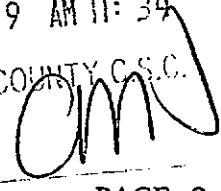


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Revised 2012 Durham Family Court Rules for  
ABUSE/NEGLECT/DEPENDENCY COURT  
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DURHAM COUNTY, C.S.C.  
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## **1.0 SCOPE AND PURPOSE**

- 1.1 These rules apply to all cases in which the court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent
- 1.2 These local rules establish procedures for Durham's Juvenile Court which has jurisdiction in A/N/D matters, including termination of parental rights cases. .. A copy of these rules shall be maintained in the Juvenile Clerk's office and in the Family Court office.
- 1.3 These rules are designed to fulfill the purposes of and insure compliance with the North Carolina Juvenile Code and related statutes, and the Adoption and Safe Families Act.
- 1.4 These rules are designed to work in conjunction with North Carolina General Statute §7B-100, et seq., and the Adoption and Safe Families Act of 1997 ("ASFA") and specifically to provide procedures and rules which effectively help families achieve permanent, stable and safe home for juveniles in a timely manner by:
- (1) providing oversight for the Court to use in case management so that cases are resolved in a timely way;
  - (2) making proceedings accessible and understandable to families and juveniles and encouraging families and juveniles to be involved in the decision-making process as their case moves through the system.
  - (3) eliminate unnecessary delays in court proceedings by helping parties present issues and evidence to the court in an efficient and effective manner;
  - (4) promoting a structure for the Court to assist with the integration of services for parents/caretakers and children involved in hearings, and by increasing their access to community services.
  - (5) developing a disposition whenever possible and in the best interests of the child, respects the autonomy of the family and preserves and strengthens the child's family ties; and which avoids, if safe and consistent with the child's welfare, removal of the child from the custody of the child's parent or legal custodian.
  - (6) securing for the child a safe and appropriate placement when removal from the child's parent or legal custodian is necessary and in the child's best interests;
  - (7) providing a just, thorough, speedy and efficient determination of each juvenile protection matter before the court and ensuring due process for all persons involved in the proceeding.

## **2.0 CONSTRUCTION AND ENFORCEMENT**

- 2.1 These rules shall be construed to accomplish the purposes set forth in Rule 1. Failure to comply with these rules by any party or attorney may subject him or her to sanctions; however, no rule shall be construed, applied, or enforced in a manner that will endanger or harm a child or prejudice the rights of any party.
- 2.2 The scheduled times and dates in these rules may be modified from time to time to reflect scheduling changes at the direction of the Chief District Court Judge. Modifications shall be communicated to all attorneys who regularly practice in Juvenile Court by memorandum from Family Court staff. The memorandum shall be placed in attorneys' boxes and sent by email. All memoranda shall be posted in a conspicuous location and added to the Appendix of these rules.

### 3.0 TIME STANDARDS

- 3.1 In every case, the best interest of the child is paramount; time frames as set out below are consistent with ASFA and the North Carolina General Statutes. These time standards represent the maximum time limit which is deemed consistent with family autonomy and best practices as determined by the Durham Family Court.
- 3.2 **Non-Secure Custody Hearing:** This is a hearing to determine the need for continued nonsecure custody of any juvenile(s). No juvenile shall be held under a nonsecure custody order for more than seven (7) calendar days without a hearing on the merits pursuant to N.C.G.S. 7B-506 or a hearing to determine the need for continued custody. Subsequent hearings shall be held at intervals permitted by 7B-506(e). If a hearing is waived by the parties, a waiver must be in writing and submitted to the court.
- 3.3 **Child Planning Conference ("CPC"):** When a juvenile is ordered into nonsecure custody, the Court order parties to participate in a CPC prior to the adjudicatory hearing or, in exceptional circumstances, at a later stage in the case.
- 3.4 **Adjudication:** The adjudication hearing shall be scheduled for the earliest possible date after the filing of a Petition and shall not exceed sixty (60) days after the filing of the petition. The adjudication will be continued only on a basis which is consistent with N.C.G.S. 7B-803 or for an extraordinary circumstance which is consistent with the administration of justice.
- 3.5 **Disposition:** Whenever possible, the disposition hearing shall be conducted immediately at the conclusion of the adjudication. If this is not possible, the disposition shall be conducted at the earliest date possible but in no event more than thirty (30) days after the adjudication unless grounds for a continuance are consistent with 7B-803.

- 3.6 **Review:** Review hearing shall be conducted not later than ninety (90) days after the disposition hearing. Subsequent review hearings shall be conducted not later than six (6) months after the first review hearing.
- 3.7 **Permanency Planning:** A permanency planning hearing shall be conducted within 30 days of an order to cease reunification efforts and not later than twelve (12) months after removal of the juvenile from his or her home. This hearing may be combined with a scheduled review hearing. Subsequent permanency planning hearings shall be conducted at least every six (6) months thereafter.
- 3.8 **Best Practice Guidelines.** Whenever practical and possible this court shall adhere to the following guidelines consistent with the Federal Adoption and Safe Families Act provisions and the North Carolina Chapter 7 statutes. These time frames represent goals for maximum time limits. In every case, the child's best interest is the paramount goal. Time frames are measured in days elapsed from the filing of the petition, unless otherwise noted:
- a. First nonsecure Custody order entered; same day as petition filed.
  - b. First nonsecure custody hearing, not more than seven (7) days.
  - c. Adjudication Hearing, completed within 60 days.
  - d. Disposition hearing completed within 30 days of adjudication.
  - e. First Placement Review hearing completed within 180 days.
  - f. First Permanency Planning hearing completed within 330 days.
  - g. Reunification hearing completed between 330 days and 510 days.
  - h. Termination of Parental Rights hearing completed within 90 days of the filing of the TPR motion..

#### 4.0 **CALENDARING AND MONITORING OF CASES**

- 4.1 The calendar for the disposition of A/N/D cases shall be set by the Juvenile Case Coordinator in conjunction with the assigned judge and it shall be maintained by the Juvenile Clerk's Office in accordance with these rules, the rules of record keeping, and under the supervision of the Chief District Court Judge. The calendar shall be made available to County Attorney, DSS, GAL, Parents Attorneys, the Durham Center Court Liason, the Family Court Administrator, and upon request, any other participant who as determined by the presiding judge is entitled to a copy.

4.2 The Assigned Judge shall reschedule all cases "not reached" or continued, and the Juvenile Court Clerk shall document the rescheduled date on the court calendar; the calendar shall reflect and state how many times a case has been re-calendared.

4.3 At the close of each session, the Juvenile Court Coordinator shall use the Juvenile Clerk's Calendar provided to them by juvenile clerk's office to determine the disposition and continuance rate for that session, and monitor for compliance with Family Court and ASFA time standards. All cases shall be entered into the court reporting system and disposition or continuance properly coded.

#### 5.0 **JUDICIAL ASSIGNMENT:**

5.1 Upon receipt of a new petition, the clerk's office shall enter the case into the J-Wise (court reporting) system.

5.2 Each new case (meaning a case commenced with a new Petition), shall be calendared for the next available session of court. When a case is calendared for an adjudication, that judge shall be assigned to the case for all subsequent proceedings, consistent with "one family, one judge" guidelines.

#### 6.0 **COURTROOM PROCEDURE**

6.1 **Interpreters.** Counsel for the party requiring an interpreter shall notify the Juvenile Case Coordinator of the need for an interpreter at the first opportunity including at a Nonsecure Hearing or at the first pretrial conference. If there is no pretrial conference, counsel shall notify the Juvenile Case Coordinator for the need of an interpreter by 3 pm on the Friday of the week preceding the scheduled hearing date

6.2 **Incarcerated parties.** At or before 9:00 a.m. on the day of the hearing, Counsel representing a party who is in the Durham County Jail shall notify the deputy assigned to A/N/D Court that their client needs to be brought over from the Durham County Jail. (It is the responsibility of counsel for the parent to secure attendance by writ if the incarcerated parent is needed for the proceeding and is incarcerated in a facility other than the Durham County Jail.)

6.3 **Appointment of Guardian *ad Litem* for a parent.** A hearing for an inquiry as to whether or not to appoint a Guardian *ad Litem* for a parent shall be held pursuant to statute. Whenever possible, unless waived by the parent, the hearing shall be a closed hearing.

6.4 **Priority of cases.** The presiding judge shall determine the priority of cases which are calendared. As a general rule, the hearings in progress take priority over other hearings, except for nonsecure custody hearings. The presiding judge may make scheduling accommodations, if needed, to manage other cases.

6.5 **Consent orders:** The use of consent orders and stipulations is encouraged to resolve cases or narrow the issues. Proposed consent orders, stipulations, and/or court reports shall be circulated among the parties in advance of the scheduled hearing. Counsel are encouraged to contact each other to ascertain the possibility of a consent order or stipulation. Attorneys should encourage their clients to maintain contact with the attorney before the scheduled hearing date(s) so that proposed consent orders, stipulations, and/or court reports may be reviewed prior to the scheduled hearing.

## 7.0 **APPOINTMENT OF COUNSEL**

### 7.1 **Abuse/Neglect/Dependency and Termination of Parental Rights.**

A. The Public Defender's office, pursuant to the Rules of Appointment for Indigent Cases for the Fourteenth Judicial District, shall maintain a current list of attorneys eligible to be appointed to represent indigent parents of children alleged to be abused, neglected or dependent and to handle, if necessary, parallel criminal proceedings. To be included on the list, an attorney must maintain an office in Durham County, have a local working telephone number at which he or she can be contacted, have the ability to receive and send email correspondence and fax, maintain a mailbox in the Family Court office in the Judicial Annex or wherever designated, be familiar with the juvenile code regarding abuse, neglect and dependency proceedings and complete any initial or follow-up training specified by the Public Defender. Attorneys shall pick up petitions or other documents relating to abuse, neglect and/or dependency and termination of parental rights matters from the attorney mailbox in the Judicial Annex or wherever designated.

B. Upon the filing of a petition alleging that a juvenile is abused, neglected or dependent, the County Attorney's office shall email or fax a copy of the petition immediately to the Public Defender's office, which shall appoint provisional counsel to represent the Respondent parents. An attorney shall not accept appointment in a case if he or she knows any reason why he or she may not be available to try the case from the first non-secure custody hearing after the attorney is notified of the appointment through the adjudication. The summons, or notices attached to the summons, shall inform the respondent of the appointment of the Office of the Public Defender as provisional counsel and that:

- (1) The respondent may retain counsel; and

(2) The court, at the first hearing will determine whether the respondent qualifies for appointed counsel and, if the respondent does, whether the respondent waives the right to counsel; and

(3) The court will dismiss the assigned counsel if 1) the respondent does not qualify for appointed counsel; 2) the respondent waives the right to counsel; 3) the respondent does not appear at the scheduled hearing after service.

- C. **Termination of Parental Rights.** The same attorney shall represent the respondent in a Termination of Parental Rights Proceeding, unless the court orders otherwise.

It shall be the responsibility of the attorney to ensure he/she has the complete file. If the termination of parental rights proceeding is filed as a Motion in the Cause, pursuant to NC G.S. 7B-1102, the current appointed counsel, including the Guardian *ad Litem* for the parent, shall continue representation, unless that attorney has properly moved the court to withdraw.

If the parent is not currently represented by counsel in a pending abuse, neglect, or dependency proceeding, counsel shall be appointed as in Rule 8.1.

In cases where a private TPR has been filed, the court shall appoint a GAL attorney.

- D. **Guardian *ad Litem* (GAL) Attorney.** Appointment of a GAL attorney advocate for the child shall occur upon the filing of a petition alleging abuse and neglect and in accordance with NC G.S. 7B-601. The GAL program shall ascertain whether a conflict exists and if necessary will appoint an appropriate attorney. In the event a respondent files a Motion to Modify the permanent plan, a GAL attorney advocate shall be appointed when the Motion is filed.
- E. **GAL Attorney for Respondent Parent(s).** Guardian *ad Litem* for parents shall be appointed as provided in G.S. 7B-602(b) and (c), G.S. 7B-1101.1(b) and (c), and GS 1A-1, Rule 17.
- F. **Motions:** When a motion is filed by a respondent or caretaker, the Public Defender's Office shall be notified by the Juvenile Court Coordinator for appointment of counsel.

## 8.0 **RESPONSIBILITY OF ATTORNEYS**

- 8.1 **Priority.** An attorney who represents a party in a case scheduled for hearing shall appear at the calendar call unless excused by the Court. An attorney who has a conflict in

another court shall comply with the relevant rules relating to priority as specified in Rule 3 of the North Carolina General Rules of Practice, and it shall be the responsibility of the attorney to keep the courtroom clerk or Juvenile Case Coordinator informed of his or her location at all times

8.2 **Continuation of Representation.** Provisional counsel shall be removed by the court for the reasons set out in NC G.S. 7B-602(a). The removal of provisional counsel does not affect the right of the parent to subsequently come forward and request court appointed counsel. After an 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 pursuant to NC G.S. 7B, as long as the child continues within the jurisdiction of the Court, until such time as the matter is appealed, if applicable.

8.3 **Withdrawal by Counsel.** If an attorney, provisionally appointed to represent a parent, has been unable to establish contact with the parent, the appointed attorney shall be permitted to withdraw from the case at the call of the adjudication hearing. The attorney shall send a copy of the order to the Public Defender's office.

If an attorney appointed to represent a parent has been unable to maintain contact with the parent subsequent to the adjudication hearing, the appointed attorney shall be permitted to withdraw after the first review with no contact, absent a compelling reason. Further, an attorney appointed to represent a parent may be permitted to withdraw at any time upon filing of a motion with good cause. Any order granting a motion to withdraw as counsel shall include the last known address of the parent for the purpose of service of future pleadings in the case.

## 9.0 **CONTINUANCES AND ENTRY OF ORDERS**

9.1 No extension of time or continuance beyond the time specified by statute, order, or these rules shall be granted, except for good cause, as determined by the assigned Judge, or as delineated in the Juvenile Code or case law. The consent of the parties alone is not good cause for an extension or continuance.

9.2 Whenever possible, motions for continuances shall be made in writing and served on all the parties and the Juvenile Case Coordinator at least two (2) days prior to the scheduled hearing. Service may be affected by hand delivery, mail, facsimile transmission, or email attachment. All parties shall have an opportunity to be heard on the motion.

9.3 Whenever possible, orders for continuance shall be prepared and tendered to the judge for signature in open court by the moving party; however, the moving party is not precluded



from submitting the order for signature after court has recessed. The clerk shall make sufficient copies for all attorneys and place the copies in the attorneys' boxes in the Family Court office. A copy of the form continuance order is in the Appendix to these Rules.

- 9.4 All orders should be filed within thirty days following the conclusion of a hearing. A judge may allow additional time for the drafting of an order in complex cases but all orders must be filed within thirty days following the hearing. The Court shall set entry of order dates in open court for the respective Judge's monthly Tuesday afternoon session.

#### **10.0 CHILD PLANNING CONFERENCES: "CPC"**

- 10.1 Whenever a child is taken into non-secure custody, a child planning conference (CPC) shall be held. The CPC conference shall be conducted by a Family Court Facilitator, usually the Juvenile Case Coordinator and scheduled on Monday mornings at 9:30. Following the introduction to the CPC, the attorney shall meet with the parent.
- 10.2 The purpose of the CPC is to provide services at the earliest possible time. Services include the arrangement of home studies; establishment of visitation schedules; referrals for child mental health evaluations; referrals for parent mental health evaluations or substance abuse evaluations; referrals to parenting programs; or referrals to domestic violence programs. CPC's are designed to put in place any other community services that are available to assist the family to work towards reunification. . CPC's are not for settlement of the nonsecure status, nor are the merits of the case to be discussed.
- 10.3 CPCs shall include (unless deemed exempt by the judge) the respondents and their attorneys including guardians *ad litem* assigned to the parents by the court, and DSS staff involved with the case. Additional individuals may attend, including educational professionals, mental health or therapy service providers, medical personnel, and any other persons whose input may be helpful. The DSS attorney and the GAL attorney attending the CPC is optional.
- 10.4 The facilitator, with or without input from the persons attending the scheduled CPC, shall determine if the CPC can proceed when other persons ordered to attend are not present; the facilitator shall note the failure of attendance by a necessary participant to the attention of the Court. Failure to attend a scheduled CPC by a respondent or DSS agent may subject such person to sanctions, including but not limited to contempt of court.
- 10.5 Mental health and substance abuse referrals and evaluations will be given to the Juvenile Court Coordinator. . Evaluations shall be maintained in the Family Court office and not be placed in the court file until such time as ordered by the court.

10.6 No information secured in a CPC shall be used or repeated in any subsequent court hearing except for any information disclosed at a CPC that requires a report of a new allegations of abuse or neglect to DSS, as required by law. Agreement for services shall not be deemed admissions to the allegations in the proceedings.

11.0 **COURT SCHEDULE** As of the date of the implementation of these Rules, the AND court weeks are in two week cycles: a "Short week" and a "Long/primary week". Calendars are the function of the Court. Court sessions are as follows:

11.1 **Primary Court Week (Long)**

In the schedule listed below, the morning court session runs from 9:30 a.m. until 1:00 p.m. The afternoon court session runs from 2:30 p.m. until 5:00 p.m.

**Monday Mornings** - Child Planning Conferences as scheduled by the Juvenile Coordinator.

**Monday Afternoon – Nonsecures, Motions and Entry of Orders:** The summons and notices will provide a 2 p.m. court time for parents to appear to complete paper work for court appointed counsel and for parent attorneys to meet with their clients. The calendar call will be at 2:30 p.m.

**Tuesday - Friday Morning:** Calendar call will be at 9:30 a.m. Cases will be called from the printed calendar.

**Tuesday - Friday Afternoon:** Calendar call will be at 2:30 pm.

11.2 **Secondary Court Week (Short week)**

**Monday Mornings** – Child Planning Conferences as scheduled by the Juvenile Coordinator.

**Monday Afternoon – Nonsecures, Motions and Entry of Orders :** The summons will provide a 2 p.m. court time for parents to complete paperwork and for parent attorneys to meet with parents. Calendar call will be at 2:30 p.m. **Entry of order conferences will be held, if necessary.**

**Wednesday Afternoon: 2:30 pm. Pretrials:** Pretrial conferences on adjudications, reviews and TPRs.

11.3 Emergency hearings regarding abuse, neglect and dependency cases shall be scheduled by the Juvenile Case Coordinator on the next available court date for the judge assigned to the case.

**12.0 CALENDAR**

- 12.1 The Juvenile calendar shall be maintained by the Juvenile Case Coordinator. No case shall be scheduled on or removed from such calendar except by the assigned judge or by the Juvenile Case Coordinator.
- 12.2 At or before the conclusion of each hearing, the next hearing date shall be set, if applicable.
- 12.3 If the assigned judge is not going to be available for a court session, notice shall be given to the Juvenile Case Coordinator who will notify all attorneys by email or by telephone. The Juvenile Court is a priority court and should not be cancelled unless absolutely necessary. Attempts will be made to secure the other judge presiding in dependency, neglect and abuse matters to preside over the juvenile court session. Cancellation of court or use of a retired judge shall occur only when emergencies dictate.
- 12.4 Court calendars shall be provided via email to, the Guardian *ad litem* office, County Attorney's office, the Public Defender's office, the Durham Center Liaison to DSS and all counsel with a case on the calendar. The calendars will be modified to adhere to confidentiality requirements. Parent attorneys can request from the Juvenile Case Coordinator, a listing of the cases to which they are counsel for Respondent parents at any time.
- 12.5 At the conclusion of the calendar call, the Court, after consultation with all attorneys, shall announce the order of hearings and the approximate time required to complete each case. The court shall to the extent possible, assist in establishing a schedule in order to allow 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 or Juvenile Case Coordinator informed of their location until that time.

**13.0 SERVICE OF SUMMONS AND PETITION**

From the date the Petition is filed until the adjudication hearing, the Petitioner shall have a continuing duty to identify and locate any parent who has not been served with a copy of the summons and petition, and to have the summons and petition served on any such parent. The court may also inquire of any party concerning any information that party has which may lead to the location and service on the parent. A parent's request for counsel shall be deemed a general appearance for purposes of service of the summons and petition.

**14.0 PRE-TRIAL CONFERENCES FOR ADJUDICATIONS, REVIEWS AND PERMANENCY PLANNING HEARINGS**

- 14.1 **Purpose.** The purpose of the pretrial conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, to stipulate to those facts which are not in dispute, to estimate the time the matter will take for hearing, to prioritize the hearing order of the scheduled cases and to share witness and exhibit lists. Each party shall distribute to all other parties a copy of all exhibits intended to be used at trial. Further, any attorney considering a pre-trial motion shall put all other counsel on notice of same at the pre-trial conference whenever possible. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit not available for distribution at the pre-trial conference shall be distributed as soon as available. Parties are encouraged to share any exhibits intended to be used for hearing on adjudication at the earliest practicable time.
- 14.2 **Assigned Judge in Attendance.** The judge assigned to the case will be present at the pre-trials to assist the parties in narrowing the issues, estimating length of hearings and prioritizing cases to be heard. If a resolution is reached, an order can be proffered to the judge at pre-trials for signature and that matter will be removed from the trial calendar. If no resolution is reached, the pretrial judge will remain the assigned judge through the conclusion of the case.
- 14.3 **Scheduling.** There shall be a pre-trial conference for each calendared case on the Wednesday afternoon in the secondary (i.e., short) court week for the assigned judge.
- 14.4 **Attendance.** All counsel of record shall attend the conference. The respondents, whether represented or not, shall be present at the conference to assist with preparation for the trial or shall specifically give counsel authority to consent. Consent orders may be entered pursuant to NC G.S. 7B-902.
- 14.5 **Sanctions.**  
If counsel fails to appear for the scheduled pretrial conference, the Court may issue an Order to Show Cause after properly setting the matter for hearing and finding contempt. Sanctions may include the following: fines and any other sanctions deemed appropriate by the Court.

**15.0 DISCOVERY**

- 15.1 **Voluntary Discovery from the Department of Social Services:**

The Durham Department of Social Services record will voluntarily release discovery. The following information shall be provided to each parent attorney by placing those records in a sealed envelope in the attorney's juvenile court box or sent electronically within ten business days.

15.2 Any requests for any additional DSS records may occur as follows: The attorney shall communicate with the assigned county attorney for additional discovery if necessary.

15.3 The release of this information is restricted for the purpose of representation of the respondent parent in Juvenile Court and shall not be released for any other purpose without further order of this court.

15.4 Any party may file a motion to compel discovery of specific information or material. The motion shall be calendared for hearing within five business days of the date it is filed.

#### 16.0 JUVENILE RECORDS

16.1 Confidentiality of Juvenile Records. Juvenile Records, Human Services and/or Department of Social Services files, medical records, psychological evaluations and other assessments are confidential. All recipients of confidential information, including, but not limited to, court calendars, copies of the juvenile's files, discovery, court summaries, records of the juvenile and his or her parents' psychological evaluations and assessments, medical records, and all similar records, shall exercise extraordinary care to prevent unauthorized dissemination of such documents. Copies of the court calendar contain information involving other juveniles and therefore shall not be provided to the juvenile, a parent of the juvenile, other family members or the foster parent. Reasonable precautions will be made to protect confidentiality.

16.2 Juvenile File Numbers. The Clerk of Superior Court shall assign a separate and individual file number to each juvenile named in a petition alleging abuse, neglect, and/or dependency or in a petition to terminate parental rights in which no petition alleging abuse, neglect, and/or dependency has been filed. A juvenile will only receive one file number, even if a subsequent abuse/neglect/dependency, delinquency and/or undisciplined petition is filed.

#### 17.0 SUBSTANCE ABUSE AND MENTAL HEALTH RECORDS

Substance abuse/mental health records of a parent may be secured by a motion with a written motion to the court with a proposed order directing the production of the records for the ex-parte examination by the court. Once the records are received by the clerk, the

clerk shall date stamp the records and notify via email the attorney representing the parent. The parent attorney shall have five days to review the record and to make any response as it concerns the records. If respondent's counsel has no objection to the dissemination of the mental health/substance abuse records to other parties, *shall submit an authorization (local form) to disseminate the records to opposing counsel* without the need for a judge's in camera inspection. If respondent's counsel desires that any portion of the records be redacted or that none of the record be shared with other parties, then, respondent's counsel shall file a Motion for a Protective Order and shall set that motion on for hearing. Nothing in this rule is to limit the ability of the child's GAL and/or the GAL attorney to obtain information according to federal or state statute.

## 18.0 DISPOSITIONS

18.1 **Pre-trial Conference on Disposition.** If disposition occurs on a date after the adjudication, there shall be no additional pre-hearing conference unless ordered by the Court. In the event there is a pre-trial conference for disposition, it shall follow the rules of pre-trial conferences for adjudications.

18.2 **Pre-disposition Report.** Prior to disposition/settlement, DSS shall prepare a pre-disposition report that shall include at least the following:

A description of the placement plan for the child and how that plan is appropriate to the needs of the child;

A description of the plan of services for the child and his or her family, and how that plan is appropriate to meet the needs of the child; and

A statement of changes in parental behavior which are needed to correct the conditions that led to the abuse, neglect or dependency, and the actions the parent must take;

If there is a recommendation that the child be removed from the home, the report shall also include:

1. What efforts were made by DSS to prevent the need for placing the child outside the home,
2. What efforts were made by DSS to reunify the family, including services that 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 a statement of steps required to maintain contact between the siblings and to reunify the family.

If the court has ordered or DSS recommends that reunification efforts are not to continue, reasons shall be specifically given in the report.

- 18.3 The GAL for the child is not required but is strongly encouraged to prepare a disposition report to assist the Court in reaching a disposition that will best serve the needs of the child.
- 18.4 If a report is not prepared and submitted to the parties, copies of the recommendations of the GAL shall be provided to all parties, including pro se parties by the Thursday preceding the pretrial date for the Tuesday, Wednesday or Thursday adjudication.
- 18.5 The Court shall not review the disposition report prior to the adjudication hearing unless the parties have settled all adjudication issues or unless the parties otherwise agree.

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. The Court's findings shall be set forth in the record. A party's non-resistance to entry shall be acceptable in the court's discretion. Consent Orders shall be entered pursuant to NC G.S. 7B-902.

- 19.0 **SUBMISSION OF COURT REPORTS** All court reports from any party and/or their counsel may be submitted to parties via e-mail, with a hard copy for the Court so long as reasonable action is taken to protect confidentiality.
- 19.1 DSS Court reports for all review hearings (i.e., ninety day review hearings following Adjudication/Disposition, six month review hearings, permanency planning hearings, post-Termination of Parental Rights hearings) shall be submitted to the Family Court Office on or before the Thursday that is thirteen days before the pretrial conference. All other reports (including, but not limited to, reports from Durham County Social Services, the Guardian *ad litem* Program, and mental health, psychological, substance abuse and/or other evaluations previously ordered by the court) shall be submitted the Thursday before the pretrial.
- 19.2 It is the responsibility of each party to notify the assigned DSS attorney and other counsel of any specific objections to the recommendations prior to the prehearing:
1. That the party has not received a court summary (no later than the Thursday, 6 days prior to the prehearing conference)
  2. Those areas of the DSS recommendations which are at issue (no later than the Thursday, 5 days prior to the prehearing conference)
  3. Thursday, 5 days prior to the prehearing conference)
  - 4 Any additional recommendations (no later than the Thursday, 5 days prior to the prehearing conference)

- 19.3 The filing of the GAL report, no later than the Thursday six days prior to the prehearing conference, as set forth above, satisfies this requirement.
- 19.4 Submission of late court summaries is not condoned by these rules and may be subject to sanctions as deemed appropriate by the court. Late reports must still be delivered to the Family Court Office and may not be delivered individually to the presiding judge by the DSS Attorney, the GAL for the juvenile or the GAL Attorney Advocate.

## 20.0 REVIEW OF CASES

- 20.1 **Scheduling of Reviews.** The Court shall conduct an intensive review of each case, as provided by statute. The Court may set a review hearing for any case at any time, in accordance with timelines provided by statute and these rules, on its own motion, or upon motion of any party. If a party chooses to file a motion for review, the party shall confer with the Juvenile Case Coordinator to secure a court date. When possible, notice of the review hearing shall be given in open Court at the end of the prior hearing. Unless previously set in open court, counsel for the moving party shall serve timely notice of the hearing as required by statute to the other parties. It shall be the responsibility of counsel for the other parties to notify their clients of any hearings.
- 20.2 **Scheduling of Motions.** If a party requesting relief files a motion, the moving party shall serve the motion and a notice of hearing at least five (5) days prior to the hearing date. When service is by facsimile, the sending attorney shall confirm receipt of same by the receiving attorney. Any party filing a motion of relief with less than five (5) days notice to the parties shall show good cause for said failure. A copy of the motion and notice of hearing shall be delivered to the Juvenile Clerk and Juvenile Case Coordinator.

## 21.0 DUALLY INVOLVED CASES – (A/N/D and Delinquency)

- 21.1 Juvenile cases that involve the jurisdiction of both delinquency and A/N/D court shall be known as “Dual Jurisdiction” cases. Court orders from the two separate proceedings shall not be in conflict.
- 21.2 The clerk shall make available to the presiding judge in either delinquency court or A/N/D court, both JA and JB files. Dual Jurisdiction cases will be noted on the juvenile calendar.
- 21.3 The presiding judge shall review orders from the corresponding juvenile case to ensure consistency in new orders. The judge may review any relevant reports.



- 21.4 Child and Family Teams which involve Dual Jurisdiction cases, should involve both DJJDP and A/N/D participants.

**22.0 TERMINATION OF PARENTAL RIGHTS**

- 22.1 **Extensions of Time To Answer.** Extensions of time are not automatic and may be allowed only for good cause shown explaining why an answer cannot be timely filed. Any motion for extension of time may be made ex parte; however, it must include whether or not Durham DSS, the GAL or any other parent counsel resists the extension of time. The motion must also include the date the termination action was filed; the date the matter is currently set for hearing; whether any extension of time is within or after ninety days from the filing of the action; and whether the proposed extension goes past the current hearing date on the action. In all instances in which the extension of time goes past the hearing date, it further is the responsibility of the moving party to make the motion to continue the hearing.

22.2 **Pre-Trial Conferences**

**A. Purpose.** The purposes of the pre-trial conference shall be to determine the issues raised by the petition and any filed answer, to address any issues regarding the appointment of counsel, to exchange witness and exhibit lists, and to enter into a pre-trial order. Further, any attorney considering a pre-trial motion shall put all other counsel on notice of same at the pre-trial conference if known at that time.

**B. Order.** The attorneys shall enter into a pre-trial conference order for a juvenile court judge's signature. Each party shall attach to the order a written list of prospective witnesses and exhibits. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit not available for distribution at the pre-hearing conference shall be distributed as soon as available. Parties are encouraged to share any exhibits intended to be used for hearing at the earliest practicable time. The orders shall be tendered as soon as possible to the district court judge presiding in juvenile court that week. The Juvenile Clerk shall ensure copies of the signed order are placed in each attorney's box in the Juvenile Clerk's office, with a Certificate of Service.

- 23.0 **MINISTERIAL ORDERS.** The following orders do not require review by the parties prior to submission to the judge but do require a certificate of service after the order is signed and distributed:

- (1) Nonsecure custody orders.
- (2) Orders relieving counsel.

The following orders do not require review by the parties prior to submission to the judge and do not require a certificate of service after the order is signed and distributed:

- (1) Discovery orders
- (3) Home study orders
- (4) Interstate Compact Home Study orders
- (5) Orders appointing or denying counsel
- (6) Paternity testing orders
- (7) Limited redacted order indicating who has custody of a child.

The clerk shall put copies of the order in each attorney's mailbox. The County Attorney representing DSS shall send copies of the orders to appropriate county officials with a Certificate of Service.

#### **24.0 APPENDIX: FORMS**

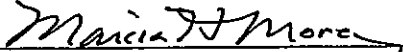
The appendix contains the forms approved by the court. Orders and other forms may be updated by the local rules committee without the changing of these rules. See the Juvenile Clerk or Juvenile Case Coordinator if you need a copy of any Juvenile form.

- (1) Order of Continuance
- (2) Discovery Order
- (3) Notice of Termination of Parental Rights
- (4) Notice of Hearing on Nonsecure Custody and Notice of Prehearing/Settlement Conference
- (5) Limited orders for custody
- (6) Motions for withdrawal of counsel
- (7) Paternity testing
- (8) Referrals for psychological or substance abuse evaluations
- (9) CPC referral forms
- (10) Counsel authorization to release/not release records to opposing counsel

Pursuant to G.S. Section 7A-146, the Chief District Court Judge does hereby establish the following rules of calendaring and administrating Abuse, Neglect and Dependency actions in District Court.

These rules may be modified or amended as required for the efficient administration of justice.

Entered this the 19 day of April, 2012.

  
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Marcia H. Morey  
Chief District Court Judge  
14<sup>th</sup> Judicial District