

LOCAL RULES GOVERNING JUVENILE DELINQUENCY AND UNDISCIPLINED PROCEEDINGS IN THE 26TH JUDICIAL DISTRICT

Rule 1. Scope

- (a) These rules shall apply to all cases in which a petition is filed alleging that a juvenile is undisciplined or delinquent. 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 Delinquency and Undisciplined Proceedings.
- (c) These rules and all amendments hereafter shall be filed with the Juvenile Court Clerk and may be cited accordingly as Juvenile Delinquency and Undisciplined 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 a form is specified to be used, parties must use that form.
- (f) The Family Court Administrator 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 delinquency and undisciplined proceedings.
- (b) They are designed to help allocate appropriate rehabilitative services to juveniles who come under the Court's jurisdiction and to protect the public from acts of delinquency. To that end, they serve the following purposes:
 - (a) To provide for oversight in case planning;
 - (b) To encourage the involvement of families and juveniles in the process;
 - (c) To help parties present issues and evidence to the court in an efficient manner;
 - (d) To eliminate unnecessary delays in court proceedings in order to reach dispositions in a timely manner; and,
 - (e) To otherwise ensure compliance with Chapter 7B of the North Carolina General Statutes.

Rule 3. Construction

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

Rule 4. Definitions

For the purposes of these rules, each term shall be defined consistently with the definitions set out in N.C.G.S §7B-1501. In addition, the following terms are defined herein:

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

Family Court: a division of the 26th 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 each family.

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

Alternatives to Detention (ATD): a state-wide program administered by the Department of Juvenile Justice and Delinquency Prevention (DJJDP) designed to implement alternatives to detention provided for in N.C.G.S. §7B-2506.

The Children's Law Center (CLC): a non-profit corporation representing juveniles in legal and administrative proceedings. The CLC functions in juvenile delinquency proceedings similarly to the Public Defender's Office in adult criminal proceedings.

SHOCAP Officer: a Law Enforcement Officer who serves as a liaison between the Mecklenburg County Police Department and the DJJDP.

"On-call" Judge: refers to that Judge who is carrying the "on call" pager which is assigned to Juvenile Court judges according to a schedule determined by the Chief District Court Judge.

Rules: as referenced herein refers to the Local Rules Governing Juvenile Delinquency and Undisciplined Proceedings.

Rule 5. Hearings

All hearings authorized or required pursuant to Subchapter II of Chapter 7B of the North Carolina General Statutes shall be open to the public unless the court closes the hearing or part of the hearing for good cause, upon motion of a party or its own motion. The Court shall make a determination as to whether or not the hearing should be closed pursuant to the criteria set out in N.C.G.S. §7B-2402. No hearing shall be closed by the court if the juvenile requests that it remain open.

Rule 6. Calendaring and Monitoring of Delinquency and Undisciplined Cases

- (a) The calendar for the disposition of delinquency and undisciplined cases shall be prepared and maintained by the Juvenile Court Clerk's Office in accordance with these rules and under the supervision of the Chief District Court Judge. The calendar shall be made available to the Department of Juvenile Justice and Delinquency Prevention (DJJDP), the District Attorney's Office (ADA), the Children's Law Center (CLC), the Family Court Administrator, Area Mental Health Authority (AMHA,) and Youth & Family Services/FACET (YFS/FACET.)
- (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 calendar to determine the disposition and continuance rate for that session, and to monitor for compliance with Family Court and Adoption and Safe Families Act of 1997 (ASFA) time standards.
- (d) In addition to those listed in Subsection (a), with respect to specific cases the Juvenile Court Clerk shall make the calendar available to the appointed attorney and upon request of any other participant in a juvenile case.
- (e) The number of cases scheduled by the Juvenile Court Clerk shall be within the parameters set by the Juvenile Justice Subcommittee subject to the approval of the Chief District Court Judge.

Rule 7. Family Court Time Standards

Delinquency and undisciplined proceedings shall adhere to the following time standards promulgated by the Family Court Administrator of the 26th Judicial District pursuant to state and federal mandates:

- (a) adjudicatory hearing in 90% of cases within 60 days of service of the petition.
adjudicatory hearing in 100% of cases within 90 days of service of the petition.
- (b) dispositional hearing in 95% of cases within 30 days of adjudication.
- (c) dispositional hearing in 100% of cases within 60 days of adjudication.

Rule 8. Responsibilities of Attorneys

- (a) The CLC shall be appointed, in accordance with Rules 16 and 20, to represent all juveniles in delinquency proceedings. The CLC shall not be appointed to represent juveniles in undisciplined proceedings.
- (b) Where appointment of CLC is not appropriate due to a conflict of interest or other factors contained in Rules 16 and 20, the Juvenile Court Clerk shall appoint an attorney in accordance with the standards established by the Mecklenburg County Bar Indigency Committee. The Juvenile Court Clerk shall maintain a list from which juvenile delinquency appointments of qualifying attorneys shall be made in sequence (refer to Rules 16 and 20).

- (c) In addition, to be eligible for appointment to represent juveniles, attorneys must satisfy the court:
 - (1) That they have sufficient experience and skills to provide competent representation;
 - (2) That they have a good working knowledge of juvenile law, juvenile court procedures, and local rules;
 - (3) That they have a good understanding of juvenile rehabilitative services and the related mandates that apply to the DJJDP and to juvenile attorneys;
 - (4) That they have satisfactorily completed any initial and follow-up training specified by the Chief District Court Judge.
 - (5) That they have a commitment to work with parent(s), guardian(s) or custodian(s) and juveniles; and,
 - (6) That they understand that failure to attend court proceedings could jeopardize further proceedings.
- (d) 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.
- (e) Leave of court for an attorney to withdraw from a case shall be granted only for compelling reasons.
- (f) An attorney who has a conflict in another court shall comply with the relevant Local Rules relating to priority and, when absent from Juvenile Court because of a conflict, shall keep the courtroom Juvenile Court Clerk informed of his or her location at all times.
- (g) The attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation.
- (h) The attorney shall notify his/her client of any changes in case calendaring or in the Court's schedule.

Rule 9. Sanctions

If the court finds that there has been a willful or neglectful failure of any party to comply with any provision of these rules, that party, in the discretion of the Presiding Judge, is subject to sanctions, which may include, but are not limited to, an award of attorneys fees, fines, exclusions of reports, striking of pleadings, or any other sanction provided by local rules or statute.

Rule 10. Discovery

- (a) Discovery shall be automatically produced by the ADA within a reasonable period of time following the first appearance hearing.
- (b) Discovery shall be placed in Juvenile Court and filed alphabetically by the juvenile's last name.
- (c) If a juvenile's attorney fails to receive discovery within forty-eight hours prior to the juvenile's scheduled probable cause or arraignment hearing, the juvenile's attorney shall notify the ADA and may move to compel discovery.

- (d) The Court shall order the juvenile's attorney to furnish to the ADA the names of all persons to be called as witnesses at the adjudicatory hearing.
- (e) The juvenile's attorney shall provide the ADA with reciprocal discovery upon request.

Rule 11. Extensions of Time, Add-Ons, and Continuances in Delinquency and Undisciplined Proceedings

- (a) Extensions of time beyond the times specified by statute, court order or these rules and all continuances shall be granted only for good cause, regardless of whether the parties are in agreement.
- (b) Except as provided in Rule 11(c), motions for extensions or continuances shall be presented or submitted in writing to the assigned District Court Judge at least five calendar days in advance of the scheduled hearing date. The motion shall state the reason for the continuance and whether all other counsel involved in the case consent or object to the extension or continuance.
- (c) In extraordinary circumstances where time does not permit the filing of a motion five days prior to the hearing, the Court may consider an oral motion for an extension of time or continuance. An order granting said motion must be in writing and in compliance with Rule 11(d).
- (d) The moving party shall also submit, simultaneously with the motion, an order allowing the motion, which shall provide for a new hearing date and time, and state clearly the reason for the continuance or extension.
- (e) The Juvenile Court Clerk shall distribute copies of the order to counsel for all parties, the DJJDP and any unrepresented party.
- (f) If exigent circumstances require the addition of a case to a docket (add-on) outside of the regular scheduling procedures outlined herein, the party requesting the add-on shall immediately notify all other interested parties of the date, time and purpose of the hearing.

Rule 12. Court Reports and Summaries

(a) As of November 1, 2000, pursuant to N.C.G.S. §7B-2413 and Rules 15 and 17, the DJJDP shall distribute a written predisposition report not less than three working days before all hearings, excluding arraignment or adjudicatory hearings, or upon request by the court. The summary shall include the following information updated since the last submitted court summary:

- (1) Identifying information:
 - (A) Current name and complete address of the juvenile or a statement as to why such information is not provided;
 - (A) The juvenile's date of birth;
 - (A) Court file numbers;
 - (A) Date of the hearing;
 - (A) Date on which the court summary was prepared;

- (A) Name of the person who prepared the court summary
- (2) Risk and Needs Assessment, including:
 - (A) Social history, including a determination in every case of any history of domestic violence or child abuse, of any non-custodial parent's, guardian's or custodian's paternity and/or child support payments;
 - (B) Medical history;
 - (C) Psychiatric and Psychological history;
 - (D) Educational history;
 - (E) Any factors indicating the probability of the juvenile committing further delinquent acts.
- (b) As of November 1, 2000, in accordance with Rules 15 and 19, any party, Youth and Family Services (YFS), mental health provider or evaluator, or any other agency or service provider wishing to submit a report, evaluation, or summary to the Court shall distribute copies of that report to defense counsel, the DJJDP, the ADA and the Court not less than three working days before all hearings, excluding arraignment or adjudicatory hearings.

Rule 13. Temporary Custody

- (a) Pursuant to N.C.G.S. §7B-1900, a juvenile may be taken into temporary custody, without a court order,
 - (1) By a Law Enforcement Officer whenever an adult could be lawfully arrested under identical circumstances.
 - (2) By a Law Enforcement Officer or a Court Counselor if he/she has reasonable grounds to believe that the juvenile is undisciplined.
 - (3) By a Law Enforcement Officer, by a Juvenile Court Counselor, by a member of the Black Mountain Center, Alcohol Rehabilitation Center, and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Department if there are reasonable grounds to believe the juvenile is an absconder from any residential facility operated by the Department or from an approved detention facility.
- (b) Pursuant to N.C.G.S. §7B-1901, any person who takes a juvenile into temporary custody shall:
 - (1) Orally notify the juvenile's parent(s), guardian(s) or custodian(s) that the juvenile has been taken into temporary custody;
 - (2) Advise the juvenile's parent(s), guardian(s) or custodian(s) of their right to be present with the juvenile until a determination is made as to the need for continued custody; and
 - (3) Release the juvenile to his/her parent(s), guardian(s) or custodian(s) if the person having the juvenile in temporary custody decides that continued custody is unnecessary.
- (c) No juvenile may be held in temporary custody for more than twelve hours unless a verified petition has been filed by the Juvenile Court Clerk or issued by the Magistrate and an order for secure or nonsecure custody has been signed by the Judge or the Magistrate with the Judge's authorization.

- (d) Any juvenile who is taken into temporary custody may be released by the person who took him/her into custody pursuant to the requirements listed in N.C.G.S. §7B-1901.

Rule 14. Secure and Nonsecure Custody

- (a) Whenever a complainant has a juvenile in temporary custody and seeks to continue custody, or whenever a complainant seeks to obtain an order directing that a juvenile be placed in custody; and it is:
 - (1) BETWEEN THE HOURS OF 8AM AND 5PM, MONDAY THRU FRIDAY; the procedures set forth in Rules 15 and 16 shall be applicable; and
 - (A) If a petition is filed, the Intake Counselor shall contact the Judge assigned to the juvenile's case, or if that Judge cannot be located, any other current Juvenile District Court Judge for the 26th Judicial District. If a Juvenile District Court Judge is not available, a District Court Judge with prior Juvenile Court experience shall be contacted.
 - (B) The Judge with whom contact is made shall decide whether to issue a custody order on the basis of the criteria set forth in N.C.G.S. §7B-1903.
 - (2) ANY OTHER TIME OR ON A COURT HOLIDAY; the complainant shall proceed to the Magistrate's Office in the Mecklenburg County Jail; and,
 - (A) The Magistrate shall determine whether there are reasonable grounds to believe that the juvenile has committed an undisciplined or delinquent offense and if so, shall communicate the contents of the complaint by telephone to the Court Counselor on call.
 - (B) The Court Counselor shall either authorize or decline to authorize a petition for custody; and,
 - (i) If the Court Counselor declines to authorize a petition, and the juvenile is in temporary custody, the juvenile shall be released to his/her parent(s), guardian(s) or custodian(s) and the complainant shall be advised by the Magistrate that he may resubmit his complaint to Intake between the hours of 8:00 a.m. and 5:00 a.m., Monday thru Friday. The Intake Counselor shall then proceed as in subsection (a)(1) of this Rule.
 - (ii) If the Court Counselor authorizes a petition, the Magistrate shall draw the petition along with four copies, note the name of the Court Counselor who authorized it, shall verify, issue it, and shall prepare a subpoena list with the name, address and telephone number of each witness. The Magistrate shall also issue a summons to the juvenile and his/her parent(s), guardian(s) or custodian(s) directing them to appear at the next session of Juvenile Court. The Magistrate shall then telephone the Judge on call for the 26th Judicial District and shall communicate to the Judge the contents of the petition. If the Judge on call is not available, a current Juvenile District Court Judge or a District Court Judge with prior Juvenile Court experience should be

- contacted. In the event that a current or past Juvenile Court Judge cannot be located, any other District Court Judge may be contacted.
- (C) The Judge with whom contact is made shall then determine whether to authorize a secure or nonsecure custody order in accordance with the criteria set forth in N.C.G.S. §7B-1903.
 - (i) If the Judge authorizes the issuance of a secure or nonsecure custody order, the Magistrate shall prepare the order, sign it and note the date and time it was authorized and the name of the Judge authorizing it. The custody order shall be in writing and shall direct a Law Enforcement Officer or other authorized person to assume custody of the juvenile, to place him/her at the Gatling Juvenile Diagnostic Center or in such other detention center, home or agency as may be designated in the order. If the order is for secure custody, copies of the petition and order shall be delivered with the juvenile to the Gatling Juvenile Diagnostic Center.
 - (ii) If the Judge declines to authorize the order, and the juvenile is in temporary custody, he/she shall be immediately released to his/her parent(s), guardian(s) or custodian(s).
 - (D) The Magistrate shall deliver the original and two copies of the summons, three copies of the petition and the original and three copies of any custody order to a law enforcement officer, Deputy Sheriff or Court Counselor, who shall personally serve both the juvenile and his/her parent(s), guardian(s) or custodian(s) with copies of the summons, the petition, and any custody order, and make due return on the original summons and the original custody order.
 - (E) The Magistrate shall deliver the original and one copy of the petition to the Juvenile Court Clerk as soon as that office is open for business, along with the original and one copy of the subpoena list, two copies of the summons and one copy of the custody order if one was issued.
 - (F) The Juvenile Court Clerk shall schedule a hearing on the petition pursuant to Rule 16.
- (b) Whenever the DJJDP seeks to obtain a secure custody order for an alleged violation of the juvenile's probation or conditions of release, including all Alternatives to Detention (ATD) violations, and it is:
- (1) BETWEEN THE HOURS OF 8AM AND 5PM, MONDAY THRU FRIDAY; the procedures set forth in Rule 20 shall be applicable; and
 - (A) If a motion for review is filed, the DJJDP Court Counselor shall contact the Judge assigned to the juvenile's case, or if that Judge cannot be located, any other current Juvenile District Court Judge for the 26th Judicial District. If a Juvenile District Court Judge is not available, a District Court Judge with prior Juvenile Court experience shall be contacted.
 - (B) The Judge with whom contact is made shall decide whether to issue a custody order on the basis of the criteria set forth in N.C.G.S. §§7B-1903 and 2510.

- (2) ANY OTHER TIME OR ON A COURT HOLIDAY; the DJJDP Court Counselor shall contact the Magistrate's Office in the Mecklenburg County Jail; and,
- (A) The Magistrate shall verify and issue the motion for review along with four copies, note the name of the Court Counselor who filed the motion for review, and shall verify and issue it and shall prepare a subpoena list with the name, address and telephone number of each witness. The Magistrate shall also issue a summons to the juvenile and his/her parent(s), guardian(s) or custodian(s) directing them to appear at the next session of Juvenile District Court. The Magistrate shall then telephone the Judge "on call" for the 26th Judicial District and shall communicate to the Judge the contents of the motion for review. If the Judge "on call" is not available, a current Juvenile District Court Judge or a District Court Judge with prior Juvenile Court experience should be contacted. In the event that a current or past Juvenile Court Judge cannot be contacted, any other District Court Judge may be contacted.
 - (B) The Judge with whom contact is made shall then determine whether to sign a secure or nonsecure custody order in accordance with the criteria set forth in N.C.G.S. §§7B-1903 and 7B-2510.
 - (i) If the Judge authorizes the issuance of a secure or nonsecure custody order, the Magistrate shall prepare the order, sign it, note the date and time it was authorized, and include the name of the Judge authorizing it. The custody order shall be in writing and shall direct a Law Enforcement Officer or other authorized person to assume custody of the juvenile, to place him/her at the Gatling Juvenile Diagnostic Center or in such other detention center, home or agency as may be designated in the order. If the order is for secure custody, copies of the petition and order shall be delivered with the juvenile to the Gatling Juvenile Diagnostic Center or in such other detention center, home or agency as may be designated in the order.
 - (ii) If the Judge declines to authorize the order, and the juvenile is in temporary custody, he/she shall be immediately released to his/her parent(s), guardian(s) or custodian(s).
 - (C) The Magistrate shall deliver the original and two copies of the summons, three copies of the motion for review and the original and three copies of any custody order to the SHOCAP Officer "on call" who shall personally serve both the juvenile and his/her parent(s), guardian(s) or custodian(s) with copies of the summons and motion for review and any custody order and make due return on the original summons and the original custody order. If the SHOCAP Officer is unable to personally serve the juvenile and his/her parent(s), guardian(s) or custodian(s), the SHOCAP Officer shall deliver the summons, motion for review and any custody order to a Law Enforcement Officer or Deputy Sheriff who shall personally serve them.
 - (D) The Magistrate shall deliver the original and one copy of the motion for review, the original and one copy of the subpoena list and two copies of any

issued custody order to the Juvenile Court Clerk as soon as that office is open for business.

- (E) The Juvenile Court Clerk shall schedule a hearing on the motion for review pursuant to Rule 20.
- (b) The procedures for secure custody orders shall correspond with the protocol established in the “26th Judicial District Procedures for Obtaining Petitions on Undisciplined Juveniles (Includes up to age 18)” approved by the Juvenile Justice Subcommittee.

Rule 15. Detention Review Hearings in Delinquency and Undisciplined Cases

- (a) In conjunction with the DJJDP the Juvenile Court Clerk shall schedule an initial detention hearing pursuant to N.C.G.S. §7B-1906 within five calendar days of the signing of the secure custody order and within seven days of the signing of a nonsecure custody order as described in Rule 14.
- (b) In conjunction with the DJJDP the Juvenile Court Clerk shall notify the juvenile, parent(s), guardian(s) or custodian(s), the ADA, and the DJJDP of the time and date of the Initial Detention hearing.
- (c) The Juvenile Court Clerk shall appoint an attorney to represent the juvenile pursuant to Rules 8 and 16.
- (d) After the initial detention hearing for a juvenile in secure custody, the Juvenile Court Clerk shall schedule subsequent detention review hearings such that they occur within ten days of one another. After the initial detention review hearing for a juvenile in nonsecure custody, the Juvenile Court Clerk shall schedule subsequent review hearings such that they occur within thirty days of one another.
- (e) Pursuant to N.C.G.S. §7B-1906, the juvenile may, through counsel, waive his/her right to a detention review hearing.
- (f) At the initial detention hearing or at subsequent detention review hearings, the Court may, sua sponte or upon motion of the DJJDP, defense counsel or the ADA, refer the juvenile to the Mecklenburg County Alternatives to Detention program (ATD). An ATD eligibility determination shall be made consistent with DJJDP Guidelines. If such a referral is made, the DJJDP shall report the status of the juvenile’s ATD application to the Court at each subsequent detention hearing.
- (g) If a juvenile is placed on ATD, the Presiding Judge shall inform the juvenile that any violation of the ATD contract signed by the juvenile, will result in the juvenile’s immediate placement in secure custody.
- (h) Where any violation of the ATD contract is alleged, the procedures for secure and nonsecure custody set out in Rule 14 shall be followed.
 - (i) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile’s case unless the party is notified in open court.
 - (i) Video Hearings may not be conducted at the juvenile’s initial detention hearing. Subsequent detention hearings may utilize video technology

pursuant to N.C.G.S. §7B-1906 (h) and procedures approved by the Juvenile Justice Subcommittee.

Rule 16. Preparation and Filing of Juvenile Delinquency Petitions

- (a) All complaints from law enforcement officers or other individuals alleging a juvenile to be delinquent shall be made to the DJJDP.
- (b) The DJJDP shall screen all complaints for both legal adequacy and sufficiency of information in accordance with the requirements set out in N.C.G.S. §7B-1701.
 - (1) If the DJJDP receives a complaint that establishes reasonable grounds to believe that a juvenile has committed a divertable delinquent offense, the DJJDP shall note on the complaint the date it was received.
 - (2) the DJJDP shall determine within fifteen days of receipt of the complaint whether the complaint should be filed as a petition, the juvenile diverted to a community resource, the juvenile diverted pursuant to a diversion contract, or the case resolved without further action.
 - (A) The Chief Court Counselor may grant an extension to make this determination so long as the extension does not exceed fifteen days.
 - (B) The DJJDP must authorize a petition to be filed whenever a complaint is received that establishes reasonable grounds to believe that a juvenile has committed one of the following offenses: murder, rape, arson, or any violation of Article 5, Chapter 90 of the North Carolina General Statutes which would constitute a felony if committed by an adult, first degree burglary, first degree or second degree sexual offense, crime against nature, or any felony which involves the willful infliction of serious bodily injury upon another person or that was committed by use of a deadly weapon.
- (c) The procedures governing undisciplined petitions are contained in Rule 22.
- (d) Within five workdays of approval of the complaint, the DJJDP shall prepare a petition and deliver it to the ADA.
- (e) Within five workdays of receiving the petition, the ADA shall review and sign the petition and return it to the Juvenile Court Clerk.
- (f) The Juvenile Court Clerk shall assign the case to a Juvenile Court Judge, prepare a juvenile file and calendar the case. First appearance for felony charges shall be scheduled within ten days of the filing of the petition. Misdemeanor charges shall be scheduled during the assigned judge's next available arraignment session.
- (g) The Juvenile Court Clerk shall file an order to appoint counsel, in compliance with Rule 8, to represent the juvenile.
 - (1) The Children's Law Center (CLC) shall be appointed to represent each juvenile in every juvenile delinquency case unless there is a potential conflict of interest or another attorney has previously represented the juvenile.
 - (2) Where appointment of the CLC is not appropriate;
 - (A) The Juvenile Court Clerk shall appoint an attorney in accordance with the standards established by the Mecklenburg County Bar Indigency Committee. The Juvenile Court Clerk shall maintain a list of such

attorneys from which juvenile delinquency representation shall be appointed in sequence as their names appear.

- (B) The non-CLC attorney shall be appointed to represent the juvenile in all subsequent proceedings for which he/she is qualified pursuant to Rule 8 and the Mecklenburg County Bar Indigency standards.
- (h) The Juvenile Court Clerk shall file the petition, summons and appointment order and shall deliver them with notice of court appearance to the juvenile's attorney and to the Sheriff for service on the juvenile and his/her parent(s), guardian(s) or custodian(s).

Rule 17. First Appearance, Probable Cause and Arraignment Hearings in Cases Alleging that the Juvenile has Committed a Felony

- (a) Upon the filing of a petition alleging that a juvenile has committed a felony, the Juvenile Court Clerk shall calendar the case for a first appearance hearing in accordance with the statutory requirements set forth in N.C.G.S. §7B-1808.
- (b) The Juvenile Court Clerk shall notify all parties of the first appearance hearing, including, the juvenile, his/her family, defense counsel and the District Attorney's Office.
- (c) **First appearance** hearings:
 - (1) Pursuant to N.C.G.S. §7B-1808, the Court shall:
 - (A) Inform the juvenile of the allegation(s) against him/her;
 - (B) Ascertain whether or not the juvenile has legal representation and if not direct the Juvenile Court Clerk to appoint legal counsel;
 - (C) Inform the juvenile of the time and place of the probable cause hearing which shall be scheduled within fifteen days of the first appearance; and,
 - (D) Notify the parent(s), guardian(s) or custodian(s) of their obligations and responsibilities in the case.
 - (2) The Juvenile Court Clerk shall schedule the juvenile's case to appear before the assigned Judge for a probable cause hearing within fifteen days unless continued by order of the Court for good cause shown or unless the probable cause hearing is waived.
 - (3) Through counsel at the first appearance, the juvenile may waive a probable cause hearing. If the State subsequently seeks transfer of the juvenile to Superior Court, the juvenile may withdraw his/her waiver of a probable cause hearing.
 - (4) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless a party is notified in open court.
- (d) **Probable cause** hearings shall be conducted pursuant to N.C.G.S. §7B-2202:
 - (1) The Court may proceed with a probable cause hearing in the absence of the juvenile charged only upon a finding that the juvenile has been properly served with notice of the hearing.
 - (2) The parties may stipulate in writing to a finding of probable cause, and;

- (A) automatically transferred pursuant to statute if the felony charged with is first degree murder.
 - (B) proceed to a transfer hearing where defense counsel has been given five days notice of the State's intent to seek transfer; or,
 - (C) proceed to an arraignment at which time the juvenile may admit to the charge(s) alleged in the petition or admit to an offense pursuant to a plea bargain; or,
 - (D) proceed to an arraignment at which time the juvenile may deny the charge(s) and request an adjudicatory hearing.
- (3) Upon a finding of probable cause to believe the juvenile committed a felony, the matter shall be:
- (A) scheduled for a transfer hearing no less than five days after the State gives notice; or,
 - (B) scheduled for arraignment. The Court may, with the agreement of all parties, proceed to arraignment at the conclusion of the probable cause hearing.
 - (C) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case.
- (4) Where there is a finding of no probable cause, the matter shall be dismissed. Where there is a finding of probable cause to believe the juvenile committed a lesser included offense that is a misdemeanor, then the case shall be scheduled for arraignment or an adjudicatory hearing.
- (e) **Arraignment** hearings:
- (1) All felony charges in which no transfer is sought shall be scheduled for arraignment following the first appearance.
 - (2) The Juvenile Court Clerk shall schedule all pending misdemeanor charges for arraignment before the assigned judge upon the filing of the petition pursuant to Rule 16.
 - (3) The Court shall hear any pending petitions against the juvenile.
 - (4) The Court shall ascertain whether the juvenile admits or denies the allegations contained in the petition(s).
 - (A) If the juvenile admits the allegations, the Court may immediately proceed with the dispositional hearing or may direct the Juvenile Court Clerk to schedule the matter for disposition at some other time.
 - (B) If the juvenile denies the allegations, the Court shall direct the Juvenile Court Clerk to schedule an adjudicatory hearing.
 - (5) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 18. Delinquency Adjudicatory Hearing

- (a) Defense counsel shall complete the Juvenile summons and notice of hearing form order provided by the Juvenile Court Clerk at the arraignment hearing.
- (b) Each party may subpoena those witnesses he/she wishes to have testify at an adjudicatory hearing.
- (c) Additional pre-trial motions:
 - (1) The moving party shall notify the Court and opposing counsel or unrepresented party of any motion(s) no later than ten days prior to the scheduled adjudicatory hearing date.
 - (2) The court shall resolve all motions on the date of the adjudicatory hearing or may direct the Juvenile Court Clerk to schedule a separate hearing prior to the adjudicatory hearing at which the Court shall address all pre-trial motions.
- (d) Pursuant to N.C.G.S. §7B-2411, the Court shall, at the conclusion of the adjudicatory hearing, make a finding as to whether or not the allegations contained in the petition have been proved.
 - (1) Should the Court find that the allegations have been proved, the court may proceed to the dispositional hearing or shall direct the Juvenile Court Clerk to schedule the dispositional hearing on some other date.
 - (2) Should the Court find that the allegations have not been proved, the petition shall be dismissed with prejudice.
- (e) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 19. Disposition in Delinquency Cases

- (a) The Court may proceed to the dispositional hearing directly following the adjudicatory hearing or arraignment hearing, or it may be separately scheduled pursuant to Rules 17 and 18.
- (b) Pursuant to N.C.G.S. §7B-2413, the Court may proceed on the matter of disposition either upon receipt of the predisposition report submitted by the juvenile's assigned the DJJDP Court Counselor or upon a finding that a predisposition report is not necessary.
- (c) The predisposition report shall comply with the requirements set out in N.C.G.S. §7B-2413 and Rule 12. A copy of the DJJDP's predisposition report shall be distributed to all parties, including the Court not less than three working days before the dispositional hearing.
- (d) In accordance with Rule 12, any party, YFS, or any other agency or service provider wishing to submit a report or summary to the Court shall, within forty-eight hours of the scheduled hearing, distribute copies of that report to defense counsel, the DJJDP, the ADA and the Court.

- (e) Pursuant to N.C.G.S. §7B-2507 and 7B-2508, the ADA shall submit to the Court at the disposition hearing a disposition Sentencing Worksheet which shall assist the Court in its determination of the juvenile's offense level and classification.
- (f) The DJJDP shall present dispositional recommendations to the Court in the presence of the juvenile and his/her parent(s), guardian(s) or custodian(s), defense counsel and the ADA.
- (g) The Court shall hear arguments from the ADA and defense counsel regarding disposition.
- (h) The Judge shall issue a dispositional order pursuant to Article 25, Chapter 7B of the North Carolina General Statutes.
- (i) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 20. Motions for Review in Delinquency Cases

- (a) The DJJDP shall prepare a motion for review when it is alleged that the juvenile has violated his/her probation, conditions of release or ATD contract, or when review of the juvenile's probation is necessary.
- (b) The DJJDP Court Counselor responsible for filing the motion for review shall personally serve the juvenile with the summons and motion for review.
- (c) The Juvenile Court Clerk shall file the motion for review and schedule the case for hearing during the assigned Judge's next available motion for review/disposition session. The Juvenile Court Clerk shall notify all other parties of the date and time of the motion for review hearing.
- (d) Consistent with Rule 8, the Juvenile Court Clerk shall re-appoint the CLC to represent the juvenile unless another attorney has previously represented the juvenile.
- (e) At the hearing, the Judge shall ascertain whether the juvenile admits or denies the allegations contained in the motion for review.
 - (1) If the juvenile denies the allegations, the Court may immediately hear the motion or schedule the matter for a hearing on the assigned Judge's next available motion for review/disposition session.
 - (2) If the juvenile admits the allegations, then pursuant to Rule 19, the Court may proceed with disposition or may schedule the matter for a dispositional hearing during the assigned Judge's next available motion for review/disposition session.
- (f) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.
- (g) Judges may review cases of juveniles detained for contempt, intermittent detention, or to serve a commitment in detention, and consider early release for those who have performed well and may not benefit from further detention. Such review may

only be scheduled by the assigned judge on his or her own initiative or upon the granting of a motion for review made by the ADA, Defense Counsel, DJJDP, the detention facility, or other interested person or agency.

Rule 21. Contempt for Failure to Comply with a Delinquency Order

- (a) Pursuant to N.C.G.S. §§7B-2706, 7B-1805, 7B-2205, 5A-11, 5A-21; the Court may, sua sponte or upon motion of a party, issue an order directing a juvenile's parent(s), guardian(s) or custodian(s) to appear and Show Cause why he/she should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court.
- (b) The Juvenile Court Clerk shall prepare the Show Cause order, which includes specific grounds for contempt of the Court's order, and schedule a hearing on the matter during the assigned judge's next motion for review/disposition session of Juvenile Court.
- (c) The Juvenile Court Clerk shall appoint an attorney to represent the parent(s), guardian(s) or custodian(s). The juvenile and parent(s), guardian(s) or custodian(s) shall be appointed separate counsel.
- (d) The Judge may issue an order directing the Mecklenburg County District Attorney's Office to prosecute the motion for contempt. The Juvenile Court Clerk shall thereupon deliver to the District Attorney's office a copy of both the Show Cause order and the order directing prosecution.
- (e) The Sheriff shall serve the Order, motion and notice of the date and time of the Show Cause hearing upon the individual alleged to be in contempt of court.
- (f) The Court shall proceed on the Contempt hearing pursuant to N.C.G.S. §§7B-2706, 7B-1805, 7B-2205, 5A-11, 5A-21.

Rule 22. Preparation and Filing of Undisciplined Petition

- (a) All complaints from a parent(s), guardian(s), custodian(s) or a school official alleging that a juvenile is undisciplined shall be made to the DJJDP.
- (b) The DJJDP shall screen all complaints for both legal adequacy and sufficiency of information in accordance with the requirements set out in N.C.G.S. §7B-1701.
- (c) The DJJDP shall determine within 15 days of receipt of the complaint whether the complaint should be filed as a petition, the juvenile diverted to a community resource, the juvenile diverted pursuant to a diversion contract, or the case resolved without further action.
- (d) Within five workdays of approval of the complaint, the DJJDP shall prepare a petition and deliver it to the Juvenile Court Clerk.
- (e) The Juvenile Court Clerk shall assign the case to a Juvenile Court Judge, prepare a juvenile file and calendar the case during the assigned Judge's next available motion for review/undisciplined session.
- (f) A copy of the petition shall be attached to the summons. The summons shall be a printed form supplied by the Administrative Office of the Court and shall contain the language required by N.C.G.S. § 7B-1805.

- (g) Immediately after a petition has been filed alleging that a juvenile is undisciplined as that term is defined by N.C.G.S. § 7B-1501(27)(a)(b), the Juvenile Court Clerk shall forward the petition, summons and other relevant paperwork to the Sheriff for service of process pursuant to N.C.G.S. §7B-1805-1807.

Rule 23. Initial Hearing on Undisciplined Petition

- (a) Any petition filed alleging a juvenile to be undisciplined shall be scheduled for arraignment before a designated undisciplined Judge at the next regularly scheduled undisciplined session of Juvenile Court. If a juvenile is already assigned to a Judge other than one of the designated undisciplined Judges, then the undisciplined matter will be scheduled for arraignment on the assigned Judge's next available motion for review/disposition session in accordance with the rules contained herein.
- (b) At the initial hearing, upon the consent of the juvenile and the parent(s), guardian(s) or custodian(s) as well as the Court, any juvenile who is detained pursuant to an undisciplined petition may be arraigned on that petition at the juvenile's initial detention hearing on the matter. However, the Court may also limit the issue before the Court at that time to that of detention and direct that the matter be scheduled for arraignment on the undisciplined petition at the next available undisciplined or motion for review/disposition session.
- (c) At the arraignment, the juvenile shall admit or deny the allegations contained in the undisciplined petition; and,
 - (1) If the juvenile admits the allegations contained in the petition, the Court may proceed to the dispositional hearing or shall direct the Juvenile Court Clerk to schedule the matter before the assigned Judge for disposition on the next available undisciplined or motion for review/disposition session of Juvenile Court.
 - (2) If the juvenile denies the allegations contained in the petition, the Court may proceed with the adjudicatory hearing or direct the Juvenile Court Clerk to schedule the matter for an adjudicatory hearing at a time and date deemed appropriate by the Judge upon consultation with the attorneys.
- (d) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 24. Adjudicatory Hearing on Undisciplined Petition

- (a) The Court Liaison for the Charlotte-Mecklenburg School System will be responsible for presenting evidence at the adjudicatory hearing that a juvenile has been unlawfully absent from school. Otherwise, the party that filed the petition shall be responsible for presenting evidence in support of the petition.
- (b) If the juvenile is adjudicated undisciplined, the Court may proceed with disposition at that time. For good cause shown, the disposition may be continued upon the

motion of the juvenile, the DJJDP, the petitioner or upon the Court's own motion. If the matter is continued for disposition, the Juvenile Court Clerk shall schedule the matter for the assigned Judge's next available undisciplined or motion for review/disposition session.

- (c) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 25. Disposition on an Undisciplined Petition

- (a) The Court may proceed to the dispositional hearing directly following the adjudicatory hearing.
- (b) Pursuant to N.C.G.S. §7B-2413, the Court may proceed on the matter of disposition either upon receipt of the predisposition report submitted by the juvenile's assigned the DJJDP Court Counselor or upon a finding that a predisposition report is not necessary.
- (b) The predisposition report shall comply with the requirements set out in N.C.G.S. §7B-2413 and Rule 12. A copy of the DJJDP's predisposition report shall be distributed to all parties, including the Court within forty-eight hours of the dispositional hearing.
- (c) In accordance with Rule 12, any party, YFS, or any other agency or service provider wishing to submit a report or summary to the Court shall, not less than three working days before the scheduled hearing, distribute copies of that report to the DJJDP.
- (d) The DJJDP shall present dispositional recommendations to the Court in the presence of the juvenile and his/her parent(s), guardian(s) or custodian(s).
- (e) The Judge shall issue a dispositional order pursuant to Article 25, Chapter 7B of the North Carolina General Statutes.
- (f) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 26. Contempt of Court in Undisciplined Cases

- (a) Pursuant to N.C.G.S. §§7B-2706, 7B-1805, 7B-2205, 5A-11, 5A-21; the Court may, sua sponte or upon motion of the parties, issue an order directing a juvenile's parent(s), guardian(s) or custodian(s) to appear and Show Cause why he/she should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court. If a Show cause order is sought, the procedures set forth in Rule 15 shall be followed.
- (b) Pursuant to N.C.G.S. §7B-2505, the Court may, sua sponte or upon motion of the parties, issue an order directing a juvenile to appear and show cause why he/she

should not be found in civil or criminal contempt for willfully failing to comply with an order of the Court.

- (1) The DJJDP shall prepare the Show cause order and the Juvenile Court Clerk shall schedule a hearing on the matter during the next motion for review/disposition session of Juvenile Court.
 - (2) The Juvenile Court Clerk shall appoint an attorney to represent the juvenile pursuant to the Mecklenburg County Bar Indigency Committee standards and Rule 8. The CLC shall not be appointed to represent juveniles in undisciplined proceedings.
 - (3) The Judge may issue an order directing the Mecklenburg County District Attorney's Office to prosecute the Contempt Motion. The Juvenile Court Clerk shall thereupon deliver to the District Attorney's office a copy of both the Show Cause order and the order directing prosecution.
 - (4) The Sheriff shall serve the motion, order and notice of the date and time of the Show Cause hearing upon the juvenile.
 - (5) The Court shall proceed on the Contempt hearing and shall then conduct a disposition hearing pursuant to Rule 25 and N.C.G.S. §7B-2505.
- (c) At the conclusion of the hearing, pursuant to N.C.G.S. §7B-1807, the Juvenile Court Clerk shall give written notice to all parties and the parent(s), guardian(s) or custodian(s) of the next scheduled hearing in the juvenile's case unless the party is notified in open court.

Rule 27. Failure to Appear in Delinquency and Undisciplined Proceedings

Where the juvenile or his/her parent(s), guardian(s) or custodian(s) failed to appear for a scheduled hearing, the Court shall determine whether or not the juvenile or his/her parent(s), guardian(s) or custodian(s) has been personally served, in accordance with N.C.G.S. §7B-1806, with the summons and petition, motion for review or Show Cause Order; and:

- (a) If the juvenile or his/her parent(s), guardian(s) or custodian(s) has not been personally served, the Court shall order the juvenile and his/her parent(s), guardian(s) or custodian(s) to be personally served by the Sheriff with the summons and petition, motion for review or show cause order.
- (b) If the Court finds that the juvenile and his/her parent(s), guardian(s) or custodian(s) were personally served and notified of the scheduled hearing;
 - (1) The Court shall hear arguments from the DJJDP, the ADA and defense counsel regarding the issuance of a secure custody order.
 - (2) The Court shall thereupon determine whether or not to issue a secure custody order or other orders as the Court finds appropriate.
 - (3) The Juvenile Court Clerk shall issue those orders decreed by the Court.

Rule 28. 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.