

**Tenth Judicial District  
Family Court Local Rules for Juvenile  
Abuse/Neglect/Dependency Court**

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**Tenth Judicial District  
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**Rule 1. Scope**

These Rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected, and/or dependent, and petitions to terminate parental rights. A copy of these Rules shall be maintained in the Office of the Clerk of Superior Court/Special Proceedings Division, the District Court Judges' Office, and the Family Court Office. These Rules and forms cited herein are available for downloading on the web site of the Administrative Office of the Courts at: [www.nccourts.org](http://www.nccourts.org).

These Rules supersede and replace all previous local rules controlling actions in Abuse/Neglect/Dependency Court (hereafter AND court). The effective date of these Rules is March 1, 2020.

**Rule 2. Purpose**

These Rules establish procedures for Juvenile Court in cases involving juveniles alleged to be abused, neglected, and/or dependent, and petitions to terminate parental rights. These Rules are designed to fulfill the purposes of Family Court, the North Carolina Juvenile Code, and the Adoption and Safe Families Act. To that end these Rules are intended:

- To help the Court oversee case planning;
- To make Family Court and its proceedings accessible and understandable to families and juveniles;
- To encourage the involvement of families and juveniles in the decision-making process;
- To promote the integration of services for the parents and juveniles involved in hearings, and to increase their access to community resources;
- To eliminate unnecessary delays in Court proceedings; and
- To help the parties present issues and evidence to the Court in an efficient and simple manner.

**Rule 3. Construction and Enforcement**

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

These Rules do not attempt to deal with procedures, time requirements, contents of summonses, pleadings, form of orders or other matters set out in the North Carolina Juvenile Code. Enforcement of the requirements of the North Carolina Juvenile Code is not altered by the adoption of these Rules.

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 North Carolina Juvenile Code, orders of the Chief District Court Judge, the Family Court Juvenile Abuse/Neglect/Dependency Protocol, and the assigned or presiding AND Court Judge.

## **Rule 4. Petitions Alleging Abuse/Neglect/Dependency**

**4.1 Filing the Petition.** All petitions alleging abuse, neglect, and/or dependency shall be filed according to the “Protocol for Filing a Petition” published by the Family Court Office and approved by the Chief District Court Judge and in accordance with these Rules.

**4.2 Child Planning Conference.** When a juvenile is taken into Nonsecure Custody, a Child Planning Conference (CPC) shall be scheduled by the Family Court Office. The date, time, and place of the Child Planning Conference shall be placed on the *Juvenile Summons and Notice of Hearing*. The Child Planning Conference shall be conducted in accordance with the “Protocol for Child Planning Conferences” published by the Family Court Office and approved by the Chief District Court Judge. At the CPC, WCHS shall be prepared to recommend services for each parent and shall bring referral consent forms to the CPC for each parent to sign if the parent is willing to engage in voluntary services prior to any Disposition order. None of the evidence obtained during participation in voluntary services completed after the filing of a petition alleging Abuse, Neglect, and/or Dependency shall be used prior to a Dispositional hearing.

**4.3 Initial Nonsecure Custody Hearing.** The initial Nonsecure Custody hearing will be scheduled by the Family Court Office in accordance with these Rules. The date, time, and place of the initial Nonsecure Custody hearing shall be placed on the *Juvenile Summons and Notice of Hearing*.

**4.4 Adjudication/Disposition Hearing.** The Adjudication/Disposition hearing will be scheduled by the Family Court Office in accordance with these Rules. The date, time, and place of the Adjudication/Disposition hearing shall be placed on the *Juvenile Summons and Notice of Hearing*.

## **Rule 5. Court Appointed Counsel and Guardian ad Litem for Parent Lists**

**5.1 Maintenance of Lists.** Pursuant to Article VI.B.1. of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act,” the Clerk of Superior Court shall maintain the master list of attorneys eligible to be appointed to represent parents of juveniles alleged to be abused, neglected and/or dependent and the list of attorneys eligible to be appointed to represent parents in Termination of Parental Rights actions. The Family Court Office shall also maintain a copy of these master lists.

The Family Court Office shall maintain the lists of attorneys eligible to be appointed to serve as Guardian ad Litem for a parent and Guardian ad Litem-Attorney Advocate (appointed in private Termination of Parental Rights matters) and shall deliver a copy of the lists to the Juvenile Clerk

when changes are made to the lists. The Lead AND Judge, as the Chief District Court Judge's designee, shall approve the addition of any qualified attorney to these lists.

**5.2 Qualifications of Appointed Counsel to Represent Parents.** Any attorney who wishes to be appointed to represent indigent parents in AND Court must submit a written request (**WAKE-JUV(AND)-1**) to the Administrator of the "Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act" to be included on List 7: Parent Representation. These "Regulations" are available for downloading on the website of the North Carolina Office of Indigent Defense Services at [www.ncids.org](http://www.ncids.org). The applicant shall satisfy the Committee on Indigent Appointments that the attorney:

- A. Is licensed to practice law in the state of North Carolina; and
- B. Maintains an office in the Tenth Judicial District; and
- C. Has a local working telephone number at which he or she can be readily contacted as well as a mobile telephone, so they can be reached during court in the event they are not in the court room when their case is called for hearing; and
- D. Possesses a working fax and e-mail address; and
- E. Has read N.C.G.S. §§7B-100 through 1112 and §§7B-2900-2901 in its entirety and is competent with the Juvenile Code regarding abuse, neglect, and dependency proceedings and the Rules for Juvenile Court-AND; and
- F. Has read the "Performance Guidelines for Attorneys Representing Indigent Parent Respondents in Abuse, Neglect, Dependency or Termination of Parental Rights Proceedings at the Trial Level" from the North Carolina Commission on Indigent Defense Services in its entirety and is committed to incorporating these guidelines into practice; and
- G. Has completed all training(s) specified by the Chief District Court Judge, including an introduction to Juvenile AND Court conducted by the Family Court Office, is willing to comply with paragraph "L" below, and is willing to attend any follow-up training(s) specified by the Chief District Court Judge; and
- H. Has observed a minimum of eight (8) placement and/or permanency planning hearings, which observation shall be certified by the presiding judge (**WAKE-JUV(AND)-1**); and
- I. Has "shadowed" a case from the Child Planning Conference through the Adjudication/Disposition of that case. An attorney may not "shadow" a case in which the parent does not have appointed counsel. The parent and parent's attorney (and parent's Guardian ad Litem, if applicable) must agree to the "shadow" in a written document (**WAKE-JUV(AND)-1A**) which includes a confidentiality provision signed by the "shadowing" attorney. The attorney "shadowing" the case must be present at all hearings, meetings conducted outside of court (including negotiations of potential consent orders), scheduled appointments between the attorney and the parent, and must review all court

summaries, psychological evaluations, correspondence (i.e., mail and e-mail) regarding the case written or received by the parent's attorney regarding the case, and other documents which may relate to the case that are made available to the parent's attorney by any party or the parent, which "shadowing" shall be certified by the parent's attorney and the presiding judge(s) (**WAKE-JUV(AND)-1**); and

- J.** Has joined the [parentcounsel@listserv.unc.edu](mailto:parentcounsel@listserv.unc.edu) by emailing the Parent Representation Coordinator at North Carolina Indigent Defense Service to request to be added to the listserv; and
- K.** Has signed a written acknowledgement (**WAKE-JUV(AND)-2**) that the attorney understands and agrees to follow certain policies, procedures, and rules that are, or may be, established for Juvenile AND Court, including, but not limited to, these Rules and the "Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act"; and
- L.** In order to remain on List 7: Parent Representation, an attorney must complete at least twelve (12) hours of continuing legal education every two (2) years that is specific to N.C.G.S. §§7B-100 through 1112 and §§7B-2900-2901. The attorney shall provide proof of such continuing legal education no later than December 31<sup>st</sup> of each calendar year to the Juvenile Case Coordinator. If an attorney on List 7: Parent Representation fails to comply with the continuing legal education requirements listed above, that attorney shall be placed on an inactive status by the Family Court Office until proof of compliance with mandatory continuing education to the training committee is provided.

**5.3 Qualifications of Appointed Counsel to Represent Parents in Termination of Parental Rights Proceedings.** After an attorney has a minimum of one year of experience representing parents in AND Court (or could otherwise be appointed to represent a parent pursuant to Rule 6.3 below), the attorney must timely complete the remaining requirement(s) to be appointed to represent indigent parents in Termination of Parental Rights hearings.

The attorney shall satisfy the Committee on Indigent Appointments that he or she has satisfied the requirements of Rule 5.2 above, that the attorney has a minimum of one year of experience representing parents in AND Court, and that the attorney has observed a minimum of one contested Termination of Parental Rights hearing. In the event that an attorney does not meet the one-year minimum experience requirement but would otherwise be appointed to represent a parent pursuant to Rule 6.3 below, the attorney must observe a minimum of one contested Termination of Parental Rights hearing prior to the hearing scheduled in the appointed parent's case. This observation shall be certified by the presiding judge (**WAKE-JUV(AND)-1**).

Once these requirement(s) are fulfilled, the attorney must submit a written request (**WAKE-JUV(AND)-1**) to the Administrator of the "Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act" to be included on List 7: Parent Representation.

**5.4 Qualifications of Attorneys to Serve as Guardian ad Litem for Parents.** Any attorney who wishes to be appointed to serve as a Guardian ad Litem for parents in AND Court must submit a written request (**WAKE-JUV(AND)-1**) to the Family Court Office. Said request shall satisfy the Chief District Court Judge or his/her designee, that the attorney has met each of the requirements of Rules 5.2 and 5.3, that the attorney has a minimum of one year of experience representing parents in AND Court, and that the attorney has served as the attorney for a parent who has been appointed a Guardian ad Litem.

**5.5 Discretion of Court.** The Court shall have discretion to modify the qualification requirements of Rules 5.2, 5.3, 5.4 and 5.5 as necessary in special circumstances and as the interest of justice may require.

**5.6 Removal from the Court Appointed Counsel List(s).**

- A.** If an attorney for a parent does not wish to remain on the qualified court appointed counsel list(s), then the attorney shall comply with the requirements for removal in Article VIII.A.2. of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act.” If the attorney for a parent has cases still pending and is unable to continue representation due to relocation outside of Wake County or employment which will not permit continued representation, then he or she shall find a qualified replacement attorney from the approved list(s) and file and docket a motion to withdraw, which shall include an order allowing withdrawal and appointing the qualified replacement attorney (**WAKE-JUV(AND)-3**).
- B.** If a complaint about an attorney on List 7: Parent Representation is made to the Chief Public Defender for the Tenth Judicial District, the Wake County Committee on Indigent Appointments shall follow the protocol established by Indigent Defense Services in regard to potentially removing said attorney from List 7: Parent Representation. All attorneys are expected to follow Article X. Performance Standards of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act.”
- C.** If an attorney does not agree to represent at least one parent every six months without approved leave pursuant to Rule 7.1 (A) below, that attorney shall be placed on the “inactive” list.
- D.** Nothing in these Rules shall inhibit the inherent power of an individual judge to decline to appoint a particular attorney for a parent to a case or to remove an attorney for a parent and appoint a new attorney.

**5.7 Removal from the Guardian ad Litem for a Parent List**

- A. Voluntary Removal.** If a Guardian ad Litem for a parent does not wish to remain on the list, the attorney shall file written notice of intent with the Family Court Office. If the attorney has cases still pending and is unable to continue representation due to relocation outside of Wake County or employment which will not permit continued representation, the attorney shall find a qualified replacement from the approved list and file and docket a

motion to withdraw, which shall include an order allowing withdrawal and appointing the qualified replacement (**WAKE-JUV(AND)-3**).

**B. Involuntary Removal.** A Guardian ad Litem for a parent may be removed from the list by the Chief District Court Judge. Removal will be based on a violation of these Rules and/or policies relating to Juvenile AND Court in addition to any other published rules and regulations governing the behavior of attorneys generally. Removal may be initiated among the judges or by complaint(s) of other individuals having knowledge of such violation(s). In removing a Guardian ad Litem for a parent pursuant to this section, grounds may be stated and an opportunity to be heard may be afforded by the Chief District Court Judge but are not required.

Nothing in these Rules inhibits the inherent power of an individual judge to decline to appoint a particular Guardian ad Litem for a parent to cases or to remove a Guardian ad Litem for a parent/Guardian ad Litem Attorney Advocate and appoint a replacement from the approved list.

#### **5.9 Limitation of Number of Attorneys on List 7: Parent Representation**

The number of attorneys placed on List 7: Parent Representation shall not exceed thirty-five (35) attorneys. Nothing shall prevent a prospective attorney from completing the requirements for admission to the list, from being approved for admission to the list, but the prospective attorney shall not be appointed to cases until space becomes available on list.

#### **5.10 Training Committee/Mandatory AND Attorney Training**

The Chief District Court Judge or his/her designee shall appoint two parent attorneys to form a training committee to develop continuing legal education courses for the attorneys for parents and Guardian ad Litem attorneys for parents. The training committee shall develop continuing legal education courses including, but not limited to, the areas of substance abuse, mental health, domestic violence and/or abuse, child development, and any other topic directly relevant to the law governing juvenile abuse, neglect, and dependency. The training committee shall offer continuing education courses a minimum of every two years. The courses shall be offered to attorneys practicing within Wake County at no cost, however, the attorney shall bear any costs required by the North Carolina State Bar for continuing legal education credit. All courses may be recorded via audio or video to allow them to be reviewed by attorneys qualifying to be admitted to List 7: Parent Representation. No attorney shall be admitted to List 7: Parent Representation without attending or viewing all mandatory courses offered by the training committee if required by the Chief District Court Judge pursuant to Rule 5.2(G) above. In his/her discretion, the Chief District Court Judge (or designee) may allow other trainings offered by other CLE providers on the required topics to satisfy this requirement.

## **Rule 6. Appointment of Counsel and Guardian ad Litem for Parent**

### **6.1 General Rules of Appointment**

- A. Method of Selection.** If an attorney is appointed to serve as counsel for a parent or Guardian ad Litem for a parent for a juvenile in either a new petition alleging abuse, neglect, and/or dependency or a petition to terminate parental rights, then an attempt shall be made to appoint attorneys in the sequence in which they appear on the appropriate appointment list. If the parent has previously had appointed counsel and/or a Guardian ad Litem for a parent in another case and that person is still included on the list(s), then every effort shall be made to appoint the same counsel and/or Guardian ad Litem for a parent, unless exigent circumstances are presented to the presiding judge to appoint a different Guardian ad Litem.

Prior to the filing of a new petition alleging that a juvenile is abused, neglected and/or dependent, the Family Court Office shall attempt to locate attorneys to serve as provisional counsel and/or Guardian ad Litem for a parent in the sequence in which they appear on the appropriate list. If the name of an attorney is passed over for a reason other than the attorney's unavailability or appointment in a different capacity in the same case, then the Family Court Office shall return to that name for the next case.

If the Court or Juvenile Clerk appoints an attorney in any of these capacities after the filing of a petition alleging that a juvenile is abused, neglected and/or dependent or a petition to terminate parental rights, then the same method shall be used for appointment, unless otherwise instructed by the presiding judge.

- B. Information to be Included on Summons.** The *Juvenile Summons and Notice of Hearing* for a petition alleging abuse, neglect, and/or dependency shall include the name, address, business telephone number, and facsimile number of the provisional attorney and/or Guardian ad Litem for the parent.

The summons shall also include the date, time, and place of the Child Planning Conference, the initial Nonsecure Custody hearing, and the Adjudication/Disposition hearing.

- C. Notification to Provisional Attorney/Guardian ad Litem for a Parent.** After the filing of a petition alleging abuse, neglect, and/or dependency and appointment by the Juvenile Clerk, the Wake County Attorney's Office or its designee shall immediately notify the provisional attorney(s), appointed Guardian(s) ad Litem for a parent of the date and time of any scheduled court hearing by sending a copy of the summons, petition, and any order(s) to the attorney(s) and/or Guardian(s) ad Litem for a parent via email.

Any Attorney/Guardian ad Litem for a parent appointed by the Court or the Juvenile Clerk shall be notified of the appointment by the Juvenile Clerk in accordance with the procedures established by the Administrative Office of the Courts.

## 6.2 Appointments for Petition Alleging Abuse/Neglect/Dependency.

**A. Appointment of Provisional Counsel.** The Juvenile Clerk shall appoint provisional counsel to represent each parent named in a petition alleging abuse, neglect, and/or dependency as required by N.C.G.S. §7B-602(a) and shall indicate the appointment on the juvenile summons. Prior to the filing of the petition, the Family Court Office shall attempt to locate attorneys who are available for the Child Planning Conference, initial Nonsecure Custody hearing, and the pre-adjudication/adjudication/disposition hearing pursuant to Rule 7.1 below and shall provide the Juvenile Clerk with the names of available attorneys.

### **B. Appointment of a Guardian ad Litem for a Parent.**

1) **Appointment by Clerk.** The Juvenile Clerk shall appoint a Guardian ad Litem to any parent as required by N.C.G.S. §7B-602(b) or upon the Court's order pursuant to N.C.G.S. §7B-602(c) as provided in Rule 6.1.A. above.

Prior to the filing of the petition, the Family Court Office shall attempt to locate attorneys who are available for both the Child Planning Conference, initial Nonsecure Custody hearing, and the pre-adjudication/adjudication/disposition hearing and shall provide the Juvenile Clerk with the names of available attorneys to serve as Guardian ad Litem for a parent.

2) **Motion for Appointment.** Any party may move the Court for the appointment of a Guardian ad Litem for a parent pursuant to N.C.G.S. §7B-602(c). The Motion for Appointment of a Guardian ad Litem for a Parent (**WAKE-JUV(AND)-4**) may be filed along with the petition alleging abuse, neglect, and/or dependency by the petitioner, at any Nonsecure Custody Hearing by any party, or at any subsequent time by any party. If the facts alleged in the petition are insufficient to support the appointment of a Guardian ad Litem for a parent, then an affidavit from the social worker, medical personnel, or any other person with the required information may be attached to the Motion for Appointment of a Guardian ad Litem for a Parent (**WAKE-JUV(AND)-4**). If the Court orders appointment, then a Guardian ad Litem for a parent shall be appointed in accordance with Rule 6.1.A. above.

**C. Appointment of Guardian ad Litem-Attorney Advocate.** Appointment of a Guardian ad Litem-Attorney Advocate for the juvenile shall occur upon the filing of a petition and in accordance with N.C.G.S. §7B-601.

## 6.3 Appointments for Termination of Parental Rights.

### **A. Appointment of Provisional Counsel for Petitions.**

Unless already represented by counsel, the Juvenile Clerk shall appoint provisional counsel to represent each Respondent parent named in a petition for termination of parental rights as required by N.C.G.S. §7B-1101.1(a) and shall indicate the appointment on the juvenile summons. Prior to the filing of the petition, the Family Court Office shall attempt

to locate attorney(s) and shall provide the Juvenile Clerk with the names of available attorney(s).

**B. Appointment of Attorney upon New Affidavit of Indigency.** If a parent applies and qualifies for court appointed counsel, then the Court or the Juvenile Clerk shall appoint the same attorney who represented the parent in the underlying AND hearing to represent the parent in the Termination of Parental Rights proceeding if that attorney is still included on the list, unless exigent circumstances are presented to the presiding judge to appoint different counsel. In that event, or if the parent was not appointed counsel in an underlying proceeding, the Court or the Juvenile Clerk shall assign attorneys as provided in Rule 6.1.A. above.

**C. Filing as a Motion in the Cause.** In the event the Termination of Parental Rights proceeding is filed as a Motion in the Cause pursuant to N.C.G.S. §7B-1102, the current appointed counsel, including the Guardian ad Litem for a parent, shall continue representation, unless that attorney/Guardian ad Litem for a parent has properly moved the Court to withdraw from the case.

**D. Appointment of Guardian ad Litem for a Parent.**

**1) Appointment by Clerk.** The petitioner shall notify the Juvenile Clerk of any parent who requires appointment of a Guardian ad Litem pursuant to N.C.G.S. §7B-1101.1(b) by completion of an AND Information Sheet (**WAKE-JUV(AND)-5**) and the Juvenile Clerk shall appoint a Guardian ad Litem to that parent. If the parent had a Guardian ad Litem in a prior abuse, neglect, and/or dependency proceeding, then the petitioner shall also notify the Juvenile Clerk of the name of that Guardian ad Litem by completion of an AND Information Sheet (**WAKE-JUV(AND)-5**) and appointment shall be made pursuant to Rule 6.1.A. above.

**2) Motion for Appointment.** Any party may move the Court for the appointment of a Guardian ad Litem for a parent pursuant to N.C.G.S. §7B-1101.1(c). The Motion for Appointment of a Guardian ad Litem for a Parent (**WAKE-JUV(AND)-4**) may be filed along with the petition to Terminate Parental Rights by the petitioner or at any subsequent time by any party. If the facts alleged in the petition are insufficient to support the appointment of a Guardian ad Litem for a parent, then an affidavit from the social worker, medical personnel, or any other person with the required information may be attached to the Motion for Appointment of a Guardian ad Litem for a Parent (**WAKE-JUV(AND)-4**). If the Court orders appointment, then a Guardian ad Litem for a parent shall be appointed in accordance with Rule 6.2.B.1 above.

## **Rule 7. Responsibilities of all Attorneys, Guardians ad Litem for a Parent**

### **7.1 Availability to Accept Appointment as Provisional Counsel, Guardian ad Litem for a Parent.**

- A. Notice of Unavailability.** If an approved attorney/Guardian ad Litem for a parent is unavailable for appointment for any of these roles for a particular period of time (i.e. secured leave pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, medical leave), then the attorney/Guardian ad Litem for a parent must file a written Notice of Unavailability (**WAKE-JUV(AND)-6**) with the Family Court Office and the Juvenile Clerk in addition to any other places required by Rule 26.E. The period of unavailability for secured leave may not be longer than three (3) consecutive calendar weeks and the period of unavailability for medical leave may not be longer than six (6) months. If an approved attorney requires leave longer than these periods, then he or she shall be removed from the list(s) and a written request will be required to place that attorney back on the list as set forth in Rule 5 above.

When a petition is filed alleging abuse, neglect, and/or dependency, the Family Court Office shall attempt to contact each attorney to be assigned to a parent in a petition alleging abuse, neglect, and/or dependency prior to the appointment in order to ascertain the availability of that attorney for the Child Planning Conference, initial Nonsecure Custody hearing and scheduled Pre-Adjudication/Adjudication hearing. If so contacted, no attorney shall accept an appointment to a case in which he or she has a known conflict with the scheduled Child Planning Conference, initial Nonsecure Custody hearing or Pre-Adjudication/Adjudication hearing. If the attorney subsequently discovers a conflict with any scheduled conference and/or hearing, then the attorney/Guardian ad Litem for a parent must find a qualified replacement from the approved list(s) and must notify the Court by providing the Juvenile Clerk with written notice of the name of the attorney who will be appointed to replace the attorney for that case. Failure to do so could jeopardize future appointments.

If an attorney/Guardian ad Litem for a parent represents to the Juvenile Case Court Coordinator or to the Court that they are not currently accepting new appointments when called upon for an appointment, the Juvenile Case Coordinator shall place them on an inactive status. The Juvenile Case Coordinator shall not be required to contact them for future appointments until the attorney/Guardian ad Litem for a parent gives written notice to the Juvenile Case Coordinator that they are able to resume accepting new appointments.

- B. Notification of Conflicts.** At the filing of a petition, the Wake County Attorney's Office or its designee shall inform the Family Court Office of any attorney/Guardian ad Litem for a parent who has a known conflict in the case. The Wake County Attorney's Office shall also inform the Family Court Office of any known conflict that the Guardian ad Litem Program may have in the case.

If, after appointment, the provisional attorney and/or Guardian ad Litem for a parent recognizes that a conflict in the case exists, then he or she must notify the Juvenile Clerk

immediately so that a new provisional attorney and/or Guardian ad Litem for a parent may be appointed.

If, after appointment, the Guardian ad Litem Program recognizes that a conflict in the case exists with the Program, then the Attorney for the Guardian ad Litem Program or his or her designee shall inform the Juvenile Clerk immediately of the conflict. The Guardian ad Litem Program shall be responsible for securing the services of a Conflict Guardian ad Litem-Attorney Advocate.

**C. Notification of Prior Representation.** At the filing of a petition, the Wake County Attorney's Office or its designee shall inform the Family Court Office and the Juvenile Clerk of any attorney/Guardian ad Litem who has been appointed to a parent in a previous or existing case.

**7.2 Court Priority.** Juvenile Court cases take precedence over all other District Court matters. Abuse/Neglect/Dependency and Delinquency/Undisciplined cases have equal priority. All attorneys (i.e., appointed counsel, retained counsel, Guardian ad Litem for a parent, Assistant Wake County Attorney, Guardian ad Litem-Attorney Advocate) who represent a party in a case scheduled for hearing in AND Court shall appear at the calendar call unless excused in advance by the presiding judge. Any attorney who has a conflict in another court shall comply with the relevant rules relating to priority, and it shall be the responsibility of the attorney to keep the Court informed of his or her location at all times pursuant to Rule 7.3 below. Attorneys shall also be familiar with Rule 3.1 "Guidelines for resolving scheduling conflicts" of the North Carolina General Rules of Practice for the Superior and District Courts.

**7.3 Notification of Location.** When an attorney is authorized by the presiding judge to be absent from AND Court because of a conflict, the attorney shall keep the Court informed of his or her location at all times during the absence, by notifying the Juvenile Clerk of his or her location.

In the event that unforeseen circumstances prevent an attorney from being present at calendar call, he or she shall communicate with the AND Courtroom and advise the Court of his or her whereabouts, reason for the delay, and anticipated arrival time.

**7.4 Continuation of Representation.**

**A. Abuse/Neglect/Dependency Petition.** When an attorney is appointed by the Court (i.e., after approval of the Affidavit of Indigency) in a case involving a petition alleging abuse, neglect, and/or dependency, he or she shall represent his or her client through all stages of the proceedings, including assistance with appeals and appellate counsel in accordance with the North Carolina Rules of Appellate Procedure until the Record on Appeal is settled and filed. If an appeal is filed, then the attorney shall continue to represent the parent in all AND Court proceedings held in District Court pending the appeal.

Each attorney of record shall be released at such time as further reviews are waived by the Court and the appeal period has expired. The attorney of record shall have no additional obligation in that case unless and until reappointed by the Court. The attorney of record

shall prepare an order releasing the attorney and present it to the Family Court Office for signature by the presiding judge unless there is another court order that provides for the release of the attorney.

**B. Termination of Parental Rights' Petition.** When an attorney is appointed by the Court (i.e., after approval of the Affidavit of Indigency) in a case involving a petition to Terminate Parental Rights, he or she shall represent his or her client through all stages of the proceedings, including assistance with appeals in accordance with the Rules of Appellate Procedure until the Record on Appeal is settled and filed. When appellate counsel is appointed, the attorney of record shall be released and shall not have further obligation in that case unless and until reappointed by the Court. If no appeal is filed, then the attorney of record shall be released after the time for filing an appeal has expired, and that attorney shall prepare an order releasing the attorney and present it to the Family Court Office for signature by the presiding judge.

## **7.5 Withdrawal by Counsel, Guardian ad Litem for a Parent**

**A. No Contact with Parent Prior to the First Hearing.** Pursuant to the requirements of N.C.G.S. §7B-602(a), provisional counsel for a parent shall be dismissed at the first hearing of the case if the parent does not appear or has not qualified for counsel. If the parent subsequently qualifies for appointed counsel, then the Court shall consider appointing the attorney originally appointed as provisional counsel to represent the parent. The Guardian ad Litem for a parent shall not be allowed to withdraw because contact with the parent has not been established.

**B. Unable to Maintain Contact with Parent.** If appointed counsel has been unable to maintain contact with the parent subsequent to the Adjudication hearing due to actions/inactions on the part of the parent, then the appointed counsel shall be permitted to withdraw from the case at any review hearing, absent a compelling reason to remain in the case as determined by the Court as long as prior written notice of withdrawal has been given to the parent. Except in extraordinary circumstances which shall be determined by the Court, appointed counsel shall file a written motion to withdraw and provide the parent with proper notice of hearing. The Guardian ad Litem for a parent shall not be allowed to withdraw because the parent has not maintained contact with his or her Guardian ad Litem.

**C. Good Cause.** Counsel appointed or retained to represent a parent may be permitted to withdraw at any time upon filing a written motion and serving the parent with the motion and notice of hearing with good cause as determined by the Court. A Guardian ad Litem for a parent may be permitted to withdraw at any time upon filing a written motion with good cause as determined by the Court.

**D. Appointment of Alternate Counsel/Guardian ad Litem for a Parent.** Unless otherwise instructed by the presiding judge, when seeking to withdraw for reason other than a parent's lack of contact with appointed counsel, the appointed counsel/Guardian ad Litem for a parent shall attempt to find alternate qualified counsel/Guardian ad Litem for a parent to represent the parent from the approved list(s). The motion to withdraw shall include an

order allowing withdrawal and appointing the new counsel/Guardian ad Litem for a parent (**WAKE-JUV(AND)-3**). The order shall also include the last known address of the parent for the purpose of service of future pleadings in the case. The withdrawing counsel/Guardian ad Litem for a Parent shall also give the newly appointed attorney a copy of all relevant documents pertaining to the parent's case.

**7.6 Fee Applications.** All attorneys submitting fee applications for court appointed cases in AND Court shall comply with the following provisions:

- A.** Fee applications (**AOC-G-200**) shall be filled out completely (including, but not limited to, the "*Beginning/Ending Date This Fee Requested*", "*Expenses Allowed by Judge*", the name of the judge under "*Name of Judge Setting Fee*", "*Name of Judge (Type or Print)*" and marking the box "*Assigned Counsel/GAL*". Attorneys shall ensure that the parent fills in their social security number on the Affidavit of Indigency and shall include that number on the fee application; and
- B.** Fee applications shall be submitted only at the conclusion of the Adjudication/ Disposition hearing and after each subsequent hearing, unless the attorney is released at a Nonsecure Custody hearing. Two (2) copies of each fee application shall be submitted to the presiding judge; and
- C.** Fee applications shall be submitted within 120 days of the date of the Adjudication/ Disposition hearing or any subsequent hearing, or upon release of counsel; and
- D.** Fee applications for time in excess of 4.0 hours shall include a typed affidavit of work on the case, including, but not limited to, date, activity, and amount of time spent; and
- E.** Fee applications shall be in accordance with any rules and/policies of the North Carolina Office of Indigent Defense Services.
- F.** Attorneys shall make every effort to limit time billed to the state for "time waiting" in court. Attorneys should make good use of time spent in court before their case is called for hearing to work on other cases or request and receive updates from other professionals in the court room involved in their other cases.

**7.7 Notification of Contact Information Changes.** All attorneys on List 7: Parent Representation of the "Regulations for Appointment of Counsel in the Tenth Judicial District in Case under the Indigent Defense Services Act," shall notify the Family Court Office, the Juvenile Clerk, and the Wake County Attorney's Office of any changes in his or her contact information (i.e., office telephone number, facsimile number, cell phone number, mailing address, email address, and changes in law firm memberships which could result in conflicts in AND Court appointments).

All attorneys on the Guardian ad Litem for a parent list shall notify the Family Court Office, the Juvenile Clerk, and the Wake County Attorney's Office of any changes in his or her contact information (i.e., office telephone number, facsimile number, cell phone number, mailing address,

email address, and changes in law firm memberships which could result in conflicts in AND Court appointments).

**7.8 Attendance at Court Proceedings.** Failure of an appointed attorney to attend court proceedings could jeopardize further appointments and/or result in removal from List 7: Parent Representation pursuant to Article VIII. C. of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act.” Failure of a Guardian ad Litem for a parent/Guardian ad Litem-Attorney Advocate to attend court proceedings could jeopardize further appointments and result in removal from the approved lists.

**7.9 Contact with Client.** An attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation.

**7.10 Notification of Calendar Changes.** All attorneys and Guardians ad Litem for the juvenile and/or a parent are responsible for contacting the Juvenile Clerk immediately if there are corrections that need to be made to the preliminary calendar, including estimates of time needed for the hearing, pursuant to Rule 9.2 below. A copy of the requested corrections shall also be given to the Family Court Office.

**7.11 Minimum Performance Standards.** Court appointed attorneys are expected to provide quality representation for all clients. Attorneys shall be held to the minimum performance standards of representation pursuant to Article X of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act.” Failure to comply with these standards could result in removal from the court appointed list pursuant to Article VIII. C. of the “Regulations for Appointment of Counsel in the Tenth Judicial District in Cases under the Indigent Defense Services Act.”

## **Rule 8. Continuances**

**8.1 Good Cause.** No extension of time or continuance beyond the time specified by statute, order, or these Rules shall be granted, except for good cause. Attorneys shall make all reasonable efforts to prevent continuances. The consent of the parties alone is not good cause for an extension or continuance. Absence of reports that are dispositional in nature may be good cause to continue the Disposition hearing, but not good cause to continue the Adjudication hearing. In ruling on a motion to continue, the Court will consider the availability of the parties and all witnesses and whether such continuance would promote the purposes of these Rules, protect the rights of the parties, protect the best interests of the juvenile(s), and promote the ends of justice.

**8.2 Form of Motions/Submission to the Family Court Office.** All motions to continue made prior to the scheduled court hearing (**WAKE-JUV(AND)-7**), shall be made in writing with all pertinent information contained therein and the reason for the request clearly stated. Said motions must be delivered to the Family Court Office. If all parties consent to the continuance and the case can be recalendared within the time frames required by these Rules, then the motion may be presented to the judge without a hearing. If all parties do not consent or if the time requirements cannot be met, then the Family Court Office will schedule the motion for hearing.

**8.3 Notification of Opposing Counsel/Unrepresented Parties/Witnesses.** All motions to continue shall be made as soon as the need for a continuance is identified, and all impacted (i.e., attorneys, Guardian(s) ad Litem for a parent, Guardian ad Litem-Attorney Advocate, unrepresented parties, and the Family Court Office) shall be notified as soon as possible by the moving party prior to the filing and service of the motion to continue.

**8.4 Objections to Motion for Continuance.** All parties shall have an opportunity to be heard on a motion to continue.

**8.5 Appropriate Court Official.** All motions for continuance shall be ruled upon by the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known at the time the request is made, or is unavailable, then the motion shall be ruled upon by the District Court Judge presiding in AND Court at the time the motion is made. The moving party shall prepare a written order accurately reciting the Court’s ruling on the motion to continue.

**8.6 Court Scheduling Conflicts.** In resolving scheduling conflicts between courts, juvenile cases shall take precedence over all other District Court matters. For conflicts in Superior Court, see Rule 3.1 “Guidelines for resolving scheduling conflicts” of the North Carolina General Rules of Practice for the Superior and District Courts.

## **Rule 9. Calendar**

### **9.1 Role of the Juvenile Clerk.**

The Juvenile Clerk:

- Maintains a record of all upcoming court dates in the comprehensive court calendar.
- Keeps a copy of the court calendar in the courtroom for reference.
- Prepares and issues Notice of Hearing (**AOC-J-141**) as required by statute.
- Keeps the minutes of the courtroom proceedings, which include, but are not limited to, keeping track of next hearing dates scheduled in open court, continuances, case closures, appointment and release of attorneys, appointment and release of a Guardian ad Litem for a parent, adoption of court report recommendations, estimates of time for the next hearing, judicial assignment, and other similar matters.

**9.2 Distribution of Court Calendar.** Fourteen (14) days prior to a scheduled court week, the Family Court Office will distribute, via email, the preliminary calendar to the Assistant County Attorneys responsible for AND cases, court appointed counsel for each parent, any Guardian ad Litem for a parent, the Guardian ad Litem Attorney Advocate, the social work supervisors, the Guardian ad Litem District Administrator and staff, the Juvenile Clerk, and the District Court Judges who are currently assigned to AND Court. The Family Court Office will use email safeguards regarding confidentiality. Attorneys in private Termination of Parental Rights matters will not receive a copy of this calendar.

All attorneys, social workers, and Guardians ad Litem for the juvenile and/or a parent are responsible for contacting the Family Court Office immediately if there are corrections that need to be made to the preliminary calendar, including time estimates for hearings. If an attorney's name appears on the calendar and that attorney has been released, he or she must appear in court for the hearing unless the attorney timely notifies the Family Court Office prior to the printing of the final calendar.

With the exception of Nonsecure Custody hearings, “emergency” situations (with the express permission of the presiding judge), motions to publish for an unknown parent, or corrections to the calendar, no cases will be added or removed after the preliminary calendar is created. Requests for continuances must take place in open court before the presiding judge pursuant to Rule 8 above.

The Family Court Office will distribute, via email, the final calendar to the above distribution list on Friday for the upcoming court week.

**9.3 Hearing Schedule.** Hearings in juvenile cases involving allegations of abuse, neglect, and/or dependency shall be set according to a schedule promulgated by Chief District Court Judge.

**9.4 Timeliness Requirements.**

- A. Scheduling.** Hearings in juvenile cases involving allegations of abuse, neglect, and/or dependency shall be scheduled according to the guidelines established in the North Carolina Juvenile Code and the North Carolina Family Court Time Standards.
- B. North Carolina Family Court Time Standards.** Every effort shall be made to resolve each case according to the North Carolina Family Court Time Standards.

**9.5 Scheduling Court Cases.**

- A. Automatic Scheduling by the Family Court Office.** Except as provided below, all events which are required to be calendared pursuant to the North Carolina Family Court Time Standards and/or these Rules (i.e., Child Planning Conferences, Nonsecure Custody Hearings, Pre-adjudication Conferences, Adjudication/Disposition of Petitions Alleging Abuse, Neglect and/or Dependency) shall be scheduled by the Family Court Office upon the filing of the petition/motion.
- B. Ninety (90) Day Review, Permanency Planning, Post Termination of Parental Rights and Post Relinquishment Hearings:** Each court report from Wake County Human Services should include a requested period of time for scheduling the next review date. This date shall be within the statutory guidelines. The court date will be designated in open court and will be announced before the completion of a court hearing. When the presiding judge announces the date, any and all respondent(s) present at the hearing will be served in open court with a Notice of Hearing (**AOC-J-141**) for the upcoming court date. The Wake County Attorney’s Office shall determine which parties were not served with notice of the next hearing in open court and shall serve those parties with a Notice of Hearing as required by the Rules of Civil Procedure.

Notwithstanding the other provisions of these Rules, no notice shall be given to any parent, counsel for a parent, or Guardian ad Litem for a parent whose parental rights have been terminated by the Court for Post Termination of Parental Rights hearings unless required by statute and the Court specifically orders such notice to be given. If the presiding judge orders notice to be given, then the notice shall designate the date, time, place and purpose of the hearing.

**C. Termination of Parental Rights.** After filing a petition/motion to Terminate Parental Rights, the petitioner/movant shall immediately submit a copy of the petition to the Family Court Office. After filing an answer to the petition/motion to Terminate Parental Rights with the Juvenile Clerk's Office, the respondent shall immediately submit a copy of the answer to the Family Court Office.

**D. Calendaring other Types of Hearings.** Any motion (i.e., motion to withdraw, discovery, compel production of documents, publish on unknown parent, motion to review), may be calendared by an attorney or unrepresented parent by completion and submission of an AND Information Sheet (**WAKE-JUV(AND)-5**) to the Family Court Office.

Before submitting the AND Information Sheet (**WAKE-JUV(AND)-5**), the calendaring party shall consult with the Family Court Office to determine which court dates have time available. After initial consultation with the Family Court Office, the calendaring party shall contact all attorneys involved in the case regarding the requested date. On the AND Information Sheet (**WAKE-JUV(AND)-5**), the calendaring party must indicate whether any attorney involved in the case consented to the requested date, objected to the requested date and the reason for the objection (if known), or failed to respond to the calendaring party.

No matter will be calendared, outside of open court, until an AND Information Sheet (**WAKE-JUV(AND)-5**) and a copy of the written, filed Motion is received by the Family Court Office. The AND Information Sheet (**WAKE-JUV(AND)-5**) must contain a good faith estimate of time required for the hearing.

The AND Information Sheet (**WAKE-JUV(AND)-5**) must be completely filled out with all required information and may be submitted to the Family Court Office via fax (current fax number is 919-792-4876) or hand delivery. The matter will not be calendared for hearing if the AND Information Sheet (**WAKE-JUV(AND)-5**) is not completed in compliance with these Rules. The calendaring party may contact the Family Court Office to verify that the matter has been scheduled as requested and, if it has not been scheduled, to inquire as to the availability of a different date.

Any party filing a Motion for Review pursuant to Article 9 of N.C.G.S. §7B shall serve a Notice of Hearing on all parties and shall prepare a Notice of Hearing (**AOC-J-141**) for the Juvenile Clerk to serve on all other individuals required to be served pursuant to Article 9 of (**WAKE-JUV(AND)-9**).

**9.6 Case Calendared at All Times.** Each Abuse/Neglect/Dependency and/or Termination of Parental Rights case shall be maintained on the court calendar at all times for as long as Juvenile Court jurisdiction in the case continues unless the Court orders that no further reviews are required. If a case cannot be reached for hearing due to other scheduled matters, then no person involved in the case shall leave the courtroom prior to the case being recalendared and notices of hearing served as required by these Rules.

**9.7 Removal from Calendar upon Issuance of Decree of Adoption.** In addition to the provisions of §7B-908(e), Wake County Human Services shall also provide written notice to the Juvenile Clerk and the Family Court Office when a decree of adoption has been issued for each juvenile in a case by submitting an AND Information Sheet (**WAKE-JUV(AND)-5**). A copy of said Information Sheet shall also be provided to the Wake County Attorney's Office, the Guardian ad Litem Program or the Guardian ad Litem-Attorney Advocate. The AND Information Sheet (**WAKE-JUV(AND)-5**) shall include the next scheduled hearing date and the case shall be removed from the calendar if a review is no longer required.

**9.8 Caregiver Information Provided to the Clerk of Court by Wake County Human Services.** Pursuant to any relevant statutes regarding the right of a caregiver to have notice of a hearing, WCHS shall provide the clerk the name and the address of the foster parent, relative, or pre-adoptive parent providing care for the juvenile for any upcoming hearings for which notice to the caregiver is required. The Family Court Office will provide a copy of the "next months" calendar via email to WCHS by the beginning of the current month (i.e. October's list will be sent to WCHS no later than September 1<sup>st</sup>). WCHS will complete the list with the names and addresses of those caretakers listed on the calendar and return via email the list to the Family Court Office. The Family Court Office will immediately forward the list to the Juvenile Clerks. The Juvenile Clerks will send out the notice of hearings to the names and addresses provided.

## **Rule 10. Case Management Updates**

Wake County Human Services must notify the Family Court Office of changes to any case (or involving any juvenile) active in the court system. These changes include but are not restricted to: a change in Wake County Human Services' social worker, placement changes of any or all of the juveniles, the issuance of a decree of adoption, the dismissal of the petition alleging abuse, neglect, and/or dependency, reunification with parents or relatives, or any other case closure. Any and all changes should be submitted to the Family Court Office via email within 30 days of the change. The exact date that the change occurred must be included in the notice.

## **Rule 11. Service of Summons and Petition**

From the date the petition alleging abuse, neglect, and/or dependency 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 serve the summons and petition on any such parent. A parent's request for counsel shall be deemed a general appearance for purposes of service of the summons and petition. Additionally, any motion for service by certified or registered mail or service by publication shall be liberally granted.

## **Rule 12. Discovery and Hearing Exhibits**

**12.1 Examination and Production of Records.** Pursuant to N.C.G.S. § 7B-700, WCHS will release this information upon request. Attorneys must request this information in writing (preferably via email) to the petitioning social worker and/or supervisor.

In the event Wake County Human Services does not share information pursuant to N.C.G.S. § 7B-700, discovery of the Wake County Department of Human Services' records is available by the use of a Motion and Order to Examine and Produce Records (**WAKE-JUV(AND)-8**). The counsel seeking to examine and obtain such records must attempt to obtain the signature of the assigned Assistant Wake County Attorney before presenting the order to the presiding judge. The Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) shall be filed in a timely fashion and shall not be filed for purposes of delay. The Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) may be filed at the first nonsecure custody hearing. If the assigned Assistant Wake County Attorney objects to entry of the order, then the Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) must be calendared for hearing by submitting an AND Information Sheet (**WAKE-JUV(AND)-5**) as provided in Rule 9.5.D. above.

Any order allowing the Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) shall contain protective provisions that require the movant to maintain the confidentiality of any documents received from all persons. Unless the presiding judge specifically orders otherwise, the protective provisions shall include, without limitation, a provision prohibiting attorneys from allowing their clients to review, read or otherwise examine mental health records, evaluations, or other such documents of another respondent.

Any order allowing the Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) shall contain a provision for a parent's attorney, Guardian ad litem attorney, or an unrepresented party to request copies of any documents examined by the parent's attorney, Guardian ad Litem attorney, or an unrepresented party. These copies shall be provided by Wake County Human Services to the parent's attorney, Guardian ad Litem attorney, or an unrepresented party upon request. Any party who fails to provide copies of such documents pursuant to an Order to Examine and Produce Records (**WAKE-JUV(AND)-8**) shall be subject to sanctions for their failure to comply with this subsection and Orders of the Court.

If Wake County Human Services objects to production of a particular requested record, then Wake County Human Services shall file a Motion in Opposition to Production of Records (**WAKE-JUV(AND)-8A**) and serve it on all parties within three days after the request for production is made. Wake County Human Services shall also consult with the Family Court Office as well as the other parties to select a date for the hearing on the Motion in Opposition to Production of Records (**WAKE-JUV(AND)-8A**). It is the responsibility of Wake County Human Services to file and serve a Notice of Hearing and request a writ for any incarcerated parent for a hearing on a Motion in Opposition to Production of Records (**WAKE-JUV(AND)-8A**) filed pursuant to this section.

**12.2 Requests for Production of Documents.** Requests for Production of Documents shall be filed in a timely fashion and shall not be filed for purposes of delay. Motions to Compel Discovery shall be filed and calendared for hearing in a timely fashion and shall not be filed for purposes of delay.

The Court shall have the discretion to deny Motions to Compel Discovery if a Motion to Examine and Produce Records (**WAKE-JUV(AND)-8**) has not been filed or if the records have not been examined as permitted by the Order Allowing Examination and Production of Records (**WAKE-JUV(AND)-8**).

Any order allowing the Production of Documents shall contain protective provisions that require the movant to maintain the confidentiality of any documents received from all persons. Unless the presiding judge specifically orders otherwise, the protective provisions shall include, without limitation, a provision prohibiting attorneys from allowing their clients to review, read or otherwise examine mental health records, evaluations, or other such documents of another respondent.

If an attorney seeks to distribute copies of any mental health records, evaluations, home studies, pre-placement assessments, or other sensitive documents, the attorney shall file a Notice of Intent to Distribute (**WAKE-JUV(AND)-8B**) and serve it on all parties no less than 10 days from the intended date of distribution. The notice shall contain the name of the document intended to be distributed, the date of the document intended to be distributed, the author of the document intended to be distributed, the name of the person and/or agency to whom the document is intended to be distributed, and the reason why distribution of the document is necessary. If a party objects to distribution of the document, then that party shall file a Motion in Opposition to Distribution (**WAKE-JUV(AND)-8B**) and serve it on all parties no less than three days before the intended distribution. The party objecting to distribution shall also consult with the Family Court Office as well as the other parties to select a date for the hearing on the Motion in Opposition to Distribution (**WAKE-JUV(AND)-8B**). It is the responsibility of the party objecting to distribution to file and serve a notice of hearing and request a writ for any incarcerated parent for a hearing on a Motion in Opposition to Distribution filed pursuant to this section.

**12.3 Access.** The Guardian ad Litem Attorney Advocate, Guardian ad Litem-Attorney Advocate, the Assistant Wake County Attorney, counsel for all parents, any unrepresented party and the Guardian ad Litem for an unrepresented parent may have access to any records subpoenaed (i.e., videotapes, audiotapes, or medical records) intended to be used as an exhibit when received by the Court.

**12.4 Preview of Exhibits.** Attorneys and/or parties shall make a good faith effort to have sufficient copies of all exhibits, reports, or other documents that may be introduced at any hearing (including reviews) available for distribution to each party prior to the scheduled court hearing date. All attorneys and/or parties shall make a good faith attempt to share exhibits, not received by the attorney prior to the hearing date with all parties for their review prior to the call of the case for hearing.

## **Rule 13. Early Submission of Court Reports**

**13.1 Review Hearings - Submission to District Court Judge.** Court reports (including, but not limited to, reports from Wake County Human Services, the Guardian ad Litem Program or Guardian ad Litem-Attorney Advocate, and mental health, psychological, substance abuse and/or other evaluations previously ordered by the Court) for all review hearings (i.e., ninety day review hearings following Adjudication/Disposition, permanency planning hearings, post-Termination of Parental Rights hearings) shall be submitted to the Family Court Office at least twelve (12) calendar days prior to the 1<sup>st</sup> business day of the week of the scheduled hearing. Late reports must still be delivered to the Family Court Office and may not be delivered individually to the presiding judge by the social worker or the Guardian ad Litem for the juvenile. The Family Court Office shall notify the presiding judge of which reports are tardy.

The court report submitted shall include, but is not limited to, court summary reports from Wake County Human Services, the Guardian ad Litem Program or Guardian ad Litem Attorney-Advocate, and mental health, psychological, educational, substance abuse and any other evaluations previously ordered by the Court, letters from service providers, genetic marker results, drug screen results, certificates of completion of services and any other available documents that any party wishes to be a part of the court record. **ANY document which is provided to the Court SHALL simultaneously be provided to other pertinent persons. If any document is received by the social worker after the date of submission of the court report, the social worker shall: provide the document(s) to the Court and other pertinent persons as soon as possible, as well as bring the document(s) to court, have sufficient copies of the document(s) for each attorney/unrepresented party and the Court, and share the document(s) with each attorney/unrepresented party prior to the call of the case for hearing.**

**13.2 Submission of Adjudication/Disposition and Termination of Parental Rights Reports to the Court.** Adjudication/Disposition and Termination of Parental Rights court reports for review by the presiding judge during the hearing shall be submitted to the Family Court Office at least twelve (12) calendar days prior to the 1<sup>st</sup> business day of the week of the scheduled hearing. Late reports must still be delivered to the Family Court Office and may not be delivered individually to the presiding judge by the social worker, the Guardian ad Litem for the juvenile or the Guardian ad Litem-Attorney Advocate. These reports **SHALL NOT** be submitted to the presiding judge prior to the Adjudication hearing or the Termination of Parental Rights hearing.

**13.3 Early Submission to Other Pertinent Persons.** Wake County Human Services and the Guardian ad Litem Program or Guardian ad Litem Attorney-Advocate shall submit their court reports for all reviews (i.e., Ninety Day Review (3 Month Review), Permanency Planning (PPH), and Post-Termination of Parental Rights (PTPR)), all Adjudication/Dispositions (A/D) hearings, and all Termination of Parental Rights hearings to all other pertinent persons at least twelve (12) calendar days prior to the 1<sup>st</sup> business day of the week of the scheduled hearing.

The court report submitted shall include, but is not limited to, court summary reports from Wake County Human Services, the Guardian ad Litem Program or Guardian ad Litem Attorney-Advocate, and mental health, psychological, educational, substance abuse and any other evaluations previously ordered by the Court, letters from service providers, genetic marker results,

drug screen results, certificates of completion of services and any other available documents that any party wishes to be a part of the court record. **ANY document which is provided to the Court SHALL simultaneously be provided to other pertinent persons. If any document is received by the social worker after the date of submission of the court report, the social worker shall: provide the document(s) to the Court and other pertinent persons as soon as possible, as well as bring the document(s) to court, have sufficient copies of the document(s) for each attorney/unrepresented party and the Court, and share the document(s) with each attorney/unrepresented party prior to the call of the case for hearing.**

For the Early Submission of Court Reports, “pertinent persons” typically include: the Assistant Wake County Attorney and their administrative staff, parents’ attorneys, the Guardian ad Litem for a parent, Wake County Human Services’ social worker, and the Guardian ad Litem Program and/or the Guardian ad Litem-Attorney Advocate. If a parent/respondent is unrepresented by counsel, then a copy shall be mailed to the parent/respondent’s last known address if the parent/respondent is believed to still reside at that residence. If the parent’s/respondent’s last known address is not currently valid, then no report shall be mailed. Any report listed in Rule 13.1 above that is submitted to the presiding judge for early review shall be submitted to all pertinent persons.

Any attorney that does not receive the WCHS report by the Monday prior to the 1<sup>st</sup> business day of the week of the scheduled hearing shall email the social worker, supervisor, and assigned WCHS attorney to request a copy of the report.

Any attorney that does not receive the GAL report by the Monday prior to the 1<sup>st</sup> business day of the week of the scheduled hearing shall email the assigned Attorney Advocate to request a copy of the report.

All individuals receiving a copy of the court reports based on the Early Submission deadlines shall read the reports prior to the day of the hearing to ensure the most efficient use of court time. An attorney for a parent shall also make diligent efforts to review the report with the parent prior to the day of the hearing.

**Court reports must be submitted according to the deadlines listed above. Non-compliant parties will be subject to judicial sanctions as deemed appropriate by the presiding AND judge.**

**13.4 Sharing Court Reports with Juveniles.** Court reports and medical/psychological/forensic evaluations that are part of court reports shall not be shared with a juvenile who is the subject of the AND Court proceeding except under the following circumstances:

- A. Social workers or Guardians ad Litem may share with a juvenile the portion of their written court reports that do not include sensitive information about family members or other individuals if, in the opinion of the social worker or Guardian ad Litem, it is in the juvenile’s best interest and the juvenile is twelve years of age or older.

- B. Psychologists, physicians or other professionals that conduct evaluations of juveniles or therapists who provide treatment to juveniles may share with the juvenile those parts of their reports that do not include sensitive information about family members or other individuals if, in the opinion of the professional, it is in the juvenile's best interest.

Except as specified above, a court report or medical/psychological/forensic evaluation that is part of a court report shall not be shared with a juvenile who is the subject of the AND Court proceeding unless the Court determines that the disclosure of the report is in the juvenile's best interest.

## **Rule 14. Juvenile Records**

**14.1 Confidentiality of Juvenile Records.** Juvenile Court 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, Memorandums of Understanding from Child Planning Conferences, copies of the juvenile's file, 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.

### **14.2 Filing Documents.**

**A. Documents to be Filed Shall Contain All Applicable File Numbers.** Any and all documents submitted for filing in the juvenile's court file shall contain all file numbers for which that document is applicable. Documents include, but are not limited to, motions, court summaries, orders, psychological and/or substance abuse evaluations, letters from a juvenile to the Court, exhibits introduced by any party, Affidavits of Indigency, and returns of service. Exhibits for which there is only one original (i.e., photographs and other tangible exhibits) shall be filed in the juvenile file of the youngest juvenile involved in a petition and a separate document shall be filed in each applicable file referencing the filing location of the original exhibit. With the exception of the original documents accompanying the petition alleging abuse, neglect, and/or dependency, the party filing the document or submitting it to the Court shall be responsible for placing all file numbers for which that document is applicable on the document before filing or submission to the Court.

**B. Documents to be Filed only in Applicable Files.** A document shall only be filed in the juvenile's file for which it is applicable.

## **Rule 15. Consent Orders and Stipulations**

**15.1 Consent Orders.** The Court may enter Consent Orders as permitted by N.C.G.S. §7B-801.

**15.2 Stipulations.** If the parties agree to stipulate to certain findings, then the Court shall determine in open Court, before accepting the stipulations, that the parties understand the content and consequences of the stipulation and that the stipulation is voluntary. The Court's finding(s) shall be set forth on the record. In lieu of stipulations, in order to protect the parent's constitutional rights or for any other reason, a parent may choose not to resist the entry into evidence of the petition, court summary, medical reports or other documents forming the basis of an Adjudication. A statement that a party does not resist the findings/stipulations shall be a sufficient finding of fact. Further, a parent may choose not to resist a determination by the Court that a juvenile is abused, neglected, and/or dependent.

The Court shall not be bound by any stipulation to which fewer than all parties who have appeared have agreed.

## **Rule 16. Pre-Adjudication Hearing and Pretrial Hearing for Termination of Parental Rights Actions**

**16.1 Pre-Adjudication Hearing.** The Court shall conduct a pre-adjudication hearing in accordance with N.C.G.S. §7B-800.1. The pre-adjudication hearing date shall be on the summons.

- A. All attorneys and respondents shall be present in court for the scheduled pre-adjudication conference. No attorney shall inform a respondent that his or her attendance is not required. No respondent shall leave the courtroom without the permission of the presiding judge until all matters which can be resolved are completed.
- B. If the case is not fully resolved by entry of a consent order and/or stipulations, a date certain for the adjudication and/or disposition shall be set and all respondents present will be served with a notice of the next hearing.
- C. Unless the case adjudication is fully resolved following the pre-adjudication hearing, a pretrial order shall be prepared, circulated pursuant to Rule 21 below and delivered to the presiding judge prior to the call of the case for hearing.

**16.2 Pretrial Hearing for Termination of Parental Rights (filed by WCHS/GAL).** The Court shall conduct a pretrial hearing in accordance with N.C.G.S. §7B-1108.1. The Petitioner/Movant shall serve a notice of hearing on any respondent not represented by counsel and on any respondent who has provisional counsel, but not counsel of record.

- A. All attorneys and each parent/respondent shall be present in court for the scheduled pretrial hearing. Each attorney shall notify their client of the date and time of the pretrial hearing (preferably in writing). No attorney shall inform a respondent that his or her attendance is not required without prior consent of the presiding judge. No respondent shall leave the courtroom without the permission of the presiding judge until all matters which can be resolved are completed.
- B. If the termination of parental rights hearing is not scheduled for hearing on the same date following the pretrial hearing and if case is not fully resolved following the pretrial hearing,

a date certain for the termination of parental rights shall be set and all respondents present will be served with a notice of the next hearing. Petitioner/Movant shall immediately send a notice of hearing to any unrepresented party (even if that party still has provisional counsel) if the respondent was not present. If a parent signs a relinquishment or consent to adoption prior to a calendared termination of parental rights hearing, the Court shall set a date certain to review the status of the relinquishment/consent and the parent shall be served with a notice of hearing for that date.

- C. No pretrial hearing and termination of parental rights hearing shall be calendared for hearing on the same date without the prior consent of the presiding judge.
- D. Unless the termination of parental rights hearing immediately follows the pretrial hearing, a pretrial order shall be prepared, circulated pursuant to Rule 21 below and delivered to the presiding judge prior to the call of the case for hearing unless the presiding judge indicates that no order is required because another pretrial hearing is necessary.

**16.3 Parties Must Attend.** All parties and their attorneys shall attend any pre-adjudication and pre-termination of parental rights conference. Prior to the scheduled pre-hearing date, Respondent's attorneys shall make attempts to communicate with the parent, notify the parent of the date, and secure that parent's attendance and shall notify the Juvenile Case Coordinator if a Writ is required pursuant to Rule 23 below. Sanctions may be imposed by the Court upon a party or attorney for failure to attend.

**16.4 Lists, Exhibits to be Provided.** At or before the conference, each party shall provide to all other parties 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 that is not available for distribution at or before the pre-adjudication conference shall be distributed at the earliest practicable time.

**16.5 Status Conference for Termination of Parental Rights Cases.**

The Court, upon ordering Adoption as the primary permanent plan of a case shall schedule a Status Conference not sooner than ninety (90) days, but no more than one hundred twenty (120) days from the hearing where the termination goal was ordered. The purpose of the hearing shall be to address any issues regarding filing of the petition/motion for termination of parental rights, service of process, or any other matters properly before the court. All provisionally appointed attorneys and counsel of record in the termination action shall attend the hearing. The hearing may be removed from the calendar if a copy of a filed petition/motion is delivered to the Juvenile Case Coordinator accompanied by a statement regarding the status of service of process on all parties along with a request to set the pretrial hearing.

**Rule 17. Recordation of Hearings**

Hearings shall be recorded pursuant to N.C.G.S. §7B-806. In addition to Adjudication/Disposition hearings of petitions alleging abuse, neglect and/or dependency and Termination of Parental Rights, other hearings that shall be recorded include hearings requesting ceasing reunification efforts with parents and/or granting legal custody or guardianship to a non-parent. It shall be the

responsibility of all attorneys to notify the Juvenile Clerk of any proposal that might necessitate the recording of a hearing.

Recordings of Juvenile Hearings are not public record. Specialized software is required to review the recording. No attorney or party appearing on any petition alleging abuse, neglect, or dependency or termination of parental rights case should anticipate receiving a copy of the recording to assist in preparation of the order. No copy of recordings will be produced unless an appealable order is timely appealed and then shall only be delivered to the transcriptionist, except as otherwise ordered by a court of competent jurisdiction.

## **Rule 18. Permanency Mediation**

**18.1 Statutory Authority.** N.C.G.S. §7B-202 shall govern permanency mediation in all A/N/D and TPR proceedings and are incorporated herein by reference.

**18.2 Court Order to Mediate.** The Court may order parties to participate in permanency mediation at any stage of the proceedings upon one of the following:

- A. Any attorney for any party or an unrepresented party may file a written motion for mediation (**WAKE-JUV(AND)-12**) and the motion shall be calendared for hearing before the assigned judge.
- B. If all parties consent to permanency mediation, any attorney for any party or an unrepresented party may file a written motion for mediation (**WAKE-JUV(AND)-12**). The hearing on the motion shall be waived unless the Court denies the motion for mediation and orders that the motion be set for hearing. If the written motion is granted without hearing, the moving party shall be responsible for serving all parties with the Order to Attend Permanency Mediation (**WAKE-JUV(AND)-12A**) and shall provide a copy of the order to the Family Court Office.
- C. At any hearing, the attorney for any party, an unrepresented party, or the Court may orally move for mediation.
- D. The moving party shall be responsible for completing the Mediation Order Contact Information sheet attached to the Order to Attend Permanency Mediation (**WAKE-JUV(AND)-12A**). If the case is ordered to mediation upon motion of the Court, the Mediation Order Contact Information sheet shall be completed prior to the end of the court session.
- E. The Family Court Office shall timely serve all mediation participants with the Notice of Mediation Session (**WAKE-JUV(AND)-12B**).

**18.3 Mediation Attendance.** All parties and their attorneys shall attend Court ordered mediation. Other individuals whose input may be helpful may be invited to the mediation session by the parties or attorneys but are not required to attend. These individuals may participate in the session only if agreed upon by the mediators, the parties, their attorneys, or by order of the Court.

Parties and attorneys who are ordered to attend a mediation session, but who fail to appear, may face Court sanctions, including but not limited to, contempt of court. In addition, court appointed attorneys may be subject to removal from the court appointed lists for non-attendance, arriving late, or for not attending the entire session.

The Court, with input from the mediators, parties, and their attorneys, shall determine if the mediation can proceed when a party or attorney does not attend.

**18.4 Mediation Process.** Mediation sessions that occur prior to adjudication may address stipulations to the facts alleged in the petition and the development of a case plan for the parents or caretakers. The parties may not stipulate to the legal status of the case (i.e. abuse, neglect, dependency). Only the Court shall determine the legal status. Full or partial agreements on the petition and/or case plan may be reached as a result of pre-adjudication mediation.

Mediation sessions that occur post-adjudication may address issues of visitation, communication, permanent placement, relinquishment/post-adoption contact, or other issues that may result in permanence for the child(ren) in a shorter period of time.

The mediators shall screen cases for domestic violence and ensure that appropriate safety measures are taken. The mediators may terminate mediation if it is determined at any point in the process that mediation is not appropriate.

If the mediation process requires more than one session, then no party or counsel may approach the Court between sessions on any matter referred to in mediation unless an emergency arises regarding the child(ren). Participation in mediation is not to be used to delay the court process.

If paternity is not established prior to the mediation session and if a father named in the petition does not intend to acknowledge paternity prior to the scheduled mediation, then that father and his attorney may not enter into a mediated agreement regarding the petition or case plan, unless approved by the Court.

**18.5 Mediated Agreement.** Although parties are ordered to attend mediation, they are not ordered to reach a resolution. There shall be no punitive measures taken by the Court or service providers if a mediated agreement is not reached. If an agreement is reached, the mediators shall draft a written agreement while all parties and attorneys are present at the mediation. All parties and attorneys shall sign the written agreement and shall receive a copy.

The Wake County Attorney's Office shall be responsible for taking the mediated agreement to Court and reading the agreement into the court record at the scheduled court hearing or at an earlier date if all parties consent. The Court may accept or reject the mediated agreement. In cases mediated pre-adjudication, agreements reached and signed by all parties and accepted by the presiding judge shall become an enforceable order of the Court. In cases mediated post-adjudication, the Court shall determine whether the mediated agreement will become part of a court order.

**18.6 Confidentiality.** All participants, including the mediators, shall sign a confidentiality agreement prior to beginning the mediation. All participants, including the mediators, shall honor the confidentiality agreement regardless of whether a final agreement is reached. Except for a mediated agreement, no reports regarding the content of the mediation may be created by any participant to the mediation.

**Exception:** Any new allegations of child abuse or neglect, which are made during the mediation session, shall be reported. If information concerning serious threatened harm is revealed during the mediation, then the appropriate authorities and/or victims shall be notified.

## **Rule 19. Efficient Use of Court Time**

All attorneys and/or parties shall be prepared for hearing at the call of the calendar. Attorneys are expected to be present for calendar call or to have notified the Court as to when they expect to arrive for court. Attorneys who fail to be present for calendar call are subject to being removed from the court appointed list.

The use of consent orders and stipulations is encouraged. Proposed consent orders, stipulations, and/or court reports shall be circulated among the parties in advance of the scheduled hearing. Parties are encouraged to contact each other to ascertain the possibility of a consent order or stipulation. Attorneys should urge 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 court hearing and issues narrowed whenever possible.

## **Rule 20. Judicial Assignment**

**20.1 Judicial Assignment upon Adjudication.** Once a juvenile case involving allegations of abuse, neglect, and/or dependency has been adjudicated, that case shall be assigned to the judge presiding over the Adjudication/Disposition hearing. All subsequent hearings in the case shall be scheduled before the same judge, including Termination of Parental Rights hearings and future Adjudications regarding the same juvenile(s), unless extraordinary circumstances require otherwise.

**20.2 New Petitions Involving Same Parent(s).** With the exception of Nonsecure Custody hearings, if a new petition for custody of other juvenile(s) of the same parent(s) is filed, all hearings involving the sibling juvenile(s) shall be heard by the judge assigned to the previous case if that judge is currently assigned to AND Court, including future Adjudications and Termination of Parental Rights hearings regarding the same juvenile(s), unless extraordinary circumstances require otherwise.

**20.3 Scheduling Changes.** Once a judge is assigned to a case, reasonable efforts shall be made to schedule all hearings before the assigned judge during his or her scheduled AND Court rotation. If an emergency arises and a motion must be heard outside of a judge's assigned rotation, then the attorneys must consult with the assigned judge to inquire as to the feasibility of a temporary schedule change pursuant to Rule 24 below, or of conducting the hearing in chambers.

## **Rule 21. Preparation and Entry of Orders**

**21.1 Preparation of Orders.** In cases involving Wake County Human Services, the Wake County Attorney's Office shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge. In all other cases, the prevailing party shall prepare the order, unless otherwise provided herein or instructed by the presiding judge. If further hearings are calendared in the case, then the order shall designate the date, time, place and purpose of the next hearing, which shall serve as notice of hearing to all parties served with a copy of the order and the caption shall contain "Notice of Hearing" language.

**21.2 Time Standards for Entry of Order.** With the exception of pretrial orders as required in Rule 16 above, all orders shall be filed as required by statute, but in no event shall an order be entered later than 30 days following any hearing. A draft of each order must be circulated among the attorneys (and any unrepresented parties who appeared at the hearing) involved in the proceeding within a reasonable time prior to the submission of the final order to the Court for signature. If the order was not circulated in compliance with this Rule, this must be brought to the Court's attention when the final order is submitted for signature.

**21.3 Orders Due Calendar.** The Juvenile Clerk shall schedule a hearing for any order that is not entered in a timely manner pursuant to the Juvenile Code or these Rules. The Orders Due date is a calendared hearing that **ALL** attorneys involved in the case must attend if the case appears on ORDERS DUE CALENDAR unless the order is entered (i.e. signed by the presiding judge and file stamped) by 4:00 pm the business day before the Orders Due calendar.

Any and all conflicts regarding the order shall be resolved prior to the conclusion of the Orders Due hearing, and the order shall be entered within 10 days as required by the Juvenile Code or these Rules.

**21.4 Order Submission.** All orders must be delivered to the Family Court Office in advance of the due date to allow the judge time to review the order for changes before signature. For all orders timely submitted in accordance with this rule, the Family Court Office will ensure that the orders are timely delivered to the judge, signed and filed. A filed copy will be returned to the drafting party for service upon other parties.

**21.5 Order Submission in Private Termination of Parental Rights Hearing.** See Rule 25.10 below.

**21.6 Review of Filed Order.** It shall be the responsibility of each attorney and/or party to review the filed order. If an attorney/party has an issue regarding the order as entered, that issue shall be brought to the attention of the other attorneys and a Rule 60 motion shall be filed if applicable.

## **Rule 22. Interpreters**

If a parent, juvenile, or witness is in need of a foreign language interpreter for an Adjudication/Disposition, Review and/or Permanency Planning hearing, or a Termination of

Parental Rights hearing, then the attorney for the parent, juvenile, or calling such witness shall follow the procedures contained at [www.nccourts.gov](http://www.nccourts.gov) “Obtaining a Spoken Foreign Language Court Interpreter for Court Proceedings – Courts” to obtain the services of an interpreter. If the case coordinator and/or Juvenile Clerk indicated at a prior hearing that he/she would request the interpreter, it shall be the duty of the attorney requiring the interpreter to verify that the interpreter has been requested at least 15 days prior to the required hearing.

If a parent, juvenile, or witness is in need of a deaf interpreter for an Adjudication/Disposition, Review and/or Permanency Planning hearing, or a Termination of Parental Rights hearing, then the attorney for the parent, juvenile, or witness shall contact the Trial Court Coordinator for the District Court Judges to obtain the services of a deaf interpreter. If the case coordinator and/or Juvenile Clerk indicated at a prior hearing that he/she would request the interpreter, it shall be the duty of the attorney requiring the interpreter to verify that the interpreter has been requested at least 15 days prior to the required hearing.

### **Rule 23. Writs and Inmate Transport**

When a hearing is scheduled which reflects that a respondent is incarcerated, the clerk’s office shall inform the appointed attorney at the time of the appointment. The following procedure shall be followed to have an incarcerated respondent brought to a juvenile hearing.

#### **A. Wake County Jail Inmate**

If inmate is housed in the Wake County Jail and under the custody of the Wake County Sheriff’s Office, the following procedure applies:

1. Prior to the conclusion of Disposition, the WCHS Attorney, Juvenile Case Coordinator, and/or Juvenile Clerk shall secure the respondent’s presence in court by completion of the Inmate Transport Form for the judge’s signature and deliver it to the Wake County Sheriff’s Department in accordance with their policies.
2. After Disposition, it shall be the responsibility of counsel of record (if any) to notify the Juvenile Case Coordinator of the respondent’s incarceration and request the completion of the Inmate Transport Form pursuant to the provisions of 23.A. above. If the respondent is not represented by counsel, the WCHS Attorney shall notify the Juvenile Case Coordinator and/or Juvenile Clerk of the incarceration and the 23.A. procedure shall be followed.

#### **B. North Carolina Department of Corrections Inmate**

If the inmate is housed in a facility maintained by the North Carolina Department of Adult Corrections, the following procedure applies.

1. Prior to the conclusion of Disposition, the WCHS Attorney, Juvenile Case Coordinator, and/or Juvenile Clerk shall be responsible for securing the respondent’s presence in court by completion of AOC-G-112 for Writ. The Writ shall be signed by the judge, given to the Juvenile Clerk, and delivered to the Department of Adult Corrections (DAC) in accordance with their policies.

2. After Disposition, counsel of record (if any) shall be responsible for securing the respondent's presence in court by completion of AOC-G-112 for Writ, obtain the judge's signature, and give it to the Juvenile Clerk. The Juvenile Clerk shall deliver the Writ to the Department of Adult Corrections (DAC) in accordance with their policies. If the respondent is not represented by counsel, the WCHS Attorney shall prepare the Writ, obtain the judge's signature, and give it to the Juvenile Clerk. The Juvenile Clerk shall deliver the Writ to the Department of Adult Corrections (DAC) in accordance with their policies.

**C. Federal Prisoner/Inmate, "287 G" hold, or I.C.E. Prisoners:**

As soon as practicable after being provisionally appointed, the parent attorney shall make contact (i.e., via telephone, email, facsimile, and or U.S. Mail) with the respondent's case manager at the facility where the respondent is located in order to ascertain how communication with the respondent can be effectuated and shall follow the recommended procedures(s).

- D.** If any attorney has reason to believe that a writ may have been previously been issued for the scheduled court date, that attorney shall verify such issuance with the Juvenile Clerk at least ten (10 days) prior to that scheduled hearing.

**E. Termination of Parental Rights Cases.** The above stated "After Disposition" procedures will apply to all termination of parental rights cases for both the pretrial and Termination of Parental Rights hearings. In a private TPR, Petitioner's counsel shall perform tasks that would be required by the WCHS attorney.

## **Rule 24. Special Sessions**

**24.1 Modification of Judges' Courtroom Assignments.** In order to complete lengthy hearings in a shorter time span, the judges regularly assigned to AND Court shall have preliminary authority to modify their courtroom assignment schedule by switching their rotations in AND Court with another AND Court judge. Final approval for courtroom reassignments shall remain with the Chief District Court Judge.

**24.2 Requests for Special Session.** Requests for a special session for hearings that are anticipated to be extraordinarily lengthy (i.e., exceeding two court days) shall be prepared on the Request for Special Juvenile Session form (**WAKE-JUV(AND)-11**) and presented to the presiding judge. Upon a finding by the presiding judge that the case should be designated for special setting, the Request for Special Juvenile Session (**WAKE-JUV(AND)-11**) shall be presented to the Chief District Court Judge for approval and assignment.

## **Rule 25. Termination of Parental Rights in Private Cases**

**25.1 Private Cases.** Petitions for Termination of Parental Rights that do not involve WCHS (i.e., parent v. parent, caregiver v. parent(s), adoption agency v. parent) (hereafter "private TPR") may require procedures that differ from those involving WCHS. All of the statutory requirements

of N.C.G.S. §7B regarding termination of parental rights are still required, but the following procedures are special procedures for private TPR cases. Any reference in this Rule to “Petitioner’s attorney” shall include Petitioner(s) if unrepresented by counsel.

**25.2 Provisional Counsel.** When a Private TPR is filed with the Juvenile Clerk, the Juvenile Clerk shall appoint Provisional Counsel for each Respondent parent pursuant to N.C.G.S. §7B-1101.1 and Rule 6.3A above.

- A. Qualifications.** Provisional Counsel for each Respondent parent shall meet all of the qualifications of Rule 5 above.
- B. Notification of Appointment.** After the filing of a private TPR and appointment by the Juvenile Clerk, Petitioner’s attorney shall immediately notify the provisional attorney(s) for a parent of the appointment by sending a copy of the summons and petition to the attorney(s) for a parent via email and/or US Mail. This provision is in addition service of the Termination of Parental Rights petition on each Respondent parent pursuant to N.C.G.S. §7B.
- C. Notice of Hearing.** Unless/until provisional counsel is released by the presiding judge, all notices of hearing shall be served upon Respondent parent(s) **AND** provisional counsel(s). If provisional counsel is appointed to represent the Respondent parent prior to the pretrial hearing by the filing and approval of an Affidavit of Indigency, the Respondent’s attorney shall notify Petitioner’s attorney of the appointment and all subsequent notices of hearings shall require service only on Respondent’s counsel. **An attorney who is appointed provisional counsel does not become counsel of record until the respondent submits an Affidavit of Indigency which has been reviewed by the Court, the respondent is deemed indigent, and the appointment is approved.**

**25.3 Guardian ad Litem for a Minor Respondent Parent.** If a Respondent parent is under the age of eighteen (18) at the time of the Private TPR filing, Petitioner’s attorney shall so inform the Juvenile Clerk and the Juvenile Clerk shall appoint a Guardian ad Litem for the Respondent parent.

- A. Qualifications.** If a Respondent parent requires the appointment of a Guardian ad Litem, the Guardian ad Litem shall meet all the qualifications of Rule 5 above.
- B. Notification of Appointment.** After the filing of a private TPR and appointment by the Juvenile Clerk, Petitioner’s attorney shall immediately notify the Guardian ad Litem for a parent of the appointment by sending a copy of the summons and petition to the Guardian(s) ad Litem for a parent via email and/or US Mail. Any additional information known regarding contact information for the Respondent parent (i.e., telephone number, social media information, contact information for the Respondent parent’s parent, custodian, and/or guardian) shall also be sent to the Guardian ad Litem for a parent.
- C. Notice of Hearing.** All notices of hearing shall be served upon Respondent(s) and the Guardian ad Litem for any Respondent.

**25.4 Appointment of Guardian ad Litem-Attorney Advocate in Private TPR.** When a Respondent in private Termination of Parental Rights matters files a response or answer with the Juvenile Clerk, the Juvenile Clerk will submit a copy of the petition and answer to the AND judge for a determination as to whether N.C.G.S. § 7B-1108 mandates the appointment of a Guardian ad Litem-Attorney Advocate for the juvenile. A Guardian ad Litem-Attorney Advocate for the juvenile shall be appointed when required by N.C.G.S. §7B-1108. The Juvenile Clerk shall appoint a qualified attorney pursuant to subparagraph A. below and provide a copy of the appointment order to the Petitioner’s attorney, Respondent’s attorney/provisional counsel (or respondent if unrepresented) and the newly appointed Guardian ad Litem-Attorney Advocate.

**A. Qualifications.** Any attorney who wishes to be appointed to serve as a Private TPR Guardian ad Litem-Attorney Advocate must submit a written request (**WAKE-JUV(AND)-1**) to the Family Court Office. A list of qualified attorneys shall be maintained pursuant to Rule 5.4 above. Said request shall satisfy the Chief District Court Judge (or designee), that the attorney has met the requirements of Rule 5.2, 5.3, and 5.4 above, that the attorney has completed the Guardian ad Litem-Attorney Advocate training, that the attorney possesses a copy of the North Carolina Guardian ad Litem Attorney Practice Manual (or any subsequent manual), and that the attorney has observed a minimum of one contested Termination of Parental Rights hearing.

**B. Removal from the Private TPR Guardian ad Litem-Attorney Advocate List**

- 1. Voluntary Removal.** If a private TPR Guardian ad Litem-Attorney Advocate does not wish to remain on the list, the attorney shall file written notice of intent with the Family Court Office. If the private TPR Guardian ad Litem-Attorney Advocate has cases still pending and is unable to continue representation due to relocation outside of Wake County or employment which will not permit continued representation, the attorney shall find a qualified replacement private TPR Guardian ad Litem-Attorney Advocate from the approved list and file and docket a motion to withdraw, which shall include an order allowing withdrawal and appointing the qualified replacement Private TPR Guardian ad Litem-Attorney Advocate (**WAKE-JUV(AND)-3**).
- 2. Involuntary Removal.** A Private TPR Guardian ad Litem-Attorney Advocate may be removed from the list by the Chief District Court Judge. Removal will be based on a violation of these Rules and/or policies relating to Juvenile AND Court in addition to any other published rules and regulations governing the behavior of attorneys generally. Removal may be initiated among the judges or by complaint(s) of other individuals having knowledge of such violation(s). In removing a Private TPR Guardian ad Litem-Attorney Advocate pursuant to this section, grounds may be stated and an opportunity to be heard may be afforded by the Chief District Court Judge but are not required.
- 3.** Nothing in these Rules inhibits the inherent power of an individual judge to decline to appoint a particular Private TPR Guardian ad Litem-Attorney Advocate to cases or to

remove a Private TPR Guardian ad Litem-Attorney Advocate and appoint a replacement from the approved list.

**25.5 Scheduling Private TPR Cases.** The Family Court Office shall calendar all pretrial issues in a Private TPR.

- A. Notification to Family County of the Private TPR filing.** After filing a Private TPR, Petitioner’s attorney shall immediately submit a copy of the petition to the Family Court Office. After filing an Answer to the petition to Terminate Parental Rights with the Juvenile Clerk’s Office and service on Petitioner’s counsel, the Respondent shall immediately submit a copy of the Answer to the Family Court Office.
- B. Calendaring Preliminary Motions and Pretrial Hearing.** Upon receipt of the Private TPR petition, the Family Court Office will calendar any preliminary hearings and/or the pretrial conference.
- C. Other Calendaring Procedure.** If the Family Court Office cannot schedule preliminary motions and/or pretrial hearing pursuant to Rule 25.5B above, these matters may be calendared by an attorney or unrepresented party by completion and submission of an AND Information Sheet (**WAKE-JUV(AND)-5**) to the Family Court Office.

Before submitting the AND Information Sheet (**WAKE-JUV(AND)-5**), the calendaring party shall consult with the Family Court Office to determine which court dates have time available. After initial consultation with the Family Court Office, the calendaring party shall contact all attorneys involved in the case regarding the requested date. On the AND Information Sheet (**WAKE-JUV(AND)-5**), the calendaring party must indicate whether any attorney involved in the case consented to the requested date, objected to the requested date and the reason for the objection (if known), or failed to respond to the calendaring party.

No matter will be calendared, outside of open court, until an AND Information Sheet (**WAKE-JUV(AND)-5**) is received by the Family Court Office. The AND Information Sheet (**WAKE-JUV(AND)-5**) must contain a good faith estimate of time required for the hearing.

The AND Information Sheet (**WAKE-JUV(AND)-5**) must be completely filled out with all required information and may be submitted to the Family Court Office via fax (current fax number is 919-792-4876) or hand delivery. The matter will not be calendared for hearing if the AND Information Sheet (**WAKE-JUV(AND)-5**) is not completed in compliance with these Rules. The calendaring party may contact the Family Court Office to verify that the matter has been scheduled as requested and, if it has not been scheduled, to inquire as to the availability of a different date.

The mere request of “available dates” **does not** constitute sufficient calendaring according to these Rules. No case will be added to the court calendar unless these Rules are followed.

**A Notice of Hearing should not be issued until verification that the case has been calendared is received.**

- D. Calendaring the Private TPR Hearing.** During the pretrial hearing, the presiding judge will calendar the case for hearing. In the event that there are outstanding issues that prevent the calendaring of the TPR hearing, the judge may calendar another pretrial hearing or status conference.
- E. Case Calendared at All Times.** Once the pretrial hearing is calendared, each Private TPR shall be maintained on the court calendar at all times until the case is completed. If a case cannot be reached for hearing due to other scheduled matters, then no person involved in the case shall leave the courtroom prior to the case being re-calendared and notices of hearing served as required by these Rules.
- F. Distribution of Court Calendar.** Preliminary Court Calendars are distributed fourteen (14) days prior to a scheduled court week by the Family Court Office. Because of the confidentiality requirements of the Juvenile Code, attorneys and unrepresented parties in Private TPR matters will not receive a copy of this calendar. No case shall be added or removed from the distributed preliminary court calendar unless a motion to continue is granted by the presiding judge and an order signed. If a Private TPR pre-trial conference and/or TPR hearing is calendared and Petitioner's counsel wishes to reschedule the hearing date, the request to remove/re-calendar the case must be presented to the Family Court Office **PRIOR TO THE DISTRIBUTION OF THE PRELIMINARY COURT CALENDAR.** A request for alternate court dates is not sufficient. If the appropriate request is not made prior to the distribution of the preliminary court calendar, all attorneys and unrepresented parties shall appear at calendar call on the calendared court date unless an appropriate continuance order is entered prior to the distribution of the final calendar on Friday for the upcoming court week.

**25.6 Pretrial Hearing for Termination of Parental Rights.** The Court shall conduct a pretrial hearing in accordance with N.C.G.S. §7B-1108.1. The Petitioner's attorney shall serve a notice of hearing on Respondent's provisional counsel, on a Respondent not represented by counsel of record, and on a Respondent who has been appointed provisional counsel, but not counsel of record.

- A.** All attorneys, and each parent/respondent shall be present in court for the scheduled pretrial hearing. Each attorney shall notify their client of the date and time of the pretrial hearing (preferably in writing). No attorney shall inform a respondent that his or her attendance is not required without prior consent of the presiding judge. No respondent shall leave the courtroom without the permission of the presiding judge until all matters which can be resolved are completed.
- B.** If the termination of parental rights hearing is not scheduled for hearing on the same date following the pretrial hearing and if case is not fully resolved following the pretrial hearing, a date certain for the termination of parental rights shall be set and all respondents present will be served with a notice of the next hearing. Petitioner/Movant shall immediately send

a notice of hearing to any unrepresented party (even if that party still has provisional counsel) if the respondent was not present. If a parent signs a relinquishment or consent to adoption prior to a calendared termination of parental rights hearing, the Court shall set a date certain to review the status of the relinquishment/consent and the parent/respondent shall be served with a notice of hearing for that date.

- C. No pretrial hearing and termination of parental rights hearing shall be calendared for hearing on the same date without the prior consent of the presiding judge.
- D. Unless the termination of parental rights hearing immediately follows the pretrial hearing, a pretrial order shall be prepared, circulated pursuant to Rule 21 above and delivered to the presiding judge prior to the call of the case for hearing unless the presiding judge indicates that no order is required because another pretrial hearing is necessary.

**25.7 Parties Must Attend.** All parties and their attorneys shall attend any pretrial termination of parental rights conference. Sanctions may be imposed by the Court upon a party or attorney for failure to attend.

**25.8 Lists, Exhibits to be Provided.** At or before the conference, each party shall provide to all other parties 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 that is not available for distribution at or before the pre-adjudication conference shall be distributed at the earliest practicable time.

### **25.9 Recordation of Hearings**

The Adjudication/Disposition proceedings of Private TPR hearings shall be recorded pursuant to N.C.G.S. §7B-806. Any attorney wishing to record any other preliminary matters shall notify the presiding judge and the juvenile clerk of any issue that might necessitate the recording of a hearing.

Recordings of Juvenile Hearings are not public record. Specialized software is required to review the recording. **No attorney or party appearing on any Private TPR should anticipate receiving a copy of the recording to assist in preparation of the order.** No copy of recordings will be produced unless an appealable order is timely appealed and then shall only be delivered to the transcriptionist, except as otherwise ordered by a court of competent jurisdiction.

### **25.10 Preparation and Entry of Orders**

- A. **Preparation of Orders.** In all Private TPR cases, the prevailing party shall prepare the order, unless otherwise provided herein or instructed by the presiding judge.
- B. **Time Standards for Entry of Order.** With the exception of pretrial orders as required in Rule 21 above, all orders shall be filed as required by statute, but in no event shall an order be entered later than 30 days following any hearing. A draft of each order must be circulated among the attorneys (and any unrepresented parties) involved in the proceeding within a reasonable time prior to the submission of the final order to the Court for signature.

If the order was not circulated in compliance with this Rule, this must be brought to the Court's attention when the final order is submitted for signature.

**C. Order Submission.** All orders must be delivered to the Family Court Office in advance of the due date to allow the judge time to review the order for changes before signature. The attorney shall submit both hard copies of the order in addition to an electronic version to the Juvenile Case Coordinator. If the order is not filed within thirty (30) days from the date of the hearing, the attorneys shall contact the Juvenile Case Coordinator to inquire regarding the date of the Orders Due hearing if the presiding judge did not notify the parties of the date for the Orders Due hearing as provided below. This is a calendared hearing that **ALL** attorneys/unrepresented parties involved in the case must attend if the case appears on ORDERS DUE CALENDAR unless the order is entered (i.e. signed by the presiding judge and file stamped) by 4:00 pm the business day before the Orders Due calendar.

At the close of the TPR hearing, the presiding judge shall **announce the date the order is due** for review and signature, and the **date on which the attorneys/unrepresented parties shall appear if it is not filed by the due date**. This later date is the ORDERS DUE calendar date and no other notice will be received by the attorneys/unrepresented parties.

For all orders timely submitted in accordance with this rule, the Family Court Office will ensure that the orders are timely delivered to the judge, signed and filed. A filed copy will be returned to the drafting party for service upon other parties.

**D. Orders Due Calendar.** The Juvenile Clerk shall schedule a hearing for any order that is not entered in a timely manner pursuant to the Juvenile Code or these Rules. The Orders Due date is a calendared hearing that **ALL** attorneys/unrepresented parties involved in the case must attend if the case appears on ORDERS DUE CALENDAR unless the order is entered (i.e. signed by the presiding judge and file stamped) by 4:00 pm the business day before the Orders Due calendar.

Any and all conflicts regarding the order shall be resolved prior to the conclusion of the Orders Due hearing, and the order shall be entered within 10 days as required by the Juvenile Code or these Rules. If the order is not entered within 10 days, then **ALL** attorneys/unrepresented parties shall continue to appear on the date of the next Orders Due Calendar until the order is filed.

**25.11 Other Applicable Rules.** Special Rules that apply to private TPR cases have been included in this section, but other Rules may apply to private TPR cases and all Attorneys/unrepresented parties shall be familiar with all other Rules which may be applicable.

## **Rule 26. Forms**

Local forms for use by counsel/unrepresented parties in accordance with these rules are available for downloading on the web site of the Administrative Office of the Courts at: [www.nccourts.org](http://www.nccourts.org) and are subject to change as legislation and/or policy dictates.

**Rule 27. Amendments and Modifications**

These Rules are subject to amendment or modification as experience dictates and requires.

ADOPTED BY THE COURT, effective March 1, 2020.

This the 26th day of February, 2020.



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Robert B. Rader  
Chief District Court Judge  
Tenth Judicial District

FILED

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