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STATE OF NORTH CAROLINA      IN THE GENERAL COURT OF JUSTICE  
TWENTY-SIXTH JUDICIAL DISTRICT      DISTRICT COURT DIVISION

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DISTRICT COURT DIVISION, D.S.C.

BY \_\_\_\_\_

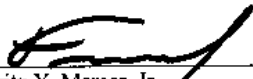
In Re: Local Rules and Procedures for )  
Juvenile Abuse, Neglect, and )  
Dependency Cases in the 26<sup>th</sup> )  
Judicial District, District/Family )  
Court Division )

**ADMINISTRATIVE ORDER**

Pursuant to Rule 40(a), North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts, the attached rules for juvenile abuse, neglect, and dependency cases in the Twenty-Sixth Judicial District, District/Family Court Division, are hereby amended and adopted effective for all juvenile abuse, neglect, and dependency cases pending on or filed after September 16, 2008.

These rules supersede all previous abuse, neglect, and dependency rules of the District/Family Court division of the Twenty-Sixth Judicial District.

IT IS SO ORDERED, this the 27 day of Oct., 2008.

  
\_\_\_\_\_  
Fritz Y. Mercer, Jr.  
Chief District Court Judge

**TWENTY SIXTH JUDICIAL DISTRICT  
 DISTRICT COURT  
 JUVENILE DIVISION  
 ABUSE/NEGLECT/DEPENDENCY  
 LOCAL RULES  
 TABLE OF CONTENTS**

<b>RULE 1.</b>	<b>SCOPE .....</b>	<b>3</b>
<b>RULE 2.</b>	<b>PURPOSE .....</b>	<b>3</b>
<b>RULE 3.</b>	<b>CONSTRUCTION .....</b>	<b>4</b>
<b>RULE 4.</b>	<b>DEFINITIONS .....</b>	<b>4</b>
<b>RULE 5.</b>	<b>TIME STANDARDS .....</b>	<b>5</b>
<b>RULE 6.</b>	<b>COURT APPOINTED COUNSEL; DUTIES; RESPONSIBILITIES .....</b>	<b>6</b>
<b>RULE 7.</b>	<b>CALENDARING, MONITORING ABUSE &amp; NEGLECT CASES.....</b>	<b>7</b>
<b>RULE 8.</b>	<b>FILING &amp; SERVICE OF ABUSE &amp; NEGLECT ACTIONS .....</b>	<b>7</b>
<b>RULE 9.</b>	<b>SERVICE OF NOTICE .....</b>	<b>8</b>
<b>RULE 10.</b>	<b>GEO DISTRICT CASE ASSIGNMENT.....</b>	<b>8</b>
<b>RULE 11.</b>	<b>HEARINGS .....</b>	<b>9</b>
<b>RULE 12.</b>	<b>TEMPORARY CUSTODY .....</b>	<b>9</b>
<b>RULE 13.</b>	<b>NON SECURE CUSTODY .....</b>	<b>10</b>
<b>RULE 14.</b>	<b>NON SECURE CUSTODY HEARING &amp; ORDER .....</b>	<b>11</b>
<b>RULE 15.</b>	<b>ADJUDICATION HEARING &amp; ORDER .....</b>	<b>12</b>
<b>RULE 16.</b>	<b>DISPOSITION HEARING &amp; ORDER .....</b>	<b>13</b>
<b>RULE 17.</b>	<b>REVIEW HEARINGS &amp; ORDER .....</b>	<b>15</b>
<b>RULE 18.</b>	<b>PERMANENCY PLANNING HEARINGS &amp; ORDER .....</b>	<b>16</b>
<b>RULE 19.</b>	<b>TERMINATION OF PARENTAL RIGHTS .....</b>	<b>17</b>
<b>RULE 20.</b>	<b>POST TERMINATION HEARINGS &amp; ORDER .....</b>	<b>18</b>
<b>RULE 21.</b>	<b>PLACEMENT AND VISITATION .....</b>	<b>18</b>
<b>RULE 22.</b>	<b>COURT REPORTS .....</b>	<b>19</b>
<b>RULE 23.</b>	<b>PREPARATION AND DISTRIBUTION OF ORDERS .....</b>	<b>20</b>
<b>RULE 24.</b>	<b>EXTENSION OF TIME &amp; CONTINUANCES .....</b>	<b>21</b>
<b>RULE 25.</b>	<b>PERMANENCY MEDIATION .....</b>	<b>22</b>
<b>RULE 26.</b>	<b>RESOLVING SCHEDULED HEARING CONFLICTS .....</b>	<b>25</b>
<b>RULE 27.</b>	<b>DISCOVERY .....</b>	<b>26</b>
<b>RULE 28.</b>	<b>TRANSFER TO CIVIL; TERMINATE JURISDICTION .....</b>	<b>27</b>
<b>RULE 29.</b>	<b>CONSOLIDATION WITH CIVIL CASE .....</b>	<b>28</b>
<b>RULE 30.</b>	<b>EXPUNCTION .....</b>	<b>28</b>
<b>RULE 31.</b>	<b>FORENSIC EVALUATIONS .....</b>	<b>30</b>
<b>RULE 32.</b>	<b>WRITS .....</b>	<b>30</b>
<b>RULE 33.</b>	<b>DOMESTIC VIOLENCE PROTOCOL .....</b>	<b>31</b>
<b>RULE 34.</b>	<b>SANCTIONS .....</b>	<b>31</b>
<b>RULE 35.</b>	<b>FEE PETITIONS .....</b>	<b>31</b>
<b>APPENDIX.</b>	<b>SAMPLE FORMS, ORDERS, &amp; PROTOCOLS .....</b>	<b>34</b>

**26<sup>TH</sup> JUDICIAL DISTRICT  
FAMILY COURT DIVISION  
LOCAL RULES FOR ABUSE AND NEGLECT CASES**

**Rule 1. Scope**

- a. These rules shall apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected or dependent. They are promulgated in compliance with Rule 40(a) of the North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts.
- b. These rules supercede all previous local rules concerning Juvenile abuse and neglect proceedings.
- c. These rules and all amendments hereafter shall be filed with the Juvenile Court Clerk and may be cited accordingly as Juvenile Abuse and Neglect Rules.
- d. These rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, the Family Court administrator is authorized to act in his or her discretion, subject to consultation with the Chief District Court Judge or Assigned Judge.
- e. Where forms are specified to be used, Parties must use that form.
- f. The Family Court Administrator's Office shall maintain and make available to the public copies of these rules and associated forms upon request.

**Rule 2. Purpose**

- a. These local rules establish procedures for abuse and neglect proceedings.
- b. They are designed to help achieve a permanent, stable and safe home for juveniles who come under that court's jurisdiction in a timely manner. To that end, they serve the following purpose:
  - i. To provide for oversight in case planning;
  - ii. To encourage the involvement of families and juveniles in the decision making process;
  - iii. To assist parties in presenting issues and evidence to the court in an efficient manner;
  - iv. o eliminate unnecessary delays in court proceedings in order to reach permanence in a timely manner; and,
  - v. o otherwise ensure compliance with Chapter 7B of the North Carolina General Statutes and the Adoption and Safe Families Act (ASFA).

### **Rule 3. Construction**

These rules shall be liberally construed to accomplish the purposes set forth in Rule 2. The court may impose sanctions as hereinafter provided against a party, attorney or other participant under the court's jurisdiction who fails to comply with these rules.

### **Rule 4. Definitions**

For the purposes of these rules, each term shall be defined consistent with the definitions set out in N.C.G.S. 7B-101. In addition the following terms are defined herein:

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

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

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

**GEO District:** A certain geographical location (GEO District) within the county as determined by zip codes and designated within the courts as Districts 1 through 4 to which each judge is assigned for purposes of hearing juvenile petitions.

**Permanency Mediation:** An alternative dispute process to litigation designed to assist litigants in resolving contested allegations of abuse, neglect and dependency and developing family service agreements.

**Responsible Individual:** An individual identified by the department of social services as having committed abuse or serious neglect, upon a juvenile and also having the option of seeking to have his/her name expunged from a list maintained by Department of Health & Human Services (DHHS) known as the responsible individual's list (RIL).

**Guardian Ad Litem Volunteer:** A community or (citizen) volunteer appointed by the court in abuse/neglect and dependency cases, to conduct an independent and ongoing investigation of abuse/neglect/dependency and submit formal reports advocating for what they believe is in the best interest of the juvenile.

**Attorney Advocate:** An attorney assigned by the Guardian Ad Litem Program to represent juveniles who are alleged to be abused/neglected or dependent and to advocate for what is in the juvenile's best interest.

**Rule 17 Guardian:** An attorney appointed by the court in appropriate cases for the purpose of ensuring procedural compliance where the ward is a minor in the custody of DSS and also a parent, whose child is also in DSS custody; or in such other cases as the court deems appropriate.

## **Rule 5. (Statutory) Time Standards**

These time frames represent maximum time limits. In every case, the child's best interest is the paramount goal. These time frames are intended to be consistent with The Adoption and Safe Families Act (ASFA) and North Carolina statutory provisions. However, to the extent possible Family Court Guidelines as set out below should be the goal in each case.

- a. **Non-Secure Custody Hearing:** A hearing to determine the need for continued nonsecure custody. No juvenile shall be held under a nonsecure custody order for more than seven (7) calendar days without a hearing on the merits pursuant to N.C.G.S. 7B-506 or a hearing to determine the need for continued custody.
- b. **Adjudication:** The adjudication hearing shall be scheduled for the earliest possible date but in no event shall the hearing be conducted more than sixty (60) days after removal of the juvenile from his or her home. The case may be continued only consistent with N.C.G.S. 7B-803.
- c. **Disposition:** Whenever possible, the disposition hearing shall be conducted immediately at the conclusion of the adjudication. If this is not possible, the disposition shall be conducted at the earliest date possible but in no event more than thirty (30) days after the adjudication.
- d. **Review:** Review hearings shall be conducted as soon as practicable after the disposition, but the first review hearing shall be conducted not later than ninety (90) days after the disposition hearing. Subsequent review hearings shall be conducted not later than six (6) months after the first review hearing.
- e. **Permanency Planning:** A permanency planning hearing shall be conducted as soon as practicable but not later than twelve (12) months after removal of the juvenile from his or her home. This hearing may be combined with a scheduled review hearing. Subsequent permanency planning hearings shall be conducted at least every six (6) months thereafter.

**Family Court Guidelines.** (Best Practice – Whenever practical and possible Family court will attempt to meet family court guidelines)

- a. Nonsecure Custody order entered; same day as petition filed
- b. First nonsecure custody hearing, not more than seven (7) days
- c. Adjudication Hearing, completed within sixty (60) days in 100 % of cases
- d. Dispositional Hearing, completed within sixty (60) days in 100% of cases
- e. First placement review, completed within 150 days
- f. First Permanency Planning Hearing completed within 330 days
- g. Reunification, completed within 330 days in 75% of cases and 510 days in 100% of cases where reunification is the goal
- h. Implementation of Other Permanent Plan within 330 days in 90% of cases and 365 days in 100% cases

- i. Termination of Parental rights filed within 390 days in 100% cases where TPR is the goal
- j. Termination hearing, completed within ninety (90) days of filing in 90% of cases or 180 days in 100%
- k. All orders are to be entered within thirty (30) days following completion of the hearing.

**Rule 6. Appointment of Counsel; Responsibilities of Attorneys**

- a. When a petition is filed alleging abuse, neglect, or dependency, the clerk shall provisionally assign separate counsel to represent each named parent and respondent whose address is known. The clerk shall personally notify the attorney(s) appointed of the date and time of the initial court hearing and shall place a copy of the summons, petition, and any orders in the attorney's box in the juvenile clerk's office if such box is assigned.
- b. If an attorney provisionally appointed to represent a parent has been unable to establish contact with the parent, and the represented parent has been duly served, the appointed attorney shall be permitted to withdraw from the case at the call of the adjudication hearing.
- c. If an attorney appointed to represent a parent has been unable to maintain contact with a parent subsequent to the adjudication hearing, the appointed attorney, upon motion, shall be permitted to withdraw from the case, at the first review hearing, absent compelling reason.
- d. Further, an attorney appointed to represent a parent may be permitted to withdraw at any time upon motion with good cause shown.
- e. To be eligible for appointment to represent parents, attorneys must satisfy the court:
  - i. That they have experience and skills to provide competent representation.
  - ii. That they have a good working knowledge of juvenile law, juvenile court procedures, and local rules;
  - iii. That they have a good understanding of juvenile protective services, ASFA, and the related mandates that apply to YFS and to Guardians *ad Litem*;
  - iv. That they have satisfactorily completed any initial and follow-up training specified by the chief district court judge, which includes certifying they have read the local rules on abuse and neglect proceedings, attended any orientation provided by the Family Court Administrator's Office and have observed, at a minimum, three (3) of each of the different hearing types conducted in abuse/neglect cases, including initial 7-day hearing, adjudication hearing, disposition hearing, review hearing, permanency planning hearing, at least one contested termination proceeding, and a Permanency Mediation session.
  - v. That they have a commitment to work with parents and juveniles; and;
  - vi. That they understand that failure to attend court proceedings, as scheduled, could jeopardize further appointments.

- f. An attorney shall not accept an appointment unless the attorney can be available for the first hearing in the case and, to the best of the attorney's knowledge, for other stages of the proceedings, including Termination of Parental Rights petitions and motions.
- g. An attorney who has a conflict in another court shall comply with the relevant rules relating to priority and, when absent from juvenile court because of a conflict, shall keep the courtroom clerk notified of his or her location at all times by writing on the calendar provided in the courtroom.
- h. The attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation.

**Rule 7. Calendaring and Monitoring of Abuse and Neglect Cases**

- a. The calendar for the disposition of Abuse & Neglect cases shall be set by the Juvenile Court Judge and when necessary by the Juvenile Court Clerk's Office, and maintained by the Juvenile Clerk's Office in accordance with these rules, the rules of record keeping, and under the supervision of the Chief District Court Judge. The calendar shall be made available to YFS, GAL, ADA, Parents Attorneys, AMH, DJJDP, the Family Court Administrator, and upon request, any other participant who as determined by the presiding judge is entitled to a copy.
- b. The Presiding Judge shall reschedule all cases "not reached" or continued, and the Juvenile Court Clerk shall document the rescheduled date on the court calendar.
- c. At the close of each session, the Family Court Administrator shall use the Juvenile Clerk's Calendar provided to them by juvenile clerk's office to determine the disposition and continuance rate for that session, and monitor for compliance with Family Court and ASFA time standards. All cases shall be entered into the court reporting system and disposition or continuance properly coded.

**Rule 8. Filing; Service of Petition and Summons**

From the date the abuse, neglect or dependency petition is filed until the adjudication hearing, the Petitioner shall have a continuing duty to identify and locate any respondent who has not been served with a copy of the summons and petition and to have the summons and petition served upon any such individual pursuant to 7B-407. In addition, after the petition has been filed, the social worker must:

- a. Attach 2 copies of the summons to each petition for each respondent being served
- b. Attach an information sheet for each respondent (an information sheet informs the deputies of alternative addresses where the respondent might be located)
- c. Take the summons, petitions and information sheet down to the sheriff's department on the first floor of the Mecklenburg County Courthouse. The petitions and summons are to be served as soon as possible but prior to initial hearing which is typically scheduled between 5-7 days after the filing of the petition.

- d. A completed summons showing return of service must be returned by Sheriff's Office to Juvenile Court Clerk's Office as soon as possible, and promptly filed in the appropriate juvenile file and, if possible, shall be filed prior to the nonsecure hearing.
- e. Due to the time constraints and nature of abuse and neglect proceedings, it is recognized that the sheriff's deputies may not be able to serve a parent before the initial hearing, therefore to avoid undue delay in conducting the non secure hearing, Mecklenburg County by Administrative Order also authorizes the Department of Social Service social workers to serve abuse, neglect and dependency petitions upon respondents. The administrative order is incorporated herein and attached as part of these local rules. If a respondent is served by a social worker, return must be shown in the official court file.

**Rule 9. Service of Notice:**

- a. Service of Notice as provided for in these rules, 7B-1106.1, and pursuant to Rule 5 of the North Carolina Rules of Civil Procedure, may be accomplished by depositing such documents in the attorney boxes located in the office of the clerk of Court, Juvenile Division, or by hand delivery or mail or fax.
- b. Service on unrepresented parties shall be accomplished by U.S. Mail, to the address of record, or last known address if different, prepaid and first class or as otherwise provided by law.
- c. Providing Notice to the clerk of court does not constitute providing Notice to the parties.

**Rule 10. GEO District Case Assignment:**

- a. Upon receipt of a new petition, the clerk's office shall enter the case into the J-Wise (court reporting) system by Geo-District rather than by judges names. Each Geo-District will be designated a number. Each judge will be assigned a particular Geo-District.
- b. Private case filings, such as emancipations or private TPR petitions, will be assigned pursuant to the random sequential ordering. They will not be assigned pursuant to Geo-Districts.
- c. All cases will be assigned based upon the permanent residence of the child and/or parent, guardian, custodian at the time the petition is filed. When children reside in out of home placements, such as group homes, residential treatment facilities, relative placements etc, at the time the petition is originally filed, the case will be assigned based on the parent's, guardian's, or custodian's home address.
- d. When a "permanent address" cannot be located in Mecklenburg County for the child and/or parent, guardian, custodian, the cases shall be assigned as provided for in paragraph b above. They will not be assigned pursuant to Geo-Districts.

- e. Cases transferred to the 26th Judicial District from other jurisdictions will be assigned to the Geo-District that contains the new residence of the child and/or parent, guardian, or custodian.
- f. Sibling cases will be assigned to the Geo-District according to the order in which the cases originated. Thus, the first sibling upon whom a petition is filed shall determine the Geo-District for all members of that sibling group. This presumption can be overridden only upon agreement between the respective judges.
- g. Once assigned to a specific Geo-District, cases may only be transferred to another district by the assigned judge and only upon extraordinary circumstances. Thus if a child and/or family move while the case is open, the child's case will remain in its original Geo-District.
- h. In cases involving a minor currently assigned to a Geo-District, who gives birth, the newborn's case shall also be assigned to the same Geo-District as the minor mother's regardless of the permanent address of the parties.
- i. When a case is closed by the court, subsequent petitions will be assigned pursuant to the Geo-District in which the child and parent, guardian or custodian reside at the time of the subsequent filing. Upon motion of the court or any party, a newly assigned judge may transfer the case back to its original Geo-District. (For purposes of these provisions, abuse and neglect cases are closed when YFS custody is divested and no further hearings are scheduled or the child's adoption has been finalized.)
- j. Parent attorneys shall be assigned to Geo-Districts effective 1 August 2008
- k. All cases assigned under the previous system will be grandfathered and shall remain as originally assigned.

These rules are promulgated with the intent to reinforce the one judge one family model and simultaneously implement Geo-Districting.

### **Rule 11. Hearings**

Pursuant to N.C.G.S. 7B-801, Juvenile Court shall, at the discretion of the Presiding Judge, be an open public forum.

### **Rule 12. Temporary Custody**

- a. A juvenile may be taken into temporary custody without a court order by a law enforcement officer or Youth and Family Services (YFS) social worker if there are reasonable grounds to believe that the juvenile is abused, neglected or dependent and that he or she would be injured or could not be taken into custody if it were first necessary to obtain a court order. (N.C.G.S. 7B-500).
- b. Any person taking a juvenile into custody pursuant to N.C.G.S. 7B-500 shall:
  - i. Notify the juvenile's parent, guardian, custodian, or caretaker that the juvenile has been taken into temporary custody and advise the parent, guardian, custodian, or caretaker of his or her rights pursuant to N.C.G.S. 7B-501(a)(1).

- ii. Release the juvenile to the juvenile's parent, guardian, custodian, or caretaker if the person having the juvenile in temporary custody decides that continued custody is not necessary.
  - iii. If a law enforcement officer, communicate with and surrender the juvenile to the director of social services if the juvenile has not been released under (i) or (ii) above.
- c. No Juvenile shall be held in temporary custody for more than twelve hours, or for more than twenty-four hours if any of the twelve hours falls on a Saturday, Sunday or legal holiday unless a petition or motion is filed and an order for non-secure custody is entered by the court.

**Rule 13. Non-Secure Custody**

- a. In the event a decision is made by YFS to file a petition regarding a juvenile (whether or not that juvenile is in temporary custody) and a request for the issuance of a non-secure custody order is made, the following shall apply:
  - i. Immediately after a petition has been filed alleging a juvenile is abused, neglected or dependent, the clerk shall issue a summons to the parent, guardian, custodian or caretaker requiring him or her to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. The summons shall comply with N.C.G.S.7B-406.
  - ii. The information required by N.C.G.S.50A-209 [The Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)] shall be included in the petition, in an affidavit attached to and served with the petition, or in a separate affidavit filed with the court and served on the parties as soon as feasible after the petition is filed.
  - iii. Upon the filing of any petition, the court shall appoint an attorney advocate for the juvenile and counsel for any parent whose whereabouts are known. The clerk shall notify each attorney of the appointment by telephone. The clerk shall also notify the Guardian ad litem (GAL) Administrator of the filing of the petition. The GAL administrator shall assign a GAL to represent the juvenile and shall notify the clerk of that assignment, and that GAL shall be appointed by the court, and shall have the duties and authority set out in N.C.G.S. 7B-601.
  - iv. Upon the filing of any petition, the clerk shall also cause the attorney advocate, the parents' attorney(s), any unrepresented parents, and the GAL to receive copies of the petition and summons, and any non-secure custody order, the UCCJEA Affidavit and the reasonable efforts report.
  - v. The clerk shall assign the case consistent with Rule 10 of these local rules (Geo District).
  - vi. From the date the petition is filed until the adjudicatory hearing, the petitioner shall have a continuing duty to make efforts to identify and locate any parent or respondent who has not been served or whose whereabouts are unknown, and to have a copy of the summons and petition served upon that individual.

- vii. If a petition is filed, and non-secure custody is not sought, the court shall schedule the case for adjudication as soon as practicable, preferably within sixty (60) days.
- viii. If a petition is filed and the request for non-secure custody is denied, the court shall schedule the case for an initial hearing within seven days of the date of the petition, at the request of the YFS Attorney.

**Rule 14. Initial Non-Secure Custody Hearing**

- a. When a juvenile has been placed in non-secure custody, the court shall conduct a hearing pursuant to 7B-506 to determine the need for continued custody. The hearing shall be held within seven days of the date the non-secure order was signed.
- b. Upon the request of the GAL or attorney advocate, YFS shall cause any juveniles to be present or available nearby at the initial hearing unless the juvenile is physically unable to be present.
- c. YFS shall file a reasonable efforts report if such report was not filed with the petition. Counsel for all parties shall be prepared to address reasonable efforts issues.
- d. At the non-secure custody hearing the court shall:
  - i. Introduce itself and the parties;
  - ii. Review the nature of the proceeding and the purposes of the hearing;
  - iii. Address any issues relating to adequacy of notice and service of process;
  - iv. Follow up on any pending issues regarding the identity or whereabouts of any parent, guardian, custodian or caretaker of the juvenile;
  - v. Receive sworn testimony if necessary from the parties to determine:
    - 1 Whether a condition or risk justifying continued non-secure custody exists under G.S. 7B-503;
    - 2 What efforts the petitioner has made to eliminate the need for non-secure custody;
  - vi. Determine the applicability of the Interstate Compact on Juveniles;
  - vii. Confirm the appointment of the attorney advocate and the guardian ad Litem;
  - viii. Provide the parents with form affidavits of financial standing to be completed by and filed at the adjudicatory hearing;
  - ix. Record the entry of privately retained counsel, confirm the appointment of counsel, deny court appointed counsel, or determine that the parents have freely, voluntarily, and intelligently waived their right to counsel and/or court-appointed counsel with the full knowledge of the consequences, including termination of parental rights; and
  - xi. Advise the parents that they may have to reimburse the state for fees of court appointed counsel and/or the attorney advocate.
  - xii. Advise parents of ASFA time constraints

- xiii. Ensure entries are made into J-Wise (court reporting system) as required by AOC
- e. At the conclusion of the non-secure custody hearing, the court shall enter an order which makes specific findings of fact regarding whether there is a reasonable factual basis to believe:
  - 1. That the matters alleged in the petition are true;
  - 2. That continued non-secure custody is supported by one or more of the criteria set forth in G.S. 7B-503; and
  - 3. That there are no other reasonable means available to protect the juvenile.
- f. If the court determines that continued non-secure custody is necessary, the court shall also make appropriate orders regarding 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.
- g. The date, time and place of the adjudicatory hearing shall be stated in open court by the clerk and noted in the initial non-secure custody hearing order, and no one present will be entitled to any further notice of that hearing. If such hearing is intended to be an adjudicatory hearing, that intent should also be noted. Any party entitled to notice shall be provided a copy of the initial non-secure custody hearing order.
- h. If the petition alleges abuse and/or neglect, the case shall be ordered into mediation, if appropriate. If the petition alleges dependency, the case may be ordered into mediation in the discretion of the court or upon request of any party.

**Rule 15. Adjudication Hearing**

- a. The adjudicatory hearing shall be held within sixty (60) days of the initial non-secure custody hearing.
- b. The adjudicatory hearing shall be conducted in a manner consistent with G.S. 7B-807.
- c. Any party may subpoena the juvenile to be present at the hearing.

- d. In cases not set for trial, the court may accept into evidence either, stipulations to the allegations contained in the petition, a mediated agreement, or a combination of both.
- e. Before accepting a stipulation to findings, conclusions, or provisions of the court's adjudicatory order, the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation, including, if applicable, the possibility that the juvenile may be removed permanently from the home 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 court's findings shall be set forth on the record.
- f. YFS shall file an updated reasonable efforts report at the conclusion of the adjudicatory hearing, and such report shall be available to all attorneys prior to the commencement of the hearing.
- g. If the court adjudicates the juvenile abused, neglected or dependent, the court shall then determine and set forth in an order the following:
  - i. Custody of the juvenile pending the dispositional hearing;
  - ii. Parent and sibling visitation;
  - iii. Child support;
  - iv. Whether there should be a positive finding of reasonable efforts;
  - v. What other efforts are needed to meet the needs of the juvenile;
  - vi. The date of the next scheduled hearing; and
  - vii. Such further orders as may be indicated.
- h. The date, time and place of the next scheduled hearing shall be stated in open court by the clerk and noted in the adjudicatory order, and no one present will be entitled to any further notice of that hearing. Any party entitled to notice shall be provided a copy of the adjudicatory hearing order.
- i. If a dispositional plan has not been developed, then all necessary parties are encouraged to meet prior to the next scheduled hearing for the purpose of collaborating on the development of a case plan.

**Rule 16. Disposition Hearing**

- a. The dispositional hearing shall be held immediately following the adjudication or concluded within thirty (30) days thereafter.
- b. The clerk shall notify anyone not present and entitled to notice pursuant to G.S. 7B-906. Any juvenile in the custody of YFS who will be twelve years of age or older on the date of the dispositional hearing shall attend the hearing, unless upon timely and written motion, with notice to all parties and for good cause shown, he or she is relieved of that obligation by court order. Such court order shall be continuing unless some party shall follow the procedure hereinafter set forth in Rule 16c.
- c. While it is recognized by these rules that all juveniles have a right to attend and participate in these proceedings, it is also recognized that there must be a balance of

that right with, among other things, judicial economy, the ability of juvenile to provide meaningful input, the appropriateness of the juvenile's participation, as well as the juvenile's desire to attend or not attend, therefore any juvenile in the custody of YFS who is under twelve years of age may attend the disposition, but is not required to be present. Any party who wants a juvenile under the age of twelve to be present and who cannot secure the agreement of the other parties to cause that juvenile to be present at the hearing, may upon timely and written motion, with notice to all parties, request that the agency or individual with custody of the juvenile cause the juvenile to be brought to the hearing. The court, in its discretion, may order the juvenile to be present after reviewing the submitted motion and response, if any, and/or after hearing from the parties.

- d. Any local agency where a juvenile is placed is requested to have a representative present at the dispositional hearing.
- e. At least one of the foster parents for any juvenile is requested to be present at that juvenile's dispositional hearing and may submit a written report.
- f. Any agency that is unable to send a representative for the hearing shall provide the court with a written report regarding the juvenile, with such written report to be provided to all parties at least three (3) working days prior to the scheduled hearing.
- g. The social worker shall provide the clerk with the mailing address of the foster parents not less than thirty (30) days prior to the date set for the hearing. The notice of hearing to the foster parents shall be separate from the notice mailed to all other persons and the clerk shall maintain all notices to foster parents in one file and no such notice shall be placed in the file of any juvenile. No one may examine any notice of review to foster parents except by order of the court.
- h. The dispositional hearing shall be conducted in a manner consistent with G.S. 7B-901.
- i. YFS shall provide to counsel for all parties, the GAL, and the assigned judge an updated reasonable efforts report and the court summary, including the case plan, at least three (3) working days prior to the hearing.
- j. The GAL shall provide to counsel for all parties, the YFS social worker and the assigned judge a written report at least three (3) working days prior to the hearing.
- k. Counsel for all parties shall be prepared to address the reasonable efforts issue.
- l. The dispositional hearing order shall be entered in compliance with the requirements of G.S. 7B-905.
- m. The date, time and place of the next scheduled hearing shall be stated in open court by the clerk and noted in the dispositional order, and no one present will be entitled to any further notice of that hearing. Any party entitled to notice shall be provided a copy of the dispositional hearing order. The clerk shall notify anyone not present but entitled to notice pursuant to G.S. 7B-906.
- n. Any juvenile who has been adjudicated delinquent and placed in the custody of the Department of Social Services as a dispositional alternative under N.C.G.S. 7B-903

shall have the Council for Children's Rights appointed as a GAL if a guardian ad litem has not been previously appointed.

**Rule 17. Review Hearing**

- a. A Review Hearing shall be held within ninety (90) days of the date of the dispositional hearing.
- b. Any juvenile in the custody of YFS who will be twelve years of age or older on the date of the review hearing shall attend the hearing, unless upon timely and written motion, with notice to all parties and for good cause shown, he or she is relieved of that obligation by court order..
- c. Any juvenile in the custody of YFS who is under twelve years of age may attend the review but is not required to be present. Any party who wants a juvenile under the age of twelve to be present and who cannot secure the agreement of the other parties to cause that juvenile to be present at the hearing, may upon timely and written motion, with notice to all parties, request that the agency or individual with custody of the juvenile cause the juvenile to be brought to the hearing. The court, in its discretion, may order the juvenile to be present after reviewing the submitted motion and response, if any, and/or after hearing from the parties
- d. Any local agency where a juvenile is placed is requested to have a representative Present at any review hearing regarding that juvenile.
- e. At least one of the foster parents for any juvenile is requested to be present at the juvenile's review hearing and may submit a written report.
- f. Any agency that is unable to send a representative for the hearing shall Provide the court with a written report regarding the juvenile, with such written report to be provided to all parties at least three (3) business days prior to the scheduled hearing.
- g. The social worker shall provide the clerk with the mailing address of the foster parents not less than thirty (30) days prior to the date set for the hearing. The notice of hearing, if required, to the foster parents shall be separate from the notice mailed to all other persons and the clerk shall maintain all notices to foster parents in one file and no such notice shall be placed in the file of any juvenile. No one may examine any notice of review to any foster parents except by order of the court.
- h. The review hearing shall be conducted in a manner consistent with G.S.7B-906(c).
- i. YFS shall provide to counsel for all parties, the GAL, and the assigned judge an updated reasonable efforts report and the court summary, including the case plan, at least three (3) working days prior to the hearing.
- j. The GAL shall provide to counsel for all parties, the YFS social worker, and the assigned judge a written report at least three (3) working days prior to the hearing.
- k. Counsel for all parties shall be prepared to address the reasonable efforts issues.

- l. The court shall review the updated Reasonable Efforts report, the GAL report, the court summary including the case plan, and any other timely submitted reports, and shall determine the following:
  - i. The extent of compliance with the case plan;
  - ii. The extent of progress toward alleviating or mitigating the problems that necessitated placement; and,
  - iii. Custody and placement.
- m. If the court determines that the juvenile shall be returned to the parents, then the court shall make findings of fact and conclusions of law that the efforts made by YFS to accomplish reunification were reasonable.
- n. If the court determines that the juvenile should remain or be placed outside the custody of the parents, then the court shall find facts to support the conclusion that returning the juvenile home would be contrary to the juvenile's best interest and welfare; and shall consider, where relevant, the criteria set forth in G.S. 7B-906(c)(1) et.seq.
- o. The court shall also consider the extent to which the parties have complied with prior orders; what, if any, modifications of those orders should be made; what if any, unmet needs the juvenile has and how to meet those needs; and should address the issues of visitation and child support.
- p. If custody is not restored to the parents, the matter shall be redocketed for further review as soon as necessary and in no event more than six months later, unless the provisions of G.S. 7B-906(b) apply. In no case shall review hearings be waived for more than twelve months. The provisions of this section shall apply to all subsequent review hearings.

**Rule 18. Permanency Planning Hearing**

- a. In addition to the review hearing required by Rule 17, there shall be a permanency planning hearing for all juveniles placed outside the custody of their parents not later than twelve (12) months from the date of the initial order removing custody. Subsequent permanency planning hearings shall be held at least every six (6) months thereafter or earlier as set by the court, unless the provisions of G.S. 7B-906 apply, to review the progress made in finalizing the permanent plan for the juvenile or, if necessary, to make a new permanent plan for the juvenile. If appropriate, such hearing may be combined with a review hearing required by G.S. 7B-906.
- b. All reasonable efforts reports, court summaries and reports shall be provided by facsimile or by U.S. Postal Service fourteen (14) days prior to the permanency planning hearing. If the court summaries or reports are objected to, then the objecting party may issue subpoenas and may provide an alternative report by facsimile or U.S. Postal Service, postage prepaid, to all parties seven (7) working days prior to the permanency planning hearing.

- c. Additionally, the court shall determine at the permanency planning hearing whether the plan is to proceed toward:
  - i. Reunification;
  - ii. TPR and adoption;
  - iii. Kinship care;
  - iv. OPPLA or
  - vi. Independent living.

If the court determines that none of these alternatives is in the juvenile's best interest, then it may authorize an alternative plan for a specified period of time.

**Rule 19. Termination of Parental Rights:**

- a. The Court, upon adopting Termination of Parental rights as the goal of a case shall schedule a Special Pre-Trial Hearing not sooner than sixty (60) days from the hearing where the termination goal was adopted. The purpose of the hearing shall be, among other things, to determine the issues raised by the petition/motion and any filed answer/response, address any issues regarding appointment of counsel, scheduling the termination hearing or any other matters properly before the court. All appointed counsel of record in the termination action shall attend the hearing. For convenience and judicial economy, this hearing may be scheduled simultaneously as a regularly scheduled review or permanency planning hearing.
- b. At any hearing where the court adopts a goal of termination of parental rights and a petition to terminate shall be file, the court shall, unless requested otherwise by appointed counsel, shall re-appoint the same counsel in the termination action, as represented the parent(s) in the underlying abuse, neglect and neglect action. The petitioner shall mail a copy of the summons and petition to the attorney. If the respondent does not qualify for court appointed counsel, the appointment shall not be approved by the Court. If the termination action is filed as a Motion in the Cause, pursuant to NCGS §7B-1102, the current appointed counsel, shall continue representation, unless that attorney has been allowed by the Court to withdraw. Notice shall be provided to appointed counsel.
- c. Termination petitions/motions shall be filed not more than 60 days following the hearing where termination of parental rights was adopted as the goal of the case.
- d. For any unknown father the court shall conduct a John Doe hearing within ten (10) days following the filing of the petition. The Court shall be guided by N.C.G.S §7B-1105
- e. The hearing on the termination petition/motion shall be conducted at such time as the court directs, but no later than ninety (90) days from the filing of the petition or motion unless the judge pursuant to rule 24 orders that the hearing be conducted at a later date and time.
- f. Upon motion, a termination proceeding may be bifurcated. Absent a motion to bifurcate, and for judicial economy, evidence on grounds and best interest shall be received at the same time. The rules of evidence apply.

- g. All Orders terminating parental rights shall be entered within 30 days following the termination hearing.
- h. Post Termination Reviews shall be held at least every 6 months thereafter until an Adoption Order has been entered.

**Rule 20. Post Termination Hearing**

- a. A placement review shall be held no later than six (6) months from the date of termination of parental rights. Post termination review hearings shall be conducted pursuant to NCGS §7B-908 every six (6) months thereafter until the juvenile is adopted.
- b. The clerk shall give notice of the post termination hearing no more than thirty (30) and no less than fifteen (15) days prior to the hearing unless the hearing has been previously scheduled by the court. Except as otherwise directed by the court, only the juvenile, if twelve (12) years or older, the agency with custody, the person giving care for the juvenile, the Guardian ad Litem, foster parent, other relative or pre-adoptive parent shall attend. Any parent whose rights have been terminated shall not be considered a party to the proceeding unless an appeal of the order terminating parental rights is pending and a court has stayed the order pending the appeal.
- c. At the post termination review hearing, the Court shall allow sufficient time to hear information from the parties and from any other agency, which will aid the Court in its review. Information consistent with the requirements of 7B-908 shall be submitted in writing to the court by DSS and GAL.
- d. The Court after making findings of fact, shall affirm the county department's or child placing agency plans or require specific additional steps which are necessary to accomplish a permanent placement which is in the best interest of the juvenile.

**Rule 21. Placement and Visitation**

- a. Except in an emergency, or otherwise authorized by the court, YFS shall not change visitation established by court order without court approval. There shall be written contemporaneous notice to all necessary parties.
- b. Except in an emergency, YFS shall not change any juvenile's placement without giving prior written notice, as far in advance of the change as possible, to the GAL, attorney advocate, parents' attorneys, the court, and any other party involved.
- c. Whenever YFS changes a juvenile's placement because of an emergency it shall immediately notify, in writing, as to the change and the nature of the emergency, the parents or parents' attorneys, the attorney advocate (who shall then notify the GAL) and the court. All parties, except the court, shall also be notified by telephone.
- d. YFS shall immediately notify in writing the parents or parents' attorneys, the attorney advocate (who shall then notify the GAL) and the court whenever it becomes aware that a juvenile in its custody, legal or physical, has run away, and shall immediately

seek a secure custody order. All parties, except the court, shall also be notified by telephone.

- e. Whenever a runaway juvenile in YFS custody is apprehended pursuant to a secure custody order, the detention facility shall immediately notify the juvenile court counselor and the YFS social worker in order that they may facilitate placement without a detention hearing or be present if a detention hearing is necessary.
- f. Whenever YFS becomes aware that any runaway juvenile has been returned to the parents or to the placement from which he or she ran, or can be located elsewhere, it shall immediately:
  - i. Telephone the parents, the parents' attorneys, and the attorney advocate (who shall then notify the GAL) and advise them of the juvenile's condition and whereabouts; and
  - ii. If a secure custody order is outstanding also telephone the assigned court counselor who shall retrieve that order from the sheriff, unless otherwise instructed by the court.
- g. In any case where a juvenile has been adjudicated abused, neglected or dependent and removed from the custody of the parents by court order, the juvenile shall not be returned to the legal or physical custody of the parents without a hearing at which the court finds sufficient facts to conclude that the juvenile will receive proper supervision and care and that it is in the juvenile's best interests.
- h. Any party may, upon written motion and notice, cause a case to be scheduled to consider a visitation or placement issue.

**Rule 22. Court Reports and Summaries**

- a. YFS shall provide an updated Reasonable Efforts report in compliance with Rules 14(d),15(f),16(i),17(i), unless excused by statute or the court.
- b. The GAL shall provide a written report in compliance with Rules 16(j), and 17(j).
- c. YFS shall provide a written court summary in compliance with Rules 16(i) and 17(i) which shall include the following information, obtained since the last submitted court summary:
  - i. Identifying information:
    - 1. Current names and complete addresses of the parties or a statement why such information is not provided;
    - 2. Each juvenile's date of birth;
    - 3. Court file numbers;
    - 4. Date of the hearing;
    - 5. Date court summary was prepared; and,
    - 6. Name of the person who prepared the court summary.
  - ii. Procedural History
    - 1. Procedural history of the case, including when the juvenile first came into YFS custody and by what legal process, a summary of the legal changes and events which have transpired since the initial entry into custody, and the reasons why the legal changes and events occurred;

2. Listing of all placements in which the juvenile has been, giving dates of entry and change, reasons for the placement or change, the nature of the placement (foster home, emergency foster home, specialized foster care, institution, etc.) and the relative success or lack of success of each placement;
  3. If parents have not been served or are not currently communicating with the agency, what have been the agency's efforts to locate them, provide them with notice of the proceedings, and involve them in planning for the child;
  4. Family history and whether the juvenile has any siblings, and if so, the age, legal custodian and residence or placement of each sibling;
  5. Information regarding child support issues; and,
  6. Additional information, if appropriate, regarding any changes in social worker assignment for a particular case.
- iii. Services History
1. The needs of the juvenile (emotional, educational, medical, psychological, etc.) and how these needs have been met while in YFS custody;
  2. Extent to which problems causing state intervention have been remedied, the changes which still need to occur, and the specific actions the parents should take to make the changes;
  3. Services and assistance which have been offered or provided to the parents since the previous hearing and the services which are needed in the future;
  4. Compliance by the agency and parents with the case plan, previous court orders and YFS recommendations;
  5. Recommended changes in previous court orders and recommendations;
  6. Whether the current placement is appropriate, including its distance from home and whether or not it is the least restrictive (most family like) placement available;
  7. Parental visits since the previous court hearing, and any suggested changes in the visitation plan;
  8. Information concerning other relatives who may be sources of information for the court or who are potential resources for helping the juvenile; and,
  9. A proposed timetable for return home or other permanent placement.

**Rule 23. Preparation and Distribution of Orders**

- a. Unless the court directs otherwise, for every hearing, the attorney for YFS shall prepare a written order, reflecting Findings of Fact, Conclusions of Law and the Court's order, which shall be submitted to the court no later than twenty-one (21) days following the conclusion of the hearing or the court's ruling, whichever is later.
- b. At the request of counsel for any party or the court, YFS shall provide the proposed order to counsel for all parties for comment prior to submitting it to the court. All counsel shall respond with comments or objections within three (3) days of the receipt of the order. Any disagreements over the terms of the order which cannot be resolved shall be submitted to the court in writing.

- c. Each order shall contain all appropriate Findings of Fact, Conclusions of Law and Decretal Provisions required by these rules and by statute.
- d. Each order shall state the date and time of the next scheduled hearing, and the type of hearing.
- e. Once the order has been signed and filed, the clerk shall distribute copies to counsel for all parties, the GAL and unrepresented parties.
- f. YFS shall provide a copy of every order to any foster parent or agency in whose care the juvenile is residing and, if appropriate, to the juvenile.

#### **Rule 24. Extension of Time and Continuances**

Extensions of time beyond the times specified by statute, court order or these rules shall only be granted for good cause where the court requires additional time to receive evidence, reports or assessments, or other information needed in the best interest of the juvenile; or to allow for a reasonable time for the parties to conduct expeditious discovery.

- a. Continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interest of the juvenile. Consent of the parties alone or the fact that the case has not been continued previously shall not be considered good cause for an extension or continuance. In ruling on a request for a continuance, the Court shall consider the availability of the parties and all witnesses, and whether such continuance would promote the purposes of these rules, protect the rights of the parties and the best interest of the juvenile. A factor to be considered in granting a continuance shall be when the movant knew or should have known of the conflict which forms the basis for the request.
- b. Whenever possible, motions for extensions or continuances shall be presented or submitted in writing to the assigned District Court Judge at least five (5) calendar days in advance of the scheduled hearing date. All parties shall be served with a copy of the motion and given an opportunity to be heard on the motion. The Motion shall state the reason for the request, efforts made to comply with the rules and whether all other counsel involved in the case consent or object to the extension or continuance. If all counsel consent, the Movant may, simultaneously with the filing of the Motion, attach an order allowing the motion, and in such case shall also provide for a new hearing date and time, and shall state clearly the reasons for the continuance or extension.
- c. In extraordinary circumstance where time does not permit the filing of a Motion five (5) calendar days in advance of the hearing, the court may consider an oral Motion for an extension or continuance. All parties shall be given an opportunity to be heard.
- d. All orders granting a continuance or extension must be in writing, shall be prepared by the moving party and submitted to the court for signature at the conclusion of the hearing on the motion or within seven (7) days thereafter and shall contain the next hearing date.

- e. To avoid undue delays, the movant shall make every effort to secure substitute counsel who shall be ready, willing and able to move forward with the hearing as scheduled. However, where a hearing has begun but not yet concluded, it is expected by the court, absent extraordinary circumstances that counsel will represent respondent parent at each scheduled hearing. Securing substitute counsel at the last minute for contested hearings or hearings not yet concluded shall not be accepted by the court.
- f. The clerk shall distribute copies of the order to counsel for all parties, the GAL and any unrepresented party.
- g. If appropriate, YFS shall provide a copy of the order to any foster parent, the agency in whose care the juvenile is residing and, to the juvenile.

**Rule 25. Permanency Mediation**

- a. The Court may order parties to participate in permanency mediation prior to the adjudicatory hearing or, in exceptional circumstances, at a later stage in the case.
- b. To the extent possible, the mediation date shall be selected by consensus of the parties present at the court hearing. Parties ordered to mediation at the initial hearing shall be scheduled for mediation on a date that is prior to the scheduled adjudication/disposition date. Regardless of the mediation outcome, the parties shall report to court on the scheduled adjudication/disposition date to proceed with the adjudication.
- c. YFS shall ensure that the mediation coordinator is provided with a copy of the juvenile petition prior to or at the time of referral to mediation.
- d. The YFS attorney shall assist the mediation coordinator in completing the mediation referral form. Completed referral forms, if left in the hands of the YFS attorney, shall be placed in the Permanency Mediation box in the clerk's office prior to departure from the courthouse.
- e. Upon taking a referral in the courtroom, the mediation coordinator shall give an appointment card with the chosen date and time of the mediation session.
- f. If a case is referred to mediation at a hearing, but at a time when the mediation coordinator is unavailable (i.e., after the Permanency Mediation Office has closed for the day), the date, time, and location shall be temporarily set as "To Be Announced." The next business day, the person requesting mediation shall contact the mediation coordinator, who shall complete the mediation referral form. The mediation coordinator shall follow up with the parties and attorneys in the case within ten days of the referral to schedule the mediation session by consensus, to the extent possible, of the parties who are to attend. If the mediation session cannot be scheduled prior to the scheduled adjudication, the person requesting mediation may request a continuance of the adjudication. Continuances shall only be granted when the mediation and adjudication can be scheduled for a date that is no later than 60 days from the date the juvenile petition was filed.

- g. With the consensus of all parties, cases may be referred to mediation after the initial hearing but prior to the adjudicatory hearing. To initiate this process, the person requesting mediation shall contact the mediation coordinator, who shall complete the mediation referral form. The mediation coordinator shall follow up with the parties and attorneys in the case within ten days of the referral to schedule the mediation session by consensus, to the extent possible, of the parties who are to attend. If the mediation session cannot be scheduled prior to the scheduled adjudication, the person requesting mediation may request a continuance of the adjudication. Continuances shall only be granted when the mediation and adjudication can be scheduled for a date that is no later than 60 days from the date the juvenile petition was filed.
- h. With the consensus of all parties, cases may be referred to mediation after adjudication, provided that the mediation coordinator has available mediation slots and the presiding judge approves the request. To initiate this process, the person requesting mediation shall contact the mediation coordinator, who shall complete the mediation referral form, and follow up with the parties and attorneys in the case within ten days of receiving the request to schedule the mediation session by consensus, to the extent possible, of the parties who are to attend.
- i. Upon referral, the mediation coordinator shall send out a letter confirming the date and time of the mediation, and announcing the location of the session. This notification shall reach the parties no later than 3 calendar days prior to the scheduled appointment. Permanency mediation shall take place in the Permanency Mediation Conference Room 8157 of the courthouse. In the event that special circumstances require deviation from this, the mediation coordinator shall schedule alternative space within the courthouse, the Government Center, or City Hall.
- j. A co-mediation model shall be used in all permanency cases. Participants in the mediation shall include (unless deemed exempt by the judge) the parties and their attorneys including guardians *ad litem* assigned to the parents by the court, the guardian *ad litem* and attorney advocate for the child, the Youth and Family Services attorney, and other YFS staff involved with the case. At the designation of the judge, additional parties may attend, including foster parents and other family members, mental health or therapy service providers, medical personnel, older children, and any other persons whose input may be helpful.
- k. Although parties are ordered to attend the mediation session, they are not ordered to reach a resolution. There shall be no punitive measures taken by the Court or service providers if a mediated agreement is not reached.
- l. Parties and attorneys who are ordered to attend the mediation session but fail to appear may face court sanctions including, but not limited to, contempt of court. A party may not participate in mediation in the absence of his/her attorney. The mediators, with input from the persons present, shall determine if the mediation can proceed when other persons ordered to mediation fail to appear.
- m. If deemed appropriate by the judge or by the child's attorney advocate, a child may participate in the mediation. Issues to be considered in determining whether or not a child may participate in the mediation process include the viewpoint of the parents,

- and the child's age, developmental stage, emotional status, mental health, adjustment level, and basic understanding of the mediation process.
- n. The child must be able to express his/her needs and benefits from the process. Reasons for the child's participation may include the child's desire to participate, the relevancy to the child's placement, and any benefits to the child. The child's attorney may be present at all meetings with the child throughout the mediation process.
  - o. The child's involvement in mediation shall be conducted in a manner designed to protect the child's interest and emotional well-being. The child's safety and well-being shall be the primary concern during all mediation sessions.
  - p. Mediation sessions that occur prior to adjudication may address stipulations to the facts alleged in the juvenile petition and the development of a case plan for the parents or caretakers. The parties may not stipulate to the legal status of the case (i.e., abuse, neglect, dependency). Only the Court shall determine the legal status. Full or partial agreements on the juvenile petition and/or the case plan, or permanency plan agreements may be reached as a result of pre-adjudication mediation.
  - q. Mediation sessions that occur post-adjudication may address the issues of visitation, communication, permanent placement, surrender/post-adoption contact or other issues that may result in faster permanence for a child or children.
  - r. If an agreement is reached, the mediators shall draft the written agreement while all parties are present at the session. All parties shall sign the written agreement and shall receive a copy of the agreement. In cases mediated pre-adjudication, agreements reached and signed by all parties and endorsed by the presiding judge shall become an enforceable order of the Court. In cases mediated post-adjudication, the Court shall determine whether the mediated agreement will become a part of the court record.
  - s. In cases mediated pre-adjudication, the YFS attorney shall be responsible for taking the mediated agreement to court at the adjudication/disposition hearing, and for reading the agreement into the court record.
  - t. All participants, including the mediators, shall sign the Confidentiality Policy Statement and Agreement to Participate in Mediation Statement prior to commencing the mediation session.
  - u. All participants, including the mediators, shall honor the confidentiality policy whether or not a final agreement is reached. Signed agreements are the only documents that shall be generated during the mediation session. No other reports regarding the content of the mediation may be produced by any party to the mediation.
- Exception:** Any new allegations of child abuse or neglect, which are made during the mediation session, shall be reported to YFS. If information concerning serious threatened harm to anyone is revealed during the mediation, the appropriate authorities and/or victims shall be notified.
- v. If paternity is not established prior to the mediation session as to one or more of the fathers named in the juvenile petition, and if the alleged father does not intend to acknowledge paternity at the adjudication/disposition hearing, the father and his

- attorney may not enter a mediated agreement regarding the juvenile petition or the case plan.
- w. If the mediation process takes more than one session, no party shall approach the Court between sessions on any matter referred to mediation unless an emergency arises regarding the child(ren).
  - x. The mediation coordinator shall review referred petitions for issues which may create safety risks for participants, such as domestic violence or mental health issues. Appropriate safety measures shall be taken, which may include mediating with the stakeholders and one party at a time. The sheriff's deputies are alerted in cases where serious safety concerns exist, and may be asked to be present for such sessions, or may be asked to escort one party offsite while mediation takes place with another. Any other measure necessary to ensure safety may be implemented. The mediators may terminate mediation if it is determined at any point in the process that mediation is not appropriate.
  - y. If a scheduling conflict arises for an attorney or social worker involved in a case, that person shall make every effort to find an appropriate substitute (i.e. colleague, supervisor) to attend the session. If that is not possible, the individual shall contact the mediation coordinator 48 hours or more before the originally scheduled mediation session to reschedule the case for the next possible mediation date. The mediation coordinator shall contact the parties and attorneys 24 hours or more before the originally scheduled mediation session, and reschedule the mediation session by consensus, to the extent possible, of the parties who are to attend. If the mediation session cannot be rescheduled prior to the scheduled adjudication, the mediation coordinator shall schedule it regardless. The judge shall be informed of these circumstances at the adjudication. At the judge's discretion the court may:
    - i. revoke the order for mediation
    - ii. refer the case as a Post-Adjudication mediation to develop a mediated Case Plan and/or Visitation Plan.
    - iii. continue the case so that mediation can take place before adjudication. Continuances shall only be granted when the mediation and adjudication can be scheduled for a date that is no later than 60 days from the date the juvenile petition was filed.

## **Rule 26. Resolving Hearing Conflicts**

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

- A. Appellate Courts should prevail over trial courts.
- B. Any trial court matter listed in these local rules should prevail over any other trial court matter not listed herein.
- C. Among trial court matters:
  - i. Any trial or hearing in a capital case
  - ii. The trial in any case designated as a preemptory setting

- iii. The trial of a criminal case in superior court when the defendant is in jail and charged with an A-E felony and the trial is reasonably expected to last for more than one (1) week.
- iv. The trial in an action or proceeding in district court in which any of the following is contested:
  - a. termination of parental rights
  - b. adjudication of abuse/neglect/dependency or disposition following such adjudication
  - c. child custody proceeding
  - d. interim or final Equitable Distribution
  - e. alimony or post separation support

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

When an attorney learns of the conflict before the date on which the matters are scheduled to be heard, the appropriate judges are Senior Resident Superior Court Judges for matters pending in the Superior Court Division and Chief District Court Judges for matters pending in the District Court Division; otherwise the appropriate judges are the judges presiding over those matters. The appropriate judges should promptly confer, resolve the conflict, and notify counsel of the resolution.

In resolving scheduling conflicts between court proceedings matters in the same priority category the presiding judges should give consideration to the following:

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

#### **Rule 27. Discovery**

- a. Except as protected by privilege, state or federal law, all parties shall disclose all relevant information, material, and records to all other parties, pursuant to court order
- b. All parties are under an affirmative duty to provide any and all exculpatory documentation in that party's possession and not protected by privilege or state or federal law, as it may relate to the allegations in the petition.
- c. Any party, including the juvenile, may file a motion to compel discovery of specific information or material. The motion shall be heard within five (5) working days of the date of service.

- d. All means of discovery permitted by the Rules of Civil Procedure shall be available. In order to coordinate the completion of discovery and to avoid unnecessary delay, however, no such discovery may be conducted without approval of the court and the establishment of expedited time lines for its completion.
- e. The court may take any action on motions to compel authorized by G.S. 1A-1 Rule 37.
- f. Absent a court order, discovery provided to a respondent's attorney under these rules shall not be thereafter provided to the clients or to outside counsel not involved in the abuse/neglect matter. If a respondent attorney is released from representation prior to completion of the case, any copies of DSS records provided pursuant to these rules shall be forwarded to the newly assigned counsel, if any. If none, the matter may be set on for hearing as to the proper disposition of the records.
- g. Attorneys are authorized to destroy copies of the records sixty (60) days following a voluntary or involuntary dismissal of the action, a TPR judgment, an order awarding guardianship of the child(ren), an order returning custody to the parents with no further reviews or any other action that finally terminates the case and no appeal has been filed.

**Rule 28. Transfer to Civil; Termination of Juvenile Jurisdiction**

- a. At the conclusion of a dispositional hearing or any subsequent hearing, and after making proper findings of fact, the court may, either on its own motion or upon motion of a party may award custody of the juvenile to a parent or other appropriate person pursuant to G.S. 50-13, 50-13.2, 50-13.5, and 50-13.7 and terminate the juvenile court's jurisdiction pursuant to G.S. 7B-911.
- b. The court shall either direct that an order be filed in an existing civil action relating to the custody of the juvenile, or, if there is no other civil action, instruct the clerk to treat the juvenile order as the initiation of a civil action for custody.
- c. If the order is filed in an existing civil action and the person to whom the court is awarding custody is not a party to that action, the court shall order that the person be joined as a party and that the caption be changed accordingly. The order shall resolve any pending custody claims or constitute a modification of any custody order previously entered in the action. No other documents from the juvenile file shall be placed in the civil file. DSS shall complete the juvenile court order resulting from the hearing. The court shall direct who must complete the resulting civil order.
- d. If the court's order initiates a civil action, the court shall designate the parties to the action and determine the most appropriate caption for the case. The clerk shall establish a CVD file using the custody order as the initiating document. Unless otherwise ordered the civil filing fee is waived. In this instance the order shall constitute a custody determination and any motion to enforce or modify shall be filed in the newly created civil action in accordance with the provisions of Chapter 50. A copy of the new civil custody order shall also be placed in the originating juvenile

file. DSS shall complete the juvenile court order resulting from the hearing. The court shall direct who must complete the resulting civil order.

**Rule 29. Civil Child Custody Actions**

- a. When a juvenile proceeding for abuse, neglect, or dependency and a civil custody action are pending at the same time for the same child, the civil action is automatically stayed as to the issue of child custody unless the proceedings are consolidated pursuant to G.S. 7B-200(d).
- b. Upon recognition that a juvenile and civil proceeding are pending at the same time for the same child, the Family Court Administrator's Office will screen the civil action to determine if consolidation is feasible. Civil cases involving family financial issues will not be considered for consolidation.
- c. If after consultation with the assigned juvenile judge consolidation is determined to be feasible, the Family Court Administrator's Office shall:
  1. Complete Consolidation Order (Form CCF-59) to consolidate the pending civil custody action under the pending abuse, neglect, or dependency proceeding;
  2. File the Consolidation Order under both the Juvenile Court Case File number(s) and the Civil Custody Action Case File number(s); and
  3. Submit copies of the pleadings the Juvenile Clerk's Office to be placed in the Juvenile Court file.

**Rule 30. Expunction**

A Tri-level process has been established by N.C.G.S. 7B-321 and Rule 10A N.C.A.C.70A.0114 allowing an individual to request expunction of his or her name from the Responsible Individuals List (RIL). This request may be made to the Director of the Department of Social Services that made the decision and either to the District Attorney's Office or to file a petition in District Court for expunction.

- a. A responsible individual has **30 calendar days** from notification of the Directors decision, or notification by the District Attorney of a refusal to expunge the responsible individual's name, to file a petition in District Court for a hearing regarding expunction from the RIL. Failure to file an expunction petition within **30 calendar days**, and absent a showing of extraordinary circumstances or in the interest of justice, such failure shall be considered a waiver of the responsible individual's right to request expunction from the RIL.
- b. The petition, form AOC-J-131, shall be filed with the District Court, Juvenile Court Clerk's Office in the county where the abuse or serious neglect report was received. The expunction petition shall include the name, date of birth, and address of the individual seeking expunction; the name of the juvenile who was the subject of the investigative assessment and the facts that the invoke the jurisdiction of the court.

- c. A copy of the petition shall be delivered to the Director in person or by certified mail return receipt requested.
- d. The Clerk of Court will send a notice of hearing to the responsible individual and the Director indicating that a hearing has been scheduled. This hearing shall be scheduled within 30 days of filing the expunction petition.
- e. Upon request of the RI the hearing may be closed to the general public.
- f. The rights of the responsible individual and the Director shall be preserved. These rights include the right to represent themselves or obtain the services of an attorney at their own expense, present sworn evidence, the right to subpoena witnesses, cross examine witnesses of the other party, and make a closing argument.
- g. The Director has the burden of proving by a preponderance of the evidence that the case decision and placement of the person's name on the Responsible Individuals List was correct.
- h. Rules of evidence in civil cases apply. However, upon judicial determination, other reliable and relevant evidence may be admissible. The social worker should be prepared to give personal testimony and/or provide the case record if requested.
- i. This hearing shall be before the court sitting without a jury.
- j. No Guardian Ad Litem will be present.
- k. The resulting Order shall be entered within 30 days of the conclusion of the hearing.
  - l. The Court can draw one of three conclusions:
    - (1) Determine that the decision of the Director to substantiate abuse or serious neglect and place the individual's name on the RIL was correct;
    - (2) Determine that there was sufficient evidence to uphold the Director's decision, but further determine that serious neglect rather than abuse occurred;
    - (3) Determine that there was not a preponderance of evidence to support the substantiation or the identification of the responsible individual and reverse the case decision. And shall order the DHHS to expunge the individual's name from the RIL **within 5 working days**.
- m. Under the following circumstances a responsible individual is not eligible for expunction.
  - (1). The individual is criminally convicted as a result of the same incident
  - (2). The individual is a respondent in a juvenile court proceeding regarding the same incident.
  - (3). The individual fails to make a timely request to the Director, District Attorney, or the District Court.
  - (4). The individual fails to keep the county Department of Social Services informed of a current address.
- n. If at any time during the expunction process, the individual is named as a respondent in a juvenile court proceeding regarding the same incident that is under expunction

review, the expungement process shall be stayed until the court proceeding is complete

### **Rule 31. Forensic Evaluations**

When it is necessary that a Forensic Evaluation be completed in order to assist in the decision making process, the procedure to be followed when completing the Evaluation Order is set out by memorandum and attached to these local rules as an appendix.

### **Rule 32. Writs**

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

#### A. Mecklenburg County Jail Inmate

If inmate is housed in the Mecklenburg County Jail and under the custody of the Mecklenburg County Sheriff's Office, the following procedure applies.

1. As soon as possible, but no later than twenty four (24) hours before the hearing the inmate's assigned counsel shall complete an ADD ON slip and present to the Mecklenburg County Sheriff's deputy assigned to the particular courtroom, or any deputy stationed in juvenile court or the sergeant on duty.
2. The add on slip shall indicate the date, time, and place where the inmate is to be brought. The juvenile file "J" number, the inmate's date of birth and PID number and any other information necessary to assist the Sheriff's Department in locating the inmate shall also be included. Assigned counsel may also contact the Sheriff's Department at (704) 507-8898.

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

If the inmate is housed in a facility maintained by the state department of corrections, the following procedure applies.

1. As soon as possible, assigned counsel must contact the Prison Population Manager and make your request. Contact information: phone (919) 838-4000 or fax request at (919) 733-0772 or (919) 715-0297.
2. Include as much identifying information as possible. Access DOC website at [www.ncdoc.org](http://www.ncdoc.org) and obtain prisoner's OPUS number. Include this information in faxed request. The request should be made as soon as possible before the hearing, but preferably at least 10 days in advance.
3. Complete for AOC-G-112 for Writ. Writ should be signed by court and file stamped. The Department of Corrections (DOC) will transport the inmate to the Mecklenburg County jail. Inform Mecklenburg County Sheriff office who will bring inmate to court proceeding.

4. At the conclusion of hearing, execute necessary disposition paperwork for inmate to be returned to appropriate facility.

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

1. If inmate is under the custody of the U.S. Marshalls, counsel shall, as soon as possible contact the U.S. Attorney’s Office (704) 344-7200, (704) 344-6222 or U.S. Marshall’s Office (704) 350-7200. Follow their requirements for transfer to Mecklenburg County jail.
2. If the inmate is under an I.C.E. or 287G hold, contact I.C.E.-P Homeland Security Division, at the federal building and be guided by their directions. Also contact Mecklenburg County Sheriff’s Office federal billing coordinator (704) 336-8150 for further directions.
3. At the conclusion of hearing, execute necessary disposition paperwork for inmate to be returned to appropriate facility.

For other state inmates, contact that local jurisdiction and follow their directives.

**Rule 33. Domestic Violence Protocol**

In any case where the court finds domestic violence is an issue, the court shall implement the domestic violence protocol established by this court and attached to these local rules by appendix.

**Rule 34. Sanctions**

If the court finds there has been willful or neglectful failure of any party to comply with any provision of these rules, that party, in the discretion of the presiding judge, shall be subject to sanctions, which may include, but are not limited to, payment of attorney fees incurred in preparing the pretrial memorandum by the complying party, exclusion of certain witnesses or exhibits not timely disclosed pursuant to these rules, striking of documents and/or pleadings, continuance of the trial if the complying party will be unduly prejudiced by noncompliance and no lesser sanctions are sufficient, or any other sanction allowed by law and deemed appropriate at the discretion of the assigned Judge.

**Rule 35. Fee Petitions**

Effective November 1, 2000, all attorneys submitting fee petitions for all court-appointed cases in juvenile court shall comply with the following provisions:

- a. Fee petitions shall be filled out completely and shall note whether any prior fee petitions(s) have been submitted for the same case(s), and, if so, the amount of the fee awarded.

- b. Fee petitions shall be submitted only at the conclusion of the dispositional hearing and after each subsequent hearing.
- c. Fee petitions shall be submitted only within 120 days of the date of the dispositional hearing or any subsequent hearing.

**APPENDIX**

Discovery Order .....	34
Order Terminating Jurisdiction .....	35
Attorney Certification of Training Completion .....	38
Domestic Violence Protocol .....	39
Forensic Evaluation Process .....	43

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_-J-\_\_\_\_\_

IN THE MATTER OF:

**DISCOVERY ORDER**

\_\_\_\_\_  
Name/ Date of Birth

This matter, coming on to be heard and being heard before the undersigned District Court Judge on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and it appearing to the Court that there is a scheduled Adjudicatory Hearing, with such hearing being scheduled for the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and it further appearing to the court that the parties are entitled to discovery pursuant to Local Rule 17.

It is **THEREFORE ORDERED, ADJUDGED, and DECREED** that the Petitioner, Youth and Family Services, the Guardian ad litem and counsel for the Respondent parent(s) shall provide to counsel for all other parties copies of all information, materials and reports within that party's possession relating to the allegations in the petition, YFS treatment or investigation.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
District Court Judge Presiding

- cc: YFS Attorney
- GAL Attorney Advocate
- Mother's Attorney
- Father's Attorney

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

MECKLENBURG COUNTY

Juvenile File No. \_\_\_\_ JA \_\_\_\_\_

\_\_\_\_\_  
 )  
 IN THE MATTER OF: )  
 )  
 \_\_\_\_\_ )  
 )  
 \_\_\_\_\_ )  
 )  
 \_\_\_\_\_ )  
 )

**ORDER TERMININATING JUVENILE COURT JURISDICTION AND DIRECTING ENTRY OF CIVIL ORDER**

ORDER IS ENTERED pursuant to G.S. 7B-911, after a hearing before the undersigned District Court Judge on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Present for the hearing were the following:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

From the evidence presented, including the juvenile case file, the court makes the following FINDINGS OF FACT:

1. The court has entered a civil custody order at or subsequent to a dispositional hearing granting custody of the juvenile to a parent or other appropriate person pursuant to G.S. 50-13.1, 50-13.2, 50-13.5, and 50-13.7.
2. The parties have been informed that:
  - a. any motion to enforce or modify the terms of the civil custody order must be filed in civil, not juvenile, court and may be referred to mediation;
  - b. no party is entitled to court-appointed counsel in that action;
  - c. the Guardian Ad Litem and Attorney Advocate have no responsibilities in that action;
  - d. the juvenile court will have jurisdiction to consider matters relating to the child only if a new petition is filed; and,
  - e. the Mecklenburg County Department of Social Services has no custodial or other rights or responsibilities with respect to the child(ren).
3. There is no a need for continued State intervention on behalf of the Juvenile(s) through a juvenile court proceeding.
4. At least six months have passed since the Court made a determination that the Juvenile’s placement with the person to whom the court is awarding custody is the permanent plan for the juvenile (unless custody is being awarded to a parent or the person with whom the child was living when the petition was filed).

5. Other:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Based on the foregoing findings of fact, the court makes the following CONCLUSIONS OF LAW:

- 1. The Court has exclusive, continuing jurisdiction under G.S. 50A-202 and has jurisdiction over the parties.
- 2. Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

It is therefore ORDERED, ADJUDGED, AND DECREED THAT:

- 1. All previously appointed counsel are relieved of responsibility in this matter.
- 2. The jurisdiction of this Court is hereby terminated and the legal status of the Juvenile and the Custodial rights of the parties shall be governed by a civil custody order entered pursuant to G.S. 7B-911:

The domestic file already exists, the Civil Custody Order shall be entered in the existing civil domestic file number \_\_\_\_ CVD \_\_\_\_\_ .

The domestic file already exists and the court awards custody to a person(s) not listed as a party to the action, then the Civil Custody Order shall be entered in the existing civil domestic file number \_\_\_\_ CVD \_\_\_\_\_ and the following individuals shall be joined as parties to that action and be denominated interveners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Civil Custody order shall be entered in a new civil domestic file and the Clerk is hereby directed to treat the Order as the initiation of a civil action for custody, captioned as set out below, and to establish a civil file and assign a CVD file number for this matter. The filing fee for this civil action is waived.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Other:

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**IT IS SO ORDERED, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

\_\_\_\_\_  
**Mecklenburg County District Court Judge**

**JUVENILE ABUSE, NEGLECT, & DEPENDENCY COURT  
PARENT ATTORNEY  
TRAINING CURRICULUM**

<b>Documentation Review of the following reference material</b>	<b>Date Completed</b>
1. North Carolina General Statute 7B: Juvenile Code	
2. Mecklenburg County Abuse and Neglect Local Rules	
3. "The Clock is Ticking" Video	
4. "F.I.R.S.T." Video	

**Target Completion Date Of Training Module:**

<b>Attendance, Observation, and Participation in the following Events</b>	<b>Date Completed</b>
1. Observed a minimum of three Non-Secured Custody Hearings	
2. Observed a minimum of one Permanency Mediations	
3. Observed a minimum of three Adjudication Hearings	
4. Observed a minimum of three Dispositional Hearings	
5. Observed a minimum of three Review Hearings	
6. Observed a minimum of three Permanency Planning Hearings	
7. Observed a minimum of three Permanency Planning Review Hearings	
8. Observed a minimum of one Termination of Parental Rights (TPR) Hearings	
10. Participated in Parent Attorney Orientation or comparable training provided by the Family Court Administrator's Office	

**Target Completion Date of Training Module:**

Date

I hereby certify by my signature below that the attached *Juvenile Abuse, Neglect, & Dependency Court Parent Attorney Training Curriculum* accurately reflects the completion of the listed items except as otherwise noted.

\_\_\_\_\_  
Attorney's Signature

Domestic Violence Protocol, Juvenile Court-  
Mecklenburg County, Charlotte, NC

**A. SECURITY AND COURTROOM ORGANIZATION:**

1. COURTROOM:

- a. There will be an additional deputy available to be present in a juvenile courtroom when domestic violence is an issue for the case.
- b. There will always be at least one deputy in the courtroom, even if the judge is temporarily off the bench.
- c. Deputies will be trained to follow parties out of the courtroom at the conclusion of cases that are potentially explosive. Training will include how to identify cases in which this action should be taken.
- d. The courtroom shall be organized such that there is a separation between parents. In the current courthouse, a partition may be used for the purpose of separation. In the new courthouse, the parents' tables may be separated. At a minimum, when two different attorneys represent the parents, the parents' attorneys shall sit next to each other **in every case** at the parents' table, with the parents on each side, to provide the maximum distance possible between the parents.
- e. The Model Court's DV protocol sub-committee shall continue to explore other methods of making the courtroom safer without increasing tension among the parties involved. This committee shall consult with other DV advocates and committees in making amendments to this protocol.

2. WAITING AREA:

- a. A deputy shall continue to serve as the initial checkpoint for people entering Juvenile Court.
- b. MCSD has committed to provide a deputy to patrol the waiting area for Juvenile Court. The deputy will be trained to present an orientation prior to court to those in the waiting area to inform them of behavioral expectations. He will repeat this message as necessary throughout the day.

3. PRE-HEARING PROCEDURES

- a. All cases involving DV or other security issues shall be demarcated on the Juvenile Court docket. This shall be done either manually at the present or through JWISE once it is implemented. It will be the judge's determination as to whether or not a case is flagged.
- b. A pre-hearing conference shall occur for all such cases involving DV or other security issues so that the court can confer with the parties' attorneys and make any necessary provisions to minimize security risks and/or the impact of DV.
- c. Attorneys and agency representatives shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

**B. COURT PERSONNEL:****1. JUDGES:**

- a. Judges assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. Juvenile Court judges shall attend the DV Judges' Committee's training presentation on DV basics. All new Juvenile Court judges shall view the video of this presentation at the commencement of their employment.
- c. Judges shall notify clerks of any cases in which DV is known to exist so that the docket can be flagged.

**2. CLERKS:**

- a. Courtroom clerks assigned to Juvenile Court shall be interested in the subject and be willing to avail themselves to continuing education on domestic violence, including annual training events presented by the DV Judges' Committee.
- b. The clerks' office shall be responsible for making sure that all of its Juvenile Court clerks attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile Court clerks view the video of this presentation at the commencement of their employment.
- c. The clerks' office shall implement non-prejudicial methods of flagging the Juvenile dockets for cases in which DV or other security issues are known to exist. The demarcations will denote cases in which DV or other security issues are known to exist. These demarcations shall be used in noting the cases as listed above to inform the judges that a pre-hearing conference is needed and to inform the deputies to monitor and/or separate the parties in the waiting area.

**3. DISTRICT ATTORNEYS:**

- a. District attorneys assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. The DA's office shall be responsible for making sure that all of its Juvenile Court attorneys attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile Court attorneys view the video of this presentation at the commencement of their employment.
- c. Attorneys shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

4. PARENTS' ATTORNEYS:

- a. Parents' attorneys assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. Juvenile Court parents' attorneys shall attend the DV Judges' Committee's training presentation on DV basics. All new Juvenile Court parents' attorneys shall view the video of this presentation at the commencement of their Juvenile Court practice.
- Ac. ttorneys shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged

5. COUNTY ATTORNEYS

- a. County attorneys assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. DSS shall be responsible for making sure that all of its Juvenile Court attorneys attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile Court attorneys view the video of this presentation at the commencement of their employment.
- c. Attorneys shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

6. JUVENILE COURT COUNSELORS:

- a. Juvenile court counselors assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. The Department of Juvenile Justice and Delinquency Prevention (DJJDP) shall be responsible for making sure that all of its Juvenile court counselors attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile court counselors view the video of this presentation at the commencement of their employment.

- c. Juvenile court counselors shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

#### 6. CHILDRENS' LAW CENTER

- a. CLC representatives assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resources related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. The CLC shall be responsible for making sure that all of its Juvenile court representatives attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile court representatives view the video of this presentation at the commencement of their employment.
- c. CLC representatives shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

#### 6. ADDITIONAL COURT AGENCIES

- a. Agency workers assigned to Juvenile Court from all other court agencies, including DSS, GAL, and AMH, shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resource related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.
- b. All other court agencies, including DSS, GAL, and AMH, shall be responsible for making sure that all of its Juvenile Court employees attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile Court employees view the video of this presentation at the commencement of their employment.
- c. Agency representatives shall notify the court at the earliest possible date of any cases in which DV or other security issues are known to exist so that the court can determine whether the docket should be flagged.

#### 7. DEPUTIES

- a. MCSD deputies assigned to Juvenile Court shall be interested in this subject given its prevalence in juvenile cases. They shall be knowledgeable about its dynamics and local resource related to domestic violence. They shall be committed to the goal of reducing domestic violence in our community. They should be required to avail themselves of continuing education about domestic violence, including annual training events presented by the DV Judges' Committee.

- b. The MCSD shall be responsible for making sure that all of its Juvenile Court deputies attend the DV Judges' Committee's training presentation on DV basics, and for making sure that all new Juvenile Court deputies view the video of this presentation at the commencement of their employment.
- c. There shall be a minimum of two deputies present in a courtroom when a case that has been flagged for DV or other security issues is being heard.

## **Forensic Evaluations.**

When it is recommended that a Forensic Evaluation be completed in order to assist in the decision making process, the following procedure is to be followed when completing the Order.

### **1. Filling out the order**

- a. The order form should be reviewed by AMHA Court Liaison for completeness and accuracy. The Court Liaison is housed at Juvenile Court, Suite #8129 Phone: 704 432-0186.
- b. The order must be typed or completed on the computer template.

### **2. Getting the order signed and file stamped- The order should be filled out and signed within 3 days of the judge ordering the evaluation in court!**

- a. Once the order has been reviewed and initialed by Court Liaison present to judge for signature.
- b. If assigned judge is on the bench, ask to approach between hearings.
- c. If assigned Judge is unavailable, present to another juvenile judge for signature.
- d. ***Do not leave the order in the Clerk's office to be signed.***
- e. Once signed, the order has to be file stamped by the Clerk's Office. They will put the original in the file and give you a copy.
- f. Once an order has been signed and file stamped, it is a legal document and it **cannot be altered.**
- g. If it is discovered that something needs to be added or changed, approach the Judge with this request. If agreed, make the change and let the Judge initial and date it. Have the order file stamped again.
- h. Step g can be reduced significantly by following "Filling out the order"

### **3. Gathering Records**

- a. The order is authorization for outside agencies & professionals to release their records to you.
- b. It is suggested that the first 2 pages be faxed to the various agencies with a cover letter stating you are requesting their records per the court order. Due to volume of documents, it is not likely records will be faxed to you. Rather, records must be picked up at the site.
- c. If you have trouble getting records from AMHA or BHC-CMC-Randolph, please contact Court Liaison immediately, who may be able to expedite the process.
- d. If you have made a reasonable effort to obtain records within a ten day period and are having difficulties receiving records PLEASE contact Court Liaison to assist.

- e. Once all records have been gathered, the order and the records can be brought to the Court Liaison's office. Referral packets will be taken to coordinator at the Watkins Center. The case is then assigned to an evaluator who, in turn, will forward a letter to you re: case assignment and appointment times.

#### 4. Getting the report

- a. If you wish to check on the status of the evaluation, you are encouraged to call the assigned evaluator.
- b. Once the evaluator has the case in hand, they have 60-120 days (depending on type of evaluation) to complete the evaluation and submit the report to the Court and all parties. The due date can be adjusted for various reasons – waiting list for assignments, parents not complying with appointments, etc.

**NOTE: The standard is that the evaluation is terminated after 2 failed appointments. You should be notified by letter when the evaluation report will be completed. Ideally the report is due to all parties 7 days prior to the next hearing.**

#### 5. Conduct evaluations can include, but are not limited to, the following:

##### a. Mental Health Evaluations:

- i. Need for MH/DD/SA Services
- ii. Amenability to Mental Health Treatment
- iii. Psychological and emotional functioning (specific questions)
- iv. Presence of disorders/conditions (specific questions)
- v. Psychiatric Medication Evaluation
- vi. Child Sexual Abuse Issues

##### b. Parenting Capacity Evaluation

##### c. Custody Evaluation

##### d. Criminal/Delinquency Evaluations:

- j. Capacity to Proceed
- k. Juvenile transfer to Adult Court
- l. Mental status at Time of Offense
- m. Competency to waive Miranda rights
- n. Risk Assessment for Future Violence
- o. Sexual Offender & Risk for Recidivism Evaluation

##### e. Family Systems Evaluation

##### f. Guardianship Issues

##### g. Parent/Caregiver Capacity to Proceed in Civil Matters Evaluation

- 6. Evaluations will be completed following the established timeframes, as indicated below. Evaluations may extend outside of these timeframes if a client misses an appointment or due to other factors for which AMHA is not responsible. Once the order is entered and all necessary and obtainable records are received at AMHA expect the evaluation in the following timeframes:

<b>Mental Health Evaluations (Need for Services)</b>	<b>7 days</b>
<b>Mental Health Evaluations (Other)</b>	<b>60 days</b>
<b>Criminal/Delinquency Evaluations</b>	<b>60 days</b>
<b>Custody Evaluation (based on up to 2 caregivers and 5 children)</b>	<b>60-120 days</b>
<b>Parenting Capacity Evaluation (based on up to 2 caregivers and 5 children)</b>	<b>60-120 days</b>
<b>Family Systems Evaluation</b>	<b>60 days</b>
<b>Parent/Caregiver Capacity to Proceed in Civil Matters Evaluation</b>	<b>60 days</b>