

35th District Administrative Court Policy and Procedure

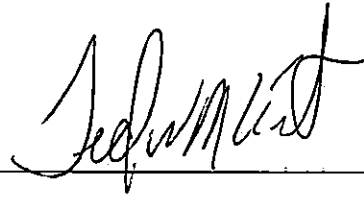
Objective: To more efficiently dispose of the increasing District Court case load, to better serve the citizens who have matters pending before the Court, and to provide access to justice.

1. Subject to the exceptions noted below, when a citation is written, or a magistrate's order is issued, the officer or magistrate shall assign an administrative court date. The officer will not be required to be present in administrative court.
2. **The time to appear shall be 9:00 a.m. for ALL Defendants.**
3. Probation Violations are not subject to this Policy and shall be set at the first reasonably available court date for the Probationer to be advised.
4. Felony Offenses are not subject to this Policy and shall be set pursuant to NCGS 15A-601 at the next session of District Court held in the County. Unless the defendant is released from custody, first appearance before a district court judge must be held within 72 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. Persons charged with Felonies are required to appear unless he/she is represented by counsel that appears at the proceeding. The Defendant may not waive the holding of the First Appearance.
5. Misdemeanor Offenses where the Defendant remains in custody are not subject to this policy and shall have a first appearance within 72 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first, at which time they will be advised of their right to counsel and a regular trial date set by the Judicial Official conducting the First Appearance.
6. Cases assigned to Administrative Court will be disposed of on that date if possible. If the Defendant wishes to plead guilty to a misdemeanor or infraction, he/she may do so provided that the State does not move to continue the matter to have an Officer or Victim present.

7. All eligible Defendants shall be advised of their right to court appointed counsel on the Administrative Court Date. Defendants who apply and qualify for Court Appointed Counsel shall be given trial dates and contact information for the attorney appointed.
8. Defendants wishing to hire their own attorney may execute a waiver of court appointed counsel and have the matter continued to a trial date.
9. All Defendants who wish to represent themselves and plead not guilty shall be given a trial date once they have signed any necessary waiver of court appointed counsel.
10. Attorneys shall use the Continuance Form that is attached to this policy to request continuances for cases that are on an administrative calendar for the first time. It should be noted that use of the form shall signify a general appearance by counsel. If the form is used and delivered timely to the Clerk and District Attorney, those Defendants charged with misdemeanors or infractions do not have to appear at Administrative Court.
11. For Minor traffic offenses, those defined as Class 2 misdemeanors, Class 3 misdemeanors, or Infractions, on the first administrative court date the attorney shall indicate on the form whether an administrative date or trial date is requested, and the appropriate date shall be assigned. Attorneys should only request a second administrative setting if he or she reasonably believes the matter can be resolved at that time.
12. Major traffic offenses, those defined as Class A1 misdemeanors, Class 1 misdemeanors, and Impaired Driving charges, shall be set on the Officer's next reasonably available trial date. The Attorney shall insure that on or before the first trial date the Defendant will appear to be advised and execute a waiver of Court appointed counsel.
13. All other misdemeanors in which an Attorney makes a General Appearance shall be set for the next reasonably available trial date.
14. Citizens with cases on their First Administrative setting who are not represented by counsel and are charged with minor traffic offenses who contact the Clerk of Court or the District Attorney more than 24 hours in advance of their Administrative Court Date with a good faith reason and request for continuance that is communicated in form acceptable to the receiving party may be allowed a continuance to the next administrative court date or the next reasonably available trial date as appropriate.

16. Once cases have been on two Administrative Court dates, they shall be placed on a trial date unless otherwise allowed by the Presiding Judge.
17. Monthly Officer District Court dates for the three-month District Court schedule for the trial of cases shall be furnished by a Supervisor from each law enforcement agency to the District Attorney's Office and the Clerk of Superior Court in a timely manner so that one combined form may be used by the District Attorney, the Clerk of Court, and the presiding Judge. The District Attorney shall work to monitor and insure, based on officer generated volume of cases, that sufficient court dates are available for each officer so that trial calendars remain manageable. This may require more than one court date per month for each officer.
18. This Amended Policy is effective beginning November 1st, 2023.

This the 28th Day of February, 2024.

A handwritten signature in black ink, appearing to read "Ted W. McEntire", written over a horizontal line.

Ted W. McEntire
Chief District Court Judge
35th District