

**LOCAL RULES FOR JUVENILE COURT
DISTRICT 11 – LEE, HARNETT & JOHNSTON COUNTIES**

**SCOPE, PURPOSES, CONSTRUCTION AND ENFORCEMENT OF
RULES**

Rule 1. Scope

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected, or dependent.

Rule 2. Purpose

These rules are designed to achieve stable and secure homes for children who come within the court's juvenile jurisdiction. These rules should achieve the following:

- a. provide judicial procedures that protect and promote the safety and welfare of the child; and
- b. provide a just, thorough, speedy and efficient determination of each juvenile protection matter before the court and ensure due process for all persons involved in the proceedings.

Rule 3. Construction and Enforcement

These rules shall be liberally construed to accomplish the purposes set forth in Rule 2. The court may impose sanctions against a party or 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.

Rule 4. Definitions

Unless the context clearly requires otherwise, for purposes of these rules:

- a. "Clerk" means any clerk of superior court, acting clerk or assistant or deputy clerk.
- b. "Court" means the district court division of the General Court of Justice.
- c. "DSS" means the county department of social services in the county in which a case is initiated or heard.

- d. “Guardian ad Litem” means the Guardian as Litem appointed pursuant to G.S.§7B-601 and serving with the support provided for in Article 12, Chapter B, Guardian Ad Litem Program, to include a program coordinator or district administrator, attorney advocate, and staff.
- e. “Judge” means any district court judge.
- f. “UCCJEA” means the Uniform Child Custody Jurisdiction and Enforcement Act, Chapter 50A of the North Carolina General Statutes.

RULES APPLICABLE TO ABUSE, NEGLECT AND DEPENDENCY PROCEEDINGS

Rule 5. Assignment and Appointment of Counsel

- a. At the time of the filing of a petition alleging abuse, neglect, and/or dependency, the clerk shall assign separate counsel to represent each parent named in the petition.
- b. Before assigning a specific attorney, the clerk shall ensure that the attorney will be available for 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 prearrangement with one or more attorneys on the appointment list.
- c. The Clerk shall prepare a *Notice of Assignment of Counsel* to be served on the parent with the petition and summons. The notice shall include the attorney’s name and business address and telephone number and shall advise the parent to contact the attorney before appearing in court. The notice also shall inform the parent that the parent may retain his/her own counsel.
- d. At the first hearing, the court:
 - 1. will determine whether the parent qualifies for appointed counsel or whether the parent waives the right to counsel, and
 - 2. will not appoint the assigned counsel if the parent either does not qualify for appointed counsel or waives the right to counsel, and will allow reasonable compensation for services rendered by counsel to the parent prior to the court’s decision not to appoint.
 - 3. will sign the appointment of counsel order if the parent qualifies.

Rule 6. Responsibilities of Parents’ Attorneys

- a. Before being eligible for appointment to represent parents, attorneys must:
 - 1. have sufficient experience and skills to provide competent representation;

2. have a good working knowledge of juvenile law and juvenile court procedures;
 3. have a good understanding of child protective services and the related mandates that apply to DSS and to guardian ad litem; and
 4. have completed satisfactorily any initial and follow-up training specified by the Chief District Court Judge.
- b. An attorney shall not accept an appointment pursuant to Rule 5 unless the attorney can be available for the first hearing in the case, and to the best of the attorney's knowledge, for every stage of the proceeding.
 - c. At the first hearing in the case, an attorney appointed to represent a parent who has not been served and who does not appear at the hearing, may be released in the court's discretion and shall not be responsible for further appearances – unless reappointed by the court.
 - d. An attorney who is absent from juvenile court because of a conflict in another court shall keep the courtroom clerk informed of his/her location at all times.
 - e. Leave of court for an attorney to withdraw from a case shall be granted for ***compelling*** reasons only.

Rule 7. Appointment of Guardian ad Litem and Attorney Advocate

- a. When a petition is filed alleging abuse or neglect, the judge shall appoint a guardian ad litem and, if the guardian ad litem is not an attorney, also an attorney advocate to represent the juvenile named in the petition.
- b. The judge may appoint a guardian ad litem for a child who is alleged to be dependent.
- c. The guardian ad litem program coordinator or district administrator shall ensure representation for each case throughout the proceedings.
- d. An attorney advocate who is absent from juvenile court because of a conflict in another court, shall keep the courtroom clerk informed of his/her location at all times.

Rule 8. Service, Summons and Petition, Notice

- a. From the date the petition is filed until the adjudication hearing, the petitioner shall have a continuing duty to attempt to identify, locate, and serve any parent or other respondent who has not been served.
- b. Any time a parent or other respondent is served with a copy of a nonsecure custody order on the day a juvenile is taken into nonsecure custody, the parent or other

- respondent also shall be served with a notice that states the nature of the proceedings and includes the time, the date, and the place of the hearing.
- c. The preparation of the juvenile court calendar shall be the responsibility of the clerk. Any interested party may request the calendaring of any juvenile case pursuant to the rules of court or other statutory provision.
 - d. By reason of the timeline requirements imposed on the clerk by G.S. §7B-906, DSS shall request the clerk not later than 20 days prior to the session of court, to calendar each case required for review, or other hearing, at a session of court scheduled for the hearing of juvenile matters. DSS shall furnish to the clerk current known addresses for any parent, for the juvenile (if 12 years of age or older) for any guardian, foster parent, relative, or preadoptive parent providing care for the child; for the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, for use by the clerk in giving notice of the impending review.
 - e. To meet the notice requirement of G.S. §7B-906, the clerk may give the required notice to the persons entitled to the same, to each attorney for a person entitled to notice, by depositing the notice in the US mail, postage prepaid, or by any other lawful method, at least 18 days prior to the hearing.
 - f. The clerk may give notice of the hearing to attorneys, the guardian ad litem and others entitled to notice and who maintain a “mail box” for receipt of items of mail originating in the office of the clerk, by depositing a copy of the notice in such “mail box at the courthouse. Anyone who uses a “mail box” in the office of the clerk for receipt of official correspondence from the clerk and who appears in a juvenile proceeding as counsel or otherwise, is deemed to have designated the “mail box” in the office of the clerk as the place he/she has elected to receive official pleadings, documents and other notices for each case in which he/she appears or in which he/she may be entitled to notice, unless a special request by the attorney, guardian ad litem or other person is made in writing to the clerk asking that notice be given to him/her through the US mail for each case designated by file name and number in the request.

Rule 9. UCCJEA Affidavit

The information required by G.S. §50A-209 shall be included in the petition or in an affidavit attached to the petition at the time of the filing.

Rule 10. Nonsecure Custody Hearing

- a. The nonsecure custody hearing required by G.S. §7B-506 to determine the need for continued nonsecure custody shall be held before a district court judge within seven (7) calendar days after the juvenile was taken into custody.

- b. At a nonsecure custody hearing, the judge shall:
 1. review the nature of the proceeding and the purposes of the hearing;
 2. address any issues relating to adequacy of notice and service of process;
 3. address the requirements set forth in G.S. §7B-506 in determining the need for continued custody; and
 4. hear sworn testimony from the parties aimed at determining:
 - a. whether a condition or risk justifying continued nonsecure custody exists under G.S. §7B-503;
 - b. what efforts the petitioner has made to eliminate the need for nonsecure custody; and
 - c. what other steps the parties have taken since the juvenile was placed in nonsecure custody.
- c. After giving all parties an opportunity to present evidence and to ask questions of other parties, the judge shall make appropriate findings of fact and conclusions of law, indicating whether there is a reasonable factual basis to believe:
 1. that continued nonsecure custody is supported by one or more of the criteria set forth in G.S. §7B-503; and
 2. that there is clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall be bound by the criteria set forth in G.S. §7B-503 in determining whether continued custody is warranted.
- d. If the judge finds that continued nonsecure custody is necessary, the judge shall review or explore with the parties the following:
 1. the appropriateness of the juvenile's placement and other placement options, including possible relative placements and efforts to place or keep siblings together;
 2. parental visitation;
 3. sibling visitation;
 4. service needs and referrals; and
 5. whether additional orders are needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and
- e. If the judge finds that continued nonsecure custody is not warranted, the judge shall explore with the parties the service needs and referrals.
- f. Before the conclusion of the nonsecure custody hearing, the judge shall:
 1. summarize what has occurred;
 2. give all parties an opportunity to ask questions;
 3. set specific dates for the next nonsecure custody hearing, if applicable, and for the adjudicatory hearing; and
 4. make findings as to whether reasonable efforts have been made by DSS to eliminate the need for placement of the juvenile as required by G.S. §7B-507.

Rule 11. Discovery

- a. Except as protected by privilege, all parties shall disclose all relevant material and information to all other parties within twenty-one (21) days from the filing of the petition. The material and information shall be delivered to counsel for the parties, to any unrepresented party, and the attorney advocate for the child.
- b. Any party, including the child, may file a motion to compel discovery of specific information or material. The motion shall be calendared for hearing within seven (7) business days of the date it is filed, if possible, or at the next regularly scheduled session of juvenile court held in the county.
- c. The judge who reviews the discovery shall not be the presiding judge at the adjudication of those cases in which the judge enters a recusal immediately following the review and finds, either on oral suggestion or written motion of a party, or on the judge's own motion, that the information and materials reviewed by the judge is likely to be inadmissible as evidence upon trial of the case and will be prejudicial to one or more of the parties.

Rule 12. Adjudicatory Stipulations Before Judge

Before accepting a stipulation from any party, the judge, in open court and on the record, shall determine that the stipulating parties understand the content of the stipulation. The judge shall determine that the stipulation is voluntary.

Rule 13. Adjudication

The adjudication hearing shall be held within sixty (60) days from the filing of the petition, unless the judge, for good cause, orders that it be held at a later date. The adjudication hearing shall take place at the earliest possible date thereafter.

Rule 14. Services from Other Public Agencies

Any time after adjudication, if it appears that the best interest of the juvenile may require, or that a party is recommending that the juvenile, parent or legal custodian receive services from a public agency, the court may direct the clerk or a party to serve the director or other appropriate representative of the agency with a notice of the dispositional hearing or a subsequent hearing and of the issues to be addressed that involve that agency. If the notice is served on a county agency, it also shall be served on the county attorney.

Rule 15. Disposition Reports

- a. DSS shall prepare a disposition report that includes at least the following:
 1. A description of the recommended placement plan for the child and how that plan is appropriate to the child's needs;
 2. A description of the plan of services for the child and the child's family, and how that plan is appropriate to meet the child's needs;
 3. A statement of changes in parental behavior that are needed to correct the conditions that led to the abuse, neglect, or dependency, and the actions the parents must take in order to effectuate those changes;
 4. If there is a recommendation that the child be removed from the home,
 - a. A statement of the efforts by DSS to prevent the need for placing the child outside the home;
 - b. A description of the efforts by DSS to reunify the family, including services that have been offered, provided, or rejected;
 - c. A statement of why the child cannot be protected from the identified problems while remaining in the home;
 - d. The identify of all relatives and friends who have been contacted about providing a placement for the child, and a description of the nature and results of those contacts;
 - e. A suggested visitation plan for the child, the identify and location of the child's siblings, and a statement of steps required to maintain contact between the siblings and reunify the family;
 - f. A statement of the child's special needs and how they may be met;
 - g. If applicable, a description of the child's school or day-care situation and any proposed changes related to it; and
 - h. The status of any treatment previously ordered.
- b. The guardian ad litem for the child shall prepare disposition reports to assist the court in reaching a disposition that will best serve the child's needs.
- c. Except for good cause shown, all dispositional, review and other reports prepared for submission to the court by the parties or their attorneys, to include DSS, guardians ad litem, respondent parents or other custodians, shall be available to all other parties five (5) days before the scheduled hearing date. The party or person preparing the report may accomplish this by leaving a copy of such report or reports in a "mail box" for attorneys and others who maintain a "mail box" in the office of the Clerk of Court. This may be done in the same manner that is available to Clerks as described in Rule 8f. For those who do not maintain a "mail box" in the office of the Clerk of Court, a copy of dispositional, review and other reports may be made available to opposing parties by leaving copies with the Juvenile Clerk or other designee of the Clerk of Superior Court. The provisions of Rule 6(a) and (e) of the N.C. Rules of Civil Procedure do not apply since it is the responsibility of the party who wants a copy of the report or reports to go to the office of the Clerk to get it. In computing the five (5) day provision, the first day shall include the day the report is delivered to

the clerk at his or her office during office hours. Saturdays, Sundays and Holidays shall be included in the count.

Rule 16. Disposition

- a. The dispositional hearing shall be held immediately following the adjudication or within thirty (30) days thereafter.
- b. If the juvenile remains out of the home at the conclusion of the dispositional hearing, the judge shall specify in the order a specific time for a review hearing.
- c. At the conclusion of the dispositional hearing, the judge shall determine whether any person or agency not present or represented at the dispositional hearing needs information about the disposition in order to help meet the child's needs. The judge may order that a summary of appropriate portions of the order be provided to any such person or agency.
- d. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

Rule 17. Review Hearings

- a. When a juvenile remains out of the home following a dispositional hearing, a review hearing shall be held at a time the judge designates in the dispositional order, but in no event more than ninety (90) days from the date of the dispositional hearing.
- b. When a juvenile remains out of the home following the first review hearing, the judge shall determine and specify at the review hearing an appropriate date for the next review hearing. In no event shall the second review hearing be held more than six (6) months from the date of the first review hearing.
- c. As long as the juvenile remains out of the home, subsequent review hearings shall be held at times the judge finds appropriate, but in no event more than six (6) months from the date of the previous review hearing, unless the judge orders otherwise for good cause shown, pursuant to G.S. §7B-906.
- d. A goal of each review hearing shall be to develop a permanent plan for the juvenile. The permanency planning hearing may be combined with any review hearing but shall be held no later than 365 days after the petition is filed.
- e. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the review hearing order any

steps that are to be taken to identify the parent, locate the parent, or establish paternity.

PRIORITY OF JUVENILE COURT AND SCHEDULING OF PROCEEDINGS

Rule 18. Priority of Juvenile Court

Juvenile cases involving abuse, neglect, or dependency shall have priority over all other district court matters.

Rule 19. Maintaining Case on Court Calendar

- a. Each case shall be maintained on the court calendar at all times, for as long as juvenile court jurisdiction in the case continues.
- b. At or before the conclusion of each hearing, a subsequent hearing date shall be set by the court and announced in open court.

Rule 20. Extensions of Time and Continuances

The court may, for good cause, continue a hearing for as long as is reasonably required to receive additional evidence, reports or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile.