

REMOTE HEARING PROCEDURES
RANDOLPH COUNTY
ABUSE, NEGLECT, AND DEPENDENCY COURT

1. Types of Hearings Permitted Remotely by WebEx:

- a. Second and 30-Day Nonsecure Custody Hearings
- b. Pre-Adjudication Hearings
- c. Stipulated Adjudication Hearings with Dispositions
- d. Review Hearings
- e. Permanency Planning Hearings (When RCDSS is Recommending Reunification as One of the Permanent Plans)
- f. Permanency Planning Review Hearings
- g. Prehearing Conferences for Termination of Parental Rights Proceedings
- h. Termination of Parental Rights Hearings (If Authorized by a District Court Judge at the Prehearing Conference)
- i. Post Termination of Parental Rights Placement Review Hearings
- j. Foster Care 18 to 21 Hearings and Reviews
- k. Motions Hearings
- l. Prehearing/Scheduling Conferences

2. Limitations

- a. Contested Adjudication Hearings and Permanency Planning Hearings where RCDSS is asking to eliminate Reunification as entirely as a Permanent Plan are not appropriate for remote hearings. Termination of Parental Rights hearings may only be conducted remotely upon the approval of a District Court Judge in a Prehearing Conference.
- b. If the hearing is of the type listed above, but the parties reasonably anticipate the hearing may exceed 2 hours in duration, involve multiple non-party witnesses, or require the admission of lengthy exhibits, a Prehearing/Scheduling Conference is needed to determine if the matter is appropriate for a remote hearing.
- c. For cases that require interpreters, the Juvenile Court Clerk must be notified a minimum of 2 weeks before the hearing in question if the hearing will occur by WebEx, because advanced coordination with AOC is required.

3. Request of WebEx and Notice

- a. RCDSS, in consultation with the Clerk's Office, will review the docket in advance to identify hearings that are candidates for WebEx proceedings. RCDSS will email the Clerk's Office, copying counsel of record for affected cases, and identify the cases which are candidates for WebEx proceedings at least 17 days prior to the hearing date.

- b. The Clerk's Office will send the Notice of Remote Hearing to the parties 15 days prior to the hearing date. The Notice will include the phone number for call in only with instructions that the party's Attorney will provide the WebEx Link and that unrepresented parties need to contact the Clerk's Office in order to obtain online access information.
- c. The Clerk's Office will send a WebEx invite to Attorneys of Record and the GAL Program about 1 week ahead of the hearing.
- d. Attorneys are responsible for forwarding the link to their clients and all necessary witnesses for the hearing.
- e. RCDSS Attorneys are responsible for forwarding the link to the Social Worker, Supervisor, and all necessary witnesses for the hearing.
- f. The GAL Program is responsible for forwarding the link to any GAL Volunteers who are participating outside of the GAL Office.
- g. All attorneys concerned are responsible for ensuring the Clerk's Office has their correct email address.
- h. **Hearings Where Notice is Waived:**
 - i. If all parties are represented, and counsel for all parties agree to waive 15 days of Notice for a Remote Hearing, the parties shall notify the Clerk's office at least 7 days before the hearing date to give the Clerk sufficient time to schedule a Remote Hearing.
 - ii. In cases where Notice has been waived, the Clerk will send WebEx invitations to the Attorneys. No separate Notice concerning WebEx will be issued to the parties themselves. The Attorneys will be responsible for forwarding the WebEx invitation to their clients and all witnesses. Requirements concerning the submission of Exhibits and Court Reports set out in #4 below will remain the same.
- i. **Motions:** If a WebEx Hearing is requested for a Motion, it is the responsibility of the Movant/Attorney for the Movant to email the Clerk's Office, copying all opposing counsel, and request a Remote Hearing at least 17 days prior to the hearing date requested or to verify that all the Attorneys consent to waive Notice.

4. Exhibits.

- a. The existing rules and filing deadlines for Court Reports set out in the Local Rules remain in effect.
- b. All other proposed Exhibits to be offered by any party must be emailed to opposing counsel no later than 12pm on the Monday before the hearing. A paper copy of the proposed exhibit must be delivered to the Juvenile Clerks no later than 12pm the Monday before the hearing. 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 name 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.**

- c. 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.
- d. Remote hearings are generally not appropriate for cases involving voluminous records and the presiding judge has the discretion to decline a remote hearing or continue a hearing that is in progress if documents become too difficult.
- e. The admission of Child Medical Evaluations, Psychological Evaluations, or other lengthy reports may not be appropriate for a remote hearing due to their sensitive nature, unless the documents can be admitted into evidence without displaying them on the screen (“share screen”) during the proceeding. The presiding judge, after consultation with counsel and parties in a Prehearing/Scheduling Conference, has discretion to determine that a remote hearing is not appropriate and continue the hearing to a later date for live proceedings.
- f. Just because an exhibit is produced correctly, does not mean it is admissible. The applicable provisions of the Juvenile Code regarding admissibility of evidence will still apply. Parties are free to object to exhibits during the hearing.

5. Unexpected Evidence

- a. Situations may arise when an Attorney acting in good faith could not have foreseen the need to prepare a document for introduction into evidence in advance. Examples: A Witness needs to refresh his/her recollection with a document that was not expected to be introduced, but which other Attorneys ask to see; An attorney needs to introduce rebuttal evidence in response to the testimony of an adverse witness, etc.
- b. When this occurs, an Attorney may request a recess for purposes of sharing the documents with opposing counsel, if this can occur within a reasonable period of time. After opposing counsel has had the opportunity to review the document in question, the Attorney shall email a copy to the Judge. A hard copy shall be provided to Clerk’s office within the next two (2) days.
- c. If the Attorney cannot provide the document in question within a reasonable period of time, the presiding Judge has the discretion to direct how the document shall be provided, to disallow the document’s use, or to continue the hearing to a later date so that the document in question may be shared.

6. Recording

- a. Hearings will be recorded by the presiding Judge through WebEx and by the Juvenile Clerk through the courtroom recording system, unless AOC and the Clerk of Superior Court determines that the Webex recording meets the standard for recordation of hearings. WebEx

recordings will be immediately sent to the assigned courtroom clerk and will be maintained by the Randolph County Clerk of Court.

- b. Attorneys, parties, and participants are not permitted to record the proceeding or any part of the proceedings. Attorneys, parties, and Family Supports are not permitted to take screenshots, photographs, or otherwise make images of the proceeding.
- c. Access to all recordings, whether the recording is via WebEx or the courtroom recording system, will be governed by the Juvenile Code.

7. Attendance

- a. All parties and observers must access the hearing at the start time of the hearing. 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.
- b. Access to the hearing will be locked by the presiding judge at the start of the hearing.
- c. 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 observers who become disconnected from a hearing should promptly call the Juvenile Court Clerk.

8. Observers:

- a. Attorneys are responsible for forwarding the WebEx information to any supports or observers identified by their clients.
- b. Unless a particular hearing is closed to the public, as allowed by the Juvenile Code, Abuse/Neglect/Dependency courtrooms are generally open to the public. If a member of the general public wishes to observe the proceedings, they will have to contact the Juvenile Clerk's office to make arrangements to access any WebEx proceedings.
- c. All observers, whether they are invited by the parties or members of the general public, must access the hearing on the internet with video capabilities, and must have their video ON, so that they can be seen at all times during the hearing by the parties and the presiding Judge. All observers must have their microphone muted and they shall not speak or otherwise communicate with any party or witness during the hearing. Observers shall not utilize the chat feature or in any way interfere with the hearing.
- d. Observers, whether they are invited by the parties or members of the general public, may not record the proceeding or any part of the proceeding or take screenshots, photographs, or make images during the proceeding.

e. If an observer violates these rules, that observer is subject to expulsion from the hearing, may be denied access to future WebEx proceedings, and can be held in contempt of court.

9. Miscellaneous

- a. All other provision of the Juvenile Code, pertinent rules of Civil Procedure, and Local Rules will apply to remote hearings.
- b. Business casual or business attire is appropriate dress for parties and counsel.
- c. All participants must be able to be seen and heard by all other participants, unless the judge waives this requirement for good cause shown. If a party lacks access to video/audio access, that may be a reason for the judge to waive this requirement for that party. During the hearing, parties that are not testifying should have their microphones muted. Attorneys may have their microphone on at all times but shall work to limit background noise.
- d. RCDSS Social Workers will testify from the DSS Conference Room whenever possible so that the Social Worker, Supervisor, DSS Attorney, and DSS Legal Assistant can participate in the hearing through one connection. DSS Information Technology Support Staff may also be present in the room to assist with the videoconferencing equipment if needed. All people in the room must be seated throughout the hearing and quiet while the Social Worker is testifying. No person present in the room may communicate verbally, in writing, through gestures, or in any other manner with a Social Worker who is testifying. Unless the RCDSS Attorney is present with the Social Worker, the rules concerning muting the Social Worker's microphone when s/he is not testifying applies as for all other witnesses.
- e. The GAL Attorney Advocate, GAL Program Staff, and GAL Volunteer may choose to participate in the hearing through one connection. All people in the room must be seated throughout the hearing and quiet when the GAL Volunteer/Staff is testifying. No person present in the room may communicate verbally, in writing, through gestures, or in any other manner with a GAL Volunteer or GAL Program Staff Member who is testifying. Unless the GAL Attorney is present with the GAL Volunteer/Program Staff, the rules concerning muting the GAL's microphone when s/he is not testifying applies as for all other witnesses.
- f. Respondents and their attorneys may choose to participate in the hearing through one connection. The Attorney may not communicate verbally, in writing, through gestures, or in any other manner with the Respondent while they are testifying.
- g. If Attorneys and Parties are in separate locations, protected attorney-client communications may occur via text or email during the hearing. **However, parties may not communicate with counsel while they are testifying.**
- h. No one shall use the chat feature of WebEx while a hearing is in progress.
- i. **Chamber conferences with children will not be allowed.** Any testimony by a child shall be live and subject to cross examination. As with in-person hearings, children may submit letters

or provide statements regarding their wishes that are included in or attached to the Guardian ad Litem Report or RCDSS Court Report.

- j. To the maximum extent possible, minor children who are the subject of the hearing shall not observe or listen to the hearing. Parties and witnesses shall not share the invite link with the child and shall not have the child in the room while testimony is ongoing. If it is necessary to take short breaks for parties to address the needs of minor children given that they are not in school, said breaks will be provided. If a minor child testifies, the child shall leave the room as soon as their testimony is concluded and not view the remainder of the hearing.