

Local Rules Governing  
Juvenile Delinquency and Undisciplined  
Proceedings  
In The 26<sup>th</sup> Judicial District

November 2011

**LOCAL RULES GOVERNING  
JUVENILE DELINQUENCY AND UNDISCIPLINED PROCEEDINGS  
IN THE 26<sup>TH</sup> JUDICIAL DISTRICT**

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**LOCAL RULES GOVERNING  
JUVENILE DELINQUENCY AND UNDISCIPLINED PROCEEDINGS  
IN THE 26<sup>TH</sup> JUDICIAL DISTRICT**

**Rule 1. Scope**

- (a) These rules shall apply to all cases in which a petition is filed alleging that a juvenile is undisciplined or delinquent. They are promulgated in compliance with Rule 40(a) of the North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts.
- (b) These rules supercede all previous local rules concerning Juvenile Delinquency and Undisciplined Proceedings.
- (c) These rules and all amendments hereafter shall be filed with the Juvenile Court Clerk and may be cited accordingly as Juvenile Delinquency and Undisciplined Rules.
- (d) 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, the Family Court Administrator's Office is authorized to act in his or her discretion, subject to consultation with the Chief District Court Judge or Assigned Judge.
- (e) Where a form is specified to be used, parties must use that form.
- (f) The Family Court Administrator's Office shall maintain and make available to the public copies of these rules and associated forms upon request.

**Rule 2. Purpose**

- (a) These local rules establish procedures for delinquency and undisciplined proceedings.
- (b) They are designed to help allocate appropriate rehabilitative services to juveniles who come under the Court's jurisdiction and to protect the public from acts of delinquency. To that end, they serve the following purposes:
  - (1) To provide for oversight in case planning;
  - (2) To encourage the involvement of families and juveniles in the process;
  - (3) To help parties present issues and evidence to the court in an efficient manner;
  - (4) To eliminate unnecessary delays in court proceedings in order to reach dispositions in a timely manner; and,
  - (5) To otherwise ensure compliance with Chapter 7B of the North Carolina General Statutes.

**Rule 3. Construction**

These rules shall be liberally construed to accomplish the purposes set forth in Rule 2.

**Rule 4. Definitions**

For the purposes of these rules, each term shall be defined consistently with the definitions set out in N.C.G.S §7B-1501. In addition, the following terms are defined herein:

*(a) Alternatives to Detention (ATD):* a state-wide program administered by the Department of Juvenile Justice and Delinquency Prevention (DJJDP) designed to implement alternatives to detention provided for in N.C.G.S. §7B-2506.

**(b) Council for Children's Rights (CFCR):** a nonprofit legal and advocacy agency for children, This agency works primarily in the areas of special education, abuse and neglect, mental health, custody, domestic violence and juvenile justice; however, will consider taking any case where a child is in danger or when their rights to receive government or community services mandated by law are in jeopardy of being violated.

**(1) Children's Defense Team:** a program of the Council for Children's Rights (CFCR), the Children's Defense Team is the specialized juvenile public defender program. The CFRC Defense Team represents all children in delinquency and mental health commitment hearings and in any case where there is the potential for a deprivation of liberty.

**(2) Individual Advocacy Team:** a program of the Council for Children's Rights. The Individual Advocacy Team will take referrals for advice and guidance assistance, may be retained to represent a child, or will represent children by court order to evaluate the educational, school discipline, mental health, social services, benefits, immigration or other holistic needs of the child and represent the child in meetings and court hearings. An advocate should be appointed as Guardian ad Litem to represent each child who is placed into DSS custody through a delinquency disposition.

**(c) Family Court:** a division of the 26<sup>th</sup> Judicial District having jurisdiction over all juvenile justice matters and over all claims involving familial rights, relationships and obligations. District Court judges specializing in such proceedings are assigned to hear these cases and, when possible, to hear all legal issues involving each family.

**(d) Family Court Administrator's Office:** all staff of the Family Court Administrator's Office.

**(e) Juvenile Court Clerk:** the assistant or deputy Clerk of the Superior Court for Mecklenburg County who is assigned to the Juvenile Courts.

**(f) Dual Jurisdiction Cases:** Juvenile Court proceedings involving juveniles who are concurrently under the jurisdiction of the Mecklenburg County dependency system and the juvenile justice system.

**Rules:** as referenced herein refers to the Local Rules Governing Juvenile Delinquency and Undisciplined Proceedings.

### **Rule 5. Hearings**

All hearings authorized or required pursuant to Subchapter II of Chapter 7B of the North Carolina General Statutes shall be open to the public unless the court closes the hearing or part of the hearing for good cause, upon motion of a party or its own motion. The Court shall make a determination as to whether or not the hearing should be closed pursuant to the criteria set out in N.C.G.S. §7B-2402. No hearing shall be closed by the court if the juvenile requests that it remain open.

### **Rule 6. Calendaring and Monitoring of Delinquency and Undisciplined Cases**

(a) The calendar for the disposition of delinquency and undisciplined cases shall be prepared and maintained by the Juvenile Court Clerk's Office in accordance with these rules and under the supervision of the Chief District Court Judge. The calendar shall be made available to the Department of Juvenile Justice and Delinquency Prevention (DJJDP), the District Attorney's Office (ADA), the Council for Children's Rights, which includes both the Children's Defense Team and the Individual Advocacy Team, the Family Court Administrator's Office, the Area

Mental Health Authority (AMHA) Juvenile Court Liaison, and Youth & Family Services/FACET (YFS/FACET)

(b) The Presiding Judge shall reschedule all cases “not reached” or continued, and the Juvenile Court Clerk’s Office shall document the rescheduled date on the court calendar.

(c) On a monthly basis, the Family Court Administrator’s Office shall determine the disposition and continuance rate for each juvenile court session concluded.

(d) In addition to those listed in Subsection (a), with respect to specific cases the Juvenile Court Clerk’s Office shall make the calendar available to any attorney appointed to represent the juvenile or any other person approved by a Court Order.

(e) The number of cases scheduled shall be within the parameters set by the Juvenile Justice Subcommittee subject to the approval of the presiding juvenile judge or the Chief District Court Judge.

### **Rule 7. Dual Jurisdiction Cases**

(a) The Juvenile Court Clerk’s Office shall schedule Dual Jurisdiction proceedings on Wednesdays.

(b) A representative from the Department of Juvenile Justice, the Department of Social Services, the Guardian Ad Litem Office, and the District Attorney’s Office and counsel for the Juvenile and Respondent parents or guardians shall be present at these hearings.

### **Rule 8. Family Court Time Goals**

Delinquency and undisciplined proceedings shall adhere to the following time goals promulgated by the Family Court Administrator of the 26<sup>th</sup> Judicial District. These goals recognize that the Court upon its own motion or upon the motion of a party may grant an extension past these time goals for good cause. Good cause may include, but is not limited to determination of a juvenile’s capacity to proceed or treatment purposes etc.

#### **Juvenile Delinquency/Undisciplined Cases:**

Event:

Time Standards:

Adjudicatory Hearing:

#### **Misdemeanors:**

**(1) in 90% of cases**

**(2) in 100% of cases**

**Within 60 days of service of the petition**

**Within 90 days of service of the petition**

#### **Felonies:**

**(1) in 70% of cases**

**(2) in 90% of cases**

**(3) in 100% of cases**

**Within 60 days of service of the petition**

**Within 90 days of service of the petition**

**Within 120 days of service of the petition**

Dispositional Hearing:

(1) in 95% of cases

(2) in 100% of cases

Within 30 days of adjudication

Within 60 days of adjudication

### **Rule 9. Responsibilities of Attorneys**

(a) The Children's Defense Team of the Council for Children's Rights shall be appointed to represent all juveniles in delinquency proceedings. The CFCR Defense Team shall be appointed to represent juveniles in undisciplined proceedings when there is the possibility for the child to be detained.

(b) The CFCR is responsible for maintaining the court appointment list for juvenile delinquency and mental health commitment cases. When CFCR determines that there is a conflict of interest in a case they shall appoint an attorney in accordance with the standards established by the Mecklenburg County Bar Indigent Representation Committee.

(c) Appointments of qualifying attorneys shall be made in sequence.

(d) To be eligible for appointment to represent juveniles, attorneys must satisfy the standards established by the Mecklenburg County Bar Indigent Representation Committee, including a review of standards developed by the NC Juvenile Public Defender and Indigent Defense Services (IDS), and satisfy the Court:

- (1) That they have sufficient experience and skills to provide competent representation;
- (2) That they have a good working knowledge of juvenile law, juvenile court procedures, and local rules;
- (3) That they have a good understanding of juvenile rehabilitative services and the related mandates that apply to the DJJDP and to juvenile attorneys;
- (4) That they have satisfactorily completed any initial and follow-up training specified by these rules or the Chief District Court Judge, and
- (5) That they understand that failure to attend court proceedings could jeopardize future appointments on cases.

(e) An attorney shall not accept an appointment unless the attorney can be available for the first hearing in the case and, to the best of the attorney's knowledge, for other stages of the proceedings.

(f) Leave of court for an attorney to withdraw from a case shall be granted only for compelling reasons.

(g) An attorney who has a conflict in another court shall comply with the relevant Local Rules and North Carolina general statutes relating to priority and, when absent from Juvenile Court because of a conflict, shall keep the courtroom Juvenile Court Clerk informed of his or her location at all times.

(h) The attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation.

(i) The attorney shall notify his/her client of any changes in case calendaring or in the Court's schedule.

### **Rule 10. Sanctions**

If the court finds that there has been a willful or neglectful failure of any party to comply with any provision of these rules, that party, in the discretion of the Presiding Judge, is subject to sanctions, which may include, but are not limited to, an award of attorneys fees, fines, exclusions of reports, striking of pleadings, or any other sanction provided by local rules or statute.

### **Rule 11. Discovery**

(a) Discovery shall be automatically produced by the District Attorney's Office within a reasonable period of time and in accordance with N.C.G.S. §7B-2300. Discovery may be placed in the defense attorney's box in the Clerk's office or be sent by US Mail.

(b) If a juvenile's attorney fails to receive discovery within five calendar days prior to the juvenile's scheduled probable cause hearing or within three calendar days prior to the juvenile's scheduled arraignment hearing, the juvenile's attorney shall notify the assigned ADA and may move to compel discovery.

(c) Upon receipt of discovery from the District Attorney's Office pursuant to subsection (a) above, the juvenile's attorney shall automatically provide the assigned ADA with reciprocal discovery in accordance with N.C.G.S. §7B-2301. The ADA may move to compel discovery should it not be provided in a timely fashion.

### **Rule 12. Extensions of Time, Add-Ons, and Continuances**

(a) Extensions of time beyond the times specified by statute, court order or these rules and all continuances shall be granted only for good cause, regardless of whether the parties are in agreement.

(b) Except as provided in Rule 12(c), motions for extensions or continuances shall be presented or submitted in writing to the assigned District Court Judge at least five calendar days in advance of the scheduled hearing date. The motion shall state the reason for the request and whether all other counsel involved in the case consent or object to the extension or continuance.

(c) Where time does not permit the filing of a motion five days prior to the hearing, the Court may consider an oral motion for an extension of time or continuance. An order granting said motion must be in writing and in compliance with Rule 12(d).

(d) The moving party shall also submit to the clerk and opposing counsel, simultaneously with the motion, an order allowing the motion, which shall provide for a new hearing date and time, and state clearly the reason for the continuance or extension.

(e) The Juvenile Court Clerk's Office shall distribute copies of the order to counsel for all parties, the DJJDP and any unrepresented party.

(f) If exigent circumstances require the addition of a case to a docket (add-on) outside of the regular scheduling procedures outlined herein, the party requesting the add-on shall obtain the approval of the assigned District Court Judge and immediately notify all other interested parties of the date, time and purpose of the hearing.

### **Rule 13. Court Reports and Summaries**

(a) Pursuant to N.C.G.S. §7B-2413, the DJJDP shall distribute a written predisposition report not less than three working days before all adjudicatory, arraignment, dispositional or Motion for Review hearings, or upon request by the court. The reports must be provided to all parties. The Court is NOT to be provided the report prior to disposition.

(b) Any party, Youth and Family Services (YFS), mental health provider or evaluator, or any other agency or service provider wishing to submit a report, evaluation, or summary to the Court shall distribute copies of that report to defense counsel, the DJJDP, and the ADA not less than three working days before all hearings, excluding arraignment or adjudicatory hearings.

### **Rule 14. Temporary Custody**

Pursuant to N.C.G.S. 7B-1901(b), a juvenile taken in to temporary custody shall not be held for more than 12 hours or for more than 24 hours if any of the 12 hours falls on a Saturday, Sunday

or legal holiday unless a petition or motion for review has been filed and supported by a petition or motion for review, and an order for secure or nonsecure custody has been entered.

**Rule 15. Issuance of Secure and Nonsecure Custody Orders**

(a) Whenever a complainant has a juvenile in temporary custody and seeks to continue custody, or whenever a complainant seeks to obtain an order directing that a juvenile be placed in custody; and it is:

(1) BETWEEN THE HOURS OF 8AM AND 5PM, MONDAY THRU FRIDAY; the procedures set forth in Rules 15 and 16 shall apply; and

(A) If a petition is filed, the Intake Counselor shall contact the Judge assigned to the juvenile's case, or if that Judge cannot be located, any other current Juvenile District Court Judge for the 26<sup>th</sup> Judicial District. If a Juvenile District Court Judge is not available, a District Court Judge with prior Juvenile Court experience shall be contacted.

(B) The Judge with whom contact is made shall decide whether to issue a custody order on the basis of the criteria set forth in N.C.G.S. §7B-1903.

(2) ANY OTHER TIME OR ON A COURT HOLIDAY; the complainant shall proceed to the Magistrate's Office in the Mecklenburg County Jail; and,

(A) The Magistrate shall determine whether there are reasonable grounds to believe that the juvenile has committed an undisciplined or delinquent offense and if so, shall communicate the contents of the complaint by telephone to the Court Counselor on call.

(B) The Court Counselor shall either authorize or decline to authorize a petition for custody; and,

(i) If the Court Counselor declines to authorize a petition, and the juvenile is in temporary custody, the juvenile shall be released to his/her parent(s), guardian(s) or custodian(s) and the complainant shall be advised by the Magistrate that he may resubmit his complaint to Intake between the hours of 8:00 a.m. and 5:00 p.m., Monday thru Friday. The Intake Counselor shall then proceed as in subsection (a)(1) of this Rule.

(ii) If the Court Counselor authorizes a petition, the Magistrate shall draw the petition along with four copies, note the name of the Court Counselor who authorized it, shall verify, issue it, and shall prepare a subpoena list with the name, address and telephone number of each witness. The Magistrate shall also issue a summons to the juvenile and his/her parent(s), guardian(s) or custodian(s) directing them to appear at the next session of Juvenile Court. In accordance with N.C.G.S. §7B-1806 the juvenile and parent must be personally served not less than 5 days prior to the date of the scheduled hearing. The time for service may be waived within the discretion of the court.

(C) The Magistrate shall deliver the original and two copies of the summons, three copies of the petition and the original and three copies of any custody order to a law enforcement officer, Deputy Sheriff or Court Counselor, who shall personally serve both the juvenile and his/her parent(s), guardian(s) or custodian(s) with

- (D) The Magistrate shall deliver the original and one copy of the petition to the Juvenile Court Clerk as soon as that office is open for business, along with the original and one copy of the subpoena list, two copies of the summons and one copy of the custody order if one was issued.
  - (E) The Juvenile Court Clerk shall schedule a hearing on the petition pursuant to Rule 16.
- (b) Whenever the DJJDP seeks to obtain a secure custody order for an alleged violation of the juvenile's probation or conditions of release, including all Alternatives to Detention (ATD) violations, and it is:
- (1) BETWEEN THE HOURS OF 8AM AND 5PM, MONDAY THRU FRIDAY; the procedures set forth in Rule 21 shall be applicable; and
    - (A) If a motion for review is filed, the DJJDP Court Counselor shall contact the Judge assigned to the juvenile's case, or if that Judge cannot be located, any other current Juvenile District Court Judge for the 26<sup>th</sup> Judicial District. If a Juvenile District Court Judge is not available, a District Court Judge with prior Juvenile Court experience shall be contacted.
    - (B) The Judge with whom contact is made shall decide whether to issue a custody order on the basis of the criteria set forth in N.C.G.S. §§7B-1903 and 2510.
  - (2) ANY OTHER TIME OR ON A COURT HOLIDAY; the DJJDP Court Counselor shall contact the Magistrate's Office in the Mecklenburg County Jail; and,
    - (A) The Magistrate shall verify and issue the motion for review along with four copies, note the name of the Court Counselor who filed the motion for review, and shall verify and issue it and shall prepare a subpoena list with the name, address and telephone number of each witness. The Magistrate shall also issue a summons to the juvenile and his/her parent(s), guardian(s) or custodian(s) directing them to appear at the next session of Juvenile District Court.
    - (B) The Magistrate shall notify the appropriate local law enforcement agency that they need to respond to the Magistrate's office to pick up the paperwork. The Magistrate shall deliver the original and two copies of the summons, the original and three copies of the Motion for review, the original and three copies of the custody order to the responding office who shall personally serve the juvenile, parent(s), guardian(s) or custodian(s) with copies of the summons, motion for review and any custody order and make due return on the originals. If the responding officer is unable to personally serve the juvenile, parent(s), guardian(s) or custodian(s) the paperwork shall be delivered to the "hot desk" at the Charlotte-Mecklenburg Police Department.
    - (C) The Magistrate shall deliver the original and one copy of the motion for review, and two copies of any issued custody order to the Juvenile Court Clerk's office as soon as that office is open for business.
    - (D) The Juvenile Court Clerk shall schedule a hearing on the motion for review pursuant to Rule 21.
- (c) The procedures for secure custody orders shall correspond with the protocol established in the "26<sup>th</sup> Judicial District Procedures for Obtaining Petitions on Undisciplined Juveniles (includes up to age 18)" approved by the Juvenile Justice Subcommittee.

### **Rule 16. Detention Review Hearings in Delinquency and Undisciplined Cases**

(a) In conjunction with the DJJDP the Juvenile Court Clerk shall schedule an initial detention hearing pursuant to N.C.G.S. §7B-1906 within five calendar days of the juvenile being taken into custody on a secure custody order and within seven days of the signing of a nonsecure custody order.

(b) In conjunction with the DJJDP, the Juvenile Court Clerk's Office shall notify in writing the juvenile, parent(s), guardian(s) or custodian(s), the ADA, and the DJJDP of the time and date of the Initial Detention hearing. DJJDP will assist with providing notice by making direct contact with the juvenile, parent(s), guardian(s) or custodian(s).

(c) The Juvenile Court Clerk shall appoint an attorney to represent the juvenile pursuant to Rules 9 and 17.

(d) After the initial detention hearing for a juvenile in secure custody, the Juvenile Court Clerk shall schedule subsequent detention review hearings such that they occur within ten calendar days of one another.

(e) Pursuant to N.C.G.S. §7B-1906, the juvenile may, through counsel, waive his/her right to a detention review hearing.

(f) At the initial detention hearing or at subsequent detention review hearings, the Court may, sua sponte or upon motion of the DJJDP, defense counsel or the ADA, refer the juvenile to the Mecklenburg County Alternatives to Detention program (ATD). An ATD eligibility determination shall be made consistent with DJJDP Guidelines. If such a referral is made, the DJJDP shall report the status of the juvenile's ATD referral to the Court at each subsequent detention hearing.

(g) If a juvenile is placed on ATD, the Presiding Judge shall inform the juvenile that any violation of the terms or conditions of the ATD program, ATD monitor, or CMPD monitor by the juvenile may result in the issuance of a Secure Custody Order.

(h) Where any violation of ATD is alleged, the procedures for secure and nonsecure custody set out in N. C. G. S. § 7B-1903 shall be followed.

(i) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice at least five days in advance to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

(j) If Mecklenburg County Courts are closed in the event of inclement weather or because of a County-approved holiday, the detention hearing shall be conducted at the next scheduled session of court.

### **Rule 17. Preparation and Filing of Juvenile Delinquency Petitions**

(a) All complaints from law enforcement officers or other individuals alleging a juvenile to be delinquent shall be made to the DJJDP.

(b) The DJJDP shall screen all complaints for both legal adequacy and sufficiency of information in accordance with the requirements set out in N.C.G.S. §7B-1701.

(c) The procedures governing undisciplined petitions are contained in Rule 23.

(d) The Juvenile Court Clerk's office shall assign the case to a Juvenile Court Judge by Geo-District, prepare a juvenile file and calendar the case. First appearance for felony charges shall be scheduled within ten days of the filing of the petition. Misdemeanor charges shall be scheduled no sooner than 21 days from the filing of the petition.

(e) The Juvenile Court Clerk shall file an order to appoint counsel to represent the juvenile, in compliance with Rule 9.

- (1) The CFCR Children's Defense Team shall be appointed to represent each juvenile in every juvenile delinquency case.
- (2) When CFCR Defense Team determines that there is a conflict of interest in a case they shall appoint an attorney in accordance with the standards established by the Mecklenburg County Bar Indigent Representation Committee. Appointments of qualifying attorneys shall be made in sequence. The private appointed attorney shall represent the juvenile in all subsequent proceedings through the resolution of the charges to which they were appointed.

(f) The Juvenile Court Clerk shall file the petition, summons and appointment order and shall deliver them with notice of court appearance to the juvenile's attorney and to the Sheriff for service on the juvenile and his/her parent(s), guardian(s) or custodian(s).

**Rule 18. First Appearance, Probable Cause and Arraignment Hearings in Cases Alleging that the Juvenile has Committed a Felony**

(a) Upon the filing of a petition alleging that a juvenile has committed a felony, the Juvenile Court Clerk shall calendar the case for a first appearance hearing in accordance with the statutory requirements set forth in N.C.G.S. §7B-1808.

(b) The Juvenile Court Clerk shall notify all parties of the first appearance hearing, including, the juvenile, his/her family, defense counsel and the District Attorney's Office.

(c) **First appearance** hearings:

- (1) Shall be conducted pursuant to N.C.G.S. §7B-1808.
- (2) The Juvenile Court Clerk shall schedule the juvenile's case to appear before the assigned Judge for a probable cause hearing within fifteen days unless continued by order of the Court for good cause shown or unless the probable cause hearing is waived.
- (3) Through counsel at the first appearance, the juvenile may waive a probable cause hearing. If the State subsequently seeks transfer of the juvenile to Superior Court, the juvenile may withdraw his/her waiver of a probable cause hearing.
- (4) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless a party is notified in open court.

(d) **Probable cause** hearings shall be conducted pursuant to N.C.G.S. §7B-2202:

(e) **Arraignment** hearings:

- (1) All felony charges in which no transfer is sought shall be scheduled for arraignment following the first appearance and should be calendared no sooner than 28 days from the first appearance.
- (2) The Juvenile Court Clerk shall schedule all pending misdemeanor charges for arraignment no sooner than 21 days from the filing and shall be set before the assigned judge upon the filing of the petition pursuant to Rule 17.
- (3) The Court shall hear any pending petitions against the juvenile. The Court may continue the hearing for good cause pursuant to N.C.G.S. §7B-2406.
- (4) The Court shall ascertain whether the juvenile admits or denies the allegations contained in the petition(s).

- (A) If the juvenile admits the allegations, the Court may immediately proceed with the dispositional hearing or may direct the Juvenile Court Clerk to schedule the matter for disposition at some other time.
- (B) If the juvenile denies the allegations, the Court shall direct the Juvenile Court Clerk to schedule an adjudicatory hearing.
- (5) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

### **Rule 19. Delinquency Adjudicatory Hearing**

- (a) Defense counsel shall complete the Juvenile Waiver of Arraignment form order provided by the Juvenile Court Clerk at the arraignment hearing.
- (b) Each party may subpoena those witnesses he/she wishes to have testify at an adjudicatory hearing.
- (c) Additional pre-trial motions
- (1) The moving party shall notify the Court and opposing counsel or unrepresented party of any motion(s) no later than ten days prior to the scheduled adjudicatory hearing date.
  - (2) The court shall resolve all motions on the date of the adjudicatory hearing or may direct the Juvenile Court Clerk to schedule a separate hearing prior to the adjudicatory hearing at which the Court shall address all pre-trial motions.

### **Rule 20. Disposition in Delinquency Cases**

- (a) The Court may proceed to the dispositional hearing directly following the adjudicatory hearing or arraignment hearing, or the dispositional hearing may be scheduled separately.
- (b) Pursuant to N.C.G.S. §7B-2413, the Court may proceed on the matter of disposition either upon receipt of the predisposition report submitted by the juvenile's assigned DJJDP Court Counselor or upon a finding that a predisposition report is not necessary.
- (c) The predisposition report shall comply with the requirements set out in N.C.G.S. §7B-2413. A copy of the DJJDP's predisposition report shall be distributed to all parties, not less than three working days before the dispositional hearing.
- (d) In accordance with Rule 13, any party, YFS, or any other agency or service provider wishing to submit a report or summary shall, within three days of the scheduled hearing, distribute copies of that report to defense counsel, the DJJDP and the ADA.
- (e) Pursuant to N.C.G.S. §7B-2507 and §7B-2508, the ADA shall prepare a disposition Sentencing Worksheet and, after reviewing with defense counsel for accuracy, shall submit the Sentencing Worksheet to the Court at disposition to assist the Court in its determination of the juvenile's offense level and classification.
- (f) The DJJDP shall present dispositional recommendations to the Court in the presence of the juvenile and his/her parent(s), guardian(s) or custodian(s), defense counsel and the ADA.
- (g) The Level 3 Commitment order shall be prepared on the AOC form and copies shall be provided to the clerk, ADA, defense counsel and DJJDP. The Court will determine who is to prepare the order. All parties (prosecutor and juvenile's attorney) and the DJJDP court counselor shall review the order and corrections are to be made in the courtroom. Subsequent changes to orders should be made only after all parties have been noticed and given an opportunity to be heard. This order may include supplemental findings as required by the Court.

**Rule 21. Motions for Review in Delinquency Cases**

- (a) The DJJDP shall prepare a motion for review when it is alleged that the juvenile has violated his/her probation or conditions of release, or when review of the juvenile's probation is necessary. If at any time a Secure Custody Order or Motion for Review is filed, a copy of the SCO and MFR shall be immediately provided to defense counsel by the Clerk placing it in counsel's box.
- (b) The DJJDP Court Counselor responsible for filing the motion for review shall personally serve the juvenile with the summons and motion for review.
- (c) The Juvenile Court Clerk shall file the motion for review and schedule the case for hearing during the assigned Judge's next available motion for review/disposition session. The Juvenile Court Clerk shall notify all other parties of the date and time of the motion for review hearing.
- (d) Consistent with Rule 9, the Juvenile Court Clerk shall appoint the CFCR Children's Defense Team. CFCR, who has appointment authority, shall assign cases if there is a conflict.

**Rule 22. Contempt for Failure to Comply with a Delinquency Order**

- (a) Pursuant to N.C.G.S. §§7B-2706, 7B-1805, 5A-11, 5A-21; the Court may, sua sponte or upon motion of a party, issue an order directing a juvenile's parent(s), guardian(s) or custodian(s) to appear and Show Cause why he/she should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court.
- (b) The Juvenile Court Clerk shall prepare the Show Cause order, which includes specific grounds for contempt of the Court's order, and schedule a hearing on the matter during the assigned judge's next motion for review/disposition session of Juvenile Court.
- (c) The Juvenile Court Clerk shall appoint an attorney to represent the parent(s), guardian(s) or custodian(s). The juvenile and parent(s), guardian(s) or custodian(s) shall be appointed separate counsel.
- (d) The Judge may issue an order directing the Mecklenburg County District Attorney's Office to prosecute the motion for contempt. The Juvenile Court Clerk shall thereupon deliver to the District Attorney's office a copy of both the Show Cause order and the order directing prosecution.
- (e) The Sheriff shall serve the Order, motion and notice of the date and time of the Show Cause hearing upon the individual alleged to be in contempt of court.
- (f) The Court shall proceed on the Contempt hearing pursuant to N.C.G.S. §§7B-2706, 7B-1805, 5A-11, 5A-21.

**Rule 23. Preparation and Filing of Undisciplined Petition**

- (a) All complaints from a parent(s), guardian(s), custodian(s) or a school official alleging that a juvenile is undisciplined shall be made to the DJJDP.
- (b) The DJJDP shall screen all complaints for both legal adequacy and sufficiency of information in accordance with the requirements set out in N.C.G.S. §7B-1701.
- (c) The DJJDP shall determine within 15 days of receipt of the complaint whether the complaint should be filed as a petition, the juvenile diverted to a community resource, the juvenile diverted pursuant to a diversion contract, or the case resolved without further action. There may be a 15 day extension pursuant to N.C.G.S. § 7B-1703b.
- (d) Within five workdays of approval of the complaint, the DJJDP shall prepare a petition and deliver it to the Juvenile Court Clerk.

(e) The Juvenile Court Clerk shall assign the case to a Juvenile Court Judge by Geo-District, prepare a juvenile file and calendar the case during the assigned Judge's next available motion for review/undisciplined session.

(f) A copy of the petition shall be attached to the summons prepared in compliance with N.C.G.S. §7B-1805.

(g) Immediately after a petition has been filed alleging that a juvenile is undisciplined, the Juvenile Court Clerk shall forward the petition, summons and other relevant paperwork to the Sheriff for service of process pursuant to N.C.G.S. §7B-1805-1807.

#### **Rule 24. Initial Hearing on Undisciplined Petition**

(a) Any petition filed alleging a juvenile to be undisciplined shall be scheduled for arraignment before a designated Judge by Geo-District or previously assigned judge at the next regularly scheduled undisciplined session of Juvenile Court. If a juvenile is already assigned to a Judge other than one of the designated undisciplined Judges, then the undisciplined matter will be scheduled for arraignment on the assigned Judge's next available motion for review/arraignment session in accordance with the rules contained herein.

(b) At the initial hearing, upon the consent of the juvenile and the parent(s), guardian(s) or custodian(s) as well as the Court, any juvenile who is detained pursuant to an undisciplined petition may be arraigned on that petition at the juvenile's initial detention hearing on the matter. However, the Court may also limit the issue before the Court at that time to that of detention and direct that the matter be scheduled for arraignment on the undisciplined petition at the next available undisciplined or motion for review/disposition session.

(c) At the arraignment, the juvenile shall admit or deny the allegations contained in the undisciplined petition; and,

(1) If the juvenile admits the allegations contained in the petition, the Court may proceed to the dispositional hearing or shall direct the Juvenile Court Clerk to schedule the matter before the assigned Judge for disposition on the next available undisciplined or motion for review/arraignment session of Juvenile Court.

(2) If the juvenile denies the allegations contained in the petition, the Court may proceed with the adjudicatory hearing or direct the Juvenile Court Clerk to schedule the matter for an adjudicatory hearing at a time and date deemed appropriate by the Judge upon consultation with the attorneys.

(d) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.)

#### **Rule 25. Adjudicatory Hearing on Undisciplined Petition**

(a) The Court Liaison for the Charlotte-Mecklenburg School System will be responsible for presenting evidence at the adjudicatory hearing that a juvenile has been unlawfully absent from school. Otherwise, the party that filed the petition shall be responsible for presenting evidence in support of the petition.

(b) If the juvenile is adjudicated undisciplined, the Court may proceed with disposition at that time. For good cause shown, the disposition may be continued upon the motion of the juvenile, the DJJDP, the petitioner or upon the Court's own motion. If the matter is continued for disposition, the Juvenile Court Clerk's Office shall schedule the matter for the assigned Judge's next available undisciplined or motion for review/disposition session.

(c) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

**Rule 26. Disposition on an Undisciplined Petition**

(a) The Court may proceed to the dispositional hearing directly following the adjudicatory hearing.

(b) Pursuant to N.C.G.S. §7B-2413, the Court may proceed on the matter of disposition either upon receipt of the predisposition report submitted by the juvenile's assigned DJJDP Court Counselor or upon a finding that a predisposition report is not necessary.

(c) The DJJDP shall present dispositional recommendations to the Court in the presence of the juvenile and his/her parent(s), guardian(s) or custodian(s). The predisposition report shall comply with the requirements set out in N.C.G.S. §7B-2413.

(d) The Judge shall issue a dispositional order pursuant to Article 25, Chapter 7B of the North Carolina General Statutes.

(e) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

**Rule 27. Contempt of Court in Undisciplined Cases**

(a) Pursuant to N.C.G.S. §§7B-2706, 7B-1805, 5A-11, 5A-21; the Court may, sua sponte or upon motion of the parties, issue an order directing a juvenile's parent(s), guardian(s) or custodian(s) to appear and Show Cause why he/she should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court. If a Show cause order is sought, the procedures set forth in Rule 22 shall be followed.

(b) Pursuant to N.C.G.S. §7B-2505, the Court may, sua sponte or upon motion of the parties, issue an order directing a juvenile to appear and show cause why he/she should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court.

(1) The DJJDP shall prepare the Show cause order and the Juvenile Court Clerk shall schedule a hearing on the matter during the next motion for review/disposition session of Juvenile Court.

(2) The Juvenile Court Clerk shall appoint CFCR to represent the juvenile pursuant to the Mecklenburg County Bar Indigent Representation Committee standards and Rule 9.

(3) The Judge may issue an order directing the Mecklenburg County District Attorney's Office to prosecute the Contempt Motion. The Juvenile Court Clerk shall thereupon deliver to the District Attorney's office a copy of both the Show Cause order and the order directing prosecution.

(4) The Sheriff shall serve the motion, order and notice of the date and time of the Show Cause hearing upon the juvenile.

(5) The Court shall proceed on the Contempt hearing and shall then conduct a disposition hearing pursuant to Rule 26 and N.C.G.S. §7B-2505.

(c) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

### **Rule 28. Failure to Appear in Delinquency and Undisciplined Proceedings**

Where the juvenile or his/her parent(s), guardian(s) or custodian(s) failed to appear for a scheduled hearing, the Court shall determine whether or not the juvenile or his/her parent(s), guardian(s) or custodian(s) has been personally served, in accordance with N.C.G.S. §7B-1806, with the summons and petition, motion for review or Show Cause Order; and:

(a) If the juvenile or his/her parent(s), guardian(s) or custodian(s) has not been personally served, the Court shall hear arguments from the parties concerning the ability to locate the juvenile and parents and whether there is reasonable cause to believe the juvenile will not appear in court. The court shall then:

- (1) order the juvenile and his/her parent(s), guardian(s) or custodian(s) to be personally served by the Sheriff with the summons and petition, motion for review or show cause order; or
- (2) issue a secure custody order and/or warrant for arrest.

(b) If the Court finds that the juvenile and his/her parent(s), guardian(s) or custodian(s) were personally served and notified of the scheduled hearing;

- (1) The Court shall hear arguments from the DJJDP, the ADA and defense counsel for the juvenile and/or the parent regarding the issuance of a secure custody order.
- (2) The Court shall thereupon determine whether or not to issue a secure custody order or other orders as the Court finds appropriate.
- (3) The Juvenile Court Clerk shall issue those orders decreed by the Court.

### **Rule 29. Fee Petitions**

All attorneys submitting fee petitions for all court-appointed cases in juvenile court shall comply with the following provisions:

- (a) Fee petitions must adhere to Indigent Defense Services guidelines.
- (b) Fee petitions shall be submitted only at the conclusion of the dispositional hearing and after each subsequent hearing, unless otherwise allowed by the Court and Indigent Defense Services.
- (c) Fee petitions shall be submitted only within 120 days of the date of the dispositional hearing or any subsequent hearing.

### **Rule 30. Resolving Hearing Conflicts**

(a) The following priority should ordinarily control when scheduling cases in which there is a conflict of hearing dates and or times:

- (1) Appellate Courts should prevail over trial courts.
- (2) Any trial court matter listed in these local rules should prevail over any other trial court matter not listed herein.
- (3) The trial court matters subject to subsection (2) are:
  - A. Any trial or hearing in a capital case
  - B. The trial in any case designated as a preemptory setting
  - C. The trial of a criminal case in superior court when the defendant is in jail and charged with an A-E felony and the trial is reasonably expected to last for more than one (1) week.
  - D. The trial in an action or proceeding in district court in which any of the following is contested:
    - i. termination of parental rights

- ii. child custody
- iii. adjudication of abuse/neglect/dependency or disposition following such adjudication
- iv. interim or final Equitable Distribution
- v. alimony or post separation support

(b) When an attorney learns of a scheduling conflict between matters in the same priority category, the attorney shall promptly give written notice to opposing counsel, the clerk of all courts and the appropriate judges in all cases, stating therein the circumstances relevant to resolution of the conflict under these guidelines.

(c) When an attorney learns of the conflict before the date on which the matters are scheduled to be heard, the appropriate judge is the Senior Resident Superior Court Judge for matters pending in the Superior Court Division OR the Chief District Court Judge for matters pending in the District Court Division; otherwise the appropriate judges are the judges presiding over those matters. The appropriate judges should promptly confer, resolve the conflict, and notify counsel of the resolution. In resolving scheduling conflicts between court proceedings matters in the same priority category the presiding judges should give consideration to the following:

- the comparative age of the cases;
- the order in which the trial dates were set by published calendar, order or notice;
- the complexity of the cases;
- the estimated trial time;
- the number of attorneys and parties involved;
- whether the trial involves a jury;
- the difficulty or ease of rescheduling;
- the availability of witnesses, especially a child witness, or an expert

### **Rule 31. Forensic Orders**

Should any party move the Court to issue an order for a Juvenile Forensic Evaluation, that party shall follow procedures established by the AMHA which are attached hereto as Appendix A. The Requesting party shall be responsible for gathering all necessary records and documents and delivering them to the AMHA Juvenile Court Liaison and/or the Forensic Evaluator in order to assist the Forensic Evaluator in completing the evaluation or assessment.