

Model Local Rules For Juvenile Court

Scope, Purposes, Construction and Enforcement of Rules

Rule 1. Scope

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected, or dependent.

Rule 2. Purpose

These rules are designed to achieve stable and secure homes for children who come within the court's juvenile jurisdiction. These rules should achieve the following (*choose one or more of the following*):

- (a) secure for each child under the jurisdiction of the court a home that is safe and permanent;
- (b) secure for each child under the jurisdiction of the court the care and guidance, preferably in the child's own home, that will best serve the physical, emotional, spiritual, and mental welfare of the child;
- (c) provide judicial procedures that protect and promote the safety and welfare of the child;
- (d) whenever possible and in the best interests of the child, preserve and strengthen the child's family ties, removing the child from the custody of the child's parent or legal custodian only when the child's safety and welfare cannot otherwise be adequately safeguarded;
- (e) 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;
- (f) 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;
- (g) establish a uniform system for judicial oversight of case planning and reasonable efforts, or active efforts in the case of an Indian child, aimed at preventing or eliminating the need for removal of the child from the care of the child's parent or legal custodian; or when removal is required aimed at the achievement of a permanent plan for the child when return home is not possible;
- (h) ensure a coordinated decision-making process;
- (i) reduce unnecessary delays in court proceedings; and
- (j) encourage the involvement of parents and, when appropriate, children in the proceedings.

Rule 3. Construction and Enforcement

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

Rule 4. Definitions

Unless the context clearly requires otherwise, for purposes of these rules:

- (1) “Case manager” means an attorney, mediator, or any qualified person designated by the chief district court judge.
- (2) “Clerk” means any clerk of superior court, acting clerk or assistant or deputy clerk.
- (3) “Court” means the district court division of the General Court of Justice.
- (4) “Day-one conference” means a meeting of the parties and attorneys involved in the case, with a case manager, held on the first business day after the juvenile is taken into custody.
- (5) “DSS” means the county department of social services in the county in which a case is initiated or heard.
- (6) “Guardian ad Litem” means the Guardian ad Litem volunteer or one representing the volunteer.
- (7) “Judge” means any district court judge.
- (8) “UCCJEA” means the Uniform Child Custody Jurisdiction and Enforcement Act, Chapter 50A of the North Carolina General Statutes.

Rules Applicable to Abuse, Neglect, and Dependency Proceedings

Rule 5. Assignment of Counsel

- a. At the time of the filing of a petition alleging abuse, neglect, and/or dependency, the clerk shall appoint separate counsel to represent each parent named in the petition.
- b. The clerk shall prepare a *Notice of Assignment of Counsel* to be served on the parent with the petition and summons. The notice shall include the attorney’s name and business address and telephone number and shall advise the parent to contact the attorney before appearing in court. The notice also shall inform the parent:
 - (1) that the parent may retain his/her own counsel;
 - (2) that the court, at the first hearing, will determine whether the parent qualifies for appointed counsel or whether the parent waives the right to counsel; and
 - (3) that the court will dismiss the appointed counsel if the parent does not qualify for appointed counsel or if the parent waives the right to counsel.
- c. Before appointing a specific attorney, the clerk shall ensure that the attorney will be available for the day-one conference and the first hearing in the case and, to the best of the attorney’s knowledge, for every stage of the proceeding. The clerk may make this determination either by talking with the attorney or by pre-arrangement with one or more attorneys on the appointment list.

Rule 6. Responsibilities of Parents' Attorneys

- a. Before being eligible for appointment to represent parents, attorneys must:
 - (1) have sufficient experience and skills to provide competent representation;
 - (2) have a good working knowledge of juvenile law and juvenile court procedures;
 - (3) have a good understanding of child protective services and the related mandates that apply to DSS and to guardians ad litem;
 - (4) have completed satisfactorily any initial and follow-up training specified by the chief district court judge.
- b. An attorney shall not accept an appointment pursuant to Rule 5 unless the attorney can be available for the day-one conference and the first hearing in the case and, to the best of the attorney's knowledge, for every stage of the proceeding, including hearings on any termination of parental rights petitions and motions.
- c. At the first hearing in a case, an attorney appointed to represent a parent who has not been served and who does not appear at the hearing, may be released in the court's discretion and shall not be responsible for further appearances-unless reappointed by the court.
- d. An attorney who is absent from juvenile court because of a conflict in another court shall keep the courtroom clerk informed of his/her location at all times.
- e. Leave of court for an attorney to withdraw from a case shall be granted only for compelling reasons.

Rule 7. Appointment of Guardian ad Litem and Attorney Advocate

- a. When a petition is filed alleging abuse or neglect, 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 judge may appoint a guardian ad litem for a child who is alleged to be dependent.
- c. The Guardian ad Litem district administrator shall ensure that the guardian ad litem appointed to a case will be available for the day-one conference and the first hearing in the case and for other stages of the proceeding.
- d. 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.
- e. An attorney advocate who is absent from juvenile court because of a conflict in another court, shall keep the courtroom clerk informed of his/her location at all times.

Rule 8. Service; Summons and Petition; Notice

- a. From the date the petition is filed until the adjudication hearing, the petitioner shall have a continuing duty to attempt to identify, locate, and serve any parent or other respondent who has not been served.
- b. Any time a parent or other respondent is served with a copy of a nonsecure custody order on the day a juvenile is taken into nonsecure custody, the parent or other respondent also shall be served with a notice informing him/her of the nature, date, place, and time of the day-one conference and/or first hearing.

Rule 9. UCCJEA Affidavit

The information required by G.S. 5A-209 shall be included in the petition or in an affidavit attached to the petition at the time of filing.

Rule 10. Day-One Conference

- a. Whenever a juvenile is taken into nonsecure custody, a day-one conference shall be held on the first business day after the juvenile is taken into custody.
- b. The day-one conference shall be conducted by a case manager.
- c. At the day-one conference, the case manager shall:
 - (1) introduce himself or herself to the parties and advise the parties of their rights, and of the fact that a non-secure custody hearing will be held before a district court judge;
 - (2) introduce all the people at the conference;
 - (3) explain the nature of the proceeding and the purposes of the conference;
 - (4) review the adequacy of notice and service of process;
 - (5) attempt to ascertain the identity and whereabouts of any parent, guardian, or custodian of the juvenile who is not present, whether that person has been served, and what steps need to be taken to identify, locate, or serve any such person;
 - (6) hear information from the parties, aimed at determining:
 - (a) what condition is alleged in the petition,
 - (b) what condition or risk precipitated the nonsecure custody order, including consideration of the results of the petitioner's risk assessment,
 - (c) whether any of the conditions listed in G.S. 7B-503 existed at the time the child was placed in nonsecure custody, and
 - (d) what efforts the petitioner has made to prevent or eliminate the need for nonsecure custody; and
 - (e) encourage the parties to engage in limited discovery of records that may be necessary in the representation of any party to the proceeding.
- d. After giving all parties an opportunity to present information and to ask questions of other participants, the case manager shall determine whether there is agreement among the parties as to the need for the juvenile to remain in nonsecure custody.
- e. If all parties agree that the juvenile does not need to remain in nonsecure custody, the case manager shall:
 - (1) reduce the agreement to written form using a memorandum of order/judgment that releases the juvenile from nonsecure custody, contains the basis for the agreement, and includes the plan for the child, service needs for the child, and specific steps the parties agree to take pending the adjudication hearing;
 - (2) give all parties an opportunity to review the proposed consent order and sign it; and
 - (3) if all parties voluntarily sign the proposed consent order, present it as soon as possible to a district court judge for approval.
- f. If the parties do not agree that the juvenile should be released from nonsecure custody, the case manager shall explore the following with the parties:
 - (1) placement options for the juvenile, including possible relative placements and efforts to keep siblings together,

- (2) efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
 - (3) parental visitation,
 - (4) sibling visitation,
 - (5) service needs and referrals,
 - (6) financial support for the juvenile,
 - (7) whether a court order is needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and
 - (8) specific steps the parties agree to take before the nonsecure custody hearing.
- g. Before the conclusion of the day-one conference, the case manager shall:
- (1) summarize what has occurred,
 - (2) give all parties an opportunity to ask questions,
 - (3) set a specific date for the first hearing,
 - (4) explain the purpose of the hearing,
 - (5) prepare and ensure that all parties have a copy of any order a judge has signed or any written agreement entered as a result of the day-one conference, and
 - (6) in any case in which a parent's identity or whereabouts are unknown or the paternity of the child has not been legally established, specify in writing any steps that are to be taken to identify and locate the parent or establish paternity.

Rule 11. Nonsecure Custody Hearing

- a. If a juvenile remains in nonsecure custody after a day-one conference, the hearing required by G.S. 7B-506 to determine the need for continued nonsecure custody shall be held before a district court judge within seven calendar days after the juvenile was taken into custody.
- b. At a nonsecure custody hearing, the judge shall:
 - (1) review the nature of the proceeding and the purposes of the hearing;
 - (2) address any issues relating to adequacy of notice and service of process;
 - (3) address the requirements set forth in G.S. 7B-506 in determining the need for continued custody;
 - (4) encourage the parties to engage in limited discovery of records that may be necessary in the representation of any party to the proceeding.
 - (5) 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 day-one conference.
- c. 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:
 - (1) that continued nonsecure custody is supported by one or more of the criteria set forth in G.S. 7B-503, and
 - (2) 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.

- d. If the judge finds that continued nonsecure custody is necessary, the judge shall review or explore with the parties the following:
 - (1) the appropriateness of the juvenile's placement and other placement options, including possible relative placements and efforts to place or keep siblings together,
 - (2) any efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
 - (3) parental visitation,
 - (4) sibling visitation,
 - (5) service needs and referrals,
 - (6) financial support for the juvenile,
 - (7) whether additional orders are needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and
 - (8) specific steps to be taken by the parties before the next hearing.
- e. If the judge finds that continued nonsecure custody is not warranted, the judge shall explore with the parties the following:
 - (1) service needs and referrals, and
 - (2) specific steps to be taken by the parties before the adjudication hearing.
- f. Before the conclusion of the nonsecure custody hearing, the judge shall:
 - (1) summarize what has occurred,
 - (2) give all parties an opportunity to ask questions,
 - (3) set specific dates for the next nonsecure custody hearing, if applicable, for a pre-adjudicatory conference, and for the adjudicatory hearing,
 - (4) explain the purpose of the pretrial conference, if applicable, and of the next hearing,
 - (5) 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. 7B-507, and
 - (6) prepare and ensure that all parties have a copy of any order entered as a result of the hearing.
- g. 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.

Rule 12. Discovery

- a. Except as protected by privilege, all parties shall disclose all relevant material and information to all other parties within twenty-one days from the filing of the petition. This requirement applies to counsel for the parties, including the attorney advocate for the child, to any unrepresented party, and to the guardian ad litem.
- b. Any party, including the child, may file a motion to compel discovery of specific information or material. The motion shall be calendared for hearing within five business days of the date it is filed.
- c. All means of discovery permitted by the Rules of Civil Procedure shall be available.

Rule 13. Pre-Adjudication Conference

- a. A pre-adjudication conference shall be held within thirty days after the filing of the petition unless the judge determines for good cause that it be held at a later date.
- a. All parties and their attorneys shall attend the pre-adjudication conference.
- b. The purposes of the conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, to stipulate facts that are not in dispute, and to make sure discovery has been completed. At the pre-adjudication conference, the judge or his/her designee shall assist the parties in:
 - (1) sharing witness lists, exhibit lists, and exhibits,
 - (2) defining the issues,
 - (3) identifying matters that can be stipulated and making stipulations, and
 - (4) considering any proposed consent order.
- d. At the conclusion of the pre-adjudication conference, the judge shall enter an order reflecting the outcome of the conference and ensure that each party is provided a copy of the order.
- e. If a settlement is reached regarding adjudication, refer to Rule 17 (Pre-disposition Conference).
- f. 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.

Rule 14. 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.

Rule 15. Adjudication

- a. The adjudication hearing shall be held within forty 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.
- b. At the conclusion of the adjudication hearing the presiding judge shall ensure that all participants receive a written memorandum of the judge's order.

Rule 16. Services from Other Public Agencies

Any time after adjudication, if 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 or a party 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 involve that agency. If the notice is served on a county agency, it also shall be served on the county attorney.

Rule 17. Disposition Reports

- a. DSS shall prepare a pre-disposition report that includes at least the following:

- (1) A description of the recommended placement plan for the child and how that plan is appropriate to the child's needs;
- (2) 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;
- (3) 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 in order to effectuate those changes.
- (4) If there is a recommendation that the child be removed from the home,
 - (a) A statement of the efforts by DSS to prevent the need for placing the child outside the home;
 - (b) A description of the efforts by DSS to reunify the family, including services that have been offered, provided, or rejected;
 - (c) A statement of why the child cannot be protected from the identified problems while remaining in the home;
 - (d) 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;
 - (e) A suggested visitation plan for the child, 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;
 - (f) A statement of the child's special needs and how they may be met;
 - (g) If applicable, a description of the child's school or day-care situation and any proposed changes related to it; and
 - (h) The status of any treatment previously ordered.
- b. The guardian ad litem for the child and the attorney(s) representing the parent(s) shall prepare pre-disposition reports to assist the court in reaching a disposition that will best serve the child's needs.
- c. All parties shall be prepared to exchange copies of their pre-disposition reports at the pre-adjudication conference in the event that a settlement is reached regarding the adjudication.

Rule 18. Pre-disposition Conference

- a. If settlement is reached at the pre-adjudication conference, a pre-disposition conference shall be held immediately following the pre-adjudication conference. If disposition occurs on a date after the adjudication, a pre-disposition conference to share reports shall be held no more than two weeks before the dispositional hearing.
- b. All parties and their attorneys shall attend the pre-disposition conference.
- c. The purposes of the conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, and to determine any stipulations that can be made.
- d. At or before the conference, each party shall provide to all other parties a written list of prospective witnesses and exhibits and copies of all listed exhibits intended for use at the dispositional hearing. Any exhibit not available for distribution at or before the pre-disposition conference shall be distributed as soon as it is available but no later than five (5) days prior to a disposition hearing.

- e. At the conclusion of the pre-disposition conference, an order shall be entered reflecting the outcome of the conference and each party shall be provided a copy of the order.
- f. 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.

Rule 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. Immediately after conclusion of the dispositional hearing, each party shall be provided a written memorandum of the judge's order including the date of the next review hearing, if applicable.
- e. 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.

Rule 20. Review Hearings

- a. When a juvenile remains out of the home following a dispositional hearing, a review hearing shall be held at a time the judge designates in the dispositional order, but in no event more than ninety days from the date of the dispositional hearing.
- b. When a juvenile remains out of the home following the first review hearing, the judge shall determine and specify at the review hearing an appropriate date for the next review hearing. In no event shall the second review hearing be held more than six months from the date of the first review hearing.
- c. As long as the juvenile remains out of the home, subsequent review hearings shall be held at times the judge finds appropriate, but in no event more than six months from the date of the previous review hearing, unless the judge orders otherwise pursuant to G.S. 7B-906.
- d. A goal of each review hearing shall be to develop a permanent plan for the juvenile. The permanency planning hearing may be combined with any review hearing but shall be held no later than 365 days after the petition is filed.
- e. The DSS attorney shall deliver a court summary to all counsel, unrepresented parties, and the Guardian ad Litem Office at least twenty-one (21) days before each review hearing. The summary shall describe the progress in the case since the last hearing and include DSS's recommendations. At least two weeks before each review hearing, every other party shall deliver in writing to the DSS attorney and all other parties any and all of the party's disagreements with or objections to the DSS

summary. If DSS receives any written disagreements or objections, DSS shall ask the clerk to schedule a pre-review conference and shall notify the other parties of the conference. The judge may participate in the conference and all parties shall attend. If a party fails to disagree with or object to DSS's summary in writing, the party may present evidence contrary to the summary only if the court finds good cause for the party's failure to disagree or object within the time prescribed herein.

- f. 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 review hearing order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

Priority Of Juvenile Court And Scheduling Of Proceedings

Rule 21. Priority of Juvenile Court

Juvenile cases involving abuse, neglect, or dependency shall have priority over all other district court matters.

Rule 22. Maintaining Case on Court Calendar

- a. Each case shall be maintained on the court calendar at all times, for as long as juvenile court jurisdiction in the case continues.
- b. At or before the conclusion of each hearing, a subsequent hearing date shall be set.

Rule 23. Judicial Assignment

- a. Once a judge has presided over a particular case, subsequent hearings involving that case shall be heard by the same judge, if possible.
- b. Any function that these rules assign to a case manager may be carried out by a judge.

Rule 24. Extensions of Time and Continuances

- a. Extensions of time and continuances beyond the times specified by statute, court order, or these rules shall be granted only for good cause, regardless of whether the parties are in agreement.
- b. Requests for extensions of time and continuances shall be in writing, containing the reason for the request.