

**JUDICIAL DISTRICT 17-B Stokes and Surry Counties
DISTRICT COURT, JUVENILE DIVISION
JUVENILE CASE MANAGEMENT PLAN
JUVENILE DELINQUENT AND UNDISCIPLINED CASES
JUVENILE DUAL-JURISDICTION CASES**

RULE 1. GENERAL PROVISIONS

- 1.1** The purpose of these rules is to establish procedures for juvenile court cases in which a petition is filed alleging that a juvenile is delinquent or undisciplined or cases in which juveniles involved in Juvenile Abuse/Neglect/Dependency Court are also involved in Juvenile Delinquent/Undisciplined Court (Dual-Jurisdiction cases). The procedures shall provide for the orderly, prompt, and just disposition of Juvenile Delinquent and Undisciplined matters. These rules are established to enhance the North Carolina General Statutes§7B-1500 (Juvenile Code); to meet the needs of this judicial district in efforts to allocate appropriate resources for the juveniles and their families; to allocate appropriate rehabilitative resources to the juveniles; to protect the community; to honor victims' rights; and to encourage involvement of juveniles and their families in the judicial process.
- 1.2** 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.
- 1.3** These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of Superior Court for both counties and may be cited accordingly.
- 1.4** The Governor's Crime Commission-sponsored Court Improvement Project Director shall distribute a copy of these rules and any subsequent amendments hereafter to each member of the Juvenile Bar in the district, the Department of Public Safety, Juvenile Division, the District Attorney's Office, and the Departments of Social Services, and shall make the rules available through the court website at www.nccourts.org.

RULE 2. DETERMINATION OF COUNSEL

- 2.1** General: The Clerk shall maintain a list of attorneys eligible to be appointed to represent juveniles.
- 2.2** Upon the filing of a petition alleging a juvenile to be delinquent or undisciplined, the clerk shall issue a Juvenile Summons and Notice of Hearing Undisciplined/Delinquent form (AOC-J-340). The clerk shall appoint counsel to represent each juvenile alleged to be delinquent or alleged to be an out-of-state runaway (ICJ), and include the attorney's name and contact information on the summons. The Clerk shall appoint the next attorney on the list unless that attorney has a conflict or the juvenile has been previously represented by

another attorney and that attorney shall be appointed to the juvenile if still on the list.

- 2.3** Any attorney requesting to be included on the list for appointment to the juvenile defender list:
- a. must be licensed to practice law in the state of North Carolina;
 - b. must maintain an office in the judicial district;
 - c. has read through the Juvenile Code and is knowledgeable of the NC General Statutes related to juveniles;
 - d. has observed 2 sessions of Juvenile Court Counselor court (JCC);
 - e. has participated in an orientation with the Chief Court Counselor or another member of the CCC's staff;
 - f. has read through the Local Rules as set out herein.
- 2.4** If an attorney wishes to be removed from the juvenile defender court-appointed list, the attorney must notify the District Court Judges' Office and the Juvenile Court Clerk. The attorney must make every effort to continue representation of any juvenile the attorney is appointed to whose case is pending.
- 2.5** A copy of the petition, along with a copy of the Order of Assignment of Counsel form (AOC-CR-224), shall be provided to the appointed counsel in the action.
- 2.6** An attorney who has a conflict in another court shall treat Juvenile Court as the court of priority over other District Court matters, and when absent from juvenile court because of a conflict, the attorney shall keep the court informed of his/her location until able to return to Juvenile Court.
- 2.7** The Court shall make inquiry about time the attorney is involved in a juvenile delinquency matter if the Court wishes to enter a judgment against the parent or guardian for court-appointed attorney fees. This inquiry shall be made in open court. Fee applications must be submitted to the court within 90 days of the disposition of the case, if not submitted at the time of disposition.
- 2.8** Attorneys shall adhere to the Canons of Ethics and the Code of Professional Conduct as promulgated by the North Carolina State Bar.

RULE 3. INTERPRETERS

- 3.1** A court hearing shall not proceed without an interpreter present if it is determined that an interpreter is needed for the juvenile offender or for the parent or guardian who may be placed under an order to comply with certain conditions of the juvenile's probation or protective supervision. The Juvenile Court Counselor shall notify the Juvenile Clerk of the need for an interpreter prior to the date of the hearing, in order for the Clerk to schedule an interpreter.

RULE 4: SECURE CUSTODY

- 4.1** All secure custody orders that accompany petitions shall be set for a secure custody hearing within five (5) days of the filing of the petition/the juvenile being taken into secure custody. If a JCC court date is not scheduled within this timeframe, the hearing shall be set for an appropriate court date during morning recess.
- 4.2** The Juvenile Clerk shall contact the appointed attorney by phone or email to notify the attorney of the secure custody hearing.
- 4.3** Any juvenile out-of-state resident in runaway status being held in secure custody shall be brought before the Court for a Secure Custody hearing within 24 hours of being taken into secure custody. The purpose of that hearing: (per *The Revised Interstate Compact for Juveniles Guide*)
- (a) to advise the juvenile of his or her rights (*ICJ Juvenile Rights Form*);
 - (b) to make inquiry as to the juvenile's decision to voluntarily return home (*ICJ Form III*), or if there is a refusal by the juvenile to voluntarily return home, the juvenile is held in secure custody pending completion of the home state's requisition hearing;
 - (c) to consider appointing counsel or a guardian ad litem to represent the juvenile in the process.

RULE 5. HEARING SCHEDULES

- 5.1** At the time of calendar call, the attorneys shall be present and priority for the order of hearing the cases shall take into consideration the status and priority of each case, the transportation of juveniles in secure custody or transported from a group home or other facility, or the schedule of law enforcement officers, educators, or other witnesses.

RULE 6. CALENDARING

- 6.1** All petitions shall be calendared pursuant to a schedule promulgated by the Chief District Court Judge. Juvenile Petitions shall be calendared approximately one month from the date of filing. Juvenile Motions to Review or Orders to Show Cause shall be set no less than 14 days from the date of filing, to allow for appropriate time for notice to the parties.
- 6.2** As to juvenile petitions alleging an offense that would be a felony if committed by an adult:
- (a) All felony petitions shall be set for a Felony First Appearance within ten (10) days of the filing of the petition. If a JCC court date is not scheduled within this timeframe, the hearing shall be set for an appropriate court date during morning recess. If the juvenile is in secure custody, the First Appearance hearing shall be set on the date of the Secure Custody hearing as set out in Rule 4.
 - (b) Due to the minimal time available for service, the Juvenile Court Counselor shall notify the juvenile and his family of the court date and time for the First

Appearance hearing. The Sheriff's Department is to continue to attempt service even if the date of the 10-day hearing has passed (the Juvenile Summons will also direct the juvenile and parent/guardian to appear on the future adjudication date).

- (c) Appointed counsel, the juvenile, an Assistant District Attorney, and the Juvenile Court Counselor (or representative) shall be present at the hearing.
- (d) At the Felony First Appearance Hearing, the status of the case shall be reviewed, including service. If service has not been perfected, and the juvenile and parent/guardian are present, the Clerk and Juvenile Court Counselor shall work with the Sheriff's Department in order to obtain service. If the juvenile and parent/guardian is not present and service has not been obtained, the First Appearance will be rescheduled. If service has been perfected a probable cause hearing/trial date will be set within fifteen (15) days of the hearing, unless a waiver of probable cause is properly entered into by the juvenile through his or her attorney.

6.3 The Juvenile Court Calendar shall be maintained by the Juvenile Clerk. No case shall be scheduled except by the Juvenile Clerk or with the consent of the presiding Judge.

6.4 As to juvenile petitions alleging multiple offenses or petitions filed with different offense dates are filed in the same time period, the Clerk shall set the petitions for the same Adjudication date.

6.5 In cases where a juvenile has matters arising in both Juvenile Delinquency/Undisciplined Court and Abuse/Neglect/Dependency Court, the specific matter to be heard shall dictate what type of court and court date the matter shall be scheduled for. The Department of Social Services, the Guardian ad Litem, and the Juvenile Court Counselor shall have notice of these Dual-Jurisdiction cases.

RULE 7. NOTICE OF CALENDARING

7.1 Calendars shall be published by the Juvenile Court Clerk and shall be available ten days preceding the scheduled court session.

7.2 The Judge's calendar copy shall not reflect the juvenile's file number. The Clerk shall only supply the Judge with the pending petition (subfolder P), until the matter is ready for disposition, and at that time, the Judge shall be provided with the juvenile's court file (JB file). (*Records of the Clerks of Superior Court Rules of Recordkeeping: XII. Juvenile*)

RULE 8. HEARINGS

8.1 The Juvenile Court Counselor shall provide a copy of the Juvenile Family Data Sheet, the Delinquency History Point Sheet, and the Disposition Recommendations to the District Attorney and to the juvenile's attorney prior to the hearing.

RULE 9. TIME STANDARDS

Based on the need for a more immediate response to charges by juvenile offenders and the relationship between cause and effect, and based on the need to protect the community and honor victims' rights, time standards are hereby established:

9.1 Absent exigent circumstances, juvenile delinquent misdemeanor petitions and undisciplined petitions shall be adjudicated within sixty (60) days of the service of the petition. Juvenile delinquent felony petitions shall be adjudicated within 90 days of service of the petition. Any case continued for adjudication after these time standards shall have continuance orders setting out the reasons for the delay.

RULE 10. MOTIONS/DISCOVERY PRACTICE

10.1 All motions for discovery and discovery sharing shall be made as set forth in Chapter 7B of the North Carolina General Statutes and as set forth in the Rules of Civil Procedure, and shall not be made in such a manner to cause delay in the juvenile cases.

10.2 In juvenile cases involving felonies, the District Attorney's Office shall provide to the juvenile's attorney the discovery, per NCGS§7B-2300, within a reasonable time period after the First Appearance hearing.

10.3 The juvenile's attorney shall provide reciprocal discovery to the Assistant District Attorney, pursuant to NCGS§7B-2301.

RULE 11. PEREMPTORY /SPECIAL SETTINGS

11.1 Requests for a peremptory setting for cases involving persons who must travel long distances, cases involving numerous expert witnesses or cases in which other extraordinary reasons for such request exist, must be made to the assigned Judge, by way of a letter, email, or facsimile transmission only after the written request is made to the juvenile's attorney, the Assistant District Attorney, and the Juvenile Court Counselor.

11.2 The assigned juvenile judge may set a case peremptorily on his/her own motion.

11.3 Cases set peremptorily will only be continued by the Court for exigent reasons.

RULE 11. MOTIONS FOR CONTINUANCE

Attorneys shall make all reasonable efforts to avoid continuances. Pursuant to NCGS§ 7B-2406, "the court for good cause shown may continue any 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.” What constitutes good cause and extraordinary circumstances is in the sound discretion of the judge to whom a motion to continue is presented.

11.1 All requests for continuance shall be made as soon as the reason for continuance is identified by either the defense or the prosecutor. There shall be discussion between the juvenile defender, the Assistant District Attorney, and the Juvenile Court Counselor, if at all possible, prior to the date of the hearing.

11.2 Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the hearing and it is in the best interest of juvenile. Continuances will not be granted based on consent of the parties, or the fact that the case has not been continued previously.

11.3 In the event that a case is continued prior the scheduled court date, the moving party must submit a continuance order to the Judge’s Office. The juvenile’s attorney or the Juvenile Court Counselor shall notify the juvenile and parent/guardian of the continuance and the new court date; the District Attorney’s Office shall notify the petitioner and witnesses of the continuance and the new court date. The Clerk shall re-issue the subpoenas for the new date, unless the continuance order directs the witnesses to appear for the new date and that the witnesses remain under subpoena, and the Clerk will mail a copy of the order to the witnesses.

RULE 12. SERVICE OF NOTICE

12.1 Service/notice to attorneys may be accomplished by depositing such documents in the attorney boxes located in the office of the Clerk of Superior Court.

12.2 If service of a Juvenile Summons or Order to Show Cause or a subpoena is unsuccessful, the Clerk is to notify the Juvenile Court Counselor.

12.3 If service of a Juvenile Summons or Order to Show Cause or a subpoena is unsuccessful, the Juvenile Court Counselor shall assist the District Attorney’s Office in contacting the petitioner in order to seek a current address for the juvenile and the parents or the witness. The JCC or the DA is to notify the Clerk of a new address and an Alias and Pluris Summons shall be issued.

RULE 13. JUVENILES PLACED INTO THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES

13.1 Upon a decision being made by a Juvenile Court Counselor to recommend to the Court a Dispositional option to place a juvenile in the custody of the Department of Social Services, the Juvenile Court Counselor shall notify the Director of the Department of Social Services of that intent and of the pending court hearing date.

13.2 The Court shall determine if the Department of Social Services Director was given notice and an opportunity to be heard to consider alternatives to removal of the juvenile from the home. If the Court places a juvenile in DSS custody as a Dispositional option, the order of the Court shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. Findings of fact shall also be included regarding the efforts by DSS to prevent removal or findings of fact why efforts were precluded. The Disposition order shall include DSS having placement authorization of the juvenile and the authority to arrange, provide, and/or consent to any medical treatment, psychiatric or surgical treatment, psychological services, educational needs, or any other remedial evaluations required by the juvenile, and the authority to release such information as DSS deems necessary in order to serve the needs of the juvenile.

RULE 14. DUAL-JURISDICTION CASES

These rules are implemented to best serve the needs of youth involved in both Delinquent/Undisciplined Court and Abuse/Neglect/Dependency Court, and are supervised by the Department of Public Safety, Juvenile Division and are in custody of the Department of Social Services.

14.1 The Departments are to notify each other of a change in placement of a dual-jurisdiction juvenile immediately, and to make a best effort to notify the other department when there is the intent or plan to move a juvenile.

14.2 The Departments are to send to one another notice of Child and Family Team Meetings, school meetings (such as IEP meetings), and Permanency Planning Action Team Meetings.

RULE 15. SANCTIONS

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

**THESE RULES SHALL BECOME EFFECTIVE FROM AND AFTER
December 1st, 2012.**

THIS, THE ____ DAY OF _____ 2012.

**Charles M. Neaves, Jr.,
CHIEF District Court Judge**