in open Court at the end of the prior hearing.

15.2 Unless previously set in open court, the Clerk shall mail a notice of the hearing at least fifteen (15) days prior to the date set for the review hearing, to the following persons involved in the case: the parents and their respective attorneys, the child, if he/she will be twelve (12) years of age or more at the time of the review, the GAL Program, the GAL Attorney Advocate, the foster parents, pre-adoptive parents, or other caretakers, and any other person or agency specified by the Court Order.

15.3 In a permanency planning hearing held pursuant to NCGS§7B-907, the DSS Attorney shall deliver a written Court Summary to all counsel, unrepresented parties, and the GAL Office at least seven (7) days prior to the review hearing which summarizes the progress in the case since the last hearing and DSS recommendations.

15.4 If the permanent plan has not been implemented, the case shall be re-docketed for further permanency planning hearing pursuant to statute.

15.5 The DSS Attorney must prepare a proposed order conforming to NCGS§7B-907, in that the order must be reduced to writing, signed, and entered within thirty (30) days of the completion of the hearing.

RULE 16 Reasonable Efforts

16.1 At every disposition or required hearing, in order to assist the Court in determining whether reasonable efforts were used to prevent or eliminate the need for foster care, DSS shall present evidence as to the need for services in the following areas, the efforts made to provide those services, and the reason that services in a particular area were not provided:

- (a) General public assistance programs;
- (b) Health services;
- (c) Crisis counseling;
- (d) Emergency caretaker or homemaker services;
- (e) Emergency shelter;
- (f) Cash assistance or goods to provide for the essential needs of the child on a temporary basis;
- (g) Counseling services;
- (h) Homemaker/chore services;
- (i) Daycare;
- (j) Parent training;
- (k) Transportation;
- (l) Visitation between parents or caretakers and child as frequently as possible;
- (m) Employment and training support services;
- (n) Housing and home improvement services;
- (o) Nutrition services;
- (p) Education services; and
- (q) Permanency Planning.

RULE 17 Distribution of DSS Orders

17.1 The Clerk of Superior Court shall provide to each parent's attorney, DSS, the DSS attorney, the GAL, and the GAL Attorney Advocate a copy of the disposition order and any review orders entered thereafter until the case is closed, and same shall be noted in the court record.

RULE 18 Delinquent Orders or Judgments

18.1 The court shall assign a responsible party to prepare each order or judgment. An order shall be considered delinquent if it has not been presented to the court for signature and filed with the Clerk of Superior Court within thirty (30) days after the court directed that the order or judgment be prepared.

18.2 The Clerk of Superior Court shall identify those orders that are delinquent, and those matters shall be scheduled for the judge's next session of court for review, and all attorneys shall be present to report to the court as to the status of those orders.

RULE 19 Sanctions

19.1 The willful failure to comply with any section of these rules, shall subject the party or parties so failing to comply to all sanctions allowed by law as deemed appropriate in the discretion of the assigned Juvenile Court Judge or Chief District Court Judge.