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Sixteenth Judicial District effective 1/1/2024
Durham Family Court Local Rules for
Juvenile
Abuse/Neglect/Dependency Court

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Sixteenth Judicial District effective 1/1/2024
**Durham Family Court Local Rules for Juvenile
Abuse/Neglect/Dependency Court**

Rule 1. Scope

These Rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected, and/or dependent, and petitions to terminate parental rights. A copy of these Rules shall be maintained in the Juvenile Clerk's office and in the Family Court Office. These Rules and forms cited herein are available for downloading on the web site of the Administrative Office of the Courts at: www.nccourts.gov.

These Rules supersede and replace all previous local rules controlling actions in Abuse/Neglect/Dependency Court (hereafter A/N/D court). The effective date of these Rules is January 1, 2024.

Rule 2. Purpose

These Rules establish procedures for Juvenile Court in cases involving juveniles alleged to be abused, neglected, and/or dependent, and petitions to terminate parental rights. These Rules are designed to fulfill the purposes of and ensure compliance with the purposes of Family Court, North Carolina Juvenile Code and related statutes, and the Adoption and Safe Families Act. To that end these Rules are intended to:

1. provide oversight for the Court to utilize in case management, so that cases are resolved in an efficient manner;
2. help the Court oversee case planning so that cases are resolved in a timely manner;
3. make Family Court and its proceedings accessible and understandable to families and juveniles;
4. encourage the involvement of families and juveniles in the decision-making process;
5. promote the integration of services for the parents/caretakers and juveniles involved in hearings, and to increase their access to community resources;
6. provide a fair and efficient determination of each juvenile protection matter before the court and ensuring due process for all persons involved in the proceedings;
7. develop a disposition whenever possible and in the best interest of the child, respects the autonomy of the family and preserves and strengthens the child's family ties;
8. eliminate unnecessary delays in Court proceedings; and
9. help the parties present issues and evidence to the Court in an efficient and simple manner.

Rule 3. Construction and Enforcement

These Rules shall be construed to accomplish the purposes set forth in Rule 2 above. The Court may impose sanctions against a party or attorney who fails to comply with these Rules; however, no rule shall be construed, applied, or enforced in a manner that will endanger or harm a juvenile or prejudice the rights of a party.

These Rules do not attempt to deal with procedures, time requirements, contents of summonses, pleadings, form of orders or other matters set out in the North Carolina Juvenile Code. Enforcement of the requirements of the North Carolina Juvenile Code is not altered by the adoption of these Rules.

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 North Carolina Juvenile Code, the North Carolina Rules of Professional Conduct, the North Carolina Rules of Civil Procedure, orders of the Chief District Court Judge, the Family Court Juvenile Abuse/Neglect/Dependency protocol, and the assigned or presiding A/N/D Court Judge(s).

These revised Rules are the product of an ongoing review process that shall occur every four years from the effective date. The Chief District Court Judge will provide an opportunity for the practicing attorneys in the A/N/D court to provide feedback.

Rule 4. Courtroom Decorum

Counsel are at all times are to conduct themselves with dignity and propriety. Counsel should yield gracefully to rulings of the court and avoid detrimental remarks to tribunal and other parties.

All parties and attorneys shall be present and ready to proceed as scheduled when a case is noticed for hearing or trial. All parties shall cooperate in moving cases as expeditiously as possible. Attorneys shall notify the Court Coordinator/Courtroom Clerk and opposing counsels of any other conflicts as they become known.

In the event that unforeseen circumstances prevent an attorney from being present at the opening of court, calendar call, or when the case is called for hearing, the attorney shall communicate with the A/N/D Courtroom and advise the Court of their whereabouts, reason for the delay, and anticipated arrival time.

There is to be no talking while court is in session other than by court personnel, witnesses who are testifying or defendants who are before the court.

4.1 Photographs and/or recordings of court proceedings are prohibited.

Any device used to take pictures or record court proceedings will be confiscated and sanctions may be imposed.

If any party or attorney willfully violates any of the Local Rules adopted herein, the Court may impose appropriate sanction(s) authorized by law and violations may result in a charge of contempt of court.

Rule 5. Petitions Alleging Abuse/Neglect/Dependency

5.1 Summons and Notice of Hearing. When a petition is filed, the Court Coordinator shall be contacted prior to the filing of a petition to provide the dates for the initial Nonsecure Custody hearing, Adjudication hearing, and Disposition hearing.

5.2 Initial Nonsecure Custody Hearing. The initial Nonsecure Custody hearing will be scheduled by the Court Coordinator in accordance with these Rules. The date, time, and place of the initial Nonsecure Custody hearing shall be placed on the *Juvenile Summons and Notice of Hearing*.

5.3 Other Hearings. All hearings shall be conducted pursuant to statutes and case law.

Rule 6. Court Appointed Counsel and Rule 17 Guardian ad Litem for Parent Lists

6.1 Court Appointed Counsel to Represent Parents or Serve as Rule 17 Guardian Ad Litem (GAL) for Parent. The Public Defender's office shall maintain a current list of attorneys eligible to be appointed to represent indigent parents of children alleged to be abused, neglected or dependent. Any attorney who wishes to be appointed to represent indigent parents in A/N/D Court must submit a written request to the Public Defender's Office in the Sixteenth Judicial District in Cases under the "Indigent Defense Services Act" to be included on List 7: Parent Representation. These "Regulations" are available for downloading on the website of the North Carolina Office of Indigent Defense Services at www.ncids.org.

The Family Court Office shall maintain the lists of attorneys eligible to be appointed to serve as GAL for a parent and GAL-Attorney Advocate (appointed in private Termination of Parental Rights matters) and shall deliver a copy of the lists to the Juvenile Clerk when changes are made to the lists. The assigned A/N/D Judges, as the Chief District Court Judge's designees, shall approve the addition of any qualified attorney to these lists.

6.2 Inclusion on Court Appointed Lists. To be included on the list, an attorney must maintain an office in Durham County or surrounding counties, have a local working telephone number at which he or she can be contacted, have the ability to receive and send email correspondence and fax, maintain a mailbox in the Family Court Office or wherever designated, be competent to handle Abuse, Neglect and Dependency cases and complete any initial or follow-up training specified by the Public Defender. Petitions or other documents relating to abuse, neglect, and/or dependency and termination of parental rights matters shall be electronically emailed to attorneys. All documents are subject to confidentiality rules.

6.3 Appointment of Court Appointed Counsel for Parent. The Public Defender's Office or its designee shall appoint provisional counsel to represent each parent named in a petition alleging abuse, neglect, and/or dependency and request for a nonsecure custody as required by N.C.G.S. §7B-602(a) and shall indicate the appointment on the juvenile summons.

At the initial nonsecure hearing, upon the completion and submission of the affidavit of indigency, the court shall determine if provisional counsel of record shall continue as counsel of record. If a parent fails to appear at the initial nonsecure hearing, provisional counsel shall remain counsel of record until the Court grants counsel's motion to withdraw. If the name of an attorney

is passed over for a reason other than the attorney's unavailability or appointment in a different capacity in the same case, then the Public Defender's Office may return to that name for the next case.

Because DSS shares discovery, and both DSS and the GAL Program distribute court summaries and court reports by e-mail, it is the duty of any counsel appointed to a parent to ensure that DSS and the GAL Program are promptly notified of any change in counsel's email address.

6.4 Appointment of Rule 17 GAL for a Parent. A Rule 17 GAL for parents shall be appointed pursuant to statute and case law. The Court will consider any and all conflicts of interests before making an appointment.

6.5 Removal from the Court Appointed Counsel List(s).

- A. If an attorney for a parent does not wish to remain on the qualified court appointed counsel list(s), then the attorney shall comply with the requirements for removal in Article VIII.A.2. of the "Regulations for Appointment of Counsel in the Sixteenth Judicial District in Cases under the Indigent Defense Services Act." If the attorney for a parent has cases still pending and is unable to continue representation due to relocation outside of Durham County or employment which will not permit continued representation, then he or she shall file and docket a motion to withdraw, which shall include an order allowing withdrawal and appointing the qualified replacement attorney if that attorney is known. Prior to the attorney officially ending their representation and leaving, they are responsible for turning over **all** discovery and contact information from their client received to the new attorney and they are to have a packet prepared so that it will be available to be presented to the new attorney upon appointment.
- B. Any complaint involving a specific attorney on List 7 shall be directed to the Chief Public Defender of the Sixteenth Judicial District. The Durham County Committee on Indigent Appointments shall follow the protocol established by Indigent Defense Services in regard to potentially removing said attorney from List 7: Parent Representation. All attorneys are expected to follow Article X. Performance Standards of the "Regulations for Appointment of Counsel in the Sixteenth Judicial District in Cases under the Indigent Defense Services Act."
- C. Nothing in these Rules shall inhibit the inherent power of an assigned A/N/D judge to remove an attorney for a parent and appoint a new attorney.

6.6 Removal from the Rule 17 GAL for a Parent List

- A. **Voluntary Removal.** If a Rule 17 GAL for a parent does not wish to remain on the list, the attorney shall file written notice of intent with the Family Court Office. If the attorney has cases still pending and is unable to continue representation due to relocation outside of Durham County or employment which will not permit continued representation, the attorney shall file and docket a motion which shall include an order allowing withdrawal. and appointing the qualified replacement.

- B. Involuntary Removal.** A Rule 17 GAL for a parent may be removed from the list by the Chief District Court Judge or his designee. Removal will be based on a violation of these Rules and/or policies relating to A/N/D Court in addition to any other published rules and regulations governing the behavior of attorneys generally. Removal may be initiated among the judges or by complaint(s) of other individuals having knowledge of such violation(s). In removing a Rule 17 GAL for a parent pursuant to this section, grounds may be stated and an opportunity to be heard may be afforded by the Chief District Court Judge or his designee but are not required.

Nothing in these Rules inhibits the inherent power of an individual judge to decline to appoint a particular GAL for a parent to cases or to remove a GAL for a parent/GAL Attorney Advocate and appoint a replacement from the approved list.

Rule 7. Responsibilities of all Attorneys

7.1 Availability to Accept Appointment as Provisional Counsel, GAL for a Parent.

- A. Notice of Unavailability.** If an approved attorney or Rule 17 GAL for a parent is unavailable for appointment for any of these roles for a particular period of time (i.e., secured leave pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, medical leave), then the attorney/GAL for a parent must file a written Notice of Unavailability with the Court Coordinator and the Juvenile Clerk in addition to any other places required by Rule 26.E.
- B. Notification of Conflicts.** The GAL Office shall determine if there are any conflicts before making a request to appoint guardian ad litem for the minor child. If, after appointment, the provisional attorney and/or Rule 17 GAL for a parent recognizes that a conflict in the case exists, then they must notify the Court immediately so that a new provisional attorney and/or Rule 17 GAL for a parent may be appointed.

7.2 Continuation of Representation.

- A. Abuse/Neglect/Dependency Petition.** When an attorney is appointed by the Court (i.e., after approval of the Affidavit of Indigency) in a case involving a petition alleging abuse, neglect, and/or dependency, he or she shall represent his or her client through all stages of the proceedings, including assistance with appeals and appellate counsel in accordance with the North Carolina Rules of Appellate Procedure until the Record on Appeal is settled and filed. If an appeal is filed, then the attorney shall continue to represent the parent in all A/N/D Court proceedings held in District Court pending the appeal.
- B.** Each attorney of record shall be released at such time as further reviews are waived by the Court and the appeal period has expired. The attorney of record shall have no additional obligation in that case unless and until reappointed by the Court.
- C. Termination of Parental Rights' Petition.** When practicable, the attorney of record for the parent in the underlying abuse, neglect, and/or dependency matter, shall be

provisionally appointed to represent the same parent in the termination of parental rights proceeding.

7.3 Withdrawal by Counsel.

- A. No Contact with Parent Prior to the First Hearing.** If an attorney, provisionally appointed to represent a parent, has been unable to establish contact with the parent, the appointed attorney may be permitted to withdraw from the case at the call of the adjudication hearing. The attorney shall send a copy of the order to the Public Defender's office.

If an attorney appointed to represent a parent has been unable to maintain contact with the parent subsequent to the adjudication hearing, the appointed attorney shall be permitted to withdraw after the first permanency planning hearing with no contact. The attorney of record shall serve the parent with a copy of the motion to withdraw at the last known address for the parent, pursuant to Rule 5 of the North Carolina Rules of Civil Procedure. The Court shall not grant the motion to withdraw before determining if the attorney of record has complied with said requirement. Any order granting a motion to withdraw as counsel shall include the last address of the parent known to counsel for the purpose of service of future pleadings in the case.

If the parent subsequently qualifies for appointed counsel, then the Court shall consider appointing the attorney originally appointed as provisional counsel to represent the parent.

- B. Unable to Maintain Contact with Parent.** If appointed counsel has been unable to maintain contact with the parent subsequent to the Adjudication hearing due to actions/inactions on the part of the parent, then the appointed counsel shall be permitted to withdraw from the case at any subsequent hearing, absent a compelling reason to remain in the case as determined by the Court as long as prior written notice of withdrawal has been given to the parent. Attorneys must be able to establish their attempts to contact at last known address, and if none known served pursuant to Rule 5 of the Rules of Civil Procedure. Except in extraordinary circumstances, which shall be determined by the Court, appointed counsel shall file a written motion to withdraw and provide the parent with proper notice of hearing. The GAL for a parent shall not be allowed to withdraw because the parent has not maintained contact with his or her GAL.
- C. Other Good Cause.** Counsel appointed or retained to represent a parent may be permitted to withdraw at any time upon filing a written motion and serving the parent with the motion and notice of hearing with good cause as determined by the Court. A Guardian ad Litem for a parent may be permitted to withdraw at any time upon filing a written motion with good cause as determined by the Court.
- D. Withdrawal of Rule 17 GAL for a Parent.** The motion to withdraw shall include an order allowing withdrawal and appointing the new Rule 17 GAL for a parent. The order shall also include the last known address of the parent for the purpose of service of future pleadings in the case. The withdrawing Rule 17 GAL for a Parent shall also give the newly appointed attorney a copy of all relevant documents pertaining to the parent's case.

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

- A. Fee applications shall be completed and submitted in accordance with any rules and policies of the North Carolina Office of Indigent Defense Services.
- B. Fee applications shall be submitted only at the conclusion of the Adjudication/ Disposition hearing and after each subsequent hearing unless the attorney is released at a Nonsecure Custody hearing. Two (2) copies of each fee application shall be submitted to the presiding judge.
- C. Attorneys shall make every effort to limit time billed to the state for “time waiting” in court. Attorneys should make good use of time spent in court before their case is called for hearing to work on other cases or request and receive updates from other professionals in the court room involved in their other cases.

7.5 Notification of Contact Information Changes. All attorneys on List 7: Parent Representation of the “Regulations for Appointment of Counsel in the Sixteenth Judicial District in Case under the Indigent Defense Services Act,” shall notify the Public Defender’s Office and the Court Coordinator, of any changes in contact information (i.e., office telephone number, facsimile number, cell phone number, mailing address, email address, and changes in law firm memberships which could result in conflicts in A/N/D Court appointments).

All attorneys on the GAL for a parent list shall notify the Family Court’s, of any changes in contact information (i.e., office telephone number, facsimile number, cell phone number, mailing address, email address, and changes in law firm memberships which could result in conflicts in A/N/D Court appointments).

7.6 Attendance at Court Proceedings. Failure of an appointed attorney to attend court proceedings could jeopardize further appointments and/or result in removal from List 7: Parent Representation pursuant to Article VIII. C. of the “Regulations for Appointment of Counsel in the Sixteenth Judicial District in Cases under the Indigent Defense Services Act.” Failure of a Rule 17 GAL for a parent or GAL-Attorney Advocate in Private TPR to attend court proceedings could jeopardize further appointments and result in removal from the approved lists.

7.7 Contact with Client. An attorney shall make diligent efforts to maintain sufficient contact with his or her client in order to provide effective representation.

7.8 Notification of Calendar Changes. All attorneys and GAL for the juvenile and/or a parent are responsible for contacting the Court Coordinator immediately if there are corrections that need to be made to the preliminary calendar, including estimates of time needed for the hearing.

Rule 8. Continuances

8.1 Good Cause. No extension of time or continuance beyond the time specified by statute, order, or these Rules shall be granted, except for good cause, as determined by the assigned Judge, or as delineated in the Juvenile Code or case law. Attorneys shall make all reasonable efforts to prevent

continuances. The consent of the parties alone is not good cause for an extension or continuance. The reasons for continuance shall be set forth, in as much detail as is known to the court at the time the continuance is requested. In ruling on a motion to continue, the Court will 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, protect the best interests of the juvenile(s), and promote the ends of justice. If at all possible, any continuances should be made at pretrial or before. Attorneys should file their continuance motion and order on the date the motion was made.

8.2 Form of Motions/Submission to the Court Coordinator. Whenever possible, motions for continuances shall be made in writing and served on all the parties and the Court Coordinator at least five (5) days prior to the scheduled hearing. Service may be affected by hand delivery, mail, facsimile transmission, or email attachment. All parties shall have an opportunity to be heard on the motion.

Whenever possible, all motions to continue made prior to the scheduled court hearing shall be made in writing with all pertinent information contained therein and the reason for the request clearly stated. Said motions shall be filed and delivered to the Court Coordinator. The Court Coordinator will provide a hearing date for the motion.

8.3 Notification of Opposing Counsel/Unrepresented Parties/Witnesses. Whenever possible, orders for continuance shall be prepared and tendered to the judge for signature in open court by the moving party. The Courtroom Clerk or Court Coordinator shall make sufficient copies for all attorneys and place the copies in the attorney's boxes in the Family Court Office.

8.4 Objections to Motion for Continuance. All parties shall have an opportunity to be heard on a motion to continue, and if the continuance is granted, any party's objection thereto shall be noted within the order.

8.5 Filing Orders All orders should be filed within thirty days following the conclusion of a hearing. A judge may allow additional time for the drafting of an order in complex cases, but all orders must be filed within thirty days following the hearing. The Court shall set entry of order dates in open court for the assigned Judge's monthly entry of order court session.

8.6 Court Scheduling Conflicts. In resolving scheduling conflicts between courts, except as listed in other statutes and in Rule 3.1(a) of Rules of Superior and District Court, juvenile matters have priority: Juvenile cases and other cases where children are the subject of the cases shall take precedence whenever possible.

8.7 Running out of Time. If a matter cannot be reached, due to other items on the docket consuming the court's available time, the court shall:

- A. First determine if there is availability within the remainder of the same court term in which it could be reached.
- B. If no time is available within the remainder of the court term to hear the matter, then set a new date in a subsequent term.

C. Refrain from modifying the existing order of the court as to any of its terms unless such is required to ensure the subject child's safety or fundamental wellbeing.

Rule 9. Court Schedule

9.1 Court Schedule. As of the date of the implementation of these Rules, the A/N/D court weeks are in two-week cycles: a "Short Week" and a "Long/Primary Week." Calendars are the function of the Court. Court sessions are as follows:

9.2 Court Week (Short Week).

In the schedule listed below, the morning court session runs from 9 a.m. until 1:00 p.m. The afternoon court session runs from 2:30 p.m. until 5:00 p.m.

The assigned A/N/D judge may determine and modify what will be addressed at their respective pretrials.

Thursday Mornings – Pretrial Conferences begin at 9:00 a.m. Motions, Post TPRs, Young Adult, APPLA hearings, short hearings will be heard at 11 a.m.

- A. Items to be addressed at pretrial: ICWA, subject matter jurisdiction, personal jurisdiction, amend petitions, discovery, continuances, notice requirements, stipulations, consent orders, provisional counsel (inquiry retention release of provisional counsel), whether a GAL inquiry for respondent parent is needed, paternity, relative identification and notification, interpreter requests, verification of the petition, scheduling (time estimates and time constraints), unknown parent hearings, and any other issues properly addressed as preliminary matters.
- B. At the conclusion of the pretrial conferences, the court after consultation with all attorneys will decide on the order in which cases will be heard, weighing the issues set out above, and any practical considerations brought to the court's attention during pretrials. Additional considerations for case schedules include the safety of the child, age of case, the number of prior continuances, and attorney availability. This order will be reflected in the revised docket to be distributed to all involved counsel by five p.m. on the following Friday.

Friday Morning and Afternoon - Nonsecures and any other matter set by A/N/D Judge : The summons and notices will provide a 9 a.m. court time for parents to appear. The calendar call will be at 9 a.m. and cases will be called from the printed calendar.

9.3 Primary Court Week (Long Week).

Monday through Friday – Cases will be called from the printed calendar which should be the last circulated calendar. The court will establish the trial order for all cases appearing on the docket at the pretrial conference on the short week Thursday.

Emergency hearings regarding abuse, neglect and dependency cases shall be scheduled by the Court Coordinator on the next available court date for the judge assigned to the case.

Entry of order docket date will occur on Tuesday afternoons at 2:30 p.m. or at a time certain at the discretion of the assigned judge. Parties are to voice any objections or concerns to orders at the entry of order calendar call unless they have already done so.

If orders are not submitted within the statutory thirty-day period from the completion of the hearing, at the entry of order calendar date a determination and explanation of the reason for the delay and any needed clarification as to the contents of the order must be held. The order must be entered within ten days of the entry of order date or another hearing shall be held to determine why the order has not been entered.

Rule 10. Calendar

10.1 Court Coordinator

The A/N/D calendar shall be maintained by the Court Coordinator. No case shall be scheduled on or removed from such calendar except by the assigned judge or by the Court Coordinator at the direction of the assigned judge.

- A. At or before the conclusion of each hearing, the next hearing date shall be set in open court, if applicable.
- B. If the assigned judge is unavailable for a court session, notice shall be given to the Court Coordinator who will notify all attorneys by email or by telephone. Juvenile Court is a priority court and should not be cancelled unless absolutely necessary. Attempts will be made to secure the other judge presiding in dependency, neglect, and abuse matters to preside over the juvenile court session. Emergency judges will be used when necessary. Cancellation of court shall occur only when emergencies dictate.
- C. Court calendars shall be provided via email to, the GAL office, County Attorney's Office, the Public Defender's Office, the Durham County Liaison to DSS and all counsel with a case on the calendar. The calendars will be modified to adhere to confidentiality requirements. Parent attorneys can request from the Court Coordinator, a listing of the cases to which they are counsel for Respondent parents at any time.

10.2 Distribution of Court Calendar. Ten (10) days prior to a scheduled court week, the Court Coordinator will distribute, via email, the preliminary calendar to the county attorneys responsible for A/N/D cases, court appointed counsel for each parent, any Rule 17 GAL for a parent, the GAL attorney advocate, the social work supervisors, the GAL District Administrator, the Juvenile Clerk, and the District Court Judges who are currently assigned to A/N/D Court. The Court Coordinator will use email safeguards regarding confidentiality. Attorneys in private Termination of Parental Rights matters and privately retained attorneys will not receive a copy of this calendar. However, they shall receive notice of all pretrials and hearing dates that they are required to attend. The calendars are not to be distributed to anyone other than those listed above and confidentiality rules shall be observed.

All attorneys, social workers via the County Attorney's Office, and GAL for the juvenile and/or a parent are responsible for contacting the Court Coordinator immediately if there are corrections that need to be made to the preliminary calendar, including time estimates for hearings. If an attorney's name appears on the calendar and that attorney has been released, he or she must timely notify the Court Coordinator prior to the printing of the final calendar of their release/withdrawal.

With the exception of Nonsecure Custody hearings, "emergency" situations (with the express permission of the presiding judge), motions to publish for an unknown parent, or corrections to the calendar, no cases will be added or removed after the preliminary calendar is created. Requests for continuances must take place in open court before the presiding judge pursuant to Rule 8 above.

The Court Coordinator will distribute, via email, the final calendar to the above distribution list on Friday for the upcoming court week.

10.3 Timeliness Requirements.

- A. Scheduling.** Hearings in juvenile cases involving allegations of abuse, neglect, and/or dependency shall be scheduled according to the guidelines established in the North Carolina Juvenile Code.

10.4 Scheduling Court Cases.

- A. Automatic Scheduling by the Court Coordinator.** All cases shall be scheduled in open court, except those which are required to be calendared pursuant to the North Carolina Family Court Time Standards and/or these Rules (i.e., Nonsecure Custody Hearings, Pre-adjudication Conferences, Adjudication/Disposition of Petitions Alleging Abuse, Neglect and/or Dependency) shall be scheduled by the Court Coordinator upon the filing of the petition/motion.
- B. Termination of Parental Rights.** After filing a petition/motion to Terminate Parental Rights, the petitioner/movant shall immediately submit a copy of the petition to the Court Coordinator. After filing an answer to the petition/motion to Terminate Parental Rights with the Juvenile Clerk's Office, the respondent shall immediately submit a copy of the answer to the Court Coordinator.
- C.** Notice shall be provided to all parties for pretrials and hearings as required by statute and caselaw. In most cases, the next court date will be given in open court or by email, and the date will also be contained in the written order that follows. The District Court Coordinator and Juvenile Clerk's Office shall assist with scheduling all required hearings connected with Termination of Rights petitions and motions once the Petitioner contacts the Court Coordinator.
- D. Calendaring other Types of Hearings.** Any motion (i.e., motion to withdraw, discovery, compel production of documents, publish on unknown parent, motion to review), may be calendared by an attorney or unrepresented parent upon receiving a court date from the Court Coordinator.

The mere request of “available dates” **does not** constitute sufficient calendaring according to these Rules. No case will be added to the court calendar unless these Rules are followed. No case will not appear on the comprehensive calendar, outside of open court, until a copy of the filed Motion and Notice of Hearing is received by the Court Coordinator.

Any party filing a Motion for Review shall serve a Notice of Hearing on **all** parties.

- E. Case Calendared at All Times.** Each Abuse/Neglect/Dependency and/or Termination of Parental Rights case shall be maintained on the court calendar at all times for as long as Juvenile Court jurisdiction in the case continues unless the Court orders that no further reviews are required. If a case cannot be reached for hearing due to other scheduled matters, then no counsel or unrepresented party involved in the case shall leave the courtroom prior to the case being re-calendared and notices of hearing served as required by these Rules without notice to the Court.

10.5 Removal from Calendar upon Issuance of Decree of Adoption. In addition to the provisions of §7B-908(e), the Durham County Attorney’s Office on behalf of Durham County Social Services shall also provide written notice to the Juvenile Clerk, GAL Office, and the Court Coordinator when a decree of adoption has been issued. When the Court Coordinator receives such written notice of adoption, the case can then be removed from the calendar.

Rule 11. Case Management Updates

Durham County DSS must notify the Court Coordinator of changes to any case (or involving any juvenile) active in the court system. These changes include but are not restricted to a change in Durham DSS’s assigned social worker, the issuance of a decree of adoption, the dismissal of the petition alleging abuse, neglect, and/or dependency, or any other case closure. Any and all changes should be submitted to the Court Coordinator via email within thirty (30) days of the change. The date that the change occurred should be included in the notice.

Rule 12. Service of Summons and Petition

From the date the petition alleging abuse, neglect, and/or dependency is filed until the Adjudication hearing, the petitioner shall have a continuing duty to identify and locate any parent who has not been served with a copy of the summons and petition and to serve the summons and petition on any such parent. A parent’s request for counsel shall be deemed a general appearance for purposes of service of the summons and petition. Additionally, any motion for service by certified or registered mail or service by publication shall be liberally granted.

Rule 13. Discovery and Hearing Exhibits

13.1 Voluntary Examination and Production of Records. Pursuant to N.C.G.S. § 7B-700, DSS will voluntarily release the information described therein. Any documents that may be submitted into evidence by petitioner shall be provided to each parent attorneys by placing those records in a sealed envelope in the attorney’s juvenile court box or transmitting them electronically within ten business days of DSS agency receiving same.

In the event that Durham County DSS has received a voluminous record from a medical or mental healthcare provider and intends to submit into evidence only a portion thereof, DSS shall timely provide the full record in paper or electronic format to counsel for each party, and designate those pages it considers relevant, and intends to submit into evidence. At trial, the full record shall be provided for the court record in a compact electronic format, with the designated pages submitted on paper as an exhibit, to be read and considered by the judge at trial. If counsel for any other party determines that it is necessary to include additional portions of that voluminous record, he or she shall give notice to other counsel of the pages he or she intends to submit, and then may introduce those additional pages as that party's separate exhibit.

In the event Durham County DSS does not share information pursuant to N.C.G.S. § 7B-700, discovery of the Durham County DSS' records is available by the use of a Motion and Order to Examine and Produce Records. The Motion to Examine and Produce Records shall be filed in a timely fashion and shall not be filed for purposes of delay. The Motion to Examine and Produce Records may be filed at the first nonsecure custody hearing. If the assigned Assistant Durham County Attorney objects to entry of the order, then the Motion to Examine and Produce Records must be calendared for hearing by submitting an A/N/D Information Sheet.

Any order allowing the Motion to Examine and Produce Records shall contain protective provisions that require the movant to maintain the confidentiality of any documents received from all persons. Unless the presiding judge specifically orders otherwise, the protective provisions shall include, without limitation, a provision prohibiting attorneys from allowing their clients to review, read or otherwise examine mental health records, evaluations, or other such documents of another party.

Any order allowing the Motion to Examine and Produce Records shall contain a provision for a parent's attorney, GAL Attorney Advocate, or an unrepresented party to request copies of any documents examined by the parent's attorney, GAL attorney, or an unrepresented party. These copies shall be provided by Durham County DSS to the parent's attorney, GAL Attorney Advocate, or an unrepresented party upon request.

If Durham County DSS objects to production of a particular requested record, then Durham County DSS shall file a Motion in Opposition to Production of Records and serve it on all parties within three days after the request for production is made. Durham County DSS shall also consult with the Court Coordinator as well as the other parties to select a date for the hearing on the Motion in Opposition to Production of Records. It is the responsibility of Respondent Parent Attorney to file and serve a Notice of Hearing and request a writ for any incarcerated parent for a hearing on a Motion in Opposition to Production of Records filed pursuant to this section.

13.2 Requests for Production of Documents. Requests for Production of Documents shall be filed in a timely fashion and shall not be filed for purposes of delay. Motions to Compel Discovery shall be filed and calendared for hearing in a timely fashion and shall not be filed for purposes of delay.

The Court shall have the discretion to deny Motions to Compel Discovery if a Motion to Examine and Produce Records has not been filed or if the records have not been examined as permitted by the Order Allowing Examination and Production of Records.

Any order allowing the Production of Documents shall contain protective provisions that require the movant to maintain the confidentiality of any documents received from all persons. Unless the presiding judge specifically orders otherwise, the protective provisions shall include, without limitation, a provision prohibiting attorneys from allowing their clients to review, read or otherwise examine mental health records, evaluations, or other such documents of another party.

If an attorney or pro se litigant wishes to disclose to a person not a party to the A/N/D action copies of any mental health records, evaluations, home studies, pre-placement assessments, or other sensitive documents, the attorney shall file a Notice of Intent to Disclose and serve it on all parties no less than 10 days from the intended date of distribution. The notice shall contain the name of the document intended to be disclosed, the date of the document intended to be disclosed, the author of the document intended to be disclosed, the name of the person to whom the document is intended to be disclosed, and the reason why disclosure of the document is necessary. If a party objects to disclosure of the document, then that party shall file a Motion in Opposition to Disclosure and serve it on all parties no less than three days before the intended disclosure. The party objecting to disclosure shall also consult with the Court Coordinator as well as the other parties to select a date for the hearing on the Motion in Opposition to. It is the responsibility of the party objecting to disclosure to file and serve a notice of hearing and request a writ for any incarcerated parent for a hearing on a Motion in Opposition to Disclosure filed pursuant to this section.

13.3 Access. The GAL Attorney Advocate, the Durham County Attorney, counsel for all parents, any unrepresented party and the GAL for an unrepresented parent may have access to any records subpoenaed (i.e., videotapes, audiotapes, or medical records) and intended to be used as an exhibit when received by the Court.

13.4 Preview of Exhibits. Attorneys and/or parties shall make a good faith effort to have sufficient copies of all exhibits, reports, or other documents that may be introduced at any hearing (including reviews) available for distribution to each party prior to the scheduled court hearing date. All attorneys and/or parties shall make a good faith attempt to share exhibits, not received by the attorney prior to the hearing date with all parties for their review prior to the call of the case for hearing. The preferred method of exchanging of exhibits is by email. All confidentiality requirements shall be observed.

Rule 14. Early Submission of Court Reports

14.1 Review Hearings - Submission to District Court Judge. Court summaries from Durham County DSS, Court Reports from the GAL Program or GAL-Attorney Advocate, and written reports of any mental health, psychological, substance abuse and/or other evaluations previously ordered by the Court for all hearings shall be available at least ten (10) calendar days prior to the 1st business day of the week of the scheduled hearing. The parties shall notify the presiding judge of which reports are tardy at the pretrial hearings. If shared with other counsel and submitted to

the Family Court Office by the deadline noted above, any DSS Court Summary or GAL Court Report may be reviewed by the Court prior to the date set for hearing upon agreement of all parties.

The documents submitted shall include, but are not limited to, Court Summaries from Durham County DSS, the GAL Court Report, and mental health, psychological, educational, substance abuse and any other evaluations previously ordered by the Court, letters from service providers, genetic marker results, drug screen results, certificates of completion of services and any other available documents that any party wishes to be a part of the court record. ANY document which is provided to the Court SHALL simultaneously be provided to other pertinent persons. If any document is received by the social worker after the date of submission of the court report, the social worker shall: provide the document(s) to the Court and other pertinent persons as soon as possible, as well as bring the document(s) to court, have sufficient copies of the document(s) for each attorney/unrepresented party and the Court, and share the document(s) with each attorney/unrepresented party prior to the call of the case for hearing.

Parties may enter objections to these items prior to the items becoming evidence in the case.

14.2 Submission of Adjudication/Disposition and Termination of Parental Rights Reports to the Court. Adjudication/Disposition and Termination of Parental Rights court reports SHALL NOT be submitted to the presiding judge prior to the Adjudication hearing or the Termination of Parental Rights hearing unless by consent of all parties in anticipation of a consent agreement.

14.3 Sharing Court Reports with Juveniles. Court reports and medical/psychological/forensic evaluations that are part of court reports shall not be shared with a juvenile who is the subject of the AND Court proceeding except under the following circumstances:

- A. By the GAL Attorney when the GAL Attorney determines it is necessary and in the best interest of the child.
- B. Social workers or Guardians ad Litem may share with a juvenile the portion of their written court reports that do not include sensitive information about family members or other individuals if, in the opinion of the social worker or GAL, it is in the juvenile's best interest and the juvenile is twelve years of age or older.
- C. Psychologists, physicians, or other professionals that conduct evaluations of juveniles or therapists who provide treatment to juveniles may share with the juvenile those parts of their reports that do not include sensitive information about family members or other individuals if, in the opinion of the professional, it is in the juvenile's best interest.

Except as specified above, a court report or medical/psychological/forensic evaluation that is part of a court report shall not be shared with a juvenile who is the subject of the AND Court proceeding unless the Court determines that the disclosure of the report is in the juvenile's best interest.

Rule 15. Juvenile Records

15.1 Confidentiality of Juvenile Records. Juvenile Court Records, Human Services and/or DSS files, medical records, psychological evaluations, and other assessments are confidential. All recipients of confidential information, including, but not limited to, court calendars, copies of the

juvenile's file, discovery, DSS Court Summaries, GAL Court Reports, records of the juvenile and his or her parents' psychological evaluations and assessments, medical records, and all similar records, shall exercise extraordinary care to prevent unauthorized dissemination of such documents. Copies of the court calendar containing information involving other juveniles and therefore shall not be provided to the juvenile, a parent of the juvenile, other family members, or the foster parent.

No party or attorney shall disseminate case-related information to the media or public that identifies or can lead to the identification of a child or family involved in A/N/D Court. Release of such information may be subject to sanctions and contempt of court.

15.2 Closing Courtroom

In determining whether to close or open a courtroom pursuant to GS 7B-801, the Court shall take into account the nature of the allegations, the age and maturity of the juvenile, the benefit to the juvenile of confidentiality, the benefit to the juvenile of an open hearing, and the extent to which confidentiality of the juvenile's record, including court and DSS reports will be compromised by an open hearing. The hearing may not be closed if the juvenile asks that it be open.

If any party requests that the courtroom be closed, after a hearing and findings pursuant to GS 7B-801, the courtroom may be closed to all except the parties, the supervisor of GAL, supervisor of DSS social worker, Rule 17-GAL, and current resource parents/ placement providers. Any other individuals including attorneys, social workers, and GAL volunteers, etc., that are not directly involved in the matter before the court will be asked to leave until the hearing has concluded unless explicitly given permission to remain by the presiding judge.

15.3 Filing Documents.

- A. Documents to be Filed Shall Contain All Applicable File Numbers.** Any and all documents submitted for filing in the juvenile's court file shall contain all file numbers for which that document is applicable. Documents include, but are not limited to, motions, court summaries, orders, psychological and/or substance abuse evaluations, letters from a juvenile to the Court, exhibits introduced by any party, Affidavits of Indigency, and returns of service. Exhibits for which there is only one original (i.e., photographs and other tangible exhibits) shall be filed in the juvenile file of the youngest juvenile involved in a petition and a separate document shall be filed in each applicable file referencing the filing location of the original exhibit. With the exception of the original documents accompanying the petition alleging abuse, neglect, and/or dependency, the party filing the document or submitting it to the Court shall be responsible for placing all file numbers for which that document is applicable on the document before filing or submission to the Court.

The Clerk of Superior Court shall assign a separate and individual file number to each juvenile named in a petition alleging abuse, neglect, and/or dependency or in a petition to terminate parental rights in which no petition alleging abuse, neglect, and/or dependency has been filed. A juvenile will only receive one file number, even if a subsequent abuse/neglect/dependency, delinquency and/or undisciplined petition is filed.

B. Documents to be Filed only in Applicable Files. A document shall only be filed in the juvenile's file for which it is applicable.

Rule 16. Consent Orders and Stipulations

16.1 Consent Orders. The Court may enter Consent Orders as permitted by N.C.G.S. §7B-801.

A. The use of consent orders and stipulations is encouraged to resolve cases or narrow the issues. Proposed consent orders, stipulations, and/or court reports shall be circulated among the parties in advance of the scheduled hearing. Counsel is encouraged to contact each other to ascertain the possibility of a consent order or stipulation. Negotiation of a consent order on the date set for trial is discouraged, as counsel for DSS and the GAL have other cases requiring their attention. If consent has not been reached at the time the matter is called for hearing, then hearing shall proceed. Attorneys should encourage their clients to maintain contact with the attorney before the scheduled hearing date(s) so that proposed consent orders, stipulations, and/or court reports may be reviewed prior to the scheduled hearing. If a consent order is drafted, signed by all parties, and submitted to the court at the time set for pretrial or calendar call of the case in question, then the court shall review the order that same day, and provide notice to the Court Coordinator as to whether or not he or she is willing to sign it. If the court approves of the consent order, such will be noted on the final docket, and the parties will not then be required to appear at the time set for trial.

16.2 Stipulations. If the parties agree to stipulate to certain findings, then the Court shall determine in open Court, before accepting the stipulations, that the parties understand the content and consequences of the stipulation and that the stipulation is voluntary. The Court's finding(s) shall be set forth on the record. In lieu of stipulations, in order to protect the parent's constitutional rights or for any other reason, a parent may choose to enter into findings that he/she does not contest the allegations set out in specific paragraphs of the petition and admits that clear, cogent evidence exists sufficient to prove same. Further, a parent may choose not to resist a determination by the Court that a juvenile is abused, neglected, and/or dependent.

Rule 17. Recordation of Hearings

Hearings shall be recorded pursuant to N.C.G.S. §7B-806. In addition to Adjudication/Disposition hearings of petitions alleging abuse, neglect and/or dependency and Termination of Parental Rights, other hearings that shall be recorded include hearings requesting ceasing reunification efforts with parents and/or granting legal custody or guardianship to a non-parent. It shall be the responsibility of all attorneys to notify the Juvenile Clerk of any proposal that might necessitate the recording of a hearing.

Recordings of Juvenile Hearings are not public record. Specialized software is required to review the recording. Parties may request a copy of the recording by filing a request (AOC-G-115).

Rule 18. Permanency Mediation

18.1 Statutory Authority. N.C.G.S. §7B-202 shall govern permanency mediation in all A/N/D

and TPR proceedings and are incorporated herein by reference.

18.2 Court Order to Mediate. The Court may order parties to participate in permanency mediation at any stage of the proceedings upon one of the following:

- A. Any attorney for any party or an unrepresented party may file a written motion for mediation and the motion shall be calendared for hearing before the assigned judge.
- B. If all parties consent to permanency mediation, any attorney for any party or an unrepresented party may file a written motion for mediation. The hearing on the motion shall be waived unless the Court denies the motion for mediation and orders that the motion be set for hearing. If the written motion is granted without hearing, the moving party shall be responsible for serving all parties with the Order to Attend Permanency Mediation and shall provide a copy of the order to the Family Court Office.
- C. At any hearing, the attorney for any party, an unrepresented party, or the Court may orally move for mediation.
- D. The moving party shall be responsible for making sure the Family Court Administrator is notified about scheduling mediation.
- E. The Family Court Office shall timely serve all mediation participants with the Notice of Mediation Session.

18.3 Mediation Attendance. All **adult** parties and their attorneys shall attend Court ordered mediation. Other individuals whose input may be helpful may be invited to the mediation session by the parties or attorneys but are not required to attend. These individuals may participate in the session only if agreed upon by the mediators, the parties, their attorneys, or by order of the Court.

Parties and attorneys who are ordered to attend a mediation session, but who fail to appear, may face Court sanctions, including but not limited to, contempt of court. In addition, court appointed attorneys may be subject to removal from the court appointed lists for non-attendance, arriving late, or for not attending the entire session.

The Court, with input from the mediators, parties, and their attorneys, shall determine if the mediation can proceed when a party or attorney does not attend.

18.4 Mediation Process. Mediation sessions that occur prior to adjudication may address stipulations to the facts alleged in the 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 petition and/or case plan may be reached as a result of pre-adjudication mediation.

Mediation sessions that occur post-adjudication may address issues of visitation, communication, permanent placement, relinquishment/post-adoption contact, or other issues that may result in permanence for the child(ren) in a shorter period of time. If mediators determine that domestic violence is an issue they must ensure that appropriate safety measures are taken. The mediators

may terminate mediation if it is determined at any point in the process that mediation is not appropriate.

If the mediation process requires more than one session, then no party or counsel may approach the Court between sessions on any matter referred to in mediation unless an emergency arises regarding the child(ren). Participation in mediation is not to be used to delay the court process.

If paternity is not established prior to the mediation session and if a father named in the petition does not intend to acknowledge paternity prior to the scheduled mediation, then that father and his attorney may not enter into a mediated agreement regarding the petition or case plan, unless approved by the Court.

18.5 Mediated Agreement. Although parties are ordered to attend mediation, 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. If an agreement is reached, the mediators shall draft a written agreement while all parties and attorneys are present at the mediation. All parties and attorneys shall sign the written agreement and shall receive a copy.

The Durham County Attorney's Office shall be responsible for taking the mediated agreement to court and reading the agreement into the court record at the scheduled court hearing or at an earlier date if all parties consent. The Court may accept or reject the mediated agreement. In cases mediated pre-adjudication, agreements reached and signed by all parties and accepted 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 part of a court order.

18.6 Confidentiality. All participants, including the mediators, shall sign a confidentiality agreement prior to beginning the mediation. All participants, including the mediators, shall honor the confidentiality agreement regardless of whether a final agreement is reached. Except for a mediated agreement, no reports regarding the content of the mediation may be created by any participant to the mediation.

Exception: Any new allegations of child abuse or neglect, which are made during the mediation session, shall be reported. If information concerning serious threatened harm is revealed during the mediation, then the appropriate authorities and/or victims shall be notified.

The behavior to individuals prior to and following the formal mediated session is subject to disclosure and inclusion in the court report.

Rule 19. Judicial Assignment

19.1 Judicial Assignment upon Adjudication. Once a juvenile case involving allegations of abuse, neglect, and/or dependency has been adjudicated, that case shall be assigned to the judge presiding over the Adjudication/Disposition hearing. All subsequent hearings in the case shall be scheduled before the same judge, including Termination of Parental Rights hearings and future

Adjudications regarding the same juvenile(s), unless extraordinary circumstances require otherwise.

19.2 New Petitions Involving Same Parent(s). With the exception of Nonsecure Custody hearings, if a new petition for custody of other juvenile(s) of the same parent(s) is filed, all hearings involving the sibling juvenile(s) shall be heard by the judge assigned to the previous case if that judge is currently assigned to A/N/D Court, including future Adjudications and Termination of Parental Rights hearings regarding the same juvenile(s), unless extraordinary circumstances require otherwise.

19.3 Scheduling Changes. Once a judge is assigned to a case, reasonable efforts shall be made to schedule all hearings before the assigned judge during his or her scheduled A/N/D Court rotation. If an emergency arises and a motion must be heard outside of a judge's assigned rotation, then the attorneys must consult with the assigned judge to inquire as to the feasibility of a temporary schedule change pursuant to Rule 24 below, or of conducting the hearing in chambers.

Rule 20. Preparation and Entry of Orders

20.1 Preparation of Orders. In cases involving Durham County Social Services, the Durham County Attorney's Office shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge. In all other cases, the prevailing party shall prepare the order, unless otherwise provided herein or instructed by the presiding judge. If further hearings are calendared in the case, then the order shall designate the date, time, place, and purpose of the next hearing, which shall serve as notice of hearing to all parties served with a copy of the order and the caption shall contain "Notice of Hearing" language.

20.2 Time Standards for Entry of Order. With the exception of pretrial orders as required in the previous section above, all orders shall be filed as required by statute, but in no event shall an order be entered later than 30 days following any hearing. A draft of each order must be circulated among the attorneys (and any unrepresented parties who appeared at the hearing) involved in the proceeding within a reasonable time prior to the submission of the final order to the Court for signature. If an unrepresented party did not report his present address to the court on the date of hearing, then the County Attorney shall send the draft order to the last address known to DSS. If the order was not circulated in compliance with this Rule, this must be brought to the Court's attention when the final order is submitted for signature.

20.3 Orders Due Calendar/Entry of Order Calendar. The Juvenile Clerk shall schedule a hearing for any order that is not entered in a timely manner pursuant to the Juvenile Code or these Rules. The Orders due date is a calendared hearing that ALL attorneys and pro se litigants involved in the case must attend if the case appears on ORDERS DUE CALENDAR/ENTRY OF ORDER CALENDAR unless the order is entered by the Judge by noon the business day before the Orders Due/Entry of Order calendar.

Any and all conflicts regarding the order shall be resolved prior to the conclusion of the Orders Due hearing, and the order shall be entered within 10 days as required by the Juvenile Code or these Rules. When attorneys are unable to resolve the language in the proposed court order, the attorney shall submit their proposed order with language to the judge for the judge to decide. All

parties have a right to appear at the Entry of Order calendar to be heard on changes that are unable to be agreed upon.

20.4 Order Submission. All orders must be delivered to the Court Coordinator in advance of the due date to allow the judge time to review the order for changes before signature. For all orders timely submitted in accordance with this rule, the Court Coordinator will ensure that the orders are timely delivered to the judge, signed, and filed. A filed copy will be returned to the drafting party for service upon other parties.

20.5 Order Submission in Private Termination of Parental Rights Hearing. See Rule 26.9 below.

20.6 Review of Filed Order. It shall be the responsibility of each attorney and/or party to review the filed order. If an attorney/party has an issue regarding the order as entered, that issue shall be brought to the attention of the other attorneys and a Rule 60 motion shall be filed if applicable.

Rule 21. Interpreters

If a parent, juvenile, or witness needs a foreign language interpreter for an Adjudication/Disposition and/or Permanency Planning hearing, or a Termination of Parental Rights hearing, then the counsel for the party requiring an interpreter shall notify the Court Coordinator of the need for an interpreter at the first opportunity including at a Nonsecure Hearing or at the first pretrial conference (see below). If there is no pretrial conference, counsel shall notify the Court Coordinator for the need of an interpreter by 3:00 pm on the Friday of the week preceding the scheduled hearing date.

21.1 Spoken Foreign Language Court Interpreters. Submit a Request for Spoken Foreign Language Court Interpreter at least ten (10) business days prior to the scheduled proceeding or as soon as the proceeding is placed on the court calendar. Requests shall be submitted electronically from the website at <http://www.nccourts.gov>.

Failure to provide sufficient time to secure a qualified interpreter likely will result in a delay or postponement of the court proceeding if a qualified interpreter is not available.

Once services are requested, if it is determined before the court date that the case will not go forward as scheduled, notify the local Language Access Coordinator (currently Maria Owens) so services can be cancelled in a timely manner (no less than 24 hours) to avoid unnecessary cancellation charges.

21.2 American Sign Language (ASL) Interpreters. If a parent, juvenile, or witness needs an ASL interpreter under the American with Disabilities Act for an Adjudication/Disposition, Permanency Planning Hearing, or a Termination of Parental Rights Hearing, then the attorney for the parent, juvenile, or witness submit Disability Access Request form on <http://www.nccourts.gov> to obtain the services of a ASL interpreter. If the Court Coordinator and/or Juvenile Clerk indicated at a prior hearing that he/she would request the interpreter, it shall be the duty of the attorney requiring the interpreter to verify that the interpreter has been requested at least 15 days prior to the required hearing.

Rule 22. Writs and Inmate Transport

When a hearing is scheduled which reflects that a respondent is detained pending trial or incarcerated, the clerk's office or any other party 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. Durham County Jail Inmate

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

1. At or before 9:00 a.m. on the day of the hearing, Counsel representing a party who is in the Durham County Jail shall notify the deputy assigned to A/N/D Court that their client needs to be brought over from the Durham County Jail.
2. It is the responsibility of counsel for the parent to secure attendance by writ if the parent is needed for the proceeding and is detained or incarcerated in a facility other than the Durham County Jail.

B. North Carolina Department of Adult Corrections Inmate

If the inmate is housed in a facility maintained by the North Carolina Department of Adult Corrections, the following procedure applies.

Respondent's counsel of record (if any) shall be responsible for securing his or her presence in court by completion of AOC-G-112 for Writ, submit two copies of the form to the assigned judge, obtain the judge's signature, and submit to the Juvenile Clerk for filing. Respondent's counsel shall deliver the Writ to the Department of Adult Corrections (DAC) in accordance with their policies.

If the respondent is not represented by counsel, the Durham County Attorney shall prepare the Writ, submit two copies of the form to the assigned judge, obtain the judge's signature, and submit to the Juvenile Clerk for filing. The Durham County Attorney shall deliver the Writ to the Department of Adult Corrections (DAC) in accordance with their policies.

C. Federal Prisoner/Inmate, "287 G" hold, or I.C.E. Prisoners:

As soon as practicable after being provisionally appointed, the parent attorney shall make contact (i.e., via telephone, email, facsimile, and or U.S. Mail) with the respondent's case manager at the facility where the respondent is located in order to ascertain how communication with the respondent can be effectuated and shall follow the recommended procedures(s).

- D. If any attorney has reason to believe that a writ may have previously been issued for the scheduled court date, that attorney shall verify such issuance with the Juvenile Clerk at least ten (10 days) prior to that scheduled hearing.

- E. Termination of Parental Rights Cases.** The above stated “After Disposition” procedures will apply to all termination of parental rights cases for both the pretrial and Termination of Parental Rights hearings. In a private TPR, Petitioner’s counsel shall perform tasks that would be required by the Durham County attorney.

Rule 23. Remote Hearings Procedures – Webex

Due to the pandemic the use of electronic hearings became common in AND Court. In certain circumstances and at the discretion of the assigned judge upon request of the parties, hearings via Webex may be allowed. The motion shall be made in open court and no later than at the pretrial date.

- A. Individuals participating virtually must be in a private location so that the proceeding can remain confidential.
- B. WebEx hearings are court proceedings and all participants shall follow ordinary standards of courtroom decorum. Participants should ensure they are appropriately dressed, that their surroundings are as quiet as possible and well lit, that their electronic devices are functioning properly, that they have an adequate internet connection, and that distractions in home environments are minimized to the extent possible.
- C. Audio, visual, and/or video recording of any portion of the Webex hearing is strictly prohibited. Attorneys, parties and participants are not permitted to record the proceedings or any part of the proceedings. They are not permitted to take screenshots, photographs, or otherwise make images of the proceedings. Violation of this prohibition may result in the imposition of sanctions including contempt of court.
- D. Hearings will be recorded by the Juvenile Clerk through Webex and maintained by the Durham County Clerk of Court. Access to all recordings, whether the recording is via Webex or the courtroom recording system, will be governed by the Juvenile Code.
- E. Webex invitations will be sent out by either the Clerk of Court or the Court Coordinator prior to the hearing date. The invitation will include the WebEx link and phone in instructions. The WebEx invitation will be sent to Attorneys of Record, the GAL Program, and other parties at DSS. The Attorneys are responsible for forwarding the link to their clients and all necessary witnesses for the hearing. Durham County Attorneys are responsible for forwarding the link to the Social Worker, Supervisor, and all necessary witnesses for the hearing. The GAL Program is responsible for forwarding the link to any GAL Volunteers who are participating outside of the GAL office.
- F. All attorneys are responsible for ensuring that the Clerk’s Office and the Court Coordinator has their correct email address.
- G. Exhibits: The existing rules and filings deadlines for court reports as set out in the Local Rules remain in effect. All other proposed exhibits to be offered by any party must be delivered to the Juvenile Clerk no later than the Friday before the long week of Court (the day after pretrials). The paper copy which is provided to the Juvenile Clerk must be marked as an exhibit and must

be delivered in a sealed envelope, with the case number and marked on the outside of the envelope. No unmarked documents will be accepted. Failure to comply with these procedures may result in a proposed exhibit not being admitted into evidence, at the discretion of the presiding judge.

- H. An exhibit does not have to be displayed on the screen in order to be introduced into evidence. If a party wants to display an exhibit on the Webex screen during the hearing, that party must have access to an electronic copy of the exhibit saved on the computer they are using during the Webex proceeding.
- I. All parties and counsel must be able to be seen and heard by all other parties, unless the judge waives this requirement for good cause.
- J. If a party becomes disconnected from the hearing while it is in progress, that party should promptly text, call or communicate with his/her counsel. Witnesses should be instructed to promptly text, call or communicate with the Attorney who subpoenaed/arranged for their testimony if they become disconnected during the hearing. Self-represented parties or Attorneys who become disconnected from a hearing should promptly call the Juvenile Court Clerk or Court Coordinator.
- K. All parties must have their microphones muted and they shall not speak or otherwise communicate with any party or witness during the hearing. Parties shall not utilize the chat feature in a way to abuse or in any way to interfere with the hearing.

Rule 24. Special Sessions

24.1 Modification of Judges' Courtroom Assignments. In order to complete lengthy hearings in a shorter time span, the judges regularly assigned to A/N/D Court shall have preliminary authority to modify their courtroom assignment schedule by switching their rotations in A/N/D Court with another A/N/D Court judge. Final approval for courtroom reassignments shall remain with the Chief District Court Judge.

24.2 Requests for Special Session or Peremptory Setting. Requests for a special session for hearings that are anticipated to be extraordinarily lengthy (i.e., exceeding two court days) or for cases involving persons who must travel long distances, cases involving numerous expert witnesses or cases which other extraordinary reasons for such request exist, must be made to the assigned Juvenile Judge. A request for special session or peremptory setting shall be granted only for good cause and compelling reasons. There must also be availability of court personnel.

Requests for peremptory setting shall be made in open court and notice given to all opposing counsel/parties. The assigned judge may set a case peremptorily on his/her own motion.

Cases set peremptorily and for special session will only be continued by the court for exigent reasons. The Court Coordinator shall notify all counsel/unrepresented parties and the Clerk of Court immediately of the cancellation of any special session or peremptorily set session.

Rule 25. Termination of Parental Rights

25.1 Pretrial Hearing for Termination of Parental Rights (filed by DSS/GAL). The purpose of the pretrial conference shall be to determine if there is any outstanding discovery, explore the possibility of settlement, to narrow the issues as much as possible, to stipulate to those facts which are not in dispute, to estimate the time the matter will take for hearing, to prioritize the hearing order of the scheduled cases and to share witness and exhibit lists. The Court shall conduct a pretrial hearing in accordance with N.C.G.S. §7B-1108.1. The Petitioner/Movant shall serve a notice of hearing on any respondent not represented by counsel and on any respondent who has provisional counsel, but not counsel of record.

- A. It is preferred that all attorneys and each parent/respondent be present in court for the scheduled pretrial hearing. Each attorney shall notify their client of the date and time of the pretrial hearing (preferably in writing).
- B. If the termination of parental rights hearing is not scheduled for hearing on the same date following the pretrial hearing and if case is not fully resolved following the pretrial hearing, a date certain for the termination of parental rights shall be set and all respondents present will be served with a notice of the next hearing. Petitioner/Movant shall immediately send a notice of hearing to any unrepresented party (even if that party still has provisional counsel) if the respondent was not present. If a parent signs a relinquishment or consent to adoption prior to a calendared termination of parental rights hearing, the Court shall set a date certain to review the status of the relinquishment/consent and the parent shall be served with a notice of hearing for that date.
- C. No pretrial hearing and termination of parental rights hearing shall be calendared for hearing on the same date without the prior consent of the presiding judge.
- D. Unless the termination of parental rights hearing immediately follows the pretrial hearing, a pretrial order shall be prepared, circulated pursuant to Rule 20 and delivered to the presiding judge prior to the call of the case for hearing unless the presiding judge indicates that no order is required because another pretrial hearing is necessary.

25.3 Lists, Exhibits to be Provided. At or before the conference, each party shall provide to all other parties a written list of prospective witnesses and exhibits. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit that is not available for distribution at or before the pre-adjudication conference shall be distributed at the earliest practicable time.

Rule 26. Termination of Parental Rights in Private Cases

26.1 Private Cases. Petitions for Termination of Parental Rights that do not involve DSS (i.e., parent v. parent, caregiver v. parent(s), adoption agency v. parent) (hereafter “private TPR”) may require procedures that differ from those involving DSS. All of the statutory requirements of N.C.G.S. §7B regarding termination of parental rights are still required, but the following procedures are special procedures for private TPR cases. Any reference in this Rule to “Petitioner’s attorney” shall include Petitioner(s) if unrepresented by counsel.

26.2 Provisional Counsel. When a Private TPR is filed with the Juvenile Clerk, the Petitioner shall submit a copy of the petition and summons to the Public Defender's Office. The Public Defender's Office shall appoint Provisional Counsel for each Respondent parent.

- A. Qualifications.** Provisional Counsel for each Respondent parent shall meet all of the qualifications of Rule 5 above.
- B. Notification of Appointment.** After the filing of a private TPR and appointment by the Public Defender's Office, Petitioner's attorney shall immediately notify the provisional attorney(s) for a parent of the appointment by sending a copy of the summons and petition to the attorney(s) for a parent.
- C. Notice of Hearing.** Unless/until provisional counsel is released by the presiding judge, all notices of hearing shall be served upon Respondent parent(s) **AND** provisional counsel(s). If provisional counsel is appointed to represent the Respondent parent prior to the pretrial hearing by the filing and approval of an Affidavit of Indigency, the Respondent's attorney shall notify Petitioner's attorney of the appointment and all subsequent notices of hearings shall require service only on Respondent's counsel. An attorney who is appointed provisional counsel does not become counsel of record until the respondent submits an Affidavit of Indigency which has been reviewed by the Court, the respondent is deemed indigent, and the appointment is approved.

26.3 Guardian ad Litem for a Minor Respondent Parent. If a Respondent parent is under the age of eighteen (18) at the time of the Private TPR filing, Petitioner's attorney shall so inform the Juvenile Clerk and the Court shall appoint a GAL for the Respondent parent.

- A. Qualifications.** If a Respondent parent requires the appointment of a GAL, the GAL shall meet all the qualifications of Rule 6 above.
- B. Notification of Appointment.** After the filing of a private TPR and appointment by the Court, Petitioner's attorney shall immediately notify the GAL for a parent of the appointment by sending a copy of the summons and petition to the Guardian(s) ad Litem for a parent via email and/or US Mail. Any additional information known regarding contact information for the Respondent parent (i.e., telephone number, social media information, contact information for the Respondent parent's parent, custodian, and/or guardian) shall also be sent to the GAL for a parent.
- C. Notice of Hearing.** All notices of hearing shall be served upon Respondent(s) and the Guardian ad Litem for any Respondent.

26.4 Appointment of Guardian ad Litem for the subject juvenile in Private TPR. When a Respondent in private TPR files a response or answer with the Juvenile Clerk, the Juvenile Clerk will submit a copy of the petition and answer to the A/N/D judge for a determination as to whether N.C.G.S. § 7B-1108 mandates the appointment of a GAL for the juvenile. A GAL for the juvenile shall be appointed when required by N.C.G.S. §7B-1108. The Assigned Judge shall appoint a qualified attorney and the Court Coordinator provide a copy of the appointment order to the

Petitioner's attorney, Respondent's attorney/provisional counsel (or respondent if unrepresented) and the newly appointed GAL.

26.5 Scheduling Private TPR Cases. The Court Coordinator shall calendar all pretrial issues in a Private TPR.

- A. **Notification to the Court Coordinator of the Private TPR filing.** After filing a Private TPR, Petitioner's attorney shall immediately submit a copy of the petition to the Court Coordinator. After filing an Answer to the Petition to Terminate Parental Rights with the Juvenile Clerk's Office and service on Petitioner's counsel, the Respondent shall immediately submit a copy of the Answer to the Court Coordinator.
- B. **Calendaring Preliminary Motions and Pretrial Hearing.** The moving party shall consult with the Court Coordinator to schedule the case.
- C. **Other Calendaring Procedure.** The mere request of "available dates" **does not** constitute sufficient calendaring according to these Rules. No case will be added to the court calendar unless these Rules are followed.
- D. **Notice of Hearing should not be issued until confirmation from the Court Coordinator is received.**
- E. **Calendaring the Private TPR Hearing.** During the pretrial hearing, the presiding judge will calendar the case for hearing. In the event that there are outstanding issues that prevent the calendaring of the TPR hearing, the judge may calendar another pretrial hearing or status conference.
- F. **Case Calendared at All Times.** Once the pretrial hearing is calendared, each Private TPR shall be maintained on the court calendar at all times until the case is completed. If a case cannot be reached for hearing due to other scheduled matters, then no person involved in the case shall leave the courtroom prior to the case being re-calendared.
- G. **Distribution of Court Calendar.** Preliminary Court Calendars are distributed ten (10) days prior to a scheduled court week by the Court Coordinator. Because of the confidentiality requirements of the Juvenile Code, attorneys, and unrepresented parties in Private TPR matters will not receive a copy of this calendar. No case shall be added or removed from the distributed preliminary court calendar unless a motion to continue is granted by the presiding judge and an order signed. If a Private TPR pre-trial conference and/or TPR hearing is calendared and Petitioner's counsel wishes to reschedule the hearing date, the request to remove/re-calendar the case must be presented to the Court Coordinator **PRIOR TO THE DISTRIBUTION OF THE PRELIMINARY COURT CALENDAR**. A request for alternate court dates is not sufficient. If the appropriate request is not made prior to the distribution of the preliminary court calendar, all attorneys and unrepresented parties shall appear at calendar call on the calendared court date unless an appropriate continuance order is entered prior to the distribution of the final calendar on Friday for the upcoming court week.

26.6 Pretrial Hearing for Termination of Parental Rights. The Court shall conduct a pretrial hearing in accordance with N.C.G.S. §7B-1108.1. The Petitioner's attorney shall serve a notice of hearing on Respondent's provisional counsel, on a Respondent not represented by counsel of record, and on a Respondent who has been appointed provisional counsel, but not counsel of record.

- A. All attorneys, and each parent/respondent shall be present in court for the scheduled pretrial hearing. Each attorney shall notify their client of the date and time of the pretrial hearing (preferably in writing). No attorney shall inform a respondent that his or her attendance is not required without prior consent of the presiding judge. No respondent shall leave the courtroom without the permission of the presiding judge until all matters which can be resolved are completed.
- B. If the termination of parental rights hearing is not scheduled for hearing on the same date following the pretrial hearing and if case is not fully resolved following the pretrial hearing, a date certain for the termination of parental rights shall be set and all respondents presents will be served with a notice of the next hearing. Petitioner/Movant shall immediately send a notice of hearing to any unrepresented party (even if that party still has provisional counsel) if the respondent was not present. If a parent signs a relinquishment or consent to adoption prior to a calendared termination of parental rights hearing, the Court shall set a date certain to review the status of the relinquishment/consent and the parent/respondent shall be served with a notice of hearing for that date.
- C. No pretrial hearing and termination of parental rights hearing shall be calendared for hearing on the same date without the prior consent of the presiding judge.
- D. Unless the termination of parental rights hearing immediately follows the pretrial hearing, a pretrial order shall be prepared, circulated pursuant to Rule 20 above and delivered to the presiding judge prior to the call of the case for hearing unless the presiding judge indicates that no order is required because another pretrial hearing is necessary.

26.7 Lists, Exhibits to be Provided. At or before the conference, each party shall provide to all other parties a written list of prospective witnesses and exhibits. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit that is not available for distribution at or before the pretrial hearing shall be distributed at the earliest practicable time.

26.8 Recordation of Hearings. The Adjudication/Disposition proceedings of Private TPR hearings shall be recorded pursuant to N.C.G.S. §7B-806. Any attorney wishing to record any other preliminary matters shall notify the presiding judge and the juvenile clerk of any issue that might necessitate the recording of a hearing.

Recordings of Juvenile Hearings are not public record. Specialized software is required to review the recording. Parties may request a copy of the recording by filing a request (AOC-G-115).

26.9 Preparation and Entry of Orders

- A. Preparation of Orders.** In all Private TPR cases, the prevailing party shall prepare the order, unless otherwise provided herein or instructed by the presiding judge.
- B. Time Standards for Entry of Order.** With the exception of pretrial orders as required in Rule 20 above, all orders shall be filed as required by statute, but in no event shall an order be entered later than 30 days following any hearing. A draft of each order must be circulated among the attorneys (and any unrepresented parties) involved in the proceeding within a reasonable time prior to the submission of the final order to the Court for signature. If the order was not circulated in compliance with this Rule, this must be brought to the Court's attention when the final order is submitted for signature.
- C. Order Submission.** All orders must be delivered to the Court Coordinator in advance of the due date to allow the judge time to review the order for changes before signature. The attorney shall submit both hard copies of the order in addition to an electronic version to the Court Coordinator. If the order is not filed within thirty (30) days from the date of the hearing, the attorneys shall contact the Court Coordinator to inquire regarding the date of the Orders Due hearing if the presiding judge did not notify the parties of the date for the Orders Due hearing as provided below. This is a calendared hearing that **ALL** attorneys/unrepresented parties involved in the case must attend if the case appears on the ENTRY OF ORDER CALENDAR/ORDERS DUE CALENDAR unless the order is entered (i.e., signed by the presiding judge and file stamped) by 4:00 pm the business day before the Orders Due calendar.

At the close of the TPR hearing, the presiding judge shall announce the date the order is due for review and signature, and the date on which the attorneys/unrepresented parties shall appear if it is not filed by the due date. This later date is the ENTRY OF ORDER CALENDAR/ORDERS DUE calendar date, and no other notice will be received by the attorneys/unrepresented parties.

For all orders timely submitted in accordance with this rule, the Court Coordinator will ensure that the orders are timely delivered to the judge, signed, and filed. A filed copy will be returned to the drafting party for service upon other parties.

- D. Entry of Order Calendar/Orders Due Calendar.** The Court Coordinator shall schedule a hearing for any order that is not entered in a timely manner pursuant to the Juvenile Code or these Rules. The Orders Due date is a calendared hearing that **ALL** attorneys/unrepresented parties involved in the case must attend if the case appears on ORDERS DUE CALENDAR unless the order is entered (i.e., signed by the presiding judge and file stamped) by 4:00 pm the business day before the Orders Due calendar.

Any and all conflicts regarding the order shall be resolved prior to the conclusion of the Orders Due hearing, and the order shall be entered within 10 days as required by the Juvenile Code or these Rules. If the order is not entered within 10 days, then **ALL** attorneys/unrepresented parties shall continue to appear on the date of the next Orders Due Calendar until the order is filed.

Rule 28. Training Committee/Attorney Training in AND Court.

The Chief District Court Judge or his/her designee shall appoint a minimum of two attorneys to form a training committee to develop continuing legal education courses for the attorneys in A/N/D Court. The training committee shall develop continuing legal education courses including but not limited to the areas of substance abuse, mental health, domestic violence and/or abuse, child development, compassion fatigue, an any other topic directly relevant to the law governing juvenile abuse, neglect and dependency. The training committee shall offer continuing education courses. The courses shall be offered to attorneys practicing within Durham County at no cost; however, the attorney shall bear any costs required by the North Carolina State Bar for continuing legal education credits if available.

Rule 29. Sanctions

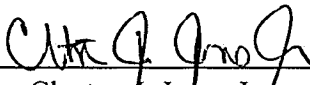
The willful failure to comply with any section of these rules shall subject the party or parties so failing to comply to all sanctions allowed by law as deemed appropriated in the discretion of the assigned Juvenile Court Judge or Chief District Court Judge.

Rule 30. Amendments and Modifications

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

ADOPTED BY THE COURT, effective 2024.

This the 23rd day of February 2024.



Judge Clayton D. Jones Jr.
Chief District Court Judge
Sixteenth Judicial District