

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendment of Pa.R.C.P. Nos. 1915.3 and 1915.3-2

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1915.3 and 1915.3-2, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by August 7, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order. **Inquiry.**

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by [**Rule**] Pa.R.C.P. No. 1915.15(a).

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by [**Rule 1915.15(b)**] Pa.R.C.P. No. 1915.15(c).

Official Note: See [§ 5430(d) of the Uniform Child Custody Jurisdiction and Enforcement Act,] 23 Pa.C.S. § 5430(d), relating to costs and expenses for appearance of parties and child, and 23 Pa.C.S. § 5471, relating to intrastate application of the Uniform Child Custody Jurisdiction and Enforcement Act.

(c) A claim for custody which is joined with an action of divorce shall be asserted in the complaint or a subsequent petition, which shall be substantially in the form provided by [**Rule**] Pa.R.C.P. No. 1915.15(a).

Official Note: [**Rule**] Pa.R.C.P. No. 1920.13(b) provides that claims which may be joined with an action of divorce shall be raised by the complaint or a subsequent petition.

(d) If the mother of the child is not married and the child has no legal or presumptive father, then a putative father initiating an action for custody must file a claim of paternity pursuant to 23 Pa.C.S. § 5103 and attach a copy to the complaint in the custody action.

Official Note: If a putative father is uncertain of paternity, the correct procedure is to commence a civil action for paternity pursuant to the procedures set forth [**at Rule**] in Pa.R.C.P. No. 1930.6.

[(e) A grandparent who is not in loco parentis to the child and is seeking physical and/or legal custody of a grandchild pursuant to 23 Pa.C.S. § 5323 must plead, in paragraph 9 of the complaint set forth at Rule 1915.15(a), facts establishing standing under § 5324(3). A grandparent or great-grandparent seeking partial physical custody or supervised physical custody must plead, in paragraph 9 of the complaint, facts establishing standing pursuant to 23 Pa.C.S. § 5325.

(f)] (e) An unemancipated minor parent may commence, maintain or defend an action for custody of the minor parent's child without the requirement of the appointment of a guardian for the minor parent.

(f) After a party initiates a custody action, whether by complaint or petition:

(1) the court shall determine if:

(i) the child is the subject of a proceeding within the jurisdiction of the juvenile dependency court;

(ii) the child had been previously adjudicated dependent;

(iii) services have been provided to the child's family by a child protective services agency; or

(iv) an investigation of the child's family has been initiated by a child protective services agency.

Official Note: See Pa.R.J.C.P. No. 1120 for the definition of proceeding within the context of a juvenile dependency case.

(2) Upon indication of the existence of the circumstances described in subdivision (1)(i), the judge assigned to the custody action shall communicate directly with the dependency court judge and thereafter make a determination whether the custody action should be stayed or proceed in accordance with Pa.R.C.P. No. 1915.4.

(i) If the custody action is stayed by the custody court, the court shall indicate in its order staying the custody action the circumstances in which the stay will be lifted and the custody action may proceed.

(ii) Upon lifting of the stay, a party to the custody action may petition the custody court to schedule the initial in-person custody proceeding or the court on its own motion may issue a scheduling order.

(3) Upon indication of the existence of any circumstance described in subdivision (1)(ii)—(iv), the court shall proceed in a manner necessary to fulfill its obligation under 23 Pa.C.S. § 5328(a)(2.1) as to the parties, their household members, and the child when ordering any form of custody.

Official Note: See 23 Pa.C.S. §§ 5329.1 and 6340(a)(5.1) and 42 Pa.C.S. § 6307(a)(4.1).

Rule 1915.3-2. Criminal Record or Abuse History.

(a) *Criminal Record or Abuse History Verification.* A party must file and serve with [the] a complaint, [any] petition for modification, [any] counterclaim, [any] petition for contempt, or [any] count for custody in a divorce complaint or counterclaim, a verification regarding [any] the criminal record or abuse history of that party and anyone living in that party's household. The verification shall be substantially in the form set forth in subdivision (c) [below]. The party must attach a blank verification form to a complaint, counterclaim, or petition served upon the other party. Although the party served need not file a responsive pleading pursuant to [Rule] Pa.R.C.P. No. 1915.5, he or she must file with the court a verification regarding his or her own criminal record or abuse history and that of anyone living in his or her household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation, depending upon the procedure in the judicial district) but not

later than 30 days after service of the complaint or petition. A party's failure to file a Criminal Record or Abuse History Verification may result in sanctions against that party. [Both] The parties shall file and serve updated verifications five days prior to trial.

(b) *Initial Evaluation.* At the initial in-person contact with the court, the judge, conference officer, conciliator or other appointed individual shall perform an initial evaluation to determine whether the existence of a criminal record or abuse history of [either] a party or a party's household member poses a threat to the child and whether counseling is necessary. The initial evaluation required by 23 Pa.C.S. § 5329(c) shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary. Consistent with the best interests of the child, the court may enter a temporary custody order on behalf of a party with a criminal [history] record or a party with a household member who has a criminal [history] record, pending the party's or household member's evaluation and/or counseling.

Official Note: The court shall consider evidence of a criminal record or abusive history and the verification required by subdivision (c) presented by the parties. [There is no obligation for the court to conduct an independent investigation of the criminal record or abusive history of either party or members of their household.] The court should not consider ARD or other diversionary programs. When determining whether a party or household member requires further evaluation or counseling, or whether a party or household member poses a threat to a child, the court should give consideration to the severity of the offense, the age of the offense, whether the victim of the offense was a child or family member, and whether the offense involved violence.

(c) *Verification.* The verification regarding criminal record or abuse history shall be substantially in the following form:

(Caption)
CRIMINAL RECORD/ABUSE HISTORY VERIFICATION

I _____, hereby swear or affirm, subject to penalties of law including 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities that:

1. Unless indicated by my checking the box next to a [crime below, neither I nor any other member of my household have been convicted or pled guilty or] listed crime or offense, neither I nor a member of my household has been convicted, pled guilty, pled no contest, or was adjudicated delinquent where the record is publicly available pursuant to the Juvenile Act, 42 Pa.C.S. § 6307, to any of the following crimes or offenses in Pennsylvania or a substantially equivalent crime or offense in [any other jurisdiction] another state, including pending charges:

Check all that apply	Crime	Self		Other household member	Date of conviction, guilty plea, no contest plea or pending charges	Sentence
		*	*			
<input type="checkbox"/>	23 Pa.C.S. § 6114 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	42 Pa.C.S. § 62A14 (relating to contempt for violation of protection order or agreement)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
<input type="checkbox"/>	Driving under the influence of drugs or alcohol	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

<i>Check all that apply</i>	<i>Crime</i>	<i>Self</i>	<i>Other household member</i>	<i>Date of conviction, guilty plea, no contest plea or pending charges</i>	<i>Sentence</i>
<input type="checkbox"/>	Manufacture, sale, delivery, holding, offering for sale or possession of any controlled substance or other drug or device	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

[2. Unless indicated by my checking the box next to an item below, neither I nor any other member of my household have a history of violent or abusive conduct, or involvement with a Children & Youth agency, including the following:

<i>Check all that apply</i>	<i>Self</i>	<i>Other household member</i>	<i>Date</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____]

2. Unless I have checked a box next to one of the following statements, none of the statements is true with regard to a member of my household, a child of mine, or me.

<i>Check all that apply</i>	<i>Self</i>	<i>A household member</i>	<i>Child</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Please list any evaluation, counseling or other treatment received following conviction or finding of abuse:

* * * * *

Recommendation 154

The Domestic Relations Procedural Rules Committee (“DRPRC”) is proposing an amendment to Pa.R.C.P. No. 1915.3, Commencement of Action. Complaint. Order, and Pa.R.C.P. No. 1915.3-2, Criminal Record or Abuse History. Act 107 of 2013 (“Act”) became effective on January 1, 2014, and directed that a custody court consider child abuse and the involvement of a party or child with a child protective services agency when making a child custody determination under 23 Pa.C.S. §§ 5321—5340. The Act further required the Department of Public Welfare, now the Department of Human Services, local county children

and youth social services agencies, and the courts of common pleas to cooperate with the exchange of information necessary for the determination of a child custody order.

The Act amended not only Title 23 as it relates to child custody, but also the Child Protective Services Law, 23 Pa.C.S. §§ 6301—6375, and the Juvenile Act, 42 Pa.C.S. §§ 6301—6375. As the Act amended the domestic relations law and juvenile law, a subcommittee of members of the DRPRC and the Juvenile Court Procedural Rules Committee met to discuss the interplay between the Act, the two bodies of procedural rules, and the local practice in the courts of common pleas. The subcommittee met several times to discuss various resolutions to the statutory changes and challenges. The DRPRC previously published for public comment this Recommendation in

the *Pennsylvania Bulletin*, 46 Pa.B. 3932 (July 23, 2016). The subcommittee reconvened to discuss the comments received and, subsequently, it revised the proposed amendments. The DRPRC is now republishing the Recommendation with those revisions.

In reviewing the comments, the DRPRC noted that some comments objected to the proposed requirement that the court makes inquiries into the dependency proceedings of the child. The comments suggested this type of action by a judge would be investigatory in nature and not an appropriate role for the judiciary. However, Act 107 of 2013 amended 23 Pa.C.S. § 5328(a)(2.1) and imposed upon the court the duty to determine the information outlined in 23 Pa.C.S. § 5329.1 relating to child abuse and involvement with protective services when awarding any type of custody. The statute now provides for information sharing between the county agency, the juvenile court, and the custody court to further the mandate. The proposed rule amendments are 'implementing rules' and, as such, provide a means for the custody court to obtain the statutorily mandated information from the child protective services agency and the juvenile court. With the dual issue of a significant number of *pro se* custody litigants and that not all custody parties are also parties to the companion juvenile dependency case, which would allow the party access to the juvenile docket and file, the subcommittee and the DRPRC agreed the custody judge might be the only person able to obtain all of the relevant dependency information to fulfill the statutory requirement imposed on the custody court prior to awarding custody to a party. As such, the proposed amendments maintain the judiciary's hands-on approach to acquiring the initial juvenile dependency information in Pa.R.C.P. No. 1915.3(f).

However, as the previously proposed amendment to Pa.R.C.P. No. 1915.3 required a stay of custody proceedings after determining that the child or child's family had involvement with the dependency court, the revised Recommendation provides for the custody court to communicate with the dependency court and afterward, the custody judge would determine if a stay was necessary for the custody action based on criteria outlined in proposed Pa.R.C.P. No. 1915.3(f). This revision provides flexibility for the custody court to determine how best to move the case forward.

In conjunction with these proposed amendments, the Juvenile Court Procedural Rules Committee is proposing amendments to the dependency rules to provide for a resolution of communicating the result of the terminated dependency action on the custody docket. Proposed amendments to Pa.R.J.C.P. 1409, 1515 and 1631 propose that the dependency court would generate a custody order when the court terminates supervision or dismisses a petition because of the availability of a ready, willing, and able parent which would be filed under seal in the prothonotary's office and served on the parties to the dependency action. In the event a party believes a modification of the custody order is necessary in the future, the action would proceed through the domestic relations court.

The DRPRC invites comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 17-984. Filed for public inspection June 16, 2017, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 5 AND 11]

Proposed Adoption of Pa.R.J.C.P. 148, 1146 and 1148; Proposed Amendment of Pa.R.J.C.P. 195, 512 and 1147

The Juvenile Court Procedural Rules Committee proposes the adoption of Rules 148, 1146, and 1148, together with the amendment of Rules 195, 512, and 1147 to improve the Rules of Juvenile Court Procedure as they relate to the educational needs of juveniles and children, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel
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 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by August 7, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court
 Procedural Rules Committee

KELLY L. McNANEY, Esq.,
 Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART B(1). EDUCATION AND HEALTH OF JUVENILE

(Editor's Note: The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 148. Educational Stability & Removal from Home.

A. *General Rule.* Any order resulting in the removal of the juvenile from home shall address the educational stability of the juvenile.

B. *School of Origin.* A juvenile removed from home shall remain in their school of origin unless the court

finds remaining in the school of origin is not in the juvenile or community's best interest. If the court finds that it is not in the best interest for the juvenile to remain in the school of origin, then the court may order the juvenile to be enrolled in another school that best meets the juvenile's needs.

C. *Another School.* If a court orders the juvenile to be enrolled in another school pursuant to paragraph (B), then the juvenile shall attend a public school unless the court finds that a public school is not in the best interest of the juvenile or the community.

Comment

This rule is intended to apply at any point in a delinquency proceeding when the juvenile is removed from home, including pre-dispositional detention placement and post-dispositional modification resulting in the juvenile's out of home placement or a change to that placement. This rule is intended to complement rather than supersede the requirements of Rule 512(D)(6).

In paragraph (B), the best interest determination should be based on factors including the appropriateness of the current educational setting considering the juvenile's needs, the proximity of the school of origin relative to the placement location, and the protection of the community. This paragraph is intended to facilitate educational stability while the juvenile remains under the jurisdiction of the Juvenile Court and to codify the presumption that a juvenile is to remain in their school of origin absent evidence that it is not in the best interest of the juvenile or community to do so.

In paragraph (C), circumstances indicating that it may not be in the best interest for the juvenile to attend a public school includes the security and safety of the juvenile, treatment needs, and protection of the community. Paragraph (C) is intended to codify the presumption that a juvenile is to attend public school while in placement absent evidence demonstrating that it is not in the best interest of the juvenile or community to do so. The bundling of residential services and educational services should not be permitted without a court order authorizing such.

Official Note: Rule 148 adopted _____, 2017, effective _____, 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 148 published with the Court's Order at Pa.B. (_____, 2017).

PART D(2). JUVENILE PROBATION OFFICERS

Rule 195. Powers, Duties, and Training of a Juvenile Probation Officer.

A. *Powers and Duties of a Juvenile Probation Officer.* Subject to any limitation imposed by the court, a juvenile probation officer shall:

- 1) take children, juveniles, and minors into custody pursuant to:
 - a) the Juvenile Act, 42 Pa.C.S. §§ 6304 and 6324;
 - b) the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6301 *et seq.*;
 - c) a bench warrant as set forth in Rules 140, 141, and 1140; or
 - d) Rule 1202;

- 2) authorize detention or shelter care for a juvenile, and the shelter care of a child, pursuant to 42 Pa.C.S. §§ 6304, 6325, or 6331;

- 3) receive and examine written allegations unless the District Attorney has elected to receive and approve all written allegations pursuant to Rule 231(B);

- 4) make appropriate referrals for informal adjustment, consent decree, or other diversionary programs;

- 5) file petitions if diversionary programs are not appropriate unless the District Attorney has elected to file all petitions pursuant to Rule 330(A);

- 6) make investigations, reports, including social studies pursuant to Rule 513, and recommendations to the court;

- 7) make appropriate referrals to private and public agencies, psychological or psychiatric providers, drug and alcohol facilities or programs, or any other necessary treatments or programs;

- 8) communicate to the court and parties, and facilitate any special needs, including health and education, of the juvenile;

- 9) supervise and assist a juvenile placed on probation or a child under the court's protective supervision or care;

- 10) search the person and property of juveniles pursuant to 42 Pa.C.S. § 6304(a.1);

- 11) regularly oversee and visit juveniles in placement facilities;

- 12) report suspected child abuse pursuant to 23 Pa.C.S. § 6311; [and]

13) receive allegations that a child has failed to satisfy penalties for violating compulsory school attendance, as permitted by local rule; and

[13] 14) perform any other functions as designated by the court.

B. *Limitations on [powers and duties] Powers and Duties.* The President Judge of each judicial district may limit the power and duties of its juvenile probation officers by local rule.

C. *Training.* No later than [January 1, 2012 or] within 180 days after being appointed or employed, a juvenile probation officer shall be trained on:

- 1) the Juvenile Act;
- 2) the Pennsylvania Rules of Juvenile Court Procedure;
- 3) the Child Protective Services Law (CPSL); and
- 4) any local procedures.

Comment

Pursuant to paragraph (A)(1), a juvenile probation officer has the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, the CPSL, a bench warrant, or Rule 1202. 23 Pa.C.S. § 6301 *et seq.* and 42 Pa.C.S. § 6301 *et seq.*

When a juvenile is under the court's supervision, the juvenile probation officer may take a juvenile into custody pursuant to the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1) through (5), and bench warrants as set forth in Rules 140, 141, and 1140.

When a child, juvenile, or minor is not under the court's supervision, the juvenile probation officer, as a duly authorized officer, may take a child, juvenile, or minor into custody pursuant to the Child Protective Services

Law (CPSL), 23 Pa.C.S. § 6315 and the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1), (3), and (4).

A properly commissioned juvenile probation officer is vested with all the powers and duties as set forth in 42 Pa.C.S. § 6304 and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to paragraph (B).

The President Judge may adopt a local rule, pursuant to the procedures of Rule 121, limiting the authority granted by the commission to juvenile probation officers. In determining whether to limit the authority of juvenile probation officers, the President Judge should consider the training and experience necessary to perform the various duties as provided in this rule. For example, the President Judge may choose to prohibit juvenile probation officers from taking a child into protective custody who is believed to be in imminent danger from his or her surroundings, but who is not under the court's supervision as a delinquent or dependent child. *See* 42 Pa.C.S. § 6324.

In situations when a juvenile probation officer takes a child into protective custody who is in imminent danger from his or her surroundings pursuant to 42 Pa.C.S. § 6325, 23 Pa.C.S. § 6315, and Rule 1202, the juvenile probation officer should take the appropriate steps to ensure the child's safety, immediately contact the county agency, and document for the county agency the circumstances which necessitated protective custody. *See* Rule 1202 and its Comment.

The juvenile probation officer may also supervise or assist a child placed in his or her protective supervision or care by the court. *See* 42 Pa.C.S. § 6304.

Pursuant to paragraph (A)(3), the juvenile probation officer is to receive written allegations from local law enforcement agencies to determine if a case may proceed to juvenile court. However, pursuant to Rule 231(B), the District Attorney of any county may require initial receipt and approval of written allegations before a delinquency proceeding may be commenced. *See* Rule 231(B).

Pursuant to paragraph (A)(6) and (7), the juvenile probation officer is to prepare reports compiling the juvenile's information for the court and make the necessary referrals to programs supported by a need revealed during the investigation.

Pursuant to paragraph (A)(8), the juvenile probation officer is to communicate the information to all parties before approaching the court. *See* Rule 136 for *ex parte* communication.

Pursuant to paragraph (A)(11), the juvenile probation officer is to oversee all juveniles ordered to placement facilities. Juvenile probation officers should visit all juveniles in placement facilities on a regular basis to determine if: 1) the juvenile is receiving the appropriate treatment; and 2) the facility is meeting the needs of the child. The Juvenile Court Judges' Commission Standards Governing Aftercare Services recommend that all juveniles be visited on a monthly basis. The juvenile probation officer is to report any irregularities or controversies to the court and all parties as soon as they are made known to the juvenile probation officer.

Pursuant to paragraph (A)(13), the President Judge may adopt a local rule to permit the juvenile probation office to receive allegations that a child has failed to pay fines or costs related to a truancy conviction. *See* 24 P.S. § 13-1333.3(f)(2).

Pursuant to paragraph [(A)(13)] (A)(14), a juvenile probation officer may perform any other function designated by the court to carry out the purposes of the Juvenile Act.

Pursuant to paragraph (C), the juvenile probation officer is to be trained in the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the CPSL, and any local procedures. The training is to occur within 180 days of the juvenile probation officer's appointment or employment. It is best practice for juvenile probation officers to receive training within the first ninety days of employment. It is also best practice that juvenile probation officers receive specialized training and educational updates on a continuing basis.

Specialized training for juvenile probation officers should include delinquency and dependency procedures and areas that address their duties as officers of the court.

Official Note: Rule 195 adopted May 20, 2011, effective July 1, 2011. **Amended** , 2017, **effective** , 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 195 published with the Court's Order at 41 Pa.B. 2839 (June 4, 2011).

Final Report explaining the amendments to Rule 195 published with the Court's Order at Pa.B. , 2017.

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 512. Dispositional Hearing.

* * * * *

D. *Court's [findings] Findings.* The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 515. On the record in open court, the court shall state:

- 1) its disposition;
- 2) the reasons for its disposition;
- 3) the terms, conditions, and limitations of the disposition; and
- 4) if the juvenile is removed from the home:
 - a) the name or type of any agency or institution that shall provide care, treatment, supervision, or rehabilitation of the juvenile[, and];
 - b) its findings and conclusions of law that formed the basis of its decision consistent with 42 Pa.C.S. §§ 6301 and 6352, including why the court found that the out-of-home placement ordered is the least restrictive type of placement that is consistent with the protection of the public and best suited to the juvenile's treatment, supervision, rehabilitation, and welfare; **and**
 - c) **the provision of educational services for the juvenile pursuant to Rule 148;**
- 5) whether any evaluations, tests, counseling, or treatments are necessary;
- 6) any findings necessary to ensure the stability and appropriateness of the juvenile's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 147; and
- 7) any findings necessary to identify, monitor, and address the juvenile's needs concerning health care and

disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed.

* * * * *

Official Note: Rule 512 adopted April 1, 2005, effective October 1, 2005. Amended May 17, 2007, effective August 20, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 16, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012. **Amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 512 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 37 Pa.B. 2506 (June 2, 2007).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 41 Pa.B. 2684 (May 28, 2011).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 42 Pa.B. 4909 (August 4, 2012).

Final Report explaining the amendments to Rule 512 published with the Court's Order at Pa.B. (, 2017).

**Subpart B. DEPENDENCY MATTERS
CHAPTER 11. GENERAL PROVISIONS**

PART B(1). EDUCATION AND HEALTH OF CHILD

(Editor's Note: The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 1146. Notice of Truancy Hearing.

Upon receiving written notice of a hearing regarding a citation or complaint for truancy against a child or a person in parental relation pursuant to 24 P.S. § 1333.1, the county agency shall serve a copy of the notice upon the dependency court and parties.

Comment

Pursuant to 24 P.S. § 1333.2(b)(1), the court in which a truancy citation or complaint is filed shall provide the county agency with written notice of the hearing. For definition of "person in parental relation," see 24 P.S. § 1326.

The President Judge may adopt local rules coordinating jurisdiction and proceedings between the judge of the court where the citation or complaint was filed and the dependency court judge. Coordination may include, but are not limited to, the entry of an order staying the truancy proceeding for further consideration by the dependency court.

Official Note: Rule 1146 adopted , 2017, effective , 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1146 published with the Court's Order at Pa.B. (, 2017).

Rule 1147. Educational Decision Maker.

A. *Generally.* At any proceeding or upon motion, the court shall appoint an educational decision maker for the child if it determines that:

- 1) the child has no guardian; or
- 2) the court, after notice to the guardian and an opportunity for the guardian to be heard, has made a determination that it is in the child's best interest to limit the guardian's right to make decisions regarding the child's education.

B. *Notice of hearings.* The educational decision maker shall receive notice of all proceedings.

C. *Duties and responsibilities.* The educational decision maker shall:

- 1) make appropriate inquiries and take appropriate actions to ensure that:
 - a) issues concerning the child's educational stability are addressed;
 - b) school discipline matters are addressed;
 - c) the child is receiving appropriate education that will allow the child to meet state standards, including any necessary services concerning special education in the least restrictive environment, or remedial services;
 - d) the child, who is [**sixteen**] **fourteen** years of age or older, is receiving the necessary educational services to transition to [**independent living**] **successful adulthood**;
 - e) the child, who is receiving services concerning special education, is engaged in transition planning with the school entity beginning no later than the school year in which the child turns fourteen; and
 - f) the child, who is aging out of care within ninety days, has a transition plan that addresses the child's educational needs, and if applicable, the plan is coordinated with the child's transition planning concerning special education under the Individuals with Disabilities Education Act.

- 2) address the child's educational needs by:
 - a) meeting with the child at least once and as often as necessary to make decisions regarding education that are in the best interests of the child;
 - b) participating in special education and other meetings, and making decisions regarding all matters affecting the child's educational needs in a manner consistent with the child's best interests;
 - c) making any specific recommendations to the court relating to:
 - i) the timeliness and appropriateness of the child's educational placement;
 - ii) the timeliness and appropriateness of the child's transitional planning; and
 - iii) services necessary to address the child's educational needs;

d) appearing and testifying at court hearings when necessary; and

e) having knowledge and skills that ensure adequate representation of the child.

Comment

A child in dependent care is to have a clearly identified, legally authorized educational decision maker. This is a particular concern for highly mobile children whose caregivers may change and whose guardian may be unavailable. An educational decision maker's responsibilities may include, but are not limited to: ensuring educational stability as mandated by 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; ensuring prompt enrollment in a new school as required pursuant to 22 Pa. Code § 11.11(b); facilitating access to a full range of school programs; advocating for the child in school discipline matters; ensuring meaningful transition planning as required by 42 Pa.C.S. § 6351 and 42 U.S.C. § 675(5)(H); and for a child eligible for special education, ensuring access to appropriate services including transition planning beginning no later than age fourteen. *See* 24 P.S. §§ 13-1371, 13-1372, 20 U.S.C. § 1400 *et seq.* *See* paragraph (A) and (C).

An educational decision maker appointed pursuant to this rule who represents a child who is also adjudicated delinquent is to review Rule 147.

A court is not to appoint an educational decision maker if there is a parent, guardian, or other authorized person (*e.g.*, foster parent, relative with whom the child lives or surrogate parent appointed under the IDEA) who is competent, willing, and available to make decisions regarding the child's education and who is acting in the child's best interest regarding all educational matters. *See* Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.* (2004). A court should limit the authority of a parent to make decisions regarding education only to the extent necessary to protect the child's interest and can reinstate the parent or change the educational decision maker at any time.

Unless limited by the court in its appointment order, an educational decision maker: 1) is responsible for making all decisions concerning education, including special education, for the child; and 2) can consent to or prohibit the release of information from the child's school records as a parent in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 C.F.R. § 99.3 (1974). The educational decision maker may be a family member, a family friend, a mentor, a foster parent, a former foster parent, a Court Appointed Special Advocate, or, if an educational decision maker for special education is not needed, a child welfare professional. Except as otherwise provided by the IDEA, it is within the discretion of the court to appoint an educational decision maker and whom to appoint. In all cases, however, an educational decision maker appointed by the court should be familiar with a child's educational rights or is to agree to be trained regarding these issues.

If the child is or may be eligible for special education, an educational decision maker is to be appointed in accordance with the standards and procedures set forth in federal and state laws concerning special education. *See* IDEA, 20 U.S.C. §§ 1400, 1401(23), and 1415(b)(2); 34 C.F.R. §§ 300.30, 300.45, and 300.519. The IDEA recognizes a court's authority to appoint persons to make decisions concerning special education for a child. However, such decision makers cannot be the State or employees of any agency that is involved in the education or care of the child. 34 C.F.R. § 300.519(c), (d)(2)(i).

The educational decision maker should refer to the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 *et seq.* (1989) for guidance in educational stability. Specifically, the educational decision maker is to: a) ensure the right to remain in the same school regardless of a change in placement when it is in the child's best interest; b) facilitate immediate enrollment in a new school when a school change is in the child's best interest; and c) ensure that school proximity is considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*

The educational decision maker is to also ensure: a) that the child receives an appropriate education, including, as applicable, any necessary special education, early intervention, or remedial services; *see* 24 P.S. §§ 13-1371, 13-1372, 55 Pa. Code § 3130.87, 20 U.S.C. § 1400 *et seq.*; b) that the child receives educational services necessary to support the child's transition to [**independent living pursuant to 42 Pa.C.S. § 6351 if the child is sixteen or older**] **successful adulthood if the child is fourteen or older pursuant to 42 Pa.C.S. § 6351(F)(8)**; and c) that the educational decision maker participates in the development of a transition plan that addresses the child's educational needs pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within ninety days.

The authority of the court to appoint an educational decision maker is derived from the broad powers of the court to issue orders that "provide for the care, protection, safety, and wholesome mental and physical development of children." 42 Pa.C.S. § 6301(b)(1.1). The IDEA also requires that each child who is eligible for special education has an active parent or other identified person who can participate in the process concerning special education. *See* IDEA, 20 U.S.C. §§ 1401(23) and 1415(b)(2); 34 C.F.R. §§ 300.30, 300.45, and 300.519.

Official Note: Rule 1147 adopted April 29, 2011, effective July 1, 2011. **Amended** , 2017, **effective** , 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1147 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1147 published with the Court's Order at Pa.B. (, 2017).

(*Editor's Note:* The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 1148. Educational Stability & Placement.

A. General Rule. Any order resulting in the placement of a child shall address the educational stability of the child.

B. School of Origin. A child in placement shall remain in their school of origin unless the court finds remaining in the school of origin is not in the child's best interest. If the court finds that it is not in the best interest of the child to remain in the school of origin, then the court may order the child to be enrolled in another school that best meets the child's needs.

C. Another School. If a court orders the child to be enrolled in another school pursuant to paragraph (B), then the child shall attend a public school unless the court finds that a public school is not in the best interest of the child.

Comment

This rule is intended to apply at any point in a dependency proceeding when the child is in placement, including pre-dispositional placement and post-dispositional modification of a dependent child's placement. This rule is intended to complement rather than supersede the requirements of Rule 1512(D)(1)(i).

In paragraph (B), the best interest determination should be based on factors including the appropriateness of the current educational setting considering the child's needs and the proximity of the school of origin relative to the placement location. This paragraph is not intended to usurp the administrative process contemplated by the Elementary and Secondary Education Act of 1965, *as amended*, 20 U.S.C. § 6311(g)(1)(E). This paragraph is intended to facilitate educational stability while the child remains under the jurisdiction of the Juvenile Court and to codify the presumption that a child is to remain in their school of origin absent evidence that it is not in the child's best interest to do so.

In paragraph (C), circumstances indicating that it may not be in the best interest for the child to attend a public school includes the security and safety of the child and treatment needs. Paragraph (C) is intended to codify the presumption that a child is to attend public school while in placement absent evidence demonstrating that it is not in the best interest of the child to do so. The bundling of residential services and educational services should not be permitted without a court order authorizing such.

A court may consider an Individualized Education Program, Service Agreement, or administrative determination in making findings pursuant to this Rule.

Official Note: Rule 1148 adopted _____, 2017, effective _____, 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1148 published with the Court's Order at _____ Pa.B. (_____, 2017).

REPORT

Proposed Adoption of Pa.R.J.C.P. 148, 1146, and 1148; Proposed Amendment of Pa.R.J.C.P. 195, 512, and 1147

The Juvenile Court Procedural Rules Committee proposes a package to improve the Rules of Juvenile Court Procedure as they relate to the educational needs of juveniles and children. The package contains three components: 1) changes to implement the Act of November 3, 2016, P.L. 1061 concerning truancy matters; 2) changes to update Rule 1147 in light of Act 94 of 2015, P.L. 559, which amended 42 Pa.C.S. § 6351(F)(8); and 3) the creation of procedures for judicial determination of the delivery of educational services for dependent/delinquent youth in placement.

Truancy

Recently, Pennsylvania substantially revised its truancy laws. Section 5 of the Act amended Section 1333.3(F)(2) of the Public School Code to state:

The president judge of a judicial district may adopt a local policy under 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers) and the Pennsylvania Rules of Juvenile Court Procedure to provide that a juvenile probation officer may receive allegations that the child who fails to satisfy a fine or costs imposed under this section is dependent for the

purpose of considering the commencement of proceedings under 42 Pa.C.S. Ch. 63.

In response, the Committee proposes amending Rule 195 to add paragraph (A)(13) to recognize that a juvenile probation officer may receive allegations that a child has failed to satisfy penalties arising from a truancy citation. Consistent with the statute, the rule first requires a local rule permitting the receipt of these allegations. It is contemplated that the local rule would provide guidance as to further actions of the juvenile probation officer with regard to those allegations.

In reviewing the legislation, the Committee believes there exists an opportunity to coordinate actions of the dependency court and the court where a truancy citation is filed when a dependent child or a "person in parental relation" to the child is charged with truancy. As amended, 24 P.S. § 13-1333.2(b)(1) requires the court to send a hearing notice to the county agency when a truancy citation is filed. Through this notice mechanism, the county agency would then provide notice of the hearing to the dependency court and the parties, as set forth in proposed new Rule 1146. Thereafter, the dependency court judge and the truancy court judge could then coordinate proceedings.

Education Decision Makers

Act 94 of 2015 amended 42 Pa.C.S. § 6351(F)(8) to require at each permanency hearing a judicial determination of the services needed to assist a child who is 14 years of age or older to make the transition to successful adulthood. The amendment lowered the age of applicability from 16 years of age to 14. This amendment was incorporated into Rule 1608(D)(1)(k) on December 9, 2015.

Rule 1147(C)(1)(d), regarding the duties of educational decision makers ("EDMs"), requires EDMs to inquire and act to ensure that a child 16 years of age or older is receiving the necessary educational services to transition to independent living. Upon review of the legislation, the Committee believes that "services" in Section 6351(F)(8) of the Juvenile Act includes "educational services" as used in Rule 1147. Accordingly, the Committee is proposing to amend Rule 1147 and the Comment to reflect this interpretation, including the lower age.

Educational Stability

The Elementary and Secondary Education Act of 1965, *as amended*, 20 U.S.C. § 6311(g)(1)(E), requires that a child in placement remain in their school of origin unless it is not in the child's best interest. The Committee proposes new Rule 1148 to establish a procedural requirement for the court to conduct a best interest analysis if a child in placement is not to remain in their school of origin. The purpose of this rule is to maintain the education stability of the child. Further, this requirement would extend beyond dependency proceedings to include removal of a juvenile from home in delinquency proceedings via new Rule 148. Both Rule 148 and Rule 1148 are applicable to any order resulting in the placement of a child or the removal of a juvenile from home.

Next, the Committee reviewed OMHSAS-10-02 (January 4, 2010), a DHS/PDE joint bulletin addressing the need to "unbundle" educational services from residential placement, as well as received requests for a procedural mechanism to require an order when a child or juvenile is to receive educational services in a non-educational placement. The Committee believes the provision of educational services is critical to ensuring educational stability. Accordingly, the Committee proposes paragraph (C) of

Rule 148 and Rule 1148 to require a specific finding that a public school is not in the best interest of the child or juvenile when enrolling in a non-public school.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 17-985. Filed for public inspection June 16, 2017, 9:00 a.m.]

PART I. RULES

[237 PA. CODE CHS. 1, 11, 14, 15 AND 16]

Proposed Amendment of Pa.R.J.C.P. 160, 1160, 1409, 1515 and 1631

The Juvenile Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.J.C.P. 160, 1160, 1409, 1515, and 1631 governing custody matters for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel
Juvenile Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9541
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All communications in reference to the proposal should be received by August 7, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court
Procedural Rules Committee*

KELLY L. McNANEY, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspecting, Copying, and Disseminating the Official Court Record.

A. *Inspecting.* The official court record is only open to inspection by:

1) the [**judges, masters**] court, juvenile probation officers, and staff of the court;

2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except at the discretion of the court;

3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;

4) [**a court, its**] probation officers, other officials or professional staff, and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;

5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;

6) the Administrative Office of Pennsylvania Courts;

7) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;

8) officials of the Department of Corrections, a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

9) a parole board[**, court,**] or county probation official in considering an **individual's parole or in exercising supervision over any individual** who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

10) the State Sexual Offenders Assessment Board for use in completing assessments; [**and**]

11) other persons presiding as a judicial officer when determining child custody;

12) the Department of Human Services when determining whether the juvenile's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and

[**11**] **13)** with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

* * * * *

Comment

Pursuant to paragraph (A)(11), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.

Pursuant to paragraph [(A)(11)] (A)(13), the court may order that any person, agency, or department receive a copy of all or portions of the record. The court order is to state: 1) the specific information the person, agency, or

department may receive; 2) that the information received shall not be disseminated to any person, agency, or department not listed in the court order; and 3) that any dissemination of the information received is a violation of the court order.

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

* * * * *

Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. Amended May 12, 2008, effective immediately. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012. **Amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012).

Final Report explaining the amendments to Rule 160 published with the Court's Order at Pa.B. (, 2017).

**Subpart B. DEPENDENCY MATTERS
CHAPTER 11. GENERAL PROVISIONS
PART C. RECORDS**

PART C(1). ACCESS TO JUVENILE COURT RECORDS

Rule 1160. Inspection of the Official Court Record.

A. Inspecting. The official court record is only open to inspection by:

- 1) The [**judges, officers, and professional**] court and staff of the court;
- 2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;
- 3) A public or private agency or institution providing supervision or having custody of the child under order of the court;
- 4) [**A court, its probation**] **Probation** officers, other officials or professional staff, and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and

who prior thereto had been a party to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*;

5) The Administrative Office of Pennsylvania Courts;

6) The judges, officers and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties;

7) Officials of the Department of Corrections, a State Correctional Institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

8) A parole board[, **court**] or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court[.];

9) The State Sexual Offenders Assessment Board for use in completing assessments; [**and**]

10) other persons presiding as a judicial officer when determining child custody;

11) the Department of Human Services when determining whether the party's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and

[**10**] **12)** With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. Copying. Any person, agency, or department permitted to inspect the record pursuant to paragraph (A) may copy or be provided with a copy of the record.

C. Disseminating. Unauthorized dissemination of any information contained in the official court record to a person, agency, or department not permitted to inspect or copy the record pursuant to this rule may result in a finding of contempt of court.

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of all files and records of the court in a proceeding.

Persons specified in 23 Pa.C.S. § 6340 as having access to reports may qualify as persons having a legitimate interest in the proceedings under paragraph [**(10)**] **(A)(12)**. See 23 Pa.C.S. § 6340. **Additionally, pursuant to paragraph (A)(10), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.**

This rule is meant to include the contents of the official court record as described in Rule 1166, which does not include county agency records.

Official Note: Rule 1160 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. **Amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1160 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1160 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 14. ADJUDICATORY HEARING**Rule 1409. Adjudication of Dependency and Court Order.**

A. *Adjudicating [the child dependent] Child Dependent.* Once the court has made its findings under Rule 1408, the court shall enter an order whether the child is dependent.

1) *Dependency.* If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed to a dispositional hearing under Rule 1512.

2) No [*dependency*] *Dependency.*

a) If the court finds the child not to be dependent [**or the court finds a parent ready, willing, and able to provide proper parental care or control,**] the court shall:

[a)] i) dismiss the petition; and

[b)] ii) order the child to be discharged from custody and any restrictions ordered in the proceedings[; and].

[c) enter an order identifying individual(s) who will have the legal and physical custody until such order is modified by further order of the court.]

b) If the court finds a parent ready, willing, and able to provide proper parental care or control, the court shall:

i) enter a sealed order on the custody docket awarding custody and stating the reasons why custody is not awarded to the other parent; and

ii) dismiss the petition.

B. *Timing.*

1) *Child in [custody] Custody.* If a child is removed from the home, the court shall enter an adjudication of dependency within seven days of the adjudicatory hearing and enter its findings pursuant to Rule 1408.

2) *Child [not in custody] Not in Custody.* If a child is not removed from the home and if the court fails to enter an order of dependency, the court shall hold a status hearing every thirty days.

C. *Court [order] Order.* The court shall include the following in its court order:

1) A statement pursuant to paragraph (A):

a) as to whether the court finds the child to be dependent from clear and convincing evidence;

b) including the specific factual findings that form the bases of the court's decision;

c) including any legal determinations made; and

2) Any orders directing the removal of a child from the home or change in the current residential status, including:

a) orders as to placement; or

b) visitation; or

c) change in custody; and

3) Any orders as to any aids in disposition that may assist in the preparation of the dispositional hearing, including orders regarding family finding.

Comment

Before the court can find a child to be dependent, there must be clear and convincing evidence in support of the petition. The burden of proof is on the petitioner. The court's inquiry is to be comprehensive and its findings are to be supported by specific findings of fact and a full discussion of the evidence. *In re LaRue*, [244 Pa. Super. 218,] 366 A.2d 1271 (Pa. Super. 1976). *See also In re Frank W.D., Jr.*, [315 Pa. Super. 510,] 462 A.2d 708 (Pa. Super. 1983); *In re Clouse*, 244 Pa. Super. 396, 368 A.2d 780 (1976). The evidence must support that the child is dependent. *In the Matter of DeSavage*, [241 Pa. Super. 174,] 360 A.2d 237 (Pa. Super. 1976). The court is not free to apply the best interest of the child standard as the requirements of the Juvenile Act, 42 Pa.C.S. § 6341(c), require clear and convincing evidence that the child is dependent is the proper standard. *In re Haynes*, [326 Pa. Super. 311,] 473 A.2d 1365 (Pa. Super. 1983). [**A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. In re M.L., 562 Pa. 646, 757 A.2d 849 (2000). A trial court has the authority to transfer custody or modify custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. In re Justin S., 375 Pa. Super. 88, 543 A.2d 1192 (1988).**]

The court is to specify which allegations in the petition are the bases for the finding of dependency pursuant to Rule 1408. The court is to make an adjudication of dependency based upon the allegations in the petition, not on alternative grounds. Due process and fundamental fairness require adequate notice of the allegations to afford a reasonable opportunity to prepare a defense. *In re R.M.*, [567 Pa. 646,] 790 A.2d 300 (Pa. 2002).

[**Under paragraph (B), if a child is removed from the home, a finding of dependency is to be made within seven days.**]

A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. In re M.L., 757 A.2d 849 (Pa. 2000). A trial court has the authority to award custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. In re Justin S., 543 A.2d 1192 (Pa. Super. 1988).

An order entered pursuant to paragraph (A)(2)(b) may award custody to the non-custodial parent with the filing of a new custody order or through

modification of an existing custody order. Requirements for the initiation of a custody action and the waiver of any filing fees are matters reserved for local rule or order.

Under paragraph (C)(3), aids in disposition may include, but are not limited to, any services, investigations, evaluations, studies, treatment plans, and any other appropriate reports that may aid the court in making its determination at the dispositional hearing. See 42 Pa.C.S. § 6339 for orders of a social study or physical and mental examinations and treatment.

See also 42 Pa.C.S. §§ 6341 & 6302.

Pursuant to paragraph (C)(3), when making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. See also Rules 1242(C)(2) & (3)(b) & (c) and 1330(B)(6) and Comments to Rules 1242, 1330, 1515, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 62 P.S. § 1301 *et seq.* See also Rules 1242(E)(3) and 1609(D) and Comments to Rules 1242, 1408, 1512, 1514, 1515, 1608, 1609, 1610, and 1611.

Official Note: Rule 1409 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. **Amended** , 2017, **effective** , 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1409 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1409 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1409 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1515. Dispositional Order.

A. *Generally.* When the court enters a disposition, the court shall issue a written order, which provides that the disposition is best suited to the safety, protection, and physical, mental, and moral welfare of the child. The order shall include:

- 1) any findings pursuant to Rules 1512(D) and 1514;
- 2) the date of the order; and
- 3) the signature and printed name of the judge entering the order.

B. *Transfer of custody.* If the court [**decides to transfer**] **transfers legal or physical** custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, **then** the dispositional order shall include:

- 1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;

- 2) the **conditions and** limitations [**of the order, including the type of custody granted**] on custody; and

- 3) any **remaining rights and duties of the parents or guardian, including** visitation rights.

C. *Guardian.* [**The**] **If the court permits the child to remain with the parents or guardian, then the dispositional order shall include any conditions[, limitations, restrictions, and obligations imposed upon the guardian] and limitations on the child's legal or physical custody as is necessary for the protection of the child.**

Comment

See 42 Pa.C.S. §§ 6310, 6351.

When issuing a dispositional order, the court should issue an order that is "best suited to the safety, protection, and physical, mental, and moral welfare of the child." 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. [Ct.] 2006) (citing *In re Tameka M.*, [**525 Pa. 348,**] 580 A.2d 750 (Pa. 1990)), for issues addressing a child's mental and moral welfare.

When making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. See also Rules 1240(B)(6), 1242(C)(2) & (3)(b) & (c), and 1330(B)(6) and Comments to Rules 1242, 1330, 1409, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 62 P.S. § 1301 *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1408, 1409, 1512, 1514, 1608, 1609, 1610, and 1611. 45 C.F.R. § 1356.21 provides a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.

Dispositional orders should comport in substantial form and content to the model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.pacourts.us/forms/dependency-forms>.

See *In re Tameka M.*, [**525 Pa. 348,**] 580 A.2d 750 (Pa. 1990).

The custody order should set forth any conditions and limitations using the words and phrases set forth in 23 Pa.C.S. § 5322. The transfer of legal custody vests the custodian with the authority to determine the nature and treatment of the child for ordinary medical care. See 42 Pa.C.S. § 6357. For pre-dispositional examination and treatment of a child, see Rule 1145. For non-emergent, non-routine care not already included in an approved treatment plan, the custodian should seek parental consent or receive prior court authorization when consent cannot be obtained.

Official Note: Rule 1515 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011,

effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended , 2017, effective , 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1515 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1515 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1515 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1515 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART D. CESSATION OR RESUMPTION OF COURT SUPERVISION OR JURISDICTION

Rule 1631. Termination of Court Supervision.

A. *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;

2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;

3) the child **is under eighteen years of age and** has been placed with a ready, willing, and able parent who was not previously identified by the county agency;

4) the child has been adopted and services from the county agency are no longer needed;

5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;

6) the child has been placed in the physical and legal custody of a fit and willing relative and services from the county agency are no longer needed;

7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed and a hearing has been held pursuant to paragraph (E) for a child who is age eighteen or older;

8) the child has been adjudicated delinquent and services from the county agency are no longer needed because all dependency issues have been resolved;

9) the child has been emancipated by the court;

10) the child is eighteen years of age or older and a hearing has been held pursuant to paragraph (E);

11) the child has died;

12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

[B. Ready, willing, and able parent. When services from the county agency are no longer necessary because the court has determined that the

child is not dependent pursuant to paragraph (A)(3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to the Pa.R.C.P.]

B. Order Transferring or Affecting Custody.

1) When the court terminates supervision pursuant to paragraph (A)(3), the court shall:

i) enter a sealed order on the custody docket awarding custody, stating the reasons why custody is not awarded to the other parent; and

ii) order the termination of court supervision.

2) When the court terminates supervision pursuant to paragraph (A)(5) or (A)(6), the court shall:

i) enter a sealed order on the custody docket awarding custody, stating the reasons why custody has been awarded; and

ii) order the termination of court supervision.

C. *Objection.* Any party may object to a motion under paragraph (A) and request a hearing.

D. *Hearing.* If objections have been made under paragraph (C), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

E. *Children [eighteen years of age or older] Eighteen Years of Age or Older.*

1) Before the court can terminate its supervision of a child who is eighteen years of age or older, a hearing shall be held at least ninety days prior to the child turning eighteen years of age.

2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:

a) the specific plans for housing;

b) a description of the child's source of income;

c) the specific plans for pursuing educational or vocational training goals;

d) the child's employment goals and whether the child is employed;

e) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

f) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;

g) verification that all vital identification documents and records have been provided to the child;

h) a description of any other needed support services; and

i) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns twenty-one years of age if specific conditions are met.

3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of paragraph (E)(2) have been met, a subsequent hearing shall be scheduled.

4) The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

F. *Cessation of [services] Services.* When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under paragraph (A), see 42 Pa.C.S. §§ 6301(b) & 6351(f.1).

A child under eighteen years of age whose non-custodial parent is ready, willing, and able to provide adequate care for the child may no longer be deemed dependent. *In re M.L.*, 757 A.2d 849 (Pa. 2000). When services from the county agency are no longer necessary pursuant to paragraph (A)(3) because the court has determined that the child is not dependent because a non-custodial parent has been found by the court to be able and available, the court should enter an order awarding custody to that parent pursuant to paragraph (B). For children eighteen years of age and older, see paragraph (E).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (Pa. Super. 1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

If dependency issues have not been resolved, the case should be kept open and services ordered. The court should ensure that services are not discontinued solely because the child was adjudicated delinquent. The county agency and the juvenile probation are to collaborate on the case and resolve all outstanding issues. If a child is in a delinquency placement, the court is to ensure that the county agency and the juvenile probation office have collaborated to ensure appropriate services are in place.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, [428 Pa. Super. 448,] 631 A.2d 615 (Pa. Super. 1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa. Code §§ 3103.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. [Ct.] 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (Pa. Super. 1993).

[A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562

Pa. 646, 757 A.2d 849 (2000). See paragraph (B). Paragraph (B) does not apply to resumption of jurisdiction cases.

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a] A court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. See 42 Pa.C.S. § 6351(a)(2.1). [See also *Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).]

An order entered pursuant to paragraph (B) may award custody with the filing of a new custody order or through modification of an existing custody order. Requirements for the initiation of a custody action and the waiver of any filing fees are matters reserved for local rule or order.

Pursuant to paragraph (E)(2), the county agency is to assist the child and provide all the support necessary in developing a transition plan. See 42 U.S.C. § 675 (5)(A)—(H).

Pursuant to paragraph (E)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of paragraph (E) are to be followed. In no case is a juvenile over twenty-one to remain under juvenile court supervision. See Rule 1635(E). See also Rule 1635(E) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

Official Note: Rule 1613 adopted August, 21, 2006, effective February 1, 2007. Amended July 29, 2009, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013 and renumbered from Rule 1613 to Rule 1631, effective December 1, 2013. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1613 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1613 published with the Court's Order at 39 Pa.B. 4887 (August 15, 2009).

Final Report explaining the amendments to Rule 1613 published with the Court's Order at 41 Pa.B. 2430 (May 14, 2011).

Final Report explaining the amendments to Rule 1631 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013).

Final Report explaining the amendments to Rule 1631 published with the Court's Order at Pa.B. (, 2017).

REPORT

Proposed Amendment of Pa.R.J.C.P. 160, 1160, 1409, 1515, and 1631

The Juvenile Court Procedural Rules Committee ("Committee") proposes to amend Rules 1409, 1515, and 1631 to establish procedures for orders affecting or transferring custody. Further, the Committee proposes to amend Rules 160 and 1160 to reflect amendment of the Juvenile Act regarding access to juvenile court records. This proposal is part of a joint recommendation with the Domestic

Relations Procedural Rules Committee to develop rules to establish the interplay between custody and dependency.

Concerning the custody order procedures, the Committee previously published a proposal for comment in 46 Pa.B. 3951 (July 23, 2016). As previously observed, a transfer of custody to the previously non-custodial parent or a non-parent may close a dependency matter either pre- or post-adjudication. With dependency dockets inaccessible to the public, problems have been noted in proving custody by a non-custodial parent or third party. Often the party from whom the child has been removed has a custody order obtained prior to the dependency action indicating they are the custodial parent.

The Committee considered means and methods of transferring relevant custody determinations by the dependency court to the prothonotary's office to be filed on a custody docket. The Committee believes that the procedural rules should provide a framework for this process, but judicial districts should retain discretion on how this would be accomplished locally.

Rule 1409 has been revised to require the filing of a custody order on the custody docket when a petition is dismissed because of the availability of a ready, willing, and able non-custodial parent. A similar provision has been engrafted into Rule 1631 when supervision has been terminated when the child is placed with a ready, willing, and able parent, the child is placed with a permanent legal custodian, or the child has been placed with a fit and able relative.

Rule 1515 has been revised to clarify the content of a dispositional order transferring custody. Additionally, the Comment was revised in response to suggested refinement of the language.

The Committee received comments about maintaining confidentiality of dependency matters when custody orders closing out dependency proceedings are filed on the custody docket. There were two aspects considered: 1) the confidentiality of the parties; and 2) the confidentiality of the findings. The Committee proposes that the custody order be filed under "seal" to address the confidential nature of those filings on the custody docket. The sealed order would be accessible to the parties, their attorneys, and the court.

Concerning the access to records proposal, the amendments to Rule 160 and 1160 were previously published for comment at 45 Pa.B. 4344 (August 8, 2015). They were intended to reflect statutory amendments to the Juvenile Act to allow masters, hearing officers, conference officers, arbitrators, or other persons authorized to hear custody matters to review the juvenile's official court record when determining those custody matters. 42 Pa.C.S. § 6307. Additionally, the Department of Human Services may review the official court record to determine whether the perpetrator's name and related information should be expunged from the statewide database. *Id.* Further, paragraphs (B) and (C) were added to Rule 1160 to maintain parallel structure with Rule 160.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 17-986. Filed for public inspection June 16, 2017, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BERKS COUNTY

Court Facility Firearm Directive; Prothonotary No. AD 17-381

Order

And Now, this 31st day May, 2017, Berks County Court Facility Firearm Directive is hereby approved and adopted by the Court of Common Pleas of Berks County, Pennsylvania, and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator is *Ordered* and *Directed* to:

1. File one (1) copy of this Order, including the newly adopted directive, with the Administrative Office of Pennsylvania Courts.
2. File two (2) paper copies of this Order, including the newly adopted directive, and one (1) electronic copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) copy of this Order, including the newly adopted directive, with the Rules Committee of the Supreme Court of Pennsylvania.
4. File one (1) copy of this Order, including the newly adopted directive, with the Berks County Law Library.
5. Keep continuously available for public inspection and copying one (1) copy of this Order, including the newly adopted directive, in the Office of the Prothonotary, Clerk of Courts, Office of the Register of Wills/Clerk of the Orphans' Court of Berks County.

The County of Berks is *Ordered* and *Directed* to keep a copy of the newly adopted directive posted on the County's official website.

Court Facility Firearm Directive; No. AD 17-381

Administrative Order of Court

And Now, this 31st day of May, 2017, the Court adopts the following Berks County Court Facility Firearm Directive as an order of this Court:

By the Court

HONORABLE PAUL M. YATRON,
President Judge

BERKS COUNTY COURT FACILITY FIREARM DIRECTIVE

Statement of Policy:

1. There exists great potential for physical danger while working in courtrooms and related areas and dealing with individuals in stressful and volatile situations, in virtually all cases in litigation. Such cases include criminal, civil, and family law matters. The Court of Common Pleas of the Twenty-third Judicial District recognizes that pursuant to the law of this Commonwealth, certain law enforcement officers and Court officials are authorized to carry firearms while in the performance of their duties in Court Facilities within the County of Berks. We approve the carrying of firearms for defensive purposes, and when appropriate, to support members of the Berks County Sheriff's Office in maintaining courtroom security.

2. Pursuant to the provisions of 18 P.A.C.S.A § 913(c)(1) and (2) the following persons are hereby authorized to carry firearms on their persons while in the performance of official duties in Berks County Court Facilities:

a. Law enforcement officers in the service of all local police departments located within the County of Berks; and

b. Members of the Pennsylvania State Police and Special Agents of the Office of Attorney General of Pennsylvania, agents of the Pennsylvania Board of Probation and Parole; and

c. Duly elected or appointed constables and deputy constables from within the County of Berks; and

d. Judges of the Court of Common Pleas of Berks County; and

e. Magisterial District Judges of the Twenty-third Judicial District; and

f. Officers of the Berks County Sheriff's Office, Berks County District Attorney's Office, the Berks County Juvenile Probation Office, and the Berks County Adult Probation Office.

3. The carrying of firearms in Berks County Court Facilities by the individuals set forth in Paragraph 2 are subject to the following terms and conditions:

a. Those individuals identified in subparagraphs (a), (b), and (f) of Paragraph 2 above must be officers in good standing in their respective departments or organizations and be authorized to carry firearms in the performance of their duties; and

b. Those individuals identified in subparagraphs (a), (b), and (f) of Paragraph 2 above shall abide by all rules, regulations, and policies imposed by their respective organizations or departments while in Berks County Court Facilities.

c. All constables and deputy constables shall have current certification from the Constables' Education and Training Board with respect to both the performance of their duties and the carrying and use of firearms.

d. Judges of the Court of Common Pleas and Magisterial District Judges of the Twenty-third Judicial District must have current, valid licenses to carry concealed firearms issued by the Berks County Sheriff's Office and be approved by the President Judge for the carrying of firearms.

e. Persons authorized to carry firearms in Court Facilities pursuant to this order, whose offices are located in any Court Facility shall either carry the firearms securely on their persons or store them in a secure lock-box or other such container when the firearms are not on their persons but are within the Court Facility.

f. Judges of the Court of Common Pleas and Magisterial District Judges shall either carry the firearms securely on their persons or maintain, at their own expense, a secure lock-box or other such container for storage when the firearms are not on their persons but are within the Court Facility.

4. Berks County Court Facilities shall include the Berks County Courthouse, the Berks County Services Center, and all Magisterial District Court offices within the County, wherever situate.

5. Nothing in this order shall be construed to abrogate the authority of a Judge presiding in a courtroom to limit or bar the presence of firearms while Court is in session.

6. All individuals encompassed in this order shall be exempt from x-ray or electronic screening on entry to any Berks County Court Facility upon presentation of appropriate identification/credentials.

[Pa.B. Doc. No. 17-987. Filed for public inspection June 16, 2017, 9:00 a.m.]

JUNIATA COUNTY

Local Rule 4007 and Local Rule 4008 of Judicial Administration; No. CV-179-2017

Order

And now, May 2, 2017, the Court hereby adopts the following new Local Rules of Judicial Administration:

Rule 4007. Requests for Transcripts.

(A) All requests for transcripts shall be set forth on the standardized form provided by the Commonwealth of Pennsylvania Court Administrator. This form may be obtained from www.pacourts.us.

(B) For an ordinary transcript, the requesting party shall file the original request with the office in which the matter is filed, specifically, the Prothonotary's office, Clerk of Courts' office, Register and Recorder's office, or Domestic Relations office.

(C) Where expedited or daily transcripts are requested, the original request shall be filed using the approved form in the appropriate filing office at least 10 days prior to the proceeding.

(D) The requesting party shall serve copies of the formal request to:

(1) The court reporter assigned to the proceeding

(2) The District Court Administrator

(3) Opposing counsel or party, if party is unrepresented.

An affidavit of service shall be filed after service.

(E) When a private litigant requests a transcript, the litigant ordering the transcript shall make payment in the amount of 95% of the estimated total cost of the transcript.

(1) Deposit checks or money orders are to be made payable to the appropriate County: County of Perry or County of Juniata and shall be delivered to the District Court Administrator.

(2) Upon receipt of the 95% deposit, the court reporter assigned to the proceeding shall be directed to prepare the transcript.

(3) The court reporter(s) shall notify the District Court Administrator upon completion of the transcript and shall indicate the balance due. Checks or money orders for the final balance due shall be made payable to the appropriate county and shall be delivered to the District Court Administrator.

(4) Transcripts shall not be filed and copies shall not be delivered until the final balance is paid as set forth above.

(F) Any request by a litigant for a transcript alleging inability to pay due to economic hardship must follow the procedure set forth below.

(1) Transcript costs for ordinary transcripts in matters under appeal or in which the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

(3) Transcript cost for ordinary transcripts in matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, or same-day transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under either of the above sections and upon good cause shown.

(4) The application for waiver of all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

Rule 4008. Costs of Transcripts.

(A) *Costs payable*

(1) The costs payable by the initial ordering party for a transcript shall not exceed:

- i. For an ordinary transcript, \$2.75 per page
- ii. For an expedited transcript, \$3.75 per page
- iii. For a daily transcript, \$4.75 per page
- iv. For same-day delivery, \$6.75 per page
- v. For copies, \$.50 per page

(2) Transcript costs payable by the Commonwealth or a subdivision thereof shall be as follows:

- i. For an ordinary transcript, \$1.75 per page
- ii. For an expedited transcript, \$2.75 per page
- iii. For a daily transcript, \$3.75 per page
- iv. For same-day delivery, \$5.75 per page
- v. For copies, \$.50 per page.

(B) A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

- (1) \$.50 per page bound, paper format.

(C) A judge of the Court of Common Pleas may impose a reasonable surcharge in cases such as mass tort, medical malpractice, or other unusually complex litigation.

(D) A judge of the Court of Common Pleas may impose a reasonable surcharge for preparation of any transcript prepared in order to justly compensate a court reporter.

Said Local Rules of Judicial Administration shall be effective in the 41st Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

KATHY A. MORROW,
President Judge

[Pa.B. Doc. No. 17-988. Filed for public inspection June 16, 2017, 9:00 a.m.]

NORTHUMBERLAND COUNTY

Local Rule—NCV-1301 through NCV-1308; No. AD-2017-4

Order

And Now, this 30th day of May, 2017, it is hereby *Ordered* that, effective August 1, 2017, Northumberland County Local Rules 1301 through 1308 are hereby *Amended*, governing arbitration.

The Northumberland County District Court Administrator is directed as follows:

(1) File one (1) copy of the Administrative Order with Amended Local Rules with the Administrative Office of Pennsylvania Courts.

(2) Two (2) copies of the Administrative Order with Amended Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy with Amended Local Rules shall be sent to the Northumberland County Law Library and the Editor of the *Northumberland County Legal Journal*.

(4) Publish a copy of the Administrative Order with Amended Local Rules on the web site of Northumberland County.

(5) Thereafter, compile the Amended Local Rules within the complete set of local rules no later than 30 days following the publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that a copy of the Amended Local Rules shall be kept continuously available for public inspection and copying in the office of the Prothonotary of Northumberland County.

By the Court

CHARLES H. SAYLOR,
President Judge

ARBITRATION

Rule NCV-1301. Cases for Submission.

(a) Compulsory arbitration as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S. Section 7361, shall apply to all civil cases for monetary relief (except those which also require equitable, declaratory or other relief) at issue where the amount in controversy shall be Fifty Thousand (\$50,000.00) Dollars or less.

(b) A civil action will be referred to arbitration (if the request for relief is in the jurisdictional limits for compulsory arbitration) upon the filing with the Prothonotary of a praecipe for arbitration signed by either party or its counsel, or by order of court.

(c) Matters not in litigation may be referred to a Board of Arbitrators by an agreement of reference, signed by counsel for all sides in the case. Such agreement shall be filed with the Prothonotary. Said agreement shall define the issue involved for determination by the Board and, when agreeable, shall also contain stipulations with respect to the facts submitted or agreed upon or defenses waived. In such cases, the agreement shall take the place of the pleadings in the case and be filed of record.

[Rule NCV-1301.1. Agreement of Reference.] [Abrogated]

Rule NCV-1302. List of Arbitrators and Appointment of Board.

(a) A list of available arbitrators shall be prepared annually by the Court Administrator, consisting of mem-

bers of the bar actively engaged in the practice of law in the 8th Judicial District and who have not notified the Court Administrator in writing of his or her desire not to participate as an arbitrator.

(b) The Court Administrator shall appoint from said list three members to each Board of Arbitrators, at least one of whom shall have been admitted to the practice of law before the Supreme Court of Pennsylvania for more than five years prior to his or her appointment.

(c) Each Board shall be chaired by the member senior in years admitted to the practice of law in the 8th Judicial District.

(d) Not more than one member or associate of any firm or association of attorneys shall be appointed to the same Board.

(e) A member of a Board who will be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator. Any request for recusal of an appointed Board member shall be submitted to the Office of the Court Administrator within seven days of the appointment of the arbitrator setting forth specifically the reason the Board member should not act as an arbitrator. The Court Administrator shall immediately contact that member of the Board with regard to the request for recusal, and the Board member shall advise the Court Administrator as to whether or not voluntary withdrawal as an arbitrator will take place. In the event that the arbitrator does not voluntarily withdraw, the request for recusal shall be transmitted to the Court for appropriate action.

(f) Members of the Board of Arbitration will generally be assigned to a panel for a period of one-half (1/2) day. The chairperson and each associate member of the panel shall receive the payment rate established by the President Judge. Fees to arbitrators shall not be taxed as costs nor follow the award as other costs.

(g) Each arbitrator shall take an oath of office in conformity with Section 3151 of the Judicial Code.

[Rule NCV-1302.1. Hearing, Selection of Arbitrators.] [Abrogated]

Rule NCV-1303. Hearing, Notice and Continuances.

(a) The scheduled date for arbitration shall be set forth on the annual court calendar as compiled by the Court Administrator, as well as such other dates as may be ordered by the President Judge as caseloads warrant. The Court Administrator shall designate the place, time, and specific date for hearings, and give at least 30 days written notice thereof to the arbitrators, the parties, or their attorneys of record. The Notice shall include the following language:

“The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to trial de novo on appeal from a decision entered by a judge.”

(b) When a case is at issue, the case may be ordered upon the next available arbitration list by filing with the Prothonotary an arbitration certificate of readiness on or before 45 days preceding the next arbitration schedule. The Prothonotary shall promptly forward the certificate to the Court Administrator. The certificate shall be on forms provided by the Prothonotary or Court Administration and shall contain the following:

1. the caption of the case;
2. name, address and phone number of trial counsel for all parties;
3. certification that all outstanding motions are resolved;
4. certification that discovery has been completed and disclosure made to the other parties of any and all reports to be utilized at the arbitration hearing; and
5. a complete list of all witnesses who are to be called at the time of the arbitration hearing and an estimate of the time that will be required to present that parties portion of the case.

(c) Within 10 days of the notice of the arbitration hearing, any opposing party or opposing counsel shall submit a written report to the Court Administrator listing the names of their witnesses who will be used at the hearing and an estimate of the time required to present their case.

ONLY THOSE WITNESSES LISTED BY THE PARTIES, AND REPORTED AS REQUIRED IN THE RULE, WILL BE PERMITTED TO TESTIFY AT THE ARBITRATION HEARING, UNLESS THE BOARD ALLOWS OTHERWISE.

ANY PARTY THAT DOES NOT TIMELY PROVIDE THE ESTIMATE OF THE TIME REQUIRED TO PRESENT THEIR CASE MAY, IN THE DISCRETION OF THE BOARD OF ARBITRATION, BE LIMITED IN TIME TO PRESENT THEIR CASE.

Rule NCV-1304. Conduct of Hearing.

Where all parties are present, the chairman of the board of arbitration shall be responsible for the conduct of the hearing. Arbitrators shall exercise reasonable restraint in the questioning of witnesses.

Rule NCV-1304.1. Continuances.

(a) Arbitrators may not grant continuances. Applications for continuances of any scheduled arbitration hearing shall be on the Application for Continuance Form available from the Court Administrator's Office. The Application for Continuance shall be submitted to the Court Administrator at least twenty (20) days before such hearing and after written notice of such application has been provided to the opposing counsel. The application shall indicate the number of continuances previously requested and whether or not the continuance is opposed.

(b) The Court Administrator shall promptly grant or deny the continuance request and file with Prothonotary.

(c) Whenever any case has been continued twice after assignment of a board of arbitration, the case shall be certified by the Court Administrator to the President Judge or his designee, to rule upon the request for continuance. In the interest of expediting disposition of the case the judge may order a conference or enter an appropriate order including but not limited to an order for non pros or an order directing the board to proceed with hearing whether or not the defendant appears and defends.

(d) Continuances within 20 days of an arbitration hearing shall not be granted without approval of the President Judge or his designee and only upon exigent circumstances. In the event of an emergency continuance, the Court may assess actual expenses against the moving party or counsel which may have been incurred by the opposing party. The actual costs, which may include added arbitration fees, actual work loss, travel expenses,

expert fees, etc., shall be certified to the Court by the party incurring such fees for appropriate consideration. Added arbitration fees may likewise be assessed where a late continuance results in the need for additional payment to a Board of Arbitration.

Rule NCV-1305. Evidence.

The chairman shall make preliminary rulings on objections and evidentiary matters, which shall be binding unless overridden by a majority of the board of arbitration.

Rule NCV-1306. Award, Damages for Delay.

(a) Arbitrators shall not consider the subject of damages for delay until an award has been made on the merits of the case, including the determination of the amount of damages, if any to be awarded.

(b) After the determination and announcement of the award on the merits and damages, the arbitrators shall make a determination as to any delay damages by:

1) Accepting a stipulation from the parties which contains the following:

- a) whether an offer was made in writing;
- b) the amount of the offer;
- c) the date of the offer, or

2) If no stipulation is reached, the panel shall take evidence regarding damages for delay from counsel following the original deliberation and announcement of the award.

(c) The arbitrators shall separately enumerate the delay damages as to each party on the appropriate form, and then add this amount to the principal sum awarded in order to reach a total amount of award. Only the total amount shall be shown on the Report and Award but the computation form must be appended to the Report and Award when filed.

Rule NCV-1308. Appeal Compensation.

In filing an appeal, the appellant shall make payment to the Prothonotary for compensation of the arbitrators. The compensation assessed by the Prothonotary of Northumberland County shall be the arbitration compensation amount paid for that proceeding.

**[Rule NCV-1315. Compensation for Arbitrators.]
[Abrogated]**

[Pa.B. Doc. No. 17-989. Filed for public inspection June 16, 2017, 9:00 a.m.]

NORTHUMBERLAND COUNTY

**Local Rule—NCV-1920.16 through NCV-1920.51A;
No. AD-2017-3**

Order

And Now, this 30th day of May, 2017, it is hereby *Ordered* that, effective August 1, 2017, Northumberland County Local Rules 1920.16 through 1920.51A are hereby *Amended*, governing divorce actions.

The Northumberland County District Court Administrator is directed as follows:

(1) File one (1) copy of the Administrative Order with Amended Local Rules with the Administrative Office of Pennsylvania Courts.

(2) Two (2) copies of the Administrative Order with Amended Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy with Amended Local Rules shall be sent to the Northumberland County Law Library and the Editor of the *Northumberland County Legal Journal*.

(4) Publish a copy of the Administrative Order with Amended Local Rules on the web site of Northumberland County.

(5) Thereafter, compile the Amended Local Rules within the complete set of local rules no later than 30 days following the publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that a copy of the Amended Local Rules shall be kept continuously available for public inspection and copying in the office of the Prothonotary of Northumberland County.

By the Court

CHARLES H. SAYLOR,
President Judge

DIVORCE

Rule NCV-1920.16. Severance, Bifurcation.

A. All requests for severance or bifurcation shall be set forth by petition filed with the Prothonotary and shall be processed through the Office of the Court Administrator. The Court may, for good cause shown, issue a divorce decree prior to a determination of other matters raised, in which event the decree shall contain the following statement: "The Court retains jurisdiction of any claims raised by the parties to this action for which a final order has not yet been entered.

B. A petition for severance or bifurcation may be filed at any time. However, the request will not be considered by the Court until either the Notice of Intention to Request Entry of Divorce Decree has been duly mailed or delivered in the case of divorce actions proceeding on no fault grounds where no hearing is required on the issue of the divorce, or the Master's Report has been filed in the case of divorce actions proceedings on fault grounds or no fault ground if a hearing has been required on the issue of divorce.

C. All petitions for bifurcation shall be scheduled for a hearing before the Court unless a stipulation is filed with the petition for bifurcation and both parties have signed the stipulation.

Rule NCV-1920.31. Alimony, Alimony Pendente Lite, Counsel Fees and or Costs.

A. Unless set forth in the Complaint or in another appropriate pleading, all claims for alimony pendente lite, interim counsel fees and/or costs, and final counsel fees and/or costs shall be set forth by petition filed with the Prothonotary, and shall be processed through the Office of the Court Administrator. Where a Complaint contains a claim of alimony, alimony pendent lite, interim counsel fees and/or costs, and final counsel fees and/or costs, a separate petition need not be filed, but scheduling will be accomplished by the Office of the Court Administrator upon the filing of a praecipe with the Prothonotary.

1. Where a claim for alimony pendente lite has been made, a conformed copy of the Complaint, other appropriate pleading, or petition, together with a fee for the Domestic Relations Office in the amount of Fifty Dollars \$50.00, shall be delivered to the Domestic Relations

Office. The filing date shall be the effective date of any subsequent Order for alimony pendente lite.

2. Claims for alimony and final counsel fees and costs shall be referred by the Office of the Court Administrator to a Master unless otherwise directed by the Court.

3. Claims for interim counsel fees and costs shall be scheduled by the Office of the Court Administrator for hearing by the Court. The Complaint, other appropriate pleading, or petition shall be accomplished by a certification from counsel setting forth the services rendered or to be rendered, the hourly fee charged or to be charged for the same, and a listing of all costs and expenses for which reimbursement is sought.

B. No hearing shall be scheduled within the thirty (30) day period following the service of the Complaint or petition, this being the time period within which the parties are required pursuant to Pa.R.C.P. No. 1920.31(a)(1), to file the most recent federal income tax return, pay stubs for the preceding six months, and a completed income and expense statement in the form required in an action for support.

C. A party in whose favor an Order for alimony has been entered may, upon payment to the Domestic Relations Office of a registration fee of Fifty Dollars (\$50.00), register the Order. Upon registration, the Order shall be enforced in the same manner as are all other support Orders.

Rule NCV-1920.33. Equitable Distribution.

A. The pre-trial statement required by Pa.R.C.P. No. 1920.33(b) shall be filed and served upon the other party at least twenty (20) days prior to the scheduled hearing.

B. In addition to the items required in Pa.R.C.P. No. 1920.33(b), the pretrial statement shall include an analysis of each of the relevant factors in Section 3502 of the Divorce Code setting forth in detail their applicability or inapplicability in the case at hand.

C. A willful violation of these rules and the Pennsylvania Rules of Civil Procedure by failing to comply with filing requirements or not providing required information shall be grounds for contempt of Court and imposition of sanctions, and the Master is empowered to recommend that any person who willfully fails to comply be cited for contempt of Court.

Rule NCV-1920.42. Affidavits and Decrees.

A. A Praeceptum to Transmit Record shall be filed with the Prothonotary. Attached thereto shall be a proposed decree and any agreement which the parties wish to have incorporated into the decree.

1. Any related claims that may have been raised but not pursued shall be withdrawn. The party filing the Praeceptum to Transmit Record may withdraw any such claims by so noting on the Praeceptum. Any outstanding claims by the opposing party may only be withdrawn by a praecipe signed by the party or his attorney of record in the following or a similar form: "The following claims are hereby withdrawn: _____", and such withdrawal shall be noted on the Praeceptum to Transmit Record.

2. If severance or bifurcation has been granted, that fact and the pending claims shall be noted on the Praeceptum to Transmit Record.

Rule NCV-1920.51. Hearing by the Court, Appointment of a Master.

A. All claims for divorce, annulment, equitable distribution, counsel fees, costs and expenses (other than

alimony pendente lite and disputed claims as to custody or paternity) shall be heard by a Master, and any requests for hearing before the Court instead of the Master shall be made by petition and rule and will be granted by the Court only upon good cause shown.

B. Where no other issues are involved except termination of the marriage by divorce or annulment under Section 3301(a) and (b) and Sections 3303—3305 of the Divorce Code, the motion for appointment of a Master may be filed by either party as soon as twenty (20) days have elapsed following the service of the complaint.

C. If, in addition to a claim for divorce or annulment of marriage, a claim is made for alimony, equitable distribution of marital property, of final counsel fee and/or costs, either party may move for the appointment of the Master after [1] one of the following has taken place: [a] a decree has been entered wherein a divorce has been granted but the Court has retained jurisdiction over unresolved claims, or [b] an Order has been entered approving the grounds for divorce but deferring the decree in divorce until a Master's hearing is held on unresolved claims, and [2] both parties have complied with Pa.R.C.P. Rules 1920.31(a)(1) and 1920.33(a).

1. If a party fails to comply with Pa.R.C.P. Rules 1920.31(a)(1) and 1920.33(a), on praecipe of any party who has complied therewith, a rule shall be entered upon a non-complying party to file the information required by said Rules within thirty (30) days of the service of the rule.

a. The praecipe shall be prepared substantially in the following form:

"The [plaintiff][defendant] having complied fully with Pa.R.C.P. 1920.31(a)(1) and 1920.33(a), and the opposing party having failed to do so, it is hereby requested that a rule be entered as of course directing the opposing party to comply with Pa.R.C.P. Rules 1920.31(a)(1) and 1920.33(a) within thirty (30) days of the date of the service of the rule.

Attorney for [plaintiff][defendant]

RULE: AND NOW, this ____ day of _____, 20__, the [plaintiff][defendant] is hereby directed to comply with Pa.R.C.P. Rules 1920.31(a)(1) and 1920.33(a) within thirty (30) days of the date of the service of this rule.

Judge

b. If it is necessary for the Court subsequently to issue an Order directing compliance with Pa.R.C.P. Rules 1920.31(a)(1) and 1920.33(a) such Order shall, in the absence of compelling circumstances, contain inter alia a provision for payment to the moving party of the counsel fees and costs incurred in obtaining compliance.

D. The Motion for Appointment of Master shall be accompanied by a proposed Order Appointing Master setting forth the issues to be referred by the Court to the Master, and shall contain a certification that a copy of said Motion and the Proposed Order were served at least ten (10) days prior to the filing of said Motion upon opposing counsel, or the opposing party, if unrepresented.

Rule NCV-1920.51A. Filing Fee: Compensation of Master.

A. Upon the filing of the Complaint, the plaintiff shall pay to the Prothonotary, in addition to any other fees, an administrative fee in the amount of \$125.00.

B. Upon the filing of a Motion for Appointment of a Master, an additional administrative fee of \$150.00 shall be paid to the Prothonotary.

C. The appearance fee, if any, by a stenographer for recording the master's proceedings shall be paid by the party requesting the hearing. The costs of transcripts shall be borne by any requested party.

[Pa.B. Doc. No. 17-990. Filed for public inspection June 16, 2017, 9:00 a.m.]

PERRY COUNTY

Local Rule 4007 and Local Rule 4008 of Judicial Administration; No. 2017-2

Order

And now, May 2, 2017, the Court hereby adopts the following new Local Rules of Judicial Administration:

Rule 4007. Requests for Transcripts.

(A) All requests for transcripts shall be set forth on the standardized form provided by the Commonwealth of Pennsylvania Court Administrator. This form may be obtained from www.pacourts.us.

(B) For an ordinary transcript, the requesting party shall file the original request with the office in which the matter is filed, specifically, the Prothonotary's office, Clerk of Courts' office, Register and Recorder's office, or Domestic Relations office.

(C) Where expedited or daily transcripts are requested, the original request shall be filed using the approved form in the appropriate filing office at least 10 days prior to the proceeding.

(D) The requesting party shall serve copies of the formal request to:

- (1) The court reporter assigned to the proceeding
- (2) The District Court Administrator
- (3) Opposing counsel or party, if party is unrepresented.

An affidavit of service shall be filed after service.

(E) When a private litigant requests a transcript, the litigant ordering the transcript shall make payment in the amount of 95% of the estimated total cost of the transcript.

(1) Deposit checks or money orders are to be made payable to the appropriate County: County of Perry or County of Juniata and shall be delivered to the District Court Administrator.

(2) Upon receipt of the 95% deposit, the court reporter assigned to the proceeding shall be directed to prepare the transcript.

(3) The court reporter(s) shall notify the District Court Administrator upon completion of the transcript and shall indicate the balance due. Checks or money orders for the

final balance due shall be made payable to the appropriate county and shall be delivered to the District Court Administrator.

(4) Transcripts shall not be filed and copies shall not be delivered until the final balance is paid as set forth above.

(F) Any request by a litigant for a transcript alleging inability to pay due to economic hardship must follow the procedure set forth below.

(1) Transcript costs for ordinary transcripts in matters under appeal or in which the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

(2) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

(3) Transcript cost for ordinary transcripts in matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, or same-day transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under either of the above sections and upon good cause shown.

(4) The application for waiver of all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

Rule 4008. Costs of Transcripts.

(A) *Costs payable*

(1) The costs payable by the initial ordering party for a transcript shall not exceed:

- i. For an ordinary transcript, \$2.75 per page
- ii. For an expedited transcript, \$3.75 per page
- iii. For a daily transcript, \$4.75 per page
- iv. For same-day delivery, \$6.75 per page
- v. For copies, \$.50 per page

(2) Transcript costs payable by the Commonwealth or a subdivision thereof shall be as follows:

- i. For an ordinary transcript, \$1.75 per page
- ii. For an expedited transcript, \$2.75 per page
- iii. For a daily transcript, \$3.75 per page
- iv. For same-day delivery, \$5.75 per page
- v. For copies, \$.50 per page.

(B) A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

(1) \$.50 per page bound, paper format.

(C) A judge of the Court of Common Pleas may impose a reasonable surcharge in cases such as mass tort, medical malpractice, or other unusually complex litigation.

(D) A judge of the Court of Common Pleas may impose a reasonable surcharge for preparation of any transcript prepared in order to justly compensate a court reporter.

Said Local Rules of Judicial Administration shall be effective in the 41st Judicial District of the Commonwealth of Pennsylvania thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

KATHY A. MORROW,
President Judge

[Pa.B. Doc. No. 17-991. Filed for public inspection June 16, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated June 1, 2017, Mary Ellen Chajkowski who resides in Jacksonville, FL, is Suspended from the Bar of this Commonwealth for a period of one year and one day. In accordance with Rule 217(f), Pa.R.D.E., since this suspended attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

JULIA M. FRANKSTON-MORRIS, Esq.
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 17-992. Filed for public inspection June 16, 2017, 9:00 a.m.]