

CHAPTER 15. DISPOSITIONAL HEARING

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PART A. SUMMONS AND NOTICE OF THE DISPOSITIONAL HEARING

Rule 1500. Summons for the Dispositional Hearing.

A. *Summons.* The court may issue a summons compelling any party to appear for the dispositional hearing.

B. *Order appearance.* The court may order the person having the physical custody or control of the child to bring the child to the hearing.

C. *Requirements.* The general summons procedures of Rule 1124 shall be followed.

Comment

Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the parent, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper and necessary parties to the proceedings. 42 Pa.C.S. § 6335(a).

Other persons may be subpoenaed to appear for the hearing. *See* 42 Pa.C.S. § 6333.

Official Note: Rule 1500 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1500 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Rule 1501. Dispositional Notice.

The court or its designee shall give notice of the dispositional hearing to:

- 1) all parties;
- 2) the attorney for the county agency;
- 3) the child's attorney

- 4) the guardian's attorney;
- 5) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;
- 6) the court appointed special advocate, if assigned;
- 7) the educational decision maker, if applicable; and
- 8) any other persons as directed by the court.

Official Note: Rule 1501 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1501 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1501 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Source

The provisions of this Rule 1501 amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413. Immediately preceding text appears at serial pages (330433) to (330434).

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1509. Aids in Disposition.

A. *Examinations.* The court may order the child, parent, guardian, or other person being considered as a dispositional placement resource to undergo any examination permitted by law, as it deems appropriate to aid in the decision for disposition.

B. *Experts.* Experts may be utilized during the dispositional hearing. Discovery pursuant to Rule 1340 shall occur prior to the dispositional hearing.

C. *Family Service Plan or Permanency Plan.* If the county agency has completed a family service plan or permanency plan, it shall be given to all parties immediately and submitted to the court upon request.

Comment

Section 6341(e) of the Juvenile Act requires the court to receive reports and other evidence bearing on the disposition. *In re McDonough*, 287 Pa. Super. 326, 430 A.2d 308 (1981).

For discovery rules for the dispositional hearing, see Rule 1340 and its Comments.

Because of time constraints, a family service plan might not be prepared prior to the original dispositional hearing. If the family service plan has been prepared, all parties are to receive the plan to prepare for the dispositional hearing. In all cases, the family service plan is to be completed by the county agency within sixty days of accepting a family for service. *See* 55 Pa. Code § 3130.61.

Official Note: Rule 1509 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1509 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Rule 1510. Prompt Dispositional Hearing.

If the child has been removed from the home, the dispositional hearing shall be held no later than twenty days after the findings on the petition under Rule 1408.

Comment

For continuances, see 42 Pa.C.S. § 6341(e).

Official Note: Rule 1510 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1510 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Rule 1511. Pre-Dispositional Statement.

The petitioner shall state its recommended disposition in a pre-dispositional statement. The statement shall be filed with the court at least three days prior to the dispositional hearing.

Comment

This statement may be included in other court documents, such as, the family service plan or petition.

Official Note: Rule 1511 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1511 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Rule 1512. Dispositional Hearing.

A. *Manner of hearing.* The court shall conduct the dispositional hearing in an informal but orderly manner.

1) *Evidence.* The court shall receive any oral or written evidence which is helpful in determining disposition, including evidence that was not admissible at the adjudicatory hearing.

2) *Opportunity to be heard.* Before deciding disposition, the court shall give the parent, child's foster parent, preadoptive parent, relative providing care for the child and court appointed special advocate, if assigned, an opportunity to make a statement.

3) *Advanced communication technology.* Upon good cause shown, a court may utilize advanced communication technology pursuant to Rule 1129.

B. *Recording.* The dispositional hearing shall be recorded.

C. *Duties of the court.* The court shall determine on the record whether the parties have been advised of the following:

- 1) the right to file an appeal;
- 2) the time limits for an appeal; and
- 3) the right to counsel to prepare the appeal.

D. *Court's findings.* The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1515.

- 1) On the record in open court, the court shall state:
 - a) its disposition;
 - b) the reasons for its disposition;
 - c) the terms, conditions, and limitations of the disposition;
 - d) the name of any person or the name, type, category, or class of agency, licensed organization, or institution that shall provide care, shelter, and supervision of the child;
 - e) whether any evaluations, tests, counseling, or treatments are necessary;
 - f) the permanency plan for the child;
 - g) the services necessary to achieve the permanency plan;
 - h) whether the county agency has reasonably satisfied the requirement of Rule 1149 regarding family finding, and if not, the findings and conclusions of the court on why the requirements have not been met by the county agency;
 - i) any findings necessary to ensure the stability and appropriateness of the child's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 1147;
 - j) any findings necessary to identify, monitor, and address the child's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed; and
 - k) a visitation schedule, including any limitations.
- 2) The court shall state on the record in open court or enter into the record through the dispositional order, findings pursuant to Rule 1514, if the child is placed.

Comment:

To the extent practicable, the judge or juvenile court hearing officer that presided over the adjudicatory hearing for a child should preside over the dispositional hearing for the same child.

Paragraph (A)(2) does not infringe on the right to call witnesses to testify, in addition to those specified individuals. *See* Rule 1123 for subpoenaing a witness.

Pursuant to paragraph (A)(3), it is expected that the parties be present. Only upon good cause shown should advanced communication technology be utilized.

Pursuant to paragraph (C), the court is to advise the parties of their appellate rights orally in the courtroom on the record. The court is to explain the right to appointed counsel for an appeal if a party is without counsel, and without the financial resources or otherwise unable to employ counsel. *See* 42 Pa.C.S. § 6337; *see also* Rule 1150(B) for duration of counsel and Rule 1151 for assignment of counsel.

All the findings made in open court are to be placed in writing through the court's dispositional order pursuant to Rule 1515. Nothing in this rule is intended to preclude the court from further explaining its findings in its dispositional order. In addition to the findings pursuant to paragraph (D), *see* Rule 1514 for dispositional findings before removal from the home.

Pursuant to paragraph (D)(1)(f), the court is to determine the permanency plan for the child. A permanency plan should include two plans or goals: the primary plan and the secondary or concurrent plan.

The primary plan is the comprehensive plan developed to achieve the permanency goal. The secondary or concurrent plan is developed and initiated so that if the primary plan is not fulfilled, timely permanency for the child may still be achieved. These two plans are to be simultaneously addressed by the county agency.

Rule 1608 mandates permanency hearings at least every six months. It is best practice to have three-month hearings to ensure permanency is achieved in a timely fashion and the court is informed of the progress of the case. *See* Comment to Rule 1608.

Pursuant to subdivision (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. *See* 67 Pa.C.S. §§ 7501 *et seq.* *See also* Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and *Comments* to Pa.R.J.C.P. 1242, 1408, 1409, 1514, 1515, and 1608—1611.

Pursuant to subdivision (D)(1)(i), the court is to address the child's educational stability, including the right to an educational decision maker, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519. The court's findings should address the child's right to: 1) educational stability, including the right to: a) remain in the same school regardless of a change in placement when it is in the child's best interest; b) immediate enrollment when a school change is in the child's best interest; and c) have school proximity considered in all placement changes, 42 U.S.C. §§ 675(1)(G) and 11431 *et seq.*; 2) an educational decision maker pursuant to Rule 1147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; 3) an appropriate education, including any necessary special education, early intervention, or remedial services pursuant to 24 P.S. §§ 13-1371 and 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. §§ 1400 *et seq.*; 4) the educational services necessary to support the child's transition to successful adulthood pursuant to 42 Pa.C.S. § 6351 if the child is 14 or older; and 5) 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 90 days.

Pursuant to paragraph (D)(1)(j), the court is to address the child's needs concerning health care and disability. The court's findings should address the right of: 1) a child to receive timely and medically appropriate screenings and health care services pursuant to 55 Pa. Code §§ 3700.51 and 3800.32, and 42 U.S.C. § 1396d(r); 2) a child to a transition plan that addresses the child's health care needs, and includes specific options for how the child can obtain health insurance after leaving care pursuant to 42 U.S.C. § 675(5)(H) if the child will age out of care within 90 days; and 3) a child with disabilities to receive necessary accommodations pursuant to 42 U.S.C. § 12132; 28 C.F.R. § 35.101 *et seq.*, Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq.* In addition, the court is to ensure progress and compliance with the child's case plan for the ongoing oversight and coordination of health care services under 42 U.S.C. § 622(b)(15).

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a child and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

Pursuant to paragraph (D)(1)(k), the court is to include siblings in its visitation schedule. *See* 42 U.S.C. § 671(a)(31), which requires reasonable efforts be made to place siblings together unless it is contrary to the safety or well-being of either sibling and that frequent visitation be assured if joint placement cannot be made.

See Rule 1127 for recording and transcribing of proceedings.

See Rule 1136 for *ex parte* communications.

Source

The provisions of this Rule 1512 amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319; amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313;

amended November 30, 2021, effective January 1, 2022, 51 Pa.B. 7632; amended March 22, 2023, effective October 1, 2023, 53 Pa.B. 1791. Immediately preceding text appears at serial pages (387429) to (387430) and (407953) to (407954).

Rule 1514. Dispositional Finding Before Removal from Home.

(a) *Required Findings.* Prior to entering a dispositional order removing a child from the home, the court shall state on the record in open court the following specific findings:

- 1) Continuation of the child in the home would be contrary to the welfare, safety, or health of the child;
- 2) The child's placement is the least restrictive placement that meets the needs of the child, supported by reasons why there is no less restrictive alternative available;
- 3) If the child has a sibling who is subject to removal from the home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling;
- 4) The county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding;
- 5) One of the following:
 - (i) Reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from the home, if the child has remained in the home pending such disposition; or
 - (ii) If preventive services were not offered due to the necessity for emergency placement, whether such lack of services was reasonable under the circumstances; or
 - (iii) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home; and
- 6) The county agency has provided a permanency plan and services pursuant to 67 Pa.C.S. § 7504.

(b) *Aggravated Circumstances.* If the court has previously found aggravated circumstances to exist and that reasonable efforts to remove the child from the home or to preserve and reunify the family are not required, a finding pursuant to subdivision (a)(5)(i)—(a)(5)(iii) is unnecessary.

Comment:

See 42 Pa.C.S. § 6351(b).

Pursuant to subdivision (a)(3), the court is to utilize reasonable efforts in placing siblings together unless it is contrary to the safety or well-being of a child or sibling. *See* 42 U.S.C. § 675 (Fostering Connections).

Pursuant to subdivision (a)(4), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. *See* 67 Pa.C.S. §§ 7501 *et seq.* *See also* Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and *Comments* to Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1515, and 1608—1611.

Pursuant to subdivision (a)(6), specific requirements for a permanency plan and services exist when the court orders the temporary transfer of a child's legal custody pursuant to 42 Pa.C.S. § 6351(a)(2). *See* 67 Pa.C.S. § 7504.

Source

The provisions of this Rule 1514 amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987; amended November 30, 2021, effective January 1, 2022, 51 Pa.B. 7632; amended March 22, 2023, effective October 1, 2023, 53 Pa.B. 1791. Immediately preceding text appears at serial pages (407954) and (411453).

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 custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, the dispositional order shall include:

- 1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;
- 2) the limitations of the order, including the type of custody granted; and
- 3) any visitation rights.

C. *Guardian*. The dispositional order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

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 (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* 67 Pa.C.S. §§ 7501 *et seq.* *See also* Pa.R.J.C.P. 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C), and *Comments* to Pa.R.J.C.P. 1242, 1408, 1409, 1512, 1514, and 1608—1611. 45 C.R.F. § 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 (1990).

Source

The provisions of this Rule 1515 amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987; amended November 30, 2021, effective January 1, 2022, 51 Pa.B. 7632; amended March 22, 2023, effective October 1, 2023, 53 Pa.B. 1791. Immediately preceding text appears at serial pages (411453) to (411454).

Rule 1516. Service of the Dispositional Order.

Upon entry of the disposition, the court shall issue a dispositional order and the order shall be served promptly upon all parties, their attorneys, and any other person as directed by the court.

Official Note: Rule 1516 adopted August 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1516 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

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