

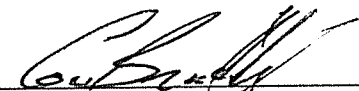
COUNTY OF PITT
3A JUDICIAL DISTRICT

DISTRICT COURT DIVISION
JUVENILE DELINQUENCY
COURT

**ORDER ADOPTING RULES
FOR JUVENILE DELINQUENCY
& UNDISCIPLINED PROCEEDINGS**

Pursuant to Rule 2 of the General Rules of Practice for Superior and district Courts, and N.C.G.S. §7B the attached Local Rules for Order Adopting Rules for Juvenile Delinquency & Undisciplined Proceedings are hereby adopted effective January 1, 2023 and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

It is so ordered this 16 day of November 2022.



G. GALEN BRADDY
CHIEF DISTRICT COURT JUDGE

FILED
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PITT CO., C.S.C.
BY W

Judicial District 3A
Local Rules for
Juvenile Delinquency & Undisciplined Proceedings

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Judicial District 3A Local Rules for Juvenile Delinquency & Undisciplined Proceedings

Rule 1. Scope

1.1 These rules shall apply to all cases in which a petition is filed alleging that a juvenile is Delinquent or Undisciplined as defined in N.C.G.S. 7B-1501, and/or related motions.

1.2 These rules are promulgated in compliance with Rule 2 of the General Rules of Practice for the Superior and District Courts and are in accordance with N.C.G.S. 7A-146.

1.3 It is recognized that these rules are not exhaustive and will not cover every possible situation that may arise. In the event that a situation or matter arises that is not covered by these rules, all parties shall act in accordance with the orders of the Chief District Court Judge or the assigned Delinquency Court Judge.

1.4 These rules and all amendments hereafter shall be filed with the Clerk of Superior Court for Pitt County and may be cited accordingly as the Judicial District 3A Local Rules for Juvenile Delinquency and Undisciplined Proceedings.

Rule 2. Purpose

The purpose of these rules is to establish procedures for cases in which a petition or motion is filed in Delinquency Court. These rules are intended to fulfill the purposes of Juvenile Delinquency Court and the North Carolina Juvenile Code, particularly as set forth in N.C.G.S. 7B-1500, and to provide for the orderly, prompt, and just disposition of Juvenile Delinquency and Undisciplined matters.

Rule 3. Construction

These Rules shall, at all times, be construed in such manner as to promote justice and accomplish the purposes set forth in Rule 2.

Rule 4. Qualification Requirements for Appointed Counsel

4.1 **Maintenance of Delinquency Appointment List.** Pursuant to “The Regulations for Appointment of Counsel in the Three-A Defender District (Pitt County) in Cases Under the Indigent Defense Services Act,” referred to here as “Regulations” or “Regulations for the Appointment of Counsel,” the Chief Public Defender shall maintain in his or her office the master lists of attorneys eligible to be appointed to represent juveniles alleged to be Delinquent or Undisciplined. The lists shall be designated as follows:

- 4A for Class A1-3 Misdemeanors, Class H-I Felonies, Probation Violations, and Motions for Contempt
- 4B for Class A-G felonies
- An attorney on either list may continue to represent a juvenile if the juvenile's case is transferred to Superior Court if the attorney is qualified by the Public Defender to represent adults in that class of felony case in Superior Court, subject to the second chair requirements for that list. If the attorney is not qualified by the Public Defender to represent adults in that class of felony case in Superior Court or wishes not to represent the juvenile in Superior Court, another qualified attorney will be appointed by the court as soon as practicable but no later than prior to the probable cause hearing.

4.2 Request for Inclusion on List. Any attorney who wishes to represent juveniles in Delinquency Court must submit a written request to the Public Defender's Office using the form for such requests that is available from that office. Once the attorney has met the requirements set forth in the Regulations, the request will be forwarded to the Committee on Indigent Appointments for review and for approval of inclusion on the appropriate list(s).

4.3 Removal from Lists. If an attorney for a juvenile does not wish to remain on the qualified court appointed list(s) for Juvenile Delinquency proceedings, the attorney shall notify the Public Defender and the deputy and/or assistant clerks assigned to Juvenile Court by the Pitt County Clerk of Court. If the attorney for a juvenile has cases pending, the attorney should make every effort to continue representation through the dispositional stage.

4.4 Withdrawal from Representation. An attorney for a juvenile is not relieved of the responsibility to represent a juvenile until such time as a Delinquency Court Judge enters an order allowing the attorney to withdraw.

4.5 Judge's Inherent Authority. Nothing in these Rules shall inhibit the inherent power of an individual Judge presiding in Juvenile Delinquency Court to remove an attorney for a juvenile and appoint a new attorney.

Rule 5. Appointment of Counsel

5.1 Filing of Petition. When any petition or motion is filed in Pitt County against any juvenile, the Pitt County Clerk of Court shall assign court dates, assign an attorney from the list of qualified counsel, and assign a new JB file number, unless the juvenile has a pre-existing juvenile file number.

5.2 Order of Assignment. The Clerk shall assign attorneys according to the appropriate list and in the sequence in which they appear on the juvenile list except as permitted by the Regulations or as ordered by a judge. The Clerk may appoint an attorney who is not next in sequence on the list if an attorney is unavailable, is ineligible for that particular offense, or has a

conflict. If an attorney is already representing the particular juvenile, the same attorney shall be appointed to represent the juvenile, as long as that attorney is on the list of qualified counsel. No appointment shall be made by the Clerk of an attorney whose name does not appear on one of the master lists on file, except for good cause shown and in the interest of justice, and the Clerk shall notify the Public Defender if such an appointment is made.

5.3 Multiple Petitions. When a juvenile has multiple petitions and some offenses would warrant appointment of an attorney from List 4A and other offenses would warrant appointment of an attorney from List 4B, the Clerk shall appoint an attorney from List 4B to represent the juvenile in all of the pending cases. If a juvenile is currently represented by an attorney who is only on List 4A, and that juvenile receives a new petition alleging a high felony or transferrable offense, the juvenile shall be re-assigned to a new attorney from list 4B to represent the juvenile in all of the juvenile's matters.

5.4 Parental Orders to Show Cause. When a Show Cause order that has been issued and served on any parent appears on the calendar, and the parent has completed an Affidavit of Indigency and has been approved by the Judge for court-appointed counsel, the Clerk will assign an attorney from List 4A.

5.5 Judge's Inherent Authority. Nothing in these Rules shall inhibit the inherent authority of the judge presiding in Juvenile Delinquency Court to issue Show Causes and appoint attorneys.

Rule 6. Responsibilities of Attorneys

6.1 Calendar Call. An attorney who represents a party in a matter scheduled on the Juvenile Delinquency Court Docket shall appear at calendar call for the session in which the matter is docketed unless excused by the Judge presiding in Juvenile Delinquency Court or by agreement of all the parties.

6.2 Priority of Juvenile Court. An attorney who has a conflict in another court shall comply with the relevant rules relating to priority found in Rule 3.1 "Guidelines for Resolving Scheduling Conflicts" of the North Carolina General Rules of Practice for the Superior and District Courts and shall inform the Court if he or she anticipates that there will be some conflict that would prevent his or her prompt appearance in Juvenile Court. In resolving court conflicts, it is the policy of this District that Juvenile Court shall take priority over all other District Court matters, to the extent that said priority does not conflict with Rule 3.1. It shall be the responsibility of the attorney to keep the courtroom clerks informed of his or her location at all times.

6.3 Attorney Coverage. Any attorney who is unable to be present in court for some extenuating circumstance such as vacation, illness, or court conflict shall be responsible for notifying the courtroom clerk in advance. The attorney shall either resolve the conflict with the assigned Assistant District Attorney prior to the scheduled court date or secure a qualified

replacement attorney who may also be found on the appropriate list. Nothing in these rules may require a juvenile to waive his or her right to be represented by their assigned counsel.

6.4 Notification of Contact Information/Changes. Any attorney who makes an appearance in a Delinquency or Undisciplined proceeding shall provide the courtroom clerk with a cell phone number or other mechanism for contacting the attorney when his or her presence is needed in court. An attorney shall notify the assistant or deputy clerks assigned to Juvenile Court 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 appointments).

6.5 Continued Representation. An attorney who enters an appearance or who accepts an appointment in a Juvenile Delinquency or Undisciplined case shall continue to represent the juvenile throughout all stages of the proceedings (including but not limited to: first appearances, secured custody reviews, probable cause hearings, transfer hearings, adjudication, disposition, probation violations, motions for review, etc.) as long as the juvenile continues under the jurisdiction of the Court unless allowed to withdraw by the Court or unless the juvenile is assigned a new attorney.

6.6 Withdrawal of Representation. A Motion to Withdraw from representation in a case shall only be granted for compelling reasons. When a Motion to Withdraw is granted by the court, the clerk shall appoint a new attorney from the appointment lists in accordance with Rule 5 herein and in accordance with the Regulations for Appointment of Counsel.

6.7 Retained Attorney. When an attorney is privately retained, the retained attorney shall immediately notify appointed counsel, the District Attorney's Office, and the assistant or deputy clerks assigned to Juvenile Court of his or her appearance in the case.

6.8 Fee Applications. All attorneys submitting fee applications for court appointed cases in Juvenile Delinquency Court shall comply with the following provisions:

- A. Fee applications (AOC-J-411) shall be filled out completely.
- B. Fee applications shall be submitted only at the conclusion of the Adjudication and/or Disposition hearing and after each subsequent hearing, unless the attorney is released.
- C. Fee applications for time in excess of 10 hours shall include a typed affidavit of work on the case, including, but not limited to, date, activity, and amount of time spent.
- D. Fee applications shall be in accordance with any rules and/policies of the North Carolina Office of Indigent Defense Services.

6.9 Attendance at Court Proceedings. Failure of an appointed attorney to attend court proceedings could jeopardize further appointments and/or result in removal from the appointment lists. The Court maintains the inherent authority to remove an attorney from a case and to appoint new counsel if an attorney does not appear at a court proceeding.

6.10 Secured Leave. Pursuant to Rule 26 of the General Rules of Practice, attorneys may from time to time designate and enjoy one or more secure leave periods each year as provided therein. Any secured leave designation filed by an attorney should be provided to the assistant or deputy clerks assigned to Juvenile Court, so that the clerks may make any necessary adjustments to appointment rotations.

6.11 Contact with Client. An attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation. If a juvenile is in Secured Custody, the assigned counsel shall make diligent efforts to meet with the juvenile within 3 business days of assignment or of the juvenile being placed in detention.

6.12 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 the Regulations for the Appointment of Counsel. Failure to comply with these standards could result in removal from court appointed lists.

Rule 7. Service of Summons and Petitions

7.1 Service by Clerk. Upon the filing of a petition alleging a juvenile to be Delinquent or Undisciplined and/or related motions, the Clerk shall issue a Juvenile Summons and Notice of Hearing. If the Juvenile Court Counselor is aware that the juvenile and/or family requires a Spanish Interpreter, the Court Counselor shall notify the Clerk, and the Clerk may attach any available blank Spanish language version of the AOC forms to the completed English language forms. The summons and a copy of the petition shall be personally served on both the juvenile and the juvenile's parents, guardians, or custodians in accordance with N.C.G.S. 7B-1806.

7.2 Unserved Petitions. When a matter appears on the printed docket and it is determined that service of a Delinquent Summons, Undisciplined Summons or Show Cause Order on a parent or juvenile was unsuccessful for reasons such as, but not limited to, the following: vacant address, incomplete address (no apartment #), false information given, juvenile resides outside of Pitt County, etc. the matter will be calendared for review in thirty days. The assigned Juvenile Court Counselor shall notify the petitioner (investigating officer, school social worker, etc.) of the need for a valid service address. It shall be the petitioner's responsibility to provide this information as expeditiously as possible to the Court Counselor, who shall then notify the Clerk and the District Attorney, at which point a new summons shall be issued by the Clerk.

Rule 8. Hearing Schedules

8.1 Regular Hearings. Juvenile matters involving Delinquent and Undisciplined juveniles and Show Cause Orders on parents under the jurisdiction of the Juvenile Delinquency Court shall

be regularly scheduled to be heard on Tuesdays, on every other Friday, and at such other times as might be necessary to comply with statutory timelines and requirements.

8.2 Special Hearings. The primary matters to be set upon the Friday court schedule shall be Secured Custody Hearings, special settings of contested matters, and other matters determined to be appropriate by the presiding Juvenile Delinquency Court Judge.

8.3 Secured Custody Hearings. The initial Secured Custody Review (SCR) shall be set within five calendar days of when the Secured Custody Order is issued by the District Court Judge. When the initial Secured Custody Order is issued by an official exercising delegated authority pursuant to N.C.G.S. 7B-1902, the SCR shall be set on the next regularly scheduled session of District Court. Subsequent Secured Custody Reviews may be set on any date or session as determined by the parties in court at the initial SCR.

Rule 9. Establishing the Trial Calendar

9.1 Calendaring Timelines. All petitions in Delinquency Court shall be calendared pursuant to a schedule promulgated by the Chief District Court Judge, which adheres to the time requirements of Chapter 7B of the North Carolina General Statutes.

9.2 District Attorney Calendaring. The Juvenile Delinquency Court calendar shall be established and maintained by the Clerk of Court. The clerk shall distribute the calendar for each week of Juvenile Delinquency Court on or before the Friday before the scheduled week by placing a copy of the calendar in the courthouse boxes of attorneys with matters appearing on the calendar. Said calendars will be enclosed in a sealed envelope in order to maintain confidentiality. The calendar shall only be distributed to individuals authorized to receive calendars in accordance with the Rules of Recordkeeping promulgated by the North Carolina Administrative Office of the Courts. The Juvenile Delinquency Court calendar is not a public document and shall not be posted for public view in the courthouse.

9.3 First Appearances. As to juvenile petitions alleging an offense that would be a felony if committed by an adult:

- A. All petitions shall be set for a First Appearance within ten (10) days of the filing of the petition in accordance with N.C.G.S 7B-1808.
- B. Appointed counsel, the juvenile, the juvenile's parent(s) or guardian, and the Assistant District Attorney shall be present at the hearing.
- C. At the First Appearance hearing the Court shall ascertain the age of the juvenile and shall set the matter for probable cause hearing or transfer it in accordance with Article 22 of Chapter 7B.

9.4 Calendaring. As to juvenile petitions alleging misdemeanors or undisciplined petitions, the matter shall be set out at least 45 days from the time of the filing of the petition to allow for proper service. As to juvenile petitions alleging felonies, the matter shall be set in accordance with the requirements of Article 22 of Chapter 7B.

9.5 Probation Violations & Motions for Review. If the juvenile petition alleges a Violation of Probation or requests a Motion for Review, the matter shall be set out at least fourteen days from the time of filing to allow for service of the statutory 5 day notice, pursuant to N.C.G.S. 7B-1807.

9.6 Additional Petitions. If the juvenile has a court date already scheduled, every attempt should be made to schedule new petitions on the same date.

Rule 10. Time Standards

The Pitt County Juvenile Delinquency Court seeks to comply with all statutory time standards and requirements set forth in Chapter 7B. The presiding judge may allow such deviations from time standards as are required by extenuating circumstances or by complex matters.

Rule 11. Pretrial Conferences & Predisposition Reports

11.1 Predisposition Reports. The Juvenile Court Counselor shall prepare a written predisposition report in accordance with N.C.G.S. 7B-2413 and the standards as set forth by the North Carolina Department of Public Safety Juvenile Justice Division to be presented to the Court after adjudication and prior to disposition in all Delinquency and Undisciplined proceedings. No predisposition report shall be submitted to, or considered by, the Court or the Assistant District Attorney prior to adjudication. The defense may share pre-disposition information with the ADA with consent of the juvenile.

11.2 Predisposition Report Timeline. The predisposition report shall be made available to counsel for the juvenile for review no later than the Friday of the week prior to the date the case is scheduled for adjudication. If the case is set for hearing on a Friday, the predisposition report shall be made available to counsel for the juvenile for review no later than the Wednesday prior to the court date. The reports shall be distributed via courthouse mailbox.

Rule 12. Continuances

12.1 Good Cause. Attorneys shall make all reasonable efforts to avoid continuances. Pursuant to N.C.G.S. 7B-2406, "the court for good cause shown may continue any hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of

justice or in the best interests of the juvenile.” What constitutes good cause and extraordinary circumstances is in the sound discretion of the judge to whom a motion to continue is presented.

12.2 Continuances. Motions to continue made in advance of the scheduled court date must be made in writing with pertinent information contained therein and the reason for the request clearly stated. Motions may also be made in advance of the scheduled court date in open court during a Juvenile Delinquency court session.

12.3 Notification of Continuance. In the event that a case is ordered continued in advance of the scheduled court date, the moving party shall immediately file the Continuance Order with the Clerk’s office. Counsel shall notify the juvenile, the juvenile’s parent, guardian, or custodian, and any witnesses subpoenaed by the juvenile of the continuance and the new court date. The Assistant District Attorney shall notify the victim, the Juvenile Court Counselor, law enforcement officer or any other witnesses subpoenaed by the State of the continuance and the new court date.

12.4 Objections to Motion to Continue. Both the State and the Defense shall have an opportunity to be heard on a motion to continue.

12.5 Appropriate Court Official. All motions for continuance prior to the court date shall be made to the District Court Judge presiding over the session of Juvenile Delinquency Court for which the case is calendared. All motions for continuances on the scheduled court date must be directed to and ruled upon by the presiding judge.

Rule 13. Recordation of Hearing

Hearings shall be recorded pursuant to N.C.G.S. 7B-2410. In addition to the statutorily mandated recordation, all Juvenile Delinquency Court proceedings will be recorded. All persons participating in the court proceeding shall speak loudly and clearly so that their arguments, comments, testimony, or other remarks are capable of being recorded.

Rule 14. Court-Ordered Evaluations and Assessments

In any case, the Court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the Court to determine the needs of the juvenile. Evaluations, testing for the use of controlled substances or alcohol, comprehensive clinical assessments or equivalent mental health assessments, and other examinations shall be ordered and conducted in accordance with N.C.G.S. 7B-2502. The Court shall use the forms created and provided by the NCAOC to order a comprehensive clinical assessment or to order the production of records, unless good cause exists to enter a more specific order.

Rule 15. Preparation and Entry of Orders

15.1 Preparation of Orders. In all adjudication hearings, disposition hearings, motion for review hearings, and probation violation hearings, the Juvenile Delinquency Clerk shall prepare the orders, unless otherwise provided herein or instructed by the presiding judge. In pre-trial motions hearings, unless otherwise instructed by the presiding judge, the prevailing party is expected to prepare the order and have it reviewed by the opposing party prior to being signed by the judge.

15.2 Time Standards for Entry of Order. All orders must be entered within 15 days following the conclusion of a hearing. A Judge may allow additional time to file an order in complex cases but in no event should it be entered later than 30 days following the hearing.

15.3 Secured Custody Orders. Pursuant to N.C.G.S. 7B-1904, all secured custody orders are to be returned to the Clerk's office for filing as soon as is practical following service, but no later than the next business day following service.

Rule 16. Interpreters

16.1 Court Interpreters. Only certified interpreters or interpreters approved by the North Carolina Administrative Office of Courts Office of Language Access Services are permitted to interpret for the Court. Court-appointed interpreters are to be used for courtroom hearings only.

16.2 Interpreter Request. If the juvenile, parent or any witness needs an interpreter, the requesting party or party's attorney shall request interpreting services from the NCAOC at <https://www.nccourts.gov/request-for-spoken-foreign-language-court-interpreter>. The requesting party may confirm the attendance of the interpreter with the local Language Access Coordinator in the Pitt County Clerk's Office.

16.3 American Sign Language. If the juvenile, parent or any witness needs an ASL interpreter, the attorney for the party needing the services shall request such an interpreter at least 10 days prior to the court date. This request is submitted to the NCAOC at <https://www.nccourts.gov/form/request-for-disability-accommodation>. The requesting party should confirm the attendance of the interpreter with the Pitt County Disability Access Coordinator, Lori Strayer.

Rule 17. Enforcement

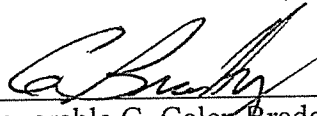
The Court may impose sanctions for failure to comply with these Rules; however, no rule shall be construed, applied, or enforced in a manner that will endanger or harm a juvenile or prejudice the rights of any juvenile.

Rule 18. Amendments and Modifications

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

ADOPTED BY THE COURT, effective January 1, 2023.

Signed this the 15 day of Nov, 2022.



The Honorable G. Galen Braddy
Chief District Court Judge