

**STATE OF NORTH CAROLINA
FIRST JUDICIAL DISTRICT**

**IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION**

**LOCAL RULES
ADMINISTRATIVE ORDER**

Pursuant to North Carolina General Statute Section 7A-146(2) and Rule 2 of the General Rules for District Courts, IT IS HEREBY ORDERED that the "FIRST JUDICIAL DISTRICT—DISTRICT COURT LOCAL RULES OF CIVIL PROCEDURE" a copy of which is attached hereto, are adopted and effective in this District as of August 1, 2025. All prior versions of the First Judicial District Local Rules are superseded by these Rules.

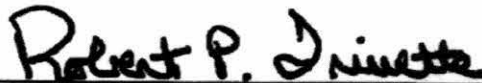
The Rules shall be posted on the website for the North Carolina Judicial Branch, as the Local Rules for each county in the district, as soon as practicable.

The following Forms, previously adopted by the Court and currently on the website for the North Carolina Judicial Branch are hereby replaced and superseded as follows:

1. Appendix D: Custody Mediation Cover Sheet is superseded by the attached "Mediation Notice."
2. Appendix E: Scheduling Order is superseded by the attached "Pre-Mediation Hearing Order."
3. Appendix F: Initial Pre-Trial Order is superseded by the attached "Initial Pre-Trial Order."

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THE HONORABLE ROBERT P. TRIVETTE
CHIEF DISTRICT COURT JUDGE

THE FIRST JUDICIAL DISTRICT

DISTRICT COURT LOCAL RULES

OF CIVIL PROCEDURE

PART A: GENERAL RULES

- 1) Purpose: In accordance with N.C.G.S. 7A-34 and Rule 2 of the General Rules of Practice, the Judges of this District adopt these Local Rules to institute a case management plan to provide for the just, orderly and prompt disposition of the matters discussed herein.
- 2) Effective Date: These Rules shall supersede and replace all prior versions of the Local Rules or prior Orders of the Court which are contrary to these Rules, including, but not limited to the previously adopted Civil Calendar Rules (adopted on July 1, 1980), the Rules for Juvenile Court for Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans Counties, and the Rules for Mediation in Child Custody and Visitation Cases, which were previously published and available on the website for the North Carolina Judicial Branch.
- 3) Citation: These Rules may be cited as "The Local Rules of Civil Procedure" and shall be published on the website of the North Carolina Judicial Branch.
- 4) Amendments and Modifications: These Rules are subject to amendment, modification and revision. The most current version of the Rules shall be published on the website of the North Carolina Judicial Branch.
- 5) Unrepresented Parties: Parties without attorneys are known as *pro se* litigants. Although no party is required to have an attorney, any party who is not represented by an attorney must follow all Court rules and is presumed to know and understand them. All *pro se* litigants must keep the Court informed of changes in their addresses and telephone numbers by notifying the office of the Clerk in the county in which the matter is pending. If a party moves before his case is completed and fails to inform the Court of the new address and telephone number, this will not be grounds to continue the case if notices are not received. *Pro se* litigants, like attorneys, may not have *ex parte* communication with the Judge assigned to their case. *Ex parte* communication is any method of communication

between a litigant and the Court or an attorney and the court without all parties being present. The assigned Judge will not return telephone calls, listen to recorded telephone messages, or read mail which is deemed inappropriate *ex parte* communication. The assigned Judge will not open mail which does not contain the name and return address of the sender. *Ex parte* communication may, in the discretion of the assigned Judge, subject the offending party to sanctions.

- 6) Arbitration: Pursuant to N.C.G.S. 7A-37.1(d), it has been determined that the use of court-ordered, nonbinding arbitration may assist in the administration of justice and may be a more economical, efficient and satisfactory procedure to resolve certain civil actions than by traditional civil litigation. Accordingly, the Rules for Court-Ordered Arbitration, which have been codified by the Office of Administrative Counsel of the Supreme Court of North Carolina, are hereby implemented in the First Judicial District, and are incorporated herein by reference. Said Rules can be found here: <https://www.nccourts.gov/courts/supreme-court/court-rules/rules-for-court-ordered-arbitration>.
- 7) Remote Hearings: Requests for remote hearings must be made directly to the presiding judge for consideration. If the remote hearing is opposed, a Motion for Remote Hearing must be filed, served, and scheduled for hearing by submission of a Request for Civil Action Hearing.

PART B: REQUIRED FORMS

- 1) Request for Civil Action Hearing/Order of Assignment: A party requesting to calendar a motion, claim or other matter shall prepare and serve a Request for Civil Action Hearing, using the form attached hereto as Appendix A. **The party making such a request shall confer with the opposing counsel/party to obtain availability prior to submission of such a request.** This form should be submitted electronically and can be found at: <https://www.nccourts.gov/documents/local-rules-and-forms/fdcvd-05-request-for-civil-action-hearing>. The Court shall enter an Order of Assignment if the Request is approved and send it to the Clerk, the Assigned Judge, all parties and the Sheriff.
- 2) Financial Affidavit: In all cases involving claims for post-separation support or alimony, the parties shall complete and exchange, in accordance with applicable statutes and the other provisions of these Rules, a Financial Affidavit, using a form substantially similar to the form attached hereto as Appendix B. Unless otherwise specified herein, each party shall exchange said affidavits no less than five (5) business days prior to any hearing on any claim involving post-separation support or alimony. Each party shall file a Certificate of Service with the Court to indicate that their Financial Affidavit has been delivered to the opposing party. Financial Affidavits shall not be filed with the Court.
- 3) Equitable Distribution Affidavit: In all cases involving claims for equitable distribution, the parties shall complete and exchange, in accordance with the relevant statutes and the other provision of these Rules, an Equitable Distribution Affidavit (EDIA), using a format substantially similar to the form attached hereto as Appendix C. The parties shall exchange EDIAs in accordance with Rule D(7). Each party shall file a Certificate of Service with the Court to indicate that their EDIA has been delivered to the opposing party. EDIAs shall not be filed with the Court.
- 4) Mediation Notice: The party filing a complaint, counterclaim, motion or other pleading for custody, visitation or other parenting issues, or for Family Financial Cases (as defined in Rule 4) shall complete, and file with the pleading, a Mediation Notice, using the form attached hereto as Appendix D. Said Notice must also be served on the opposing party along with the complaint, counterclaim, motion or pleading.

PART C: EXPEDITED HEARINGS

- 1) Motion for Expedited Hearing: Notwithstanding any other provisions of the Local Rules, in any action seeking post-separation support, temporary child support or interim distribution, a party seeking a temporary order on a matter of urgency, may file a motion for an expedited hearing. The motion should state—with specificity—the nature of the matter, the reason that an expedited hearing is sought, and the nature of the relief requested. The motion for an expedited hearing may be heard outside of court by any District Court Judge. If the Court grants the motion, a hearing shall be scheduled within 30 days of the Court granting the motion. The order permitting the expedited hearing shall limit the hearing to the specific matter described in the motion, or specific property to be distributed, and shall strictly limit the hearing to only such matters as will address the urgent situation presented.
- 2) Limitations: Any expedited hearing shall be limited to a period of two (2) hours and shall only address the specific matters set forth in the order granting the expedited hearing. Any order entered as the result of an expedited hearing shall be strictly temporary in nature.
- 3) Custody: Nothing contained herein or anywhere else in the Local Rules shall prohibit a party from requesting a hearing to address temporary custody as otherwise permitted by statute. See, e.g. N.C.G.S. 50-13.5. Such a hearing may be held—solely in the discretion of the Court—prior to any court ordered mediation. In deciding whether to permit a hearing on temporary custody, the Court shall consider that a resolution through the mediation process is required by N.C.G.S Section 50-13.1 and that mediation should only be waived for good cause shown as set forth in that statute.

PART D: FAMILY FINANCIAL CASES

- 1) **Purpose:** These Rules are adopted pursuant to G.S. 7A-38.4A, and the Rules for Settlement Procedures in District Court Family Financial Cases ("the FFS Rules"), which were promulgated by the Supreme Court. *These Rules establish a framework by which all eligible cases are directed to a mediated settlement conference.* Nothing herein is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time before or after those ordered by the Court pursuant to these Rules. If all parties agree, another settlement procedure authorized by the FFS Rules may be utilized and will be ordered in lieu of a mediated settlement conference, but judicial settlement conferences will not be utilized in this district. Failure of a party to comply with these Rules, however, may result in sanctions. ***No hearing on any Family Financial Issue, as defined in Rule 4.2, may be held unless the parties have previously attended a Mediated Settlement Conference.***
- 2) **Family Financial Issues:** A family financial issue includes equitable distribution, child support (excluding IV-D cases) alimony, postseparation support, or a claim arising out of a contract between the parties under N.C.G.S. §§ 50-20D., 52-10, or 52-10.1, or under Chapter 52B of the General Statutes of North Carolina.
- 3) **Hearings:** In every case involving family financial issues, the matter will proceed as follows:
 - a) **The Pre-Mediation Conference:** For purposes of these Rules, the Scheduling and Discovery Conference required by N.C.G.S. 50-21D shall be referred to as the "Pre-Mediation Conference." The Pre-Mediation Conference shall take place within 120 days after the filing of the initial pleading. The Pre-Mediation Conference will be conducted in accordance with Rule D(10), *infra*.
 - b) **The Mediated Settlement Conference:** The Mediated Settlement Conference shall take place within 90 days of the Pre-Mediation Conference, unless the Court extends the deadline for completion. The Mediated Settlement Conference will be conducted in accordance with Rule D(11), *infra*.
 - c) **The Initial Pre-Trial Conference:** If any issues remain unresolved following the Mediated Settlement Conference, the Initial Pre-Trial Conference will be set for the next regularly scheduled civil session after the Report of the Mediator has been filed. The Judge's Office will set the date for the Initial Pre-Trial Conference and notify the parties and the Clerk's office. At the Initial Pre-Trial Conference, the

Court shall set a deadline for discovery and pre-trial motions, a date for the Final Pre-Trial Conference and set the date for Trial.

- d) ***The Final Pre-Trial Conference:*** The date of the Final Pre-Trial Conference will be set at the Initial Pre-Trial Conference. At the Final Pre-Trial Conference, a Final Pre-Trial Order shall be entered by the Court.
 - e) ***Trial:*** The Trial of any unresolved matters will proceed on the date set at the Initial Pre-Trial Conference.
- 4) **Duty of Counsel:** Counsel, upon being retained to represent any party to a district court case involving family financial issues, including equitable distribution and alimony, shall advise his or her client regarding the settlement procedures approved by these Rules and shall attempt to reach agreement with opposing counsel on the appropriate settlement procedure for the action.
- 5) **Scope of Settlement Proceedings:** Any matter which includes a family financial issue shall be governed by these rules. Any other family financial issue existing between the parties at the time that the equitable distribution settlement proceeding is ordered, or at any time, thereafter, may be discussed, negotiated, or decided at the equitable distribution settlement proceeding. A child custody or visitation issue may be the subject of settlement proceedings ordered under these Rules. Any party to an action involving family law matters not otherwise ordered to a mediated settlement conference may move the Court to order the parties to participate in a settlement procedure. Such motion shall be made in writing and be served on the non-moving party. Unless the opposing party objects, the Court shall order a mediated settlement conference conducted pursuant to these Rules. The Court may, for good cause shown, order the parties to participate in a mediated settlement conference over objection of one of the parties. A party's physical presence out of the jurisdiction does not constitute good cause for dispensing with mediation or another settlement procedure.
- 6) **Motion to Dispense with Mediated Settlement Conference:** A party may move the Court to dispense with the mediated settlement conference, or other settlement procedure, or suggest an alternative settlement procedure. Such motion shall be in writing and shall state the reasons the relief is sought. For good cause shown, the Court may grant the motion, but if no settlement procedure is ordered, the matter shall be set for an Initial Pre-Trial Conference.

7) Exchange of Documents:

a) ***Equitable Distribution Inventory Affidavit*** (EDIA). A verified Equitable Distribution Inventory Affidavits which identify, classify, and value the assets and debts of the parties as of the date of separation and which display a proposed distribution of such assets (unless ED is not in dispute). In the event a party has requested an unequal division of marital property, their EDIA shall include a statement describing the legal grounds or factors that will be asserted to justify the unequal division.

(1) Plaintiff has 45 days from service of complaint to serve EDIA on Defendant.

(2) After service of Plaintiff's EDIA on Defendant, Defendant has 60 days to serve responsive EDIA on Plaintiff.

b) ***Financial Affidavit*** (FA). A verified Financial Affidavit which includes itemization of the party's date of separation (to the extent known to them) and current income and expenses, unless neither Alimony or PSS are in dispute.

(1) Plaintiff has 45 days from service of complaint to serve FA on Defendant.

(2) After service of Plaintiff's FA on Defendant, Defendant has 60 days to serve responsive FA on Plaintiff.

(3) If responsive pleadings first assert claims for spousal support or an unequal division of property, the party first asserting the claim shall serve their FA within 15 days of their responsive pleadings after which the other party shall serve their financial affidavit within 30 days.

c) Any other items agreed upon by the parties, and which are necessary for the parties to participate in a meaningful mediated settlement conference.

8) Disputes regarding exchange of documents: ***The parties shall engage the assistance of the mediator in resolving disputes involving the exchange of documents.*** No motion to compel shall be considered by the Court prior to the Mediated Settlement Conference unless the parties have made a good faith effort to obtain only those documents needed to meaningfully participate in the conference, and the parties have fully engaged with the mediator to assist in resolving any document dispute. In determining whether a good faith effort has been made, the

Court shall consider that the mediation program is designed to make these matters more economical, efficient and satisfactory to the parties. See, N.C.G.S. 7A-38.4A. Unreasonable demands for documents delay the Mediated Settlement Conference as much as a failure to produce documents, and the Court may impose sanctions, as set forth in Rule D(9) for delay caused by the failure to exchange documents or for the unreasonable demand for unnecessary documents. The Mediated Settlement Conference may be continued following a motion to compel, if the Court deems that a continuance is necessary.

- 9) Sanctions: If any person required to attend a Mediated Settlement Conference delays the conference, or fails to attend after being ordered to do so, the Court may find that person in contempt. The Court may also impose upon that person any appropriate monetary sanction including, but not limited to, the payment of attorney fees, mediator fees, expenses and loss of earnings. *The mediator shall notify the Court of a party's unreasonable delay or refusal to participate.*

10) The Pre-Mediation Conference:

- a) Time: The Pre-Mediation Conference shall be conducted within 120 days of the filing of initial pleading, on a date set by the Judge's office, which shall notify the parties and the Clerk of the scheduled conference.
- b) Continuance: Upon motion of a party, the conference may be continued for good cause shown. If service of the initial pleading has been made but the time for filing a responsive pleading has not yet expired, the Pre-Mediation Conference shall be continued-- upon motion of any party--to the next regularly scheduled civil session of District Court after responsive pleadings are due.
- c) Preliminary Motions: Motions regarding the continuance of the Pre-Mediation Conference, or for the entry of any other order related solely to preliminary procedural matters, such as extensions of time for the Mediated Settlement Conference, or substitution of the Mediator, may be heard by the Court out of session. Such motions should be directed to either the Judge who has already been assigned to the case or the Chief District Judge if no judge has been assigned.
- d) Substitution of Mediator: The parties may enter a Consent Order for Substitution of Mediator (Form AOC-CV-836) at any time in accordance with Rule 7 of the FFS Rules, but the entry of that order will not result in an extension of the deadline to

complete the Mediated Settlement Conference unless the Court orders the extension, upon motion made by either party.

e) Conduct of Conference: At the Pre-Mediation Conference the Court shall:

- i. Determine the mediator by entering either a Designation of Mediator provided by the parties (Form AOC-CV-825) or an Appointment of Mediator (Form AOC-CV-841). Mediators shall be appointed from a list of available mediators published on the website of the North Carolina Judicial System.
- ii. Establish a deadline for Mediation which shall be within ninety (90) days of the Pre-Mediation Conference by entering an Order for Mediated Settlement Conference in Family Financial Case (Form AOC-CV-824).
- iii. Enter a Pre-Mediation Conference Order, as set forth in Appendix E. The Parties may submit a Pre-Mediation Conference Order for entry by the Court at the conference.
- iv. There is no requirement that the parties or their counsel appear at the Pre-Mediation Conference if the parties have submitted appropriate orders prior to the conference. If the orders have not been submitted prior to the conference and then the parties must appear, and the Court will enter the orders as set forth above.

11) The Mediated Settlement Conference:

- a) Location: The mediated settlement conference shall be held in any location agreeable to the parties and the mediator. If the parties cannot agree to a location, the mediator shall be responsible for reserving a neutral place, in the county where the action is pending, and for scheduling the conference and giving timely notice of the time and location of the conference to all attorneys and pro se parties.
- b) Procedures: The Mediated Settlement Conference shall be conducted in accordance with the FFS Rules adopted by the North Carolina Supreme Court, which are posted on the website of the North Carolina Judicial Branch. The mediator shall be in control of the conference.

- c) Extensions of Time: A party, or the mediator, may move the Court to extend the deadline for completion of the conference by filing a motion. Such motion shall state the reasons the extension is sought and shall be served by the moving party upon the other parties and the mediator. If any party does not consent to the motion, said party shall promptly communicate its objection to the Court. Forms AOC-DRC-19 and AOC-CV-835 should be used by the parties for the purposes set forth herein.
- d) Recesses: The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set during the conference, no further notification is required for persons present at the conference.
- e) Report of the Mediator: *The Mediator shall file Form AOC-CV-827 after the conclusion of the Mediated Settlement Conference.* If the report indicates a result other than an agreement on all issues, the Judge's office shall set the matter for an Initial Pre-Trial Conference.

Part E: CUSTODY AND VISITATION MEDIATION

1) SCOPE.

This Rule shall apply to all child custody and visitation cases.

2) PURPOSE.

The purpose of this Rule is to provide the Services of a skilled Mediator to parties involved in a custody and visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternate means for the parties to resolve their disputes. This program helps the parties focus on parenting their children during this stressful period by recognizing and planning for the needs of their children. A successful mediation will help the parties put a Parenting Agreement in writing, assist them in resolving future problems without recourse to the courts, and reduce the re-litigation of custody and visitation disputes.

3) DUTY OF MEMBERS OF THE FIRST DISTRICT BAR.

In furtherance of this purpose, the Court has prepared a packet of documents that is available at each Clerk's office which an unrepresented party may complete to file a complaint or motion regarding custody and/or visitation issues. Any attorney who is a member of the First District Bar, shall, upon being consulted by any individual about a custody or visitation matter, advise the party of the availability of the Court's Mediation program.

4) DEFINITIONS

A. CUSTODY CASE.

An action or motion in the cause which includes an issue of establishing or modifying a custody or visitation order.

B. COURT'S CUSTODY MEDIATOR ("CCM")

A qualified person designated by the Chief District Judge who will schedule and facilitate orientation, education and mediation sessions in custody and visitation matters in accordance with these Rules.

C. PARENTING AGREEMENT.

An agreement reached between parties in a custody case regarding some or all of issues involving custody and/or visitation as mediated by the Custody Mediation Program. If adopted by the court by a Judge's signature, such agreement is a child custody order for all purposes.

5) MANDATORY MEDIATION.

A. MEDIATION IS MANDATORY FOR ALL CUSTODY AND VISITATION ISSUES.

The parties to any custody and/or visitation case, including initial filings, modifications or enforcement, shall participate in mandatory mediation prior to any pretrial conference or other hearing of these issues unless exempted by the Court.

B. WHEN MEDIATION MAY BE INAPPROPRIATE.

In some instances, mediation may not be appropriate or in the best interest of the parties or their children. In these instances, a party may move to waive mediation for "good cause" and good cause is defined as including, but not limited to the following in N.C. General Statute 50-1C.: "showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child, allegations of alcoholism, drug abuse, or spouse abuse; or allegations of psychological, psychiatric, or emotional problems."

C. WAIVER OF MEDIATION.

Parties desiring an exemption shall complete and submit a Motion to Waive Mediation to the Chief District Court Judge, along with the proposed Order to Waive Mediation (Motion, Order and Certificates of Service set forth in Appendix H). Said motion and proposed order shall be reviewed by the Chief District Court Judge who will make a decision based on the submission without a hearing. The Court's decision will be recorded on the Order for to Waive Mediation. If waived, a Request for Civil Action Hearing can be filed, unless the parties are participating in a combined custody and FFS mediation, pursuant to Rule 4.5 of the Local Rules.

6) THIRD PARTIES.

The presence of other parties at the sessions will be allowed only with the consent of the parties involved and at the discretion of the Mediator. The Mediator shall set the rules of behavior for the presence of other parties at his/her discretion. Parties are not to bring any children to the orientation and/or mediation session.

7) MEDIATION NOTICE.

The party filing a complaint, answer, counterclaim, motion or other pleading for custody, visitation or other parenting issues (not including IV-D child support) shall complete a Mediation Notice (Appendix D). If the Mediation Notice indicates that the case involves custody or visitation issues, the Mediation Notice shall be transmitted by the Clerk to the CCM.

8) PRIVATE MEDIATOR.

If the parties opt to use another certified mediator at their own expense, the parties must notify the CCM of their decision, and the CCM will not schedule a mediation in that matter. If the parties opt to use another certified mediator, the mediation shall proceed substantially in compliance with this Rule, or if combined with Family Financial matters, in compliance with Rule 4.

9) SCHEDULING.

The CCM will schedule the Custody Mediation Orientation within 30 days of the filing of the request for custody and/or visitation and the Mediator will schedule individual sessions at the time of the orientation. The location of Custody Mediation Orientation and individual sessions shall be determined by the Mediator after consulting with the parties or their attorneys.

10) EXPEDITED MEDIATION.

In some cases, the parties may be best served by attending orientation/mediation immediately. A written request for expedited mediation, signed by both parties and/or their attorneys and forwarded to the CCM will waive the group orientation requirement. The attorneys or parties should contact the CCM to schedule an expedited appointment that will include both a mini-orientation and a mediation session.

11) ATTENDANCE REQUIREMENTS.

The parties to any custody and/or visitation case must attend and participate in the orientation session, a one-hour parent education session, and at least one mediation session to fulfill the Court's order to participate in mediation. Any party who fails to attend and participate in mediation as ordered shall be subject to the contempt powers of the Court.

12) RECESSES.

The CCM may recess the mediation session at any time and may set times for reconvening. If the time for reconvening is set during the session, no further notice is required for individuals present at the session.

13) PARENTING AGREEMENTS.

If the parties reach a full or partial Parenting Agreement, the CCM will prepare a draft and distribute copies to all parties and their attorneys, advising the parties to review the agreement with their attorneys. A time will be scheduled with the parties to return to sign the final draft (usually within twenty-one days). Final signed agreements shall be presented to the Court. If there are unresolved issues and only a partial agreement is reached, the CCM shall notify the Court of the remaining issues that need to be heard by the Court.

14) APPROVAL OF PARENTING AGREEMENT.

The Court shall review each agreement signed by the parties and, if appropriate, make the Parenting Agreement an order of the Court by signing the Order Approving Parenting Agreement. The CCM will file the final Order and Parenting Agreement with the Clerk of Superior Court and distribute copies to the parties and/or counsel.

15) IMPASSE.

If the parties fail to agree, and the CCM determines that no further progress towards a resolution can reasonably be made, the CCM will notify the Chief District Court Judge who will then enter an Order to Calendar. **The attorneys/pro se parties must then submit a Request for Civil Action Hearing to the office of the Chief District Court Judge within 30 days of entry of the Order to Calendar to have the case scheduled for hearing before a District Court Judge.**

16) UNCONTESTED ISSUES.

Whenever the CCM learns that no answer or other mandatory responsive pleading has been filed within the time prescribed by law or a responsive pleading has been filed admitting or consenting to all of the allegations of the claimant, the CCM shall take steps to cancel any scheduled mediation sessions or parent education classes and notify the Chief District Court Judge that the matter is ready for hearing.

17) PREVIOUS ORIENTATION.

If the parties previously attended an orientation, the moving party is responsible for contacting the CCM to schedule a mediation appointment. The CCM will notify the other party and arrange for a mutually convenient time for a mediation appointment.

18) TERMINATION.

The CCM, in her/his discretion, may terminate the mediation if the Mediator receives information that continuing the mediation would be inappropriate for reasons of safety, welfare, or significant psychological dynamics. The CCM will then report to the attorneys and Chief District Court Judge that no agreement was reached, and the Chief District Court Judge will calendar the case for hearing.

19) INADMISSIBILITY.

All verbal or written communications from either or both the parties to the CCM or between the parties in the presence of the CCM made in a proceeding pursuant to these rules are absolutely privileged and inadmissible in Court. Neither the CCM nor any party or other person involved in mediation under these rules shall be called to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime or fraud.

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PART F: ABUSED, NEGLECTED OR DEPENDENT JUVENILES

1) PURPOSE.

This Rule establishes procedures for Juvenile Court in cases involving juveniles alleged to be abused, neglected, and/or dependent, and are designed to fulfill the purposes of the Juvenile Code, Chapter 7B of the North Carolina General Statutes. To that end, these rules serve the following purposes:

- A. To secure for the child a safe and appropriate placement when removal from the child's parent or legal custodian is necessary and in the child's best interests;
- B. To provide a just, thorough, speedy and efficient determination of each juvenile protection matter before the court and ensure due process for all persons involved in the proceedings;
- C. To reduce unnecessary delays in court proceedings;
- D. To encourage early involvement of families and, when appropriate, children in the planning and decision-making process;
- E. To help the parties present issues and evidence to the Court in an efficient and simple manner;
- F. To promote the integration of services for families and children and to facilitate access to community services.

2) CONSTRUCTION AND ENFORCEMENT.

These rules shall be construed to accomplish the purposes set forth above. The Court may impose sanctions against a party or an attorney who fails to comply with these rules; However, no rule shall be construed, applied or enforced in a manner that will endanger or harm a child or prejudice the rights of a party. It is recognized that these rules are not complete in every detail and may not cover every situation that may rise. In the event that these rules do not cover a specific matter, all parties shall act in accordance with the North Carolina Juvenile Code and orders of the Chief District Court Judge or the assigned or presiding Court Judge.

3) DEFINITIONS.

A. COURT.

The district court division of the General Court of Justice.

B. DSS.

The county Department of Social Services in the county in which a case is being initiated.

C. GUARDIAN AD LITEM.

A volunteer or one representing the volunteer who has been screened and trained by the GAL program and appointed by the Court to advocate for children who come into the court system primarily as a result of an alleged abuse or neglect.

4) PRIORITY.

Cases involving abuse, neglect and/or dependency shall have priority over all other district court matters.

5) PETITION AND JUVENILE SUMMONS AND NOTICE OF HEARING.

A. FILING THE PETITION.

The DSS attorney in each county or the Child Protective Services Supervisor within that county's Social Services Agency shall contact the Juvenile Case Manager when a petition of abuse, neglect, and/or dependency is being filed, if possible.

B. INITIAL NONSECURE CUSTODY HEARING.

The date, time and place of the initial Nonsecure Custody Hearing will be placed on the Juvenile Summons and Notice of Hearing by the designated person in the county of the filing.

6) APPOINTMENT OF COUNSEL.

B. When a petition is filed alleging abuse, neglect and/or dependency, the Clerk shall appoint separate counsel to represent each parent/respondent named in the petition prior to the Child Planning Conference.

- C. Before appointing a specific attorney, the Clerk shall ensure that the attorney will be available for the Child Planning Conference and the first hearing in the case and, to the best of the attorney's knowledge, for every stage of the proceeding. It shall be the responsibility of counsel to immediately inform the Clerk by the quickest means available of any inability to attend a Child Planning Conference.
- D. 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. The Juvenile summons shall also inform the parent/respondent:
 - i. That the parent/respondent may retain counsel of his or her own choosing;
 - ii. That the court, at the first hearing, will determine whether the respondent qualifies for appointed counsel and, if the respondent does, whether the respondent waives the right to such counsel;
 - iii. That the court will dismiss the appointed counsel if the respondent does not qualify for appointed counsel, if the respondent waives the right to counsel; or if the respondent does not appear at the first hearing.

7) RESPONSIBILITIES OF ATTORNEY.

- A. Before being eligible for appointment to represent parents/respondents, attorneys must satisfy the court:
 - i. That they have sufficient experience and skills to provide competent representation;
 - ii. That they have a good working knowledge of juvenile law and juvenile court procedures; and
 - iii. That they have a good understanding of child protective services and the related mandates that apply to DSS and to guardian ad litem.
- B. An attorney who has a conflict in another court shall comply with relevant rules relating to priority, and when absent from juvenile court because of a conflict, shall keep the case manager and the courtroom clerk informed of his or her location at all times.

- C. After a parent's attorney or juvenile's attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings as long as the child continues within the jurisdiction of the court, except when allowed to withdraw by the presiding Judge.
- D. Leave of court for an attorney to withdraw from a case shall be granted only for compelling reasons.

8) APPOINTMENT OF GUARDIAN AD LITEM AND ATTORNEY ADVOCATE.

- A. When a petition is filed alleging abuse, neglect or dependency, the judge shall appoint a guardian ad litem and, if the guardian ad litem is not an attorney also an attorney advocate to represent the juvenile named in the petition.
- B. The Guardian ad Litem district administrator shall ensure that the guardian ad litem appointed to a case or a GAL designee will be available for the Child Planning Conference and the first hearing in the case and for other stages of the proceeding.
- C. At any point in the proceeding, if the judge determines that a guardian ad litem or attorney advocate is not necessary for a juvenile who is alleged only to be dependent, the judge may dismiss the guardian ad litem or attorney advocate or both.

9) SERVICE.

A. IDENTIFICATION AND LOCATION OF PARENTS.

From the date of the filing of the petition, DSS has a continuing duty to identify, locate and obtain service of process on each parent/respondent.

B. PETITIONS AND OTHER DOCUMENTS.

All petitions, Juvenile Summons, Notice of Hearings, Notice of the date and time of the Child Planning Conference, Notice of the Nonsecure Custody Hearing and any other documents relevant to the proceedings shall be served in accordance with N.C.G.S. 7B-406 through 7B-413.

C. LAW ENFORCEMENT.

The law enforcement agency responsible for serving summons, petitions, notices, subpoenas and other legal documents in juvenile cases shall give priority to the timely service of such documents.

10) NONSECURE CUSTODY HEARING.

A. At a nonsecure custody hearing, the judge shall:

- i. Review the nature of the proceeding and the purposes of the hearing;
- ii. Address any issues relating to adequacy of notice and service of process;
- iii. Address the requirements set forth in G.S. 7b-506 in determining the need for continued custody;
- iv. Encourage the parties to engage in limited discovery of records that may be necessary in the representation of any party to the proceeding;
- v. Hear sworn testimony from the parties aimed at determining:
 - a. Whether a condition or risk justifying continued nonsecure custody exists under G.S. 7B-503,
 - b. What efforts the petitioner has made to eliminate the need for nonsecure custody, and
 - c. What other steps the parties have taken since the Child Planning Conference.

B. After giving all parties an opportunity to present evidence and to ask questions of other parties, the judge shall make appropriate findings of fact and conclusions of law, indicating whether there is a reasonable factual basis to believe:

- i. That continued nonsecure custody is supported by one or more of the criteria set forth in G.S. 7B-503, and

- ii. That there is clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall be bound by the criteria set forth in G.S. 7B-503 in determining whether continued custody is warranted.
- C. If the judge finds that continued nonsecure custody is necessary, the judge shall review or explore with the parties the following:
 - i. The appropriateness of the juvenile's placement and other placement options, including possible relative placements and efforts to place or keep siblings together,
 - ii. Any efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
 - iii. Parental visitation,
 - iv. Sibling visitation,
 - v. Service needs and referrals,
 - vi. Financial support for the juvenile,
 - vii. Whether additional orders are needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and
 - viii. Specific steps to be taken by the parties before the next hearing.
- D. If the judge finds that continued nonsecure custody is not warranted, the judge shall explore with the parties the following:
 - i. Service needs and referrals, and
 - ii. Specific steps to be taken by the parties before the adjudication hearing.
- E. Before the conclusion of the nonsecure custody hearing, the judge shall:
 - i. Summarize what has occurred,
 - ii. Give all parties an opportunity to ask questions,

- iii. Set specific dates for the next nonsecure custody hearing, if applicable, and for the adjudicatory hearing,
 - iv. Explain the purpose of the next hearing,
 - v. Make findings as to whether reasonable efforts have been made by DSS to eliminate the need for placement of the juvenile as required by G.S. 7B507, and
 - vi. Prepare and ensure that all parties have a copy of any order entered as a result of the hearing.
- F. At a nonsecure custody hearing, the judge may accept stipulations and approve consent orders relating to continued nonsecure custody. Before accepting a stipulation to findings, conclusions, or provisions of an order, the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation and that they voluntarily consent to the stipulation. The judge shall inquire of the parties in order to determine that the stipulation is voluntary and knowing. The judge's findings shall be set forth on the record.

11) SHARING OF INFORMATION/DISCOVERY.

- A. A DSS agency shall share with any other party information which is relevant to the subject matter of an action pending under Chapter 7B of the North Carolina General Statutes. This sharing of information may be done without a motion and order being filed and shall not include information which could lead to the disclosure of the identity of the reporter or any other identifying information about the reporter.
- B. It shall be the responsibility of the parent's attorney to contact DSS in writing to schedule a time to review the DSS record. At such time that the parent's attorney goes to DSS and reviews the record, DSS shall furnish copies of documents designated by the parental attorney. Attorneys shall be charged for these copies at a rate not to exceed the rate charged in the office of the Clerk of Superior Court; however, if the parent's attorney is providing services through Indigent Defense Services (IDS) than the cost of copies may not exceed the reimbursement rate paid by IDS.

- C. A parent, guardian or caretaker who is a party shall share information with any other party information which is relevant to the subject matter of an action pending under Chapter 7B of the North Carolina General Statutes. The sharing of information may be done without a motion and order being filed and shall not include information which is covered by the attorney/client privilege or constitutes attorney work product.
- D. It shall be the responsibility of the DSS attorney to contact the parent's attorney in writing to schedule a time to review the parent attorney's record. At such time that the DSS attorney goes to the parent attorney's office and reviews the record, the parental attorney shall furnish copies of documents designated by the DSS attorney. The DSS attorney shall be charged for these copies at a rate not to exceed the rate charged in the office of the Clerk of Superior Court.
- E. Any party, including the child, may file a motion for discovery of specific information or material. This motion shall contain a specific description of the information sought and a statement that the requesting party has made a reasonable effort to obtain the information or that the information cannot be otherwise obtained.
- F. Any motion for discovery shall be served upon all parties and heard and ruled upon within 10 business days of the filing of the motion. The court may grant, restrict, defer or deny the relief request.
- G. Any party served with a motion for discovery may request that the discovery be denied, restricted, or deferred and shall submit, for in camera inspection, the document, information, or materials the party seeks to protect. If the court enters any order granting relief, copies of the documents, information, or materials submitted in camera shall be preserved for appellate review in the event of an appeal.
- H. Information obtained through discovery or sharing of information under 7B-700 may not be redisclosed if the redisclosure is prohibited by State or federal law.

12) ADJUDICATORY STIPULATIONS BEFORE JUDGE.

Before accepting a stipulation from any party the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation. The judge shall determine that the stipulation is voluntary and knowing. The court's findings shall be set forth on the record.

13) ADJUDICATION.

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

14) SERVICES FROM OTHER PUBLIC AGENCIES.

If at any time after adjudication, it appears that the best interest of the juvenile may require, or that a party is recommending, that the juvenile, parent or legal custodian receive services from a public agency, the court may direct the clerk to serve the director or other appropriate representative of the agency with a notice of the dispositional hearing or a subsequent hearing and of the issues to be addressed that involved that agency. If the notice is served on a county agency, it also shall be served on the county attorney. At the disposition or subsequent hearing for which the agency has been served with notice, the court may hear evidence and enter orders relating to the level and type of services that the agency can and should provide, based on available services, to meet the juvenile's needs.

15) CONTINUANCES.

- A. The best interest of the child shall be considered in ruling on motions to continue. Juvenile cases shall be disposed of at the earliest possible time and motions to continue shall only be granted for good cause. Consent or agreement of the parties alone is not good cause.
- B. All motions for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known or is unavailable at the time the request is made, the application should be addressed to the Chief District Court Judge.
- C. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all other district court matters.
- D. In the event any attorney knows that he/she is unable to attend a scheduled session of Court, he/she will advise and give 21 days notice to the Chief District

Court Judge's office that he/she will be unavailable. If the attorney fails to so advise, the case will not be continued.

- E. All orders for continuance shall be prepared by the moving party, in writing, and shall include the name of the moving party, any objections to the continuance, and the basis for the continuance.
- F. All applications for continuance should be made as soon as a conflict is identified and all impacted—opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses—shall be notified as soon as possible by the moving party.
- G. All parties should have an opportunity to be heard on a motion to continue.
- H. Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:
 - i. The best interest of the child;
 - ii. The opportunity to exercise the right to effective assistance of counsel;
 - iii. The age of the case and the seriousness of the charge(s);
 - iv. The incarceration status of the juvenile;
 - v. The effect on children and spouses if the issue is continued and not resolved;
 - vi. The status of the trial calendar for the session;
 - vii. The number, moving party, and grounds for previous continuances;
 - viii. The impact of a continuance on the safety of the parties or any other persons;
 - ix. The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
 - x. The period of delay caused by the continuance requested;

- xi. The presence of witnesses, including the juvenile;
 - xii. The availability of witnesses for the present session, or for a future session;
 - xiii. Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
 - xiv. The availability of counsel;
 - xv. The consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
 - xvi. Any other factor that promotes the fair administration of justice.
- I. Upon granting a motion for continuance, the judge shall reschedule the case for a specified date, taking into consideration the availability of counsel, parties and witnesses.

18) ADJUDICATION, DISPOSITION AND REVIEW REPORTS.

- A. Contents of DSS reports. In each case, DSS shall prepare a report that includes at least the following:
- i. A description of the placement plan for the child and how that plan is appropriate to the child's needs;
 - ii. A description of the plan of services for the child and the child's family and how that plan is appropriate to meet the child's needs;
 - iii. A statement of changes in parental behavior that are needed to correct the conditions that led to the abuse, neglect or dependency, and the actions the parents must take;
 - iv. If there is a recommendation that the child be removed from the home, a statement of the efforts by DSS to prevent the need for placing the child outside the home;
 - v. A description of the efforts by DSS to reunify the family, including services that have been offered, provided or rejected;

- vi. A statement of why the child cannot be protected from the identified problems while remaining in the home;
 - vii. The identity of all relatives and friends who have been contacted about providing a placement for the child, and a description of the nature and results of those contacts;
 - viii. A suggested visitation plan for the child;
 - ix. A statement of the child's special needs and how they may be met;
 - x. The identity and location of the child's siblings, and a statement of steps required to maintain contact between the siblings and reunify the family;
 - xi. If applicable, a description of the child's school or day-care situation and any proposed changes related to it; and
 - xii. The status of any treatment previously ordered.
- B. GAL reports. The guardian ad litem for the child shall prepare a report to assist the court in reaching a decision that will best serve the child's needs.
- C. When reports are provided. All parties with written disposition/review reports shall provide copies of their reports to all other parties and their counsel no later than 12:00 noon on the business day preceding the adjudication, disposition or review hearings.

19) DISPOSITION.

- A. The dispositional hearing shall be held immediately following the adjudication or within thirty days thereafter.
- B. If the juvenile remains out of the home at the conclusion of the dispositional hearing, the judge shall specify in the order a specific time for a review hearing.
- C. At the conclusion of the dispositional hearing, the judge shall determine whether any person or agency not present or represented at the dispositional

hearing needs information about the disposition in order to help meet the child's needs. The judge may order that a summary of appropriate portions of the order be provided to any such person or agency. The court also may order the parties to share specific types of information on an ongoing basis with designated persons or agencies.

- D. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

20) MAINTAINING CASE ON COURT CALENDAR.

Each case shall be maintained on the court calendar at all times as long as juvenile court jurisdiction in the case continues unless the court orders that no further reviews are required. At or before the conclusion of each hearing, a subsequent hearing date shall be set.

21) JUDICIAL ASSIGNMENT.

Once a case has been adjudicated by a Judge, subsequent hearings regarding the case shall be heard by the same judge, unless circumstances require otherwise. This includes TPR hearings involving the same children.

22) PREPARATION AND ENTRY OF ORDERS.

- A. In cases involving DSS, the DSS attorney or designated person shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge.
- B. All orders must be filed within 30 days following the conclusion of a hearing. A draft of all orders shall be circulated among the attorneys involved in the proceeding prior to the submission of the original order to the Court for signature. In no event, shall an order be entered later than 30 days following the hearing.