

**TWELFTH JUDICIAL DISTRICT
DISTRICT COURT**

FAMILY COURT DIVISION

**JUVENILE CASE MANAGEMENT PLAN
I. CIVIL CASES**

RULE 1. GENERAL PROVISIONS

- 1.1** The purpose of these rules is to institute a Case Management Plan that will provide for the orderly, prompt and just disposition of Juvenile Civil matters. These rules are promulgated in compliance with Rule 2(a), General Rules of Practice for Superior and District Courts and are to be administered under the direction of the Family Court Administrator.
- 1.2** These rules shall, at all times, be construed in such manner as to promote justice and avoid delay. Attorneys shall adhere to the Canons of Ethics and the Code of Professional Conduct as promulgated by the North Carolina State Bar Association.
- 1.3** It is recognized that 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, all parties shall act in accordance with the orders of the Chief District Court Judge, assigned Juvenile Judge or by direction of the Family Court Administrator.
- 1.4** The Trial Court Administrator and Family Court Administrator shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts and in accordance with these Local Rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and to ensure compliance with statutory scheduling requirements for juvenile cases.
- 1.5** These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of Superior Court for Cumberland County and may be cited accordingly.
- 1.6** The Family Court Administrator shall distribute a copy of these rules and any subsequent amendments hereafter to each member of the Juvenile Bar in Cumberland County. Thereafter, the Family Court Administrator shall maintain a supply of printed rules, as well as associated forms, to be provided upon request.
- 1.7** The Clerk of Superior Court, Juvenile Records Division, for Cumberland County shall provide a case number at the time of filing and place the number upon the

petition in accordance with the applicable Rules of Recordkeeping issued by the Administrative Office of the Courts. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel, parties or court personnel shall accurately reflect this case number.

- 1.8** 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 court informed of his or her location at all times.

RULE 2. DETERMINATION OF COUNSEL

- 2.1** Upon the filing of a petition alleging abuse, neglect, or dependency, the clerk shall issue a *Juvenile Summons and Notice of Hearing* form (AOC-J-142) and appoint provisional counsel to represent each parent named in the petition and any other respondent named in the petition against whom an allegation is made.
- (a)** The summons shall contain the appointed attorney's name, business address, and telephone number for each respondent and the date of hearing.
 - (b)** A copy of the summons shall be provided to each respondent named in the petition.
 - (c)** A copy of the petition, along with a copy of the *Order of Assignment of Counsel* form (AOC-CR-224), shall be provided to each attorney appointed in the action.
- 2.2** After the first hearing in a case, an attorney appointed to represent a respondent who has not been served and who does not appear at the hearing, shall not be responsible for further appearances until the clerk notifies the attorney that the respondent has been served.
- 2.3** At the first hearing after service on the respondent, the Court shall review the issue of counsel and dismiss the provisional counsel if the respondent:
- (a)** Does not appear at the hearing;
 - (b)** Does not qualify for court appointed counsel;
 - (c)** Has retained counsel;
 - (d)** Waives the right to counsel.
- 2.4** Counsel will not be allowed by the court to withdraw from a case, except for compelling reasons.
- 2.5** If counsel becomes aware of a juvenile or domestic case involving the same children in another court, counsel shall inform the Juvenile Case Coordinator.

RULE 3. CASE ASSIGNMENT

- 3.1** All Juvenile Civil Cases shall be individually assigned by the Juvenile Case Coordinator to a presiding juvenile court judge as follows:
- (a) NonSecure Hearings. The judge conducting the second nonsecure hearing will become the assigned juvenile court judge for that court case.
 - (b) First Appearance. In cases where no nonsecure hearing is held, the judge conducting the first appearance will become the assigned juvenile court judge for that court case.
 - (c) Prior Assignment. When a petition is filed in a case that has been previously assigned to a judge, that judge will continue as the assigned juvenile court judge for that court case.
- 3.2** Requests for reassignment shall be directed to the Chief District Court Judge.

RULE 4. NONSECURE CUSTODY ORDERS

- 4.1** Requests for *ex parte* nonsecure custody orders should be presented for consideration to the judge presiding in juvenile court. If juvenile court is not in session, the order may be presented to any district court judge.
- 4.2** The Department of Social Services (DSS) is responsible for providing reasonable notice of hearing to any opposing counsel known to that agency prior to proceeding on *ex parte* requests before any District Court Judge. Reasonable notice shall be presumed to be oral notice given at least two (2) hours prior to appearance before the Court.
- 4.3** Failure to give reasonable notice may result in any order entered being set aside.

RULE 5. HEARING SCHEDULES

- 5.1** Juvenile Civil matters involving abused, neglected, or dependent children are regularly scheduled to be heard on alternating weeks. Variance from the regular hearing schedule may occur for good cause shown upon order of the Chief District Court Judge or assigned Juvenile Judge.
- 5.2** The assigned Juvenile Judge shall conduct calendar call at the opening of court on the first day of the scheduled court session at 8:30 a.m. At that time the assigned Juvenile Judge shall establish a time certain during the session for the taking of stipulations and for hearings.

- 5.3 Nonsecure Hearings shall be scheduled weekly pursuant to a schedule promulgated by the Chief District Court Judge.
- 5.4 Trials, reviews, judicial pretrials, motions for emancipation and first appearances shall be regularly scheduled during juvenile civil sessions pursuant to a schedule promulgated by the Chief District Court Judge.

RULE 6. ESTABLISHING THE TRIAL CALENDAR

- 6.1 At each nonsecure hearing or first appearance, the court shall review the case to determine
 - (a) placement of the child(ren)
 - (b) visitation by the respondent(s)
 - (c) service on all parties
 - (d) paternity issues
 - (e) subsequent nonsecure hearing dates or trial dates
- 6.2 The date assigned for the adjudication hearing shall not be more than sixty (60) days from the date of filing of the petition for abuse, neglect and/or dependency and not more than ninety (90) days from the date of filing of the petition for termination of parental rights.
- 6.3 **At** the third nonsecure hearing but in no event later than forty-five (45) days from filing of the petition, the assigned judge shall conduct a judicial settlement conference. At the judicial settlement conference:
 - (a) All attorneys and a Guardian ad Litem (GAL) representative shall be present;
 - (b) All parties in the action shall be available;
 - (c) The judge shall resolve all pretrial motions or requests;
 - (d) All counsel shall review the petition and determine which specific allegations of the petition are at issue; and
 - (e) Requests for peremptory/special settings shall be made to the court.

RULE 7. PRE-ADJUDICATION ADMISSIONS

- 7.1 The purpose of this rule is to facilitate appropriate treatment and services for respondents and to enable the Court to move forward to permanence. It is a priority of family court to reunify families, whenever possible, and it is in the best interests of children and respondents that respondents be involved in pre-adjudication treatment or services or both.
- 7.2 Any treatment or services or portion thereof provided to a respondent after the filing of a juvenile petition alleging abuse, neglect and/or dependence shall be considered inadmissible evidence during the adjudication portion of the juvenile proceeding *except* for assessments and evaluations ordered by the court for the purpose of admission during the adjudicatory hearing.

- 7.3 Statements made by respondents after the filing of the petition about or during treatment or services are inadmissible during the adjudicatory hearing except those made during court ordered assessments and evaluations.
- 7.4 Information obtained during pre-adjudication treatment or services may be admissible during pre-adjudication hearings related to placement as it relates to a child's safety and potential placement of the child or visitation with the child.
- 7.5 Failure to take advantage of available assessment, treatment and services is admissible at any hearing.
- 7.6 All information is admissible at disposition or other post adjudication hearings.
- 7.7 This rule does not limit admission of statements, treatment, or services occurring prior to the filing and service of a petition.

RULE 8. NOTICE OF CALENDARING

- 8.1 The Clerk of Superior Court shall place those cases determined to be ready for hearing on the calendar pursuant to Local Rule 5 above.
- 8.2 Calendars shall be published by the Family Court Administrator in accordance with Rule 14 below, and shall be available by 11:00 a.m., Wednesday of the week preceding the scheduled hearing. The Office of the Family Court Administrator/ Juvenile Case Coordinator, Guardian Ad Litem, and Clerk of Superior Court/ Juvenile Records Division shall have a copy of the calendar available for inspection.

RULE 9. TIME STANDARDS

Absent exigent circumstances, all Juvenile Civil cases should be adjudicated within sixty (60) days of the filing of the petition.

RULE 10. MOTIONS/DISCOVERY PRACTICE

- 10.1 Except as set out herein, all motions and discovery shall be made as set forth in the North Carolina Rules of Civil Procedure.
- 10.2 **DSS Records**
- (a) Within fifteen (15) working days after a petition is filed alleging abuse and/or neglect, DSS shall provide a copy of any Child Protective Service (CPS) dictation and any and all CPS case plans for the previous twelve (12) months to the office of the GAL. (In those cases in which the GAL has been conflicted out, the copy will be provided to the Juvenile Case Coordinator).

Records in dependency only cases and termination of parental rights (TPR) cases will be provided only upon request.

- (b) DSS will redact the name and identifying information as to the reporter of the abuse and neglect.
- (c) Respondent attorneys may review the documents in the GAL office and make copies of the documents. (Respondent attorneys and GAL attorneys may review and make copies of the documents in the office of the Juvenile Case Coordinator in conflict cases.)
- (d) Respondent attorneys or GAL attorneys shall not provide copies of the records to their clients or other parties without the Court's permission.
- (e) If a respondent attorney is released from representation prior to the completion of the case, any copies of DSS records shall be returned to the GAL office (or the Juvenile Case Coordinator).
- (f) 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 children, 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.

10.3 MEDICAL RECORDS

The GAL attorneys and volunteers regularly obtain copies of the medical records of the parents and children in cases alleging abuse and/or neglect pursuant to statutes or court orders allowing them access to said records.

- (a) GAL shall request the records and upon receipt notify the DSS and respondent attorneys that they are available for review.
- (b) Attorneys may review the records in the GAL office and may make copies of the records. GAL will number the pages of the records and prepare a sheet for each attorney to sign indicating their review of the records. Attorneys may provide copies of their client's records to that client.
- (c) Attorneys must make objections to the admission of the records within ten (10) working days of the notice of availability of the records or the records may be admitted without objection.
- (d) The GAL may apply to the Court at any time, with notice to all parties, to destroy non-relevant records.
- (e) 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 children, 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.

10.4 MENTAL HEALTH AND SUBSTANCE ABUSE RECORDS

The GAL attorneys and volunteers regularly obtain copies of the mental health records and substance abuse records of the parents and children in cases alleging abuse and/or neglect pursuant to statutes or court orders allowing them access to said records.

- (a) GAL shall request the records and upon receipt notify the attorneys that they are available for review. GAL shall number the pages of the records and prepare a sheet for each attorney to sign indicating their review of the records.
- (b) The attorney for each adult shall initially review their own client's records and may object to review by other parties within ten (10) working days of the notice of availability. After ten (10) working days of the notice, if no objection is filed, all attorneys may review the records. All attorneys may review the records of the child(ren).
- (c) Attorneys may only provide copies to their clients of their own records. Permission of the court must be requested to provide copies of the child's mental health records to any party.
- (d) Attorneys must make objections to the admission of the records within ten (10) working days of the notice of availability of the records to all parties or the records may be admitted without objection.
- (e) The GAL may apply to the court at any time, with notice to all parties, to destroy non-relevant records.
- (f) 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 children, an order returning custody to the parents with no further reviews, or any other action that finally terminates the case and no appeal is filed.

10.5 RECIPROCAL DISCOVERY

- (a) Respondent attorneys must provide information to the GAL of any medical or mental health providers from which the GAL did not request medical or mental health records.

- (b) Respondent attorneys must provide copies of records or reports they receive from any agency not available or known to the GAL.

10.6 COURT REPORTS

Court reports prepared by DSS and GAL for presentation to the court in review hearings, permanency planning hearings, and post termination hearings shall be filed with the Clerk of Superior Court by 1:00 pm on the Wednesday before the scheduled court date.

RULE 11. PEREMPTORY SETTING

- 11.1** Requests for a peremptory setting for cases involving persons who must travel long distances, cases involving numerous expert witnesses or cases in which other extraordinary reasons for such request exist, must be made to the assigned Juvenile Judge. A peremptory setting shall be granted only for good cause and compelling reasons.
- 11.2** Requests for a peremptory setting must be in motion form, and copy thereof must be served upon all opposing counsel/party, and presented to the assigned juvenile court judge no later than the time period established in Rule 6 above.
- 11.3** The assigned juvenile judge may set a case peremptorily on his/her own motion.
- 11.4** Cases set peremptorily will only be continued by the court for exigent reasons.

RULE 12. SPECIAL SESSION

- 12.1** Requests for a special session for cases involving trial lengths that exceed one day, shall be prepared on the *Request for Special Juvenile Session* form and presented to the assigned juvenile court judge no later than the time period established in Rule 6 above. Upon a finding by the assigned Juvenile Court Judge that the case should be designated for special setting, the *Request for Special Juvenile Session* form shall be presented to the Chief District Court Judge for approval. [*Request for Special Juvenile Session* form shall be on form CCLF-FC(J)-002 as prepared and distributed by the Family Court Administrator's Office.]
- 12.2** The Chief District Court Judge may set a case for a special session on his/her own motion.
- 12.3** The Office of the Family Court Administrator shall notify all counsel/unrepresented parties and the Clerk of Superior Court of the ruling of the Chief District Court Judge on the motion for a special session.

- 12.4** Cases set during special sessions will only be continued by the court for exigent reasons. The Office of the Family Court Administrator shall notify all counsel/-unrepresented parties and the Clerk of Superior Court immediately of the cancellation of any special session.

RULE 13. CONTINUANCES

- 13.1** All requests for continuance shall be made by written motion on a *Motion for Continuance* form and shall set forth with particularity the reason for the continuance, consent if given by opposing party(ies), and a requested reschedule date. *[The Motion for Continuance shall be on form CCLF-FC(J)-003 as prepared and distributed by the Family Court Administrator's Office, or in letter form which essentially provides the same information]*. Motions shall be presented as follows:

(a) Regular Session.

- (1) **Prior to the first day of the court session, the motion shall be presented** to the assigned Juvenile Case Coordinator for ruling by the assigned Juvenile Court Judge or the Chief District Court Judge;
- (2) In open court at calendar call, the motion shall be presented to the assigned Juvenile Court Judge presiding.
- (3) Motions shall be presented as soon as counsel/unrepresented parties become aware of the reason for the continuance.

(b) Special Session.

- (1) All motions shall be presented to the assigned Juvenile Case Coordinator for decision by the Chief District Court Judge;
- (2) Motions for Continuance shall be presented no later than fourteen (14) days after receipt of notice of the Special Session Designation.

- 13.2** Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the assigned Juvenile Case Coordinator. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.

- 13.3** Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the assigned Juvenile Case Coordinator. All objections shall be made by written motion on the *Objection to Motion for Continuance* form setting forth the particular reasons for objection and served on opposing counsel/unrepresented parties. *[The Objection to Motion for Continuance shall be on form CCLF-FC(J)-004 as prepared and distributed by the Family Court Administrator's Office, or in letter form which essentially provides the same information]*. If a response is not received from the opposing counsel/parties within three (3) working days of the receipt of the

motion to continue, it will be assumed that the opposing counsel/ parties do not object.

- 13.4** Requests for continuance for cases set in accordance with Rule 6 or Rule 11 above, shall be ruled upon by the assigned Juvenile Court Judge within five (5) working days.
- 13.5** Requests for continuance for cases set in accordance with Rules 12 above, shall be ruled upon by the Chief District Court Judge within five (5) working days.
- 13.6** Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is in the best interest of justice. Continuances will not be granted based on consent of the parties, or the fact that the case has not been continued previously
- 13.7** Request for continuance beyond the time specified in Rule 9 will only be granted for extraordinary circumstances that could not have been foreseen.
- 13.8** Should an objection arise, any failure on the part of the moving party to comply with the rules concerning written motion and notice to opposing counsel/unrepresented parties shall result in the voiding of any continuance granted.

RULE 14. SERVICE OF NOTICE

- 14.1** Service as provided for in these rules, and pursuant to Rule 5, 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 Superior Court, Juvenile Records Division or Civil Division.
- 14.2** Service on unrepresented parties shall be accomplished by U.S. Mail, postage prepaid and first class or as otherwise provided by law.
- 14.3** Service to opposing counsel shall be defined as service to all attorneys of record as well as unrepresented parties proceeding *pro se*.
- 14.4** Providing Notice to the Clerk of Superior Court does not constitute providing Notice to the Family Court Administrator's Office.

RULE 15. DELINQUENT ORDERS OR JUDGMENTS

- 15.1** The court shall assign a responsible party to prepare each order or judgment. The responsible party shall present such order/judgment to opposing counsel within fifteen (15) working days for review. Any order or judgment shall be

considered delinquent if the order or judgment has not been presented to the court for signature and filed with the Clerk of Superior Court within thirty (30) days after the court directed that the order or judgment be prepared .

- 15.2** The Clerk of Superior Court shall identify those cases that are delinquent, pursuant to Rule 15.1 above, and provide an order due calendar of those cases to the attorney(s) assigned to prepare the order and to the Juvenile Case Coordinator. Any orders not entered within 30 days shall be scheduled for the assigned judge's next session of court for review and all attorneys shall be present to report to the court as to the status of those orders.
- 15.3** Failure to complete an order within the required time standards may result in the imposition of appropriate sanctions.

RULE 16. SANCTIONS

The willful failure to comply with any section of these rules shall subject the party or parties so failing to comply to all sanctions allowed by law as deemed appropriate in the discretion of the assigned Juvenile Court Judge or Chief District Court Judge.

RULE 17. FORMS

Local forms for use by counsel/unrepresented parties in accordance with these rules are attached hereto and are subject to change as legislation and/or policy dictates.

THESE RULES SUPERSEDE ALL PREVIOUS JUVENILE CIVIL RULES IN THE DISTRICT COURT OF THE TWELFTH JUDICIAL DISTRICT. THEY SHALL BECOME EFFECTIVE FROM AND AFTER JULY 1, 2006.

THIS THE _____ DAY OF _____ 2006.

**A. ELIZABETH KEEVER
CHIEF DISTRICT COURT JUDGE**