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**Source**

The provisions of this Part B adopted August 21, 2006, effective February 1, 2007, 36 Pa.B. 5571, unless otherwise noted.

**CHAPTER 11. GENERAL PROVISIONS**

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**Rule 1100. Scope of Rules.**

A. These rules shall govern dependency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to orphans' court, domestic relations and delinquency proceedings.

B. Each of the courts exercising dependency jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may adopt local rules of procedure in accordance with Rule 1121.

**Comment**

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100—1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100—2099).

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to dependency proceedings commenced pursuant to rule 1200 and 42 Pa.C.S. § 6301 *et seq.*

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Court of Common Pleas. *See* 42 Pa.C.S. §§ 6321 and 6302.

Each judicial district may promulgate local rules that follow the requirements of Rule 1121 and Pa.R.J.A. 103.

**Official Note:** Rule 1100 adopted August 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1100 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1100 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

**Source**

The provisions this Rule 1100 amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360. Immediately preceding text appears at serial page (326038).

**Rule 1101. Purpose and Construction.**

A. These rules are intended to provide for the just determination of every dependency proceeding.

B. These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, and shall be construed to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

C. These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

D. To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.

**Official Note:** Rule 1101 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1101 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Rule 1102. Citing the Juvenile Court Procedural Rules.**

All juvenile court procedural rules adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968, shall be known as the Pennsylvania Rules of Juvenile Court Procedure and shall be cited as "Pa.R.J.C.P."

**Comment**

The authority for rule-making is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution, which states in part, "[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts . . . if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions."

**Official Note:** Rule 1102 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1102 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**PART A. BUSINESS OF COURTS****Rule 1120. Definitions.**

**ADULT** is any person, other than a child, eighteen years old or older.

**ADVANCED COMMUNICATION TECHNOLOGY** is any communication equipment that is used as a link between parties in physically separate locations and includes, but is not limited to, systems providing for two-way simultaneous audio-visual communication, closed circuit television, telephone and facsimile equipment, and electronic mail.

**AGE-APPROPRIATE OR DEVELOPMENTALLY-APPROPRIATE** is used to describe the: 1) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; or 2) in the case of a specific child, activities or items that are suitable based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

**AGGRAVATED CIRCUMSTANCES** are those circumstances specifically defined pursuant to the Juvenile Act, 42 Pa.C.S. § 6302.

**CAREGIVER** is a person with whom the child is placed in an out-of-home placement, including a resource family or individual designated by a county agency or private agency. The resource family is the caregiver for any child placed with them.

**CHILD** is a person who:

- 1) is under the age of eighteen and is the subject of the dependency petition; or
- 2) is under the age of twenty-one; and
  - a) was adjudicated dependent before reaching the age of eighteen;
  - b) has requested the court to retain jurisdiction; and
  - c) who remains under the jurisdiction of the court or for whom jurisdiction has been resumed as a dependent child because the court has determined that the child is one of the following:
    - i) completing secondary education or an equivalent credential;
    - ii) enrolled in an institution which provides postsecondary or vocational education;
    - iii) participating in a program actively designed to promote or remove barriers to employment;
    - iv) employed for at least eighty hours per month; or
    - v) incapable of doing any of the activities as prescribed above in (2)(c)(i)—(iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan for the child.

**CLERK OF COURTS** is that official in each judicial district who has the responsibility and function under state law or local practice to maintain the official court record and docket, without regard to that person's official title. A party to the proceedings shall not function as the clerk of courts.

COPY is an exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means and includes, but is not limited to, copies reproduced by transmission using facsimile equipment, or by scanning into and printing out of a computer.

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 P. S. § 2305 (1937) or established through the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P. S. §§ 2161 and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 P. S. § 901 *et seq.*

COURT is the Court of Common Pleas, a court of record, which is assigned to hear dependency matters. Court shall include juvenile court hearing officers when they are permitted to hear cases under these rules. Juvenile court shall have the same meaning as court.

DILIGENT EFFORTS are the comprehensive and ongoing efforts made to identify and locate adult relatives and kin for a child until the permanency goal is achieved.

EDUCATIONAL DECISION MAKER is a responsible adult appointed by the court to make decisions regarding a child's education when the child has no guardian or the court has limited the guardian's right to make such decisions for the child. The educational decision maker acts as the child's representative concerning all matters regarding education unless the court specifically limits the authority of the educational decision maker.

FAMILY FINDING is the ongoing diligent efforts of the county agency, or its contracted providers, to search for and identify adult relatives and kin, and engage them in the county agency's social service planning and delivery of services, including gaining commitment from relatives and kin to support a child or guardian receiving county agency services.

FAMILY SERVICE PLAN is the document in which the county agency sets forth the service objectives for a family and services to be provided to a family by the county agency.

GUARDIAN is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding.

HEALTH CARE is care related to any medical need including physical, mental, and dental health. This term is used in the broadest sense to include any type of health need.

JUDGE is a judge of the Court of Common Pleas.

JUVENILE COURT HEARING OFFICER is an attorney with delegated authority to preside over and make recommendations for dependency matters. Juvenile court hearing officer has the same meaning as master as used pursuant to 42 Pa.C.S. § 6301 *et seq.*

JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

KIN is a relative of the child through blood or marriage, godparent of the child as recognized through an organized church, a member of the child's tribe or clan, or someone who has a significant positive relationship with the child or the child's family.

KINSHIP CARE is the full-time nurturing and protection of a child who is separated from the child's guardian and placed in the home of a caregiver who has an existing relationship with the child and/or the child's family.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a child medically or psychologically.

MINOR is any person under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each case.

PARTY is a person or the county agency who has standing to participate in the proceedings but nothing in these Rules confers standing upon a person.

PERMANENCY PLAN is a comprehensive plan that will result in a permanent home for the child.

PETITION is a formal document by which a child is alleged to be dependent.

PETITIONER is any person, who signs or verifies, and files a petition.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of that person's employment.

PROCEEDING is any stage in the dependency process occurring once a shelter care application has been submitted or a petition has been filed.

PROTECTIVE CUSTODY is when a child is taken into custody for protection as an alleged dependent child pursuant to the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* or custody may be assumed pursuant to 23 Pa.C.S. § 6315.

REASONABLE AND PRUDENT PARENT STANDARD is the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while encouraging the emotional and developmental growth of the child, that a caregiver must use when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

SHELTER CARE FACILITY is a physically unrestricted facility that provides temporary care of a child and is approved by the Department of Public Welfare.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

**Comment**

In 2013, the definition of “child” was expanded to include those children who have requested the court to resume jurisdiction after juvenile court supervision had been previously terminated. This rule change followed the changes to the definition of “child” in the Juvenile Act pursuant to Act of July 5, 2012 (P.L. 880, No. 91). *See* 42 Pa.C.S. § 6302.

A party to the proceedings is not to function as the clerk of courts. Because the clerk of courts maintains the official court record, this person is to remain neutral and unbiased by having no personal connection to the proceedings. The county agency is a party to the proceeding and is not to function as the “Clerk of Courts.”

The definition of “Clerk of Courts” should not necessarily be interpreted to mean the office of clerk of courts as set forth in 42 Pa.C.S. § 102, but instead refers to that official who maintains the official court record and docket regardless of the person’s official title in each judicial district. It is to be determined locally which official is to maintain these records and the associated docket.

The county institution districts, as used in the definition of “county agency,” in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P.S. § 2161. It is the county commissioners’ duties in the counties of those classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. *See* 16 P.S. § 2168.

Under the term “court,” to determine if juvenile court hearing officers are permitted to hear cases, *see* Rule 1187.

An “educational decision maker” is to be appointed by court order. The scope of the appointment is limited to decisions regarding the child’s education. The educational decision maker acts as the child’s spokesperson on all matters regarding education unless the court specifically limits the authority of the educational decision maker. The educational decision maker holds educational and privacy rights as the child’s guardian for purposes of 20 U.S.C. § 1232g and 34 C.F.R. § 99.3. *See also* Rule 1147(C) for the duties and responsibilities of an educational decision maker.

The definition of “family finding” is derived from 62 P.S. § 1302.

Diligence is to include utilizing reasonable resources available when engaging in family finding, never ceasing efforts until multiple relatives and kin are identified, and going beyond basic searching tools by exploring alternative tools and methodologies. “Diligent efforts” is to include, but not limited to, interviews with immediate and extended family and kin, genograms, eco-mapping, case mining, cold calls, and specialized computer searches.

It is insufficient to complete only a basic computer search or attempt to contact known relatives at a last-known address or phone number.

For multiple resources efforts that may be utilized, *see* Commonwealth of Pennsylvania, Department of Public Welfare, Office of Children, Youth and Families Bulletin, No. 3130-12-03, issued May 11, 2012, effective July 1, 2013; Seneca Family Finding, which may be found at [www.familyfinding.org](http://www.familyfinding.org), or Legal Services Initiative, diligent search packet, Statewide Adoption and Permanency Network, which may be found at [www.diakon-swan.org](http://www.diakon-swan.org).

Supporting a child under the definition of “family finding” means any type of aid, including but not limited to emotional, financial, physical, or psychological aid.

*See also* 62 P.S. § 1301 *et seq.* and 42 U.S.C. § 675 (Fostering Connections) to comply with state and federal regulations.

For the family service plan, *see* 55 Pa. Code § 3130.61.

“Health care” includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the child.

A “juvenile probation officer” is an officer of the court. “Properly commissioned” as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.



A properly commissioned juvenile probation officer is vested with all the powers and duties 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 Rule 195. *See also* 23 Pa.C.S. § 6315.

The definition of “law enforcement officer” does not give the power of arrest to any person who is not otherwise given that power by law.

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each case. The court may also designate any document to be a part of the record. It does not include items contained in county agency’s records unless they are made a part of the official record by being filed with the clerk of courts.

The term “petitioner” may include any person; however, if the person is not the county agency, an application to file a petition pursuant to Rule 1320 is to be made. If the court, after a hearing, grants the application, the applicant may file a petition.

The definition of “proceeding” includes all formal stages once a shelter care application has been submitted or a petition has been filed, including all subsequent proceedings until supervision is terminated pursuant to Rule 1613.

**Official Note:** Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended June 24, 2013, effective January 1, 2014. Amended October 21, 2013, effective December 1, 2013. Amended July 28, 2014, effective September 29, 2014. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1120 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 41 Pa.B. 2839 (June 4, 2011).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 43 Pa.B. 3941 (July 13, 2013).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 43 Pa.B. 6658 (November 9, 2013).

Final Report explaining the amendments to Rule 1120 published with Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 45 Pa.B. 7289 (December 26, 2015).

Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 47 Pa.B. 2313 (April 22, 2017).



**Source**

The provisions of this Rule 1120 amended March 19, 2009, effective June 1, 2009, 39 Pa.B. 1614; amended December 24, 2009, effective immediately, 40 Pa.B. 222; 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 May 20, 2011, effective July 1, 2011, 41 Pa.B. 2839; amended June 24, 2013, effective January 1, 2014, 43 Pa.B. 3941; amended October 21, 2013, effective December 1, 2013, 43 Pa.B. 6658; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987; amended December 9, 2015, effective January 1, 2016, 45 Pa.B. 7289; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (379792) to (379794) and (382649) to (382651).

**Rule 1121. Local Rules.**

The requirements for the promulgation and amendment of local procedural rules for dependency proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

**Comment**

Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa.R.J.C.P. 1121 for the promulgation and amendment of local procedural rules for dependency proceedings were rescinded and replaced. All local rules previously promulgated in accordance with the requirements of Pa.R.J.C.P. 1121 prior to rescission of this rule remain effective upon compilation and publication pursuant to Pa.R.J.A. No. 103(d)(7).

**Official Note:** Rule 1121 adopted August 21, 2006, effective February 1, 2007. Amended December 12, 2008, effective immediately. Amended January 11, 2010, effective March 1, 2010. Rescinded and replaced June 28, 2016, effective August 1, 2016.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1121 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1121 published with the Court's Order at 38 Pa.B. 7080 (December 27, 2008).

Final Report explaining the amendments to Rule 1121 published with the Courts Order at 40 Pa.B. 518 (January 23, 2010).

Final Report explaining the rescission and replacement of Rule 1121 published with the Court's Order at 46 Pa.B. 3808 (July 16, 2016).

**Source**

The provisions of this Rule 1121 amended December 12, 2008, effective immediately, 38 Pa.B. 7080; amended January 11, 2010, effective March 1, 2010, 40 Pa.B. 518; rescinded and replaced June 28, 2016, effective August 1, 2016, 46 Pa.B. 3808. Immediately preceding text appears at serial pages (379797) and (347951) to (347953).

**Rule 1122. Continuances.**

A. *Generally.* In the interests of justice, the court may grant a continuance on its own motion or the motion of any party. On the record, the court shall identify the moving party and state its reasons for granting or denying the continuance.

B. *Notice and rescheduling.* If a continuance is granted, all persons summoned to appear shall be notified of the date, place, and time of the rescheduled hearing.

**Comment**

Whenever possible, continuances should not be granted when they could be deleterious to the safety or well-being of a party. The interests of justice require the court to look at all the circumstances, effectuating the purposes of the Juvenile Act, 42 Pa.C.S. § 6301, in determining whether a continuance is appropriate.

A party seeking a continuance should notify the court and opposing counsel as soon as possible. Whenever possible, given the time constraints, notice should be written.

Under paragraph (B), if a person is summoned to appear and the case is continued, the party is presumed to be under the scope of the original summons and a new summons is not necessary.

See Rules 1344 and 1345 for motion and filing procedures.

See *In re Anita H.*, 351 Pa. Super. 342, 505 A.2d 1014 (1986).

**Official Note:** Rule 1122 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1122 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1123. Subpoenas.**

A. *Contents.* A subpoena in a dependency case shall:

- 1) order the witness named to appear before the court at the date, time, and place specified;
- 2) order the witness to bring any items identified or described;
- 3) state on whose behalf the witness is being ordered to testify; and
- 4) state the identity, address, and phone number of the person who applied for the subpoena.

B. *Service.*

- 1) *Method of Service.* A subpoena shall be served upon a witness by:
  - a) in-person delivery;
  - b) registered or certified mail, return receipt requested; or
  - c) first-class mail.

C. *Duration.* A subpoena shall remain in force until the end of a proceeding.

D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

E. *Parental notification.*

- 1) *Generally.* If a witness is a minor, the witness's guardian shall be
  - a) notified that the minor has been subpoenaed; and
  - b) provided with a copy of the subpoena.
- 2) *Exception.* Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained *ex parte*.

**Comment**

A subpoena is used to order a witness to appear and a summons is issued to bring a party to the proceeding.

A subpoena duces tecum is to set forth with particularity, the documents, records, or other papers to be produced at the hearing. The items sought are to be relevant to the proceedings. See Rule 1340 on discovery, *In re J.C.*, 412 Pa. Super. 369, 603 A.2d 627 (1992), and *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000) for production of documents necessary to prepare for a hearing.

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. See Rule 1140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa. Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carros*, 240 Pa. Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa. Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

**Official Note:** Rule 1123 adopted August, 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. Amended March 19, 2009, effective June 1, 2009. Amended September 16, 2009, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1123 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1123 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 1123 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1123 published with the Court's Order at 39 Pa.B. 5544 (September 26, 2009).

**Source**

The provisions of this Rule 1123 amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended March 19, 2009, effective June 1, 2009, 39 Pa.B. 1614; amended September 25, 2009, effective immediately, 39 Pa.B. 5544. Immediately preceding text appears at serial pages (342559) to (342560).

**Rule 1124. Summons.**

A) *Requirements of the summons.* The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the hearing;
- 3) instruct the parties about the right to counsel; and
- 4) give a warning stating that the failure to appear for the hearing may result in arrest.

B) *Method of Service.* The summons shall be served:

- 1) in-person; or

2) by certified mail, return receipt and first-class mail.

C) *Exception to service.* If service cannot be accomplished pursuant to paragraph (B), the party may move for a special order directing the method of service. The motion shall be accompanied by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the person sought to be served and the reasons why service cannot be made.

D) *Bench Warrant.* If any summoned person fails to appear for the hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

#### Comment

A subpoena is used to order a witness to appear and a summons is issued to bring a party to the proceeding.

In paragraph (D), this rule provides that a summoned person is to fail to appear and the court is to find that sufficient notice was given before a bench warrant may be issued. The Juvenile Act, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended to the extent that it conflicts with this rule. See Rule 1800 for suspensions.

See Rules 1360(A), 1500(A), and 1600(A) for service of the parties for a proceeding.

See Rule 1140 for procedures on bench warrants.

**Official Note:** Rule 1124 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1124 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1124 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

#### Source

The provisions of this Rule 1124 amended March 19, 2009, effective June 1, 2009, 39 Pa.B. 1614. Immediately preceding text appears at serial pages (341086) and (326045).

### **Rule 1126. Defects in Form, Content, or Procedure.**

A child shall not be released, nor shall a case be dismissed, because of a defect in the form or content of the pleading or a defect in the procedures of these rules, unless the party raises the defect prior to the commencement of the adjudicatory hearing, and the defect is prejudicial to the rights of a party.

#### Comment

A petition, emergency custody authorization form, shelter care application, or warrant may be amended at any time to remedy any defect in form or content. The court may also issue another remedy as interests of justice require. Nothing in this rule is to prevent the filing of a new emergency custody authorization form, a new or amended petition, or the reissuance of process.

**Official Note:** Rule 1126 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1126 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1127. Recording and Transcribing Juvenile Court Proceedings.**

A. *Recording.* There shall be a recording of all dependency proceedings, including proceedings conducted by juvenile court hearing officers, except as provided in Rule 1242(B)(2).

B. *Transcribing.* The transcript shall be requested in accordance with Pa.R.J.A. No. 4007.

C. *Correcting or Modifying.* At any time before an appeal is taken, the transcript may be corrected, and the record may be corrected or modified, in the same manner as is provided by Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926, respectively.

**Comment**

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. *In re J.H.*, 788 A.2d 1006 (Pa. Super. 2001). *See, e.g.*, Pa.R.A.P. 1922, 1923, 1924; *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978). This rule is intended to provide a mechanism to ensure appropriate recording and transcribing of court proceedings. Pursuant to Rule 1800, 42 Pa.C.S. § 6336(c) was suspended only to the extent that all proceedings are to be recorded, except as provided in Rule 1242(B)(2). Full minutes are not recordings. This change was to effectuate effective appellate review.

The rule is intended to apply to all dependency proceedings and to ensure all proceedings are recorded, including proceedings before juvenile court hearing officers, except for shelter care hearings.

Paragraph (B) is not intended to preclude the court from ordering a transcript in the absence of a request.

Paragraph (C) provides a method for correcting transcripts and correcting or modifying the record before an appeal is taken by incorporating Pa.R.A.P. 1922(c) and Pa.R.A.P. 1926, which otherwise apply only after an appeal has been taken.

**Official Note:** Rule 1127 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017. Amended August 3, 2020; effective October 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1127 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1127 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Final Report explaining the amendments to Rule 1127 published with the Court's Order at 50 Pa.B. 4128 (August 15, 2020).

**Source**

The provisions of this Rule 1127 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended August 3, 2020, effective October 1, 2020, 50 Pa.B. 4128. Immediately preceding text appears at serial page (387393).

**Rule 1128. Presence at Proceedings.**

A) *General Rule.* All parties, including the child, shall be present at any proceeding unless the exceptions of paragraph (B) apply.

B) *Exceptions.*

1) *Absence from Proceedings.* The court may proceed in the absence of a party upon good cause shown except that in no case shall a hearing occur in

the absence of a child's attorney. If a child has a guardian *ad litem* and legal counsel, both attorneys shall be present.

2) *Exclusion from Proceedings.* A party may be excluded from a proceeding only for good cause shown. If a party is so excluded, counsel for the party shall be permitted to be present.

C) *Advanced Communication Technology.* A child or guardian may appear by utilizing advanced communication technology pursuant to Rule 1129.

D) *Court-Ordered Appearance.* The court may order any person having the physical custody or control of a child to bring the child to any proceeding.

#### Comment

In no case is a proceeding to occur in the absence of the child's attorney. The court has discretion whether to proceed if the court finds that a party received proper notice of the hearing and has willfully failed to appear.

Requiring the child's attorney to be present pursuant to paragraph (B)(2) protects the child's interest if the proceeding is conducted in the child's absence. However, unless good cause is shown by individual circumstances, a child should be present in court. *See also* Pa.R.J.C.P. 1129(A)(2) (child shall appear in person at least every six months unless presence is excused). It is important that all children, including infants, appear in court so the court can observe the interaction between the caregiver and child and observe the child's development and health. Because a child may feel uncomfortable while attending proceedings, the court should take measures to ensure that the child understands the courtroom to be a place of safety and security.

Ensuring a child appears in court on a regular basis is critical because the court oversees the child and is to ensure his or her care, protection, safety, and wholesome mental and physical development. However, the court may ask that the child be removed from the courtroom during sensitive testimony.

*See In re Adoption of S.B.B. and E.P.R.*, 539 A.2d 883 (Pa. Super. 1988).

Nothing in these rules creates a right of a child to have his or her guardian present. *See* 42 Pa.C.S. §§ 6310, 6335(b), 6336.1.

**Official Note:** Rule 1128 adopted August 21, 2006, effective February 1, 2007; amended April 21, 2011, effective July 1, 2011; amended October 14, 2020, effective January 1, 2021.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1128 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1128 published with the Court's Order at 41 Pa.B. 2326 (May 7, 2011).

Final Report explaining the amendments to Rule 1128 published with the Court's Order at 50 Pa.B. 5841 (October 24, 2020).

#### Source

The provisions of this Rule 1128 amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319; amended October 14, 2020, effective January 1, 2021, 50 Pa.B. 5840. Immediately preceding text appears at serial pages (387393) to (387394).

### **Rule 1129. Appearance by Advanced Communication Technology.**

#### A. *Generally.*

1) The child, guardian, or a witness may appear at a proceeding by utilizing advanced communication technology pursuant to Rules 1140, 1242, 1406, 1512, and 1608.

2) At a minimum, the child shall appear in person at least every six months unless as otherwise provided by Rule 1128.

**B. Counsel.**

1) The child or guardian shall be permitted to confer with counsel before entering into an agreement to appear utilizing advanced communication technology.

2) The child or guardian shall be permitted to communicate fully and confidentially with counsel immediately prior to and during the proceeding.

**Comment**

Paragraph (A) requires that every child is to appear in person at least every six months. There may be instances in which the child is excused from attending pursuant to Rule 1128.

This rule is not intended to compel the use of advanced communication technology but rather permit appearance by telephone or by a system providing two-way simultaneous audio-visual communication. Advanced communication technology may be utilized for the convenience for witnesses; efficient use of resources; or when a party or witness has an illness, is incarcerated, or is otherwise in a remote location. *See* Rules 1140, 1242, 1406, 1512, and 1608 for specific requirements for the use of advanced communication technology.

Additionally, special care is to be taken when utilizing advanced communication technology to prevent disclosure of sensitive information to unauthorized persons and entities or to prevent a breach of confidentiality between a party and the party's attorney.

Pursuant to paragraph (B)(1), the child or guardian is to be permitted to confer with counsel prior to agreeing to a proceeding utilizing advanced communication technology. Counsel includes legal counsel and/or the guardian *ad litem*. Pursuant to paragraph (B)(2), the child or guardian is permitted to confer with counsel privately prior to and during the proceedings. The child is to be afforded all the same rights as if the hearing was held with all parties present in the courtroom.

**Official Note:** Rule 1129 adopted April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 1129 published with the Court's Order at 41 Pa.B. 2327 (May 7, 2011).

**Source**

The provisions of this Rule 1130 adopted April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial page (342563).

**Rule 1130. Court Fees Prohibited for Advanced Communication Technology.**

The court shall not impose any fees upon any party or witness for utilizing advanced communication technology.

**Comment**

*See* March 13, 2002 Order of the Supreme Court of Pennsylvania (No. 241 Judicial Administration; Doc. No. 1) which provides that no fees shall be imposed against a defendant in a criminal proceeding for the utilization of advanced communication technology.



**Official Note:** Rule 1130 adopted April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 1130 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

**Source**

The provisions of this Rule 1130 adopted April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319. Immediately preceding text appears at serial page (342563).

**Rule 1133. Motion to Intervene.**

A. *Contents.* The motion to intervene shall include:

- 1) the name and address of the person moving to intervene;
- 2) the relationship of the intervening person to the child;
- 3) the contact between the child and the intervening person;
- 4) the grounds on which intervention is sought; and
- 5) the request sought.

B. *Action by court.* Upon the filing of a motion to intervene and after a hearing, the court shall enter an order granting or denying the motion.

**Comment**

Under paragraph (B), a motion may be denied if, among other reasons, there are insufficient grounds for the motion, the interest of the movant is already adequately represented, the motion for intervention was unduly delayed, or the intervention will unduly delay or prejudice the adjudication of dependency or the rights of the parties.

To move for intervention in a dependency case, a person is to show that the interest is substantial, direct, and immediate. *See, e.g., South Whitehall Township Police Serv. v. South Whitehall Township*, 521 Pa. 82, 555 A.2d 793 (1989).

Standing is conferred upon a person if the person cares for or controls the child or is accused of abusing the child. *In re J.P.*, 832 A.2d 492 (Pa. Super. Ct. 2003); *In re L.J.*, 456 Pa. Super. 685, 691 A.2d 520 (1997). *See* 23 Pa.C.S. § 5313 for grandparent intervention. *See also R.M. v. Baxter*, 565 Pa. 619, 777 A.2d 446 (2001) (grandparent standing); *Mitch v. Bucks Co. Children and Youth Social Service Agency*, 383 Pa. Super. 42, 556 A.2d 419 (1989) (prospective adoptive parent standing); *In re M.K.*, 431 Pa. Super. 198, 636 A.2d 198 (1994) (alleged abuser standing). For distinction between foster parent and prospective adoptive parent standing, see *In re N.S.*, 845 A.2d 884 (Pa. Super. Ct. 2004).

A non-custodial parent may intervene in a dependency petition filed by a third party to protect the child from being adjudicated dependent and placed in the custody of the Commonwealth. *In re Anita H.*, 351 Pa. Super. 342, 505 A.2d 1014 (1986).

*See also In re Michael Y.*, 365 Pa. Super. 488, 530 A.2d 115 (1987) and *In re R.T. & A.T.*, 405 Pa. Super. 156, 592 A.2d 55 (1991) for additional parties to proceedings.

*See* Rule 1344 for motions and Rule 1345 for service.

**Official Note:** Rule 1133 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1133 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Rule 1134. Proceedings *in Camera*.**

Upon motion by any party or on the court's own motion, *in camera* proceedings are to be recorded and each party's attorney shall be present.

**Comment**

*See In re Leslie H.*, 329 Pa. Super. 453, 478 A.2d 876 (1984).

If a party is not represented, the court is to make reasonable efforts to protect the due process rights of the party.

**Official Note:** Rule 1134 adopted August 21, 2006, effective February 1, 2007.

**Rule 1135. Captions.**

All court documents and orders shall contain a caption that includes the following:

- 1) "In the Interest of (the child's name)";
- 2) the child's case docket number; and
- 3) the name of the court.

**Official Note:** Rule 1135 adopted August 21, 2006, effective February 1, 2007.

**Rule 1136. *Ex Parte* Communication.**

A) Unless otherwise authorized by law, no person shall communicate with the court in any way regarding matters pending before the court unless all parties:

- 1) are present or have been copied if the communication is written or in electronic form; or
- 2) have waived their presence or right to receive the communication.

B) If the court receives any *ex parte* communication, the court shall inform all parties of the communication and its content.

**Comment**

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. *See* Rules of Professional Conduct Rule 3.5(b). Judges are bound by the Code of Judicial Conduct. *See* Code of Judicial Conduct Rule 2.9.

Attorneys and judges understand the impropriety of *ex parte* communications regarding matters pending before the court but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Administrative matters are not considered *ex parte* communications.

**Official Note:** Rule 1136 adopted April 29, 2011, effective July 1, 2011. Amended April 29, 2016, effective immediately.

**Committee Explanatory Reports:**

Final Report explaining the provisions of Rule 1136 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendment of Rule 1136 published with the Court's Order at 46 Pa.B. 2411 (May 14, 2016).

**Source**

The provisions of this Rule 1136 adopted April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended April 29, 2016, effective immediately, 46 Pa.B. 2411. Immediately preceding text appears at serial pages (377952) and (357327).

**Rule 1137. Public Discussion by Court Personnel of Pending Matters.**

All court personnel including, among others, court clerks, bailiffs, tipstiffs, sheriffs, and court stenographers, are prohibited from disclosing to any person, without authorization from the court, information relating to a pending dependency case that is not part of the court record otherwise available to the public or not part of the record in an open proceeding. This rule specifically prohibits the divulgence of information concerning arguments and proceedings that are closed proceedings, held in chambers, or otherwise outside the presence of the public.

**Official Note:** Rule 1130 adopted August 21, 2006, effective February 1, 2007. Renumbered Rule 1137 and amended April 21, 2011, effective July 1, 2011.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1130 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the renumbering of 1130 to 1137 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

**Source**

The provisions of this Rule 1137 renumbered from 1130 and amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319.

**Rule 1140. Bench Warrants for Failure to Appear.****A. Issuance of Warrant.**

- 1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.
- 2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.
- 3) The judge shall not issue an arrest warrant for a dependent child who absconds.

**B. Party.**

- 1) *Where to Take the Party.*
  - a) When a party is taken into custody pursuant to a bench warrant, the party shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.
  - b) If the party is not brought before a judge, the party shall be released unless the warrant specifically orders detention of the party.
  - c) If the warrant specifically orders detention of a party, the party shall be detained pending a hearing.
    - i) *Minor.* If the party is a minor, the party shall be detained in a shelter care facility or other placement as deemed appropriate by the judge.
    - ii) *Adult.* If the party is an adult, the witness shall be detained at the county jail.

2) *Prompt Hearing.*

a) If a party is detained pursuant to a specific order in the bench warrant, the party shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (B)(4) within seventy-two hours.

b) If the party is not brought before a judge within this time, the party shall be released.

3) *Notification of Guardian.* If a party is a child and is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the child's guardian of the child's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-County Custody.*

a) If a party is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the party shall be made immediately.

c) If transportation cannot be arranged immediately, then the party shall be taken without unnecessary delay to a judge of the county where the party is found.

d) The judge will identify the party as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the party to the county of issuance.

5) *Time Requirements.* The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

C. *Witnesses.*1) *Where to Take the Witness.*

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

i) *Minor.* If a detained witness is a minor, the witness shall be detained in a shelter care facility or other placement as deemed appropriate by the judge.

ii) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt Hearing.*

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

b) If the witness is not brought before a judge within this time, the witness shall be released.

3) *Notification of Guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-County Custody.*

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.

c) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order that arrangements be made to transport the witness to the county of issuance.

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) *Minor.* If the witness is a minor, the witness may be detained in an out-of-county shelter care facility or other placement as deemed appropriate by the judge.

ii) *Adult.* If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

D. *Advanced Communication Technology.* A court may utilize advanced communication technology pursuant to Rule 1129 unless good cause is shown otherwise.

E. *Return & Execution of the Warrant for Parties and Witnesses.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

- 4) Upon the return of the warrant, the judge shall vacate the bench warrant.

**Comment**

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 1800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a child is detained. *See* Chapter Twelve.

Paragraph (A)(3) does not preclude the issuance of a bench warrant for a case in which the child is subject to the jurisdiction of the dependency and delinquency court, see Rule 141 (Bench Warrants for Absconders), or an order for protective custody. Nor does the paragraph preclude judicial inquiry into efforts to locate a missing dependent child.

In paragraphs (B)(1)(c)(i), (C)(1)(c)(i), & (C)(4)(e)(i), “other placement as deemed appropriate by the judge” does not include a detention facility if a child is only alleged to be dependent because the use of detention facilities for dependent children is strictly prohibited. *See* 42 Pa.C.S. § 6302 & 6327(e).

Under paragraphs (B)(2) and (B)(4), a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. *See* Rule 1242(D).

Pursuant to paragraph (B)(4), the party may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (C)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. *See* paragraph (C)(4)(f).

Pursuant to paragraph (E)(4), the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. “Vacated” is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

*See* 42 Pa.C.S. § 4132 for punishment of contempt for children and witnesses.

Throughout these rules, the “child” is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a “minor.” When “minor” is used, it may include a child. This distinction is made to differentiate between children who are alleged dependents and other minors who are witnesses. *See* also Rule 1120 for the definitions of “child” and “minor.”

**Official Note:** Rule 1140 adopted March 19, 2009, effective June 1, 2009. Amended April 21, 2011, effective July 1, 2011. Amended April 23, 2018, effective July 1, 2018.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1140 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 1140 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 1140 published with the Court's Order at 48 Pa.B. 2615 (May 5, 2018).

**Source**

The provisions of Rule 1140 adopted March 19, 2009, effective June 1, 2009, 39 Pa.B. 1614; amended April 21, 2011, effective July 1, 2011, 41 Pa.B. 2319; amended April 23, 2018, effective July 1, 2018, 48 Pa.B. 2615. Immediately preceding text appears at serial pages (387398) to (387402).

**PART B(1). EDUCATION AND HEALTH OF CHILD**

**Rule 1145. Application or Motion for Examination and Treatment of a Child.**

A. *Pre-petition treatment.* Prior to the filing of a dependency petition, an application to the court may be made to treat a child when prompt treatment is necessary.

B. *Post-petition examination and treatment.* After a petition has been filed, a motion for examination and treatment of a child may be filed.

**Comment**

The term "application" is used in paragraph (A) of this rule. An application is to be made to the court if there is no formal court action pending. Once a dependency petition is filed, a motion, as provided in paragraph (B), is the proper course of action for seeking examination and treatment of a child. All parties are notified and copied on all motions. The procedures of Rule 1344 are to be followed. *See* Rule 1344.

It should be noted that paragraph (A) only relates to treatment of a child when prompt treatment is necessary.

Pursuant to 42 Pa.C.S. § 6339(b), the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness, which in the opinion of a licensed physician, requires prompt treatment, even if the guardian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment. 42 Pa.C.S.



§ 6339(b). In addition, 42 Pa.C.S. § 6357 provides a custodian to whom legal custody has been given by the court has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child. An award of legal custody shall be subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child as determined by the court. 42 Pa.C.S. § 6357.

If a child has been adjudicated dependent, the court may order that the county agency participate in the treatment plan of the child as necessary to protect the health, safety, or welfare of the child, including discussions with the individual, facility, or program providing treatment, and the child or the child's guardian in furtherance of the disposition. 42 Pa.C.S. § 6352.1.

Under paragraph (B), if the legal custodian is the county agency, the county agency is to comply with the regulations of 55 Pa. Code §§ 3130.91 and 3680.52.

**Official Note:** Rule 1145 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1145 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**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. § 13-1333.1 when the child is the subject of a dependency proceeding, the county agency shall serve a copy of the notice upon the dependency court and parties.

**Comment**

Pursuant to 24 P.S. § 13-1333.2(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. § 13-1326.

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 is not limited to, the entry of an order staying the truancy proceeding for further consideration by the dependency court.

**Official Note:** Rule 1146 adopted December 21, 2018, effective May 1, 2019.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1146 published with the Court's Order at 49 Pa.B. 208 (January 12, 2019).

Final Report explaining the provisions of Rule 1146 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

**Source**

The provisions of this Rule 1146 adopted December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610.

**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 fourteen years of age or older, is receiving the necessary educational services to transition to 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 child's best interests;
    - 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 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 December 21, 2018, effective May 1, 2019.

*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 49 Pa.B. 208 (January 12, 2019).

Final Report explaining the amendments to Rule 1147 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

**Source**

The provisions of this Rule 1147 adopted April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610. Immediately preceding text appears at serial pages (387403) to (387405).

**Rule 1148. Educational Stability and Placement.**

A. *General Rule.* Any order resulting in the placement of a child or a change in placement 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 include 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 December 21, 2018, effective May 1, 2019.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1148 published with the Court's Order at 49 Pa.B. 208 (January 12, 2019).

Final Report explaining the provisions of Rule 1148 published with the Court's Order at 49 Pa.B. 610 (February 9, 2019).

**Source**

The provisions of this Rule 1148 adopted December 21, 2018, effective May 1, 2019, 49 Pa.B. 208, 610.

**Rule 1149. Family Finding.**

*A. Court's inquiry and determination.*

1) The court shall inquire as to the efforts made by the county agency to comply with the family finding requirements pursuant to 62 P. S. § 1301 *et seq.*

2) The court shall place its determinations on the record as to whether the county agency has reasonably engaged in family finding.

*B. Discontinued family finding.* Family finding may be discontinued only if, after a hearing, the court has made a specific determination that:

1) continued family finding no longer serves the best interests of the child;

2) continued family finding is a threat to the child's safety; or

3) the child is in a preadoptive placement and the court proceedings to adopt the child have been commenced pursuant to 23 Pa.C.S. Part III (relating to adoption).

*C. Resuming family finding.* The county agency shall resume family finding when the court determines that resuming family finding:

1) is best suited to the safety, protection and physical, mental, and moral welfare of the child; and

2) does not pose a threat to the child's safety.

**Comment**

Pursuant to paragraph (A), efforts by the county agency may include, but are not limited to whether the county agency is or will be: a) searching for and locating adult relatives and kin; b) identifying and building positive connections between the child and the child's relatives and kin; c) when appropriate: i) supporting the engagement of relatives and kin in social service planning and delivery of services; and ii) creating a network of extended family support to assist in remedying the concerns that led to the child becoming involved with the county agency; d) when possible, maintaining family connections; and e) when in the best interests of the child and when possible, keeping siblings together in care.

The extent to which the county agency is involved in the case when a child is still in the home is dependent on several variables and specific to each case. In some instances, the county agency is more involved and actively engaged in family finding because the child needs support services or could be removed from the home. The search in these instances is used to find resources to help keep the child in the home by preventing removal, or to find resources if removal becomes necessary.

See 62 P. S. § 1301 for legislative intent regarding family finding and promotion of kinship care.

Family finding is required for every child when a child is accepted for services by the county agency. *See* 62 P. S. § 1302. It is best practice to find as many kin as possible for each child. These kin may help with care or support for the child. The county agency should ask the guardian, the child, and siblings about relatives or other adults in the child's life, including key supporters of the child or guardians.

Specific evidence should be provided indicating the steps taken to locate and engage relatives and kin. *See* Comment to Rule 1120 regarding diligent efforts considerations for locating relatives and kin. When considering the method by which relatives and kin are engaged in service planning and delivery, courts and the parties are encouraged to be creative. Strategies of engagement could include, but are not limited to, inviting relatives and kin to: 1) be involved in a family group decision making conference, family team conferencing, or other family meetings aimed at developing or supporting the family service plan; 2) assist with visitation; 3) assist with transportation; 4) provide respite or child care services; or 5) provide actual kinship care.

Pursuant to paragraph (A)(2), the court is to place its determinations on the record as to whether the county has reasonably engaged in family finding. The level of reasonableness is to be determined by the length of the case and time the county agency has had to begin or continue the process. For example, at the shelter care hearing, the county agency should at least ask the question whether there is family or kin available as a resource. The initial removal of the child is the most critical time in the case. Potential trauma should be considered and ameliorated by family finding efforts as much as possible. Phone calls at this time are reasonable. However, at the dispositional or permanency hearings, the county agency has had more time to engage in a more thorough diligent search as discussed *infra*. *See also* Rule 1120 and its Comment.

The court's inquiry and determination regarding family finding should be made at each stage of the case, including, but not limited to the entry of an order for protective custody, shelter care hear-

ing, adjudicatory hearing, dispositional hearing, and permanency hearing. *See* Rules 1210, 1242, 1408, 1409, 1512, 1514, 1515, 1608, 1609, 1610, and 1611, and their Comments.

Paragraph (B)(3) is meant to include notice of intent to adopt, petition to adopt, or voluntary relinquishment of parental rights, or consent to adopt.

**Official Note:** Rule 1149 adopted July 13, 2015, effective October 1, 2015.

*Committee Explanatory Reports:*

Final Report explaining the provisions to Rule 1149 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

**Source**

The provisions of this Rule 1149 adopted July 13, 2015, effective October 1, 2015, 45 Pa.B. 3987.

**PART B(2). COUNSEL**

**Rule 1150. Attorneys—Appearances and Withdrawals.**

A. *Appearances.*

1) The Guardian *ad litem* and counsel for each party, except under paragraph (A)(3), shall file an entry of appearance with the clerk of courts promptly after being retained and serve a copy on all other parties.

a) If a firm name is entered, the name of the individual lawyer who is designated as being responsible for the conduct of the case shall be entered.

b) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

2) When counsel is appointed pursuant to Rule 1151 (Assignment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

3) The president judge of each judicial district may enter an order stating that the specified Solicitor's appearance is automatically entered in every dependency case unless another attorney's appearance is entered pursuant to paragraph (A)(1).

B. *Duration.* Once an appearance is entered or the court assigns counsel for the child, counsel shall represent the child until the closing of the dependency case, including any proceeding upon direct appeal and permanency review, unless permitted to withdraw pursuant to paragraph (C).

C. *Withdrawals.*

1) Upon motion, counsel shall be permitted to withdraw only:

a) by order of the court for good cause shown; or

b) if new counsel has entered an appearance in accordance with paragraph (A).

2) A motion to withdraw shall be:

a) filed with the clerk of courts, and a copy concurrently served on the other parties' attorneys, or the party, if unrepresented; or

b) made orally on the record in open court in the presence of the parties.



**Comment**

Paragraph (A)(3) allows the Solicitor to be automatically entered in the record as counsel for the agency. The order is to include the attorney's address, phone number, and attorney ID number.

Under paragraph (C), withdrawal is presumed when a court's jurisdiction is terminated because the child reaches the age of twenty-one. *See* 42 Pa.C.S. § 6302.

Under paragraph (C)(1)(a), a court can terminate an attorney's representation if there is good cause shown. The court should allow an attorney to withdraw from a case for good cause if the standards for termination of representation, as provided for in the Rules of Professional Conduct 1.16, are met.

Under paragraph (C)(1)(b), because the county agency will be on notice of the identity of the new attorney, the agency should comply with the discovery requirements of Rule 1340.

Under paragraph (C)(2), counsel is to file a motion to withdraw in all cases. Counsel's obligation to represent a party, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. *See e.g., Com. v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). The court is to make a determination of the status of the case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine if new counsel needs to be appointed, and that the change in attorneys will not delay the proceedings or prejudice the party, particularly concerning time limits.

*See* Rule 1167 for service of court orders.

*See also* Rule 1613 for termination of court supervision.

*See* the Comment to Rule 1634 for assisting children in filing resumption of jurisdiction motions. It is best practice for the court to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel in the re-opened case. If there are extenuating circumstances preventing the attorney from representing the child, the attorney should make this known at the time of the filing of the motion for resumption of jurisdiction so the court can assign a new attorney.

For admission *pro hac vice*, see Pa.B.A.R. 301.

**Official Note:** Rule 1150 adopted August 21, 2006, effective February 1, 2007. Amended October 21, 2013, effective December 1, 2013. Amended December 10, 2013, effective February 10, 2014.

**Committee Explanatory Reports:**

Final Report explaining the provisions of Rule 1150 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1150 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013).

Final Report explaining the amendments to Rule 1150 published with the Court's Order at 43 Pa.B. 7547 (December 28, 2013).

**Source**

The provisions of this Rule 1150 amended October 21, 2013, effective December 1, 2013, 43 Pa.B. 6658; amended December 10, 2013, effective February 10, 2014, 43 Pa.B. 7547. Immediately preceding text appears at serial pages (369668) to (369670).

**Rule 1151. Assignment of Guardian Ad Litem and Counsel.**

A. *Guardian ad litem for child.* The court shall assign a guardian *ad litem* to represent the legal interests and the best interests of the child if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

- 1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;
- 2) has been placed for care or adoption in violation of law;
- 3) has been abandoned by parents, guardian, or other custodian;
- 4) is without a parent, guardian or legal custodian; or
- 5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. *Counsel for child.* The court shall appoint legal counsel for a child:

- 1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:
  - a) while subject to compulsory school attendance is habitually and without justification truant from school;
  - b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;
  - c) is under the age of ten years and has committed a delinquent act;
  - d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b);
  - e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or
  - f) has filed a motion for resumption of jurisdiction pursuant to Rule 1634; or
- 2) upon order of the court.

C. *Counsel and Guardian ad litem for child.* If a child has legal counsel and a guardian *ad litem*, counsel shall represent the legal interests of the child and the guardian *ad litem* shall represent the best interests of the child.

D. *Time of appointment.*

- 1) *Child in custody.* The court shall appoint a guardian *ad litem* or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.
- 2) *Child not in custody.* If the child is not in custody, the court shall appoint a guardian *ad litem* or legal counsel for the child when a dependency petition is filed.

E. *Counsel for other parties.* If counsel does not enter an appearance for a party, the court shall inform the party of the right to counsel prior to any proceeding. If counsel is requested by a party in any case, the court shall assign counsel for the party if the party is without financial resources or otherwise unable to employ counsel. Counsel shall be appointed prior to the first court proceeding.

#### Comment

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem*, when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8.

Pursuant to paragraph (B)(1)(f), the court is to appoint legal counsel when a motion for resumption of jurisdiction has been filed. It is best practice to appoint the guardian *ad litem* or legal counsel who was previously assigned to the child as legal counsel.

Under paragraph (C), legal counsel represents the legal interests of the child and the guardian *ad litem* represents the best interests of the child.

Nothing in these rules anticipates that a guardian *ad litem* for an adult is to be appointed by these rules. For appointment of a guardian of the person, see 20 Pa.C.S. § 5501 *et seq.* and Pa.O.C. Rules 14.2—14.5.

Pursuant to paragraph (E), the court is to inform all parties of the right to counsel if they appear at a hearing without counsel. If a party is without financial resources or otherwise unable to employ counsel, the court is to appoint counsel prior to the proceeding. Because of the nature of the proceedings, it is extremely important that every “guardian” has an attorney. Therefore, the court is to encourage the child’s guardian to obtain counsel. Pursuant to Rule 1120, a guardian is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding. See Pa.R.J.C.P. 1120.

**Official Note:** Rule 1151 adopted August 21, 2006, effective February 1, 2007. Amended February 20, 2007, effective immediately. Amended May 12, 2008, effective immediately. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1151 published with the Court’s Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to this rule published with the Court’s order at 37 Pa.B. 1123 (March 10, 2007).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 41 Pa.B. 2430 (May 14, 2011).

Final Report explaining the amendments to Rule 1151 published with the Court’s Order at 43 Pa.B. 6658 (November 9, 2013).

**Source**

The provisions of this Rule 1151 amended February 20, 2007, effective immediately; amended May 12, 2008, effective May 12, 2008, 38 Pa.B. 2360; amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2430; amended October 21, 2013, effective December 1, 2013, 43 Pa.B. 6658. Immediately preceding text appears at serial pages (357336) to (357337).

**Rule 1152. Waiver of Counsel.****A. Children.**

- 1) *Guardian ad litem.* A child may not waive the right to a guardian *ad litem*.
- 2) *Legal Counsel.* A child may waive legal counsel if:
  - a) the waiver is knowingly, intelligently, and voluntarily made; and
  - b) the court conducts a colloquy with the child on the record.

**B. Other parties.** Except as provided in paragraph (A), a party may waive the right to counsel if:

- 1) the waiver is knowingly, intelligently, and voluntarily made; and
- 2) the court conducts a colloquy with the party on the record.

**C. Stand-by counsel.** The court may assign stand-by counsel if a party waives counsel at any proceeding or stage of a proceeding.

**D. Notice and revocation of waiver.** If a party waives counsel for any proceeding, the waiver only applies to that proceeding, and the party may revoke the waiver of counsel at any time. At any subsequent proceeding, the party shall be informed of the right to counsel.

**Comment**

Under paragraph (A), a child may not waive the right to a guardian *ad litem*. The right of waiver to legal counsel belongs to the child, not the guardian. *See* Rule 1800, which suspends 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the child.

It is recommended that, at a minimum, the court ask questions to elicit the following information in determining a knowing, intelligent, and voluntary waiver of counsel:

- 1) Whether the party understands the right to be represented by counsel;
- 2) Whether the party understands the nature of the dependency allegations and the elements of each of those allegations;
- 3) Whether the party is aware of the dispositions and placements that may be imposed by the court, including foster care placement and adoption;
- 4) Whether the party understands that if he or she waives the right to counsel, he or she will still be bound by all the normal rules of procedure and that counsel would be familiar with these rules;
- 5) Whether the party understands that counsel may be better suited to defend the dependency allegations; and
- 6) Whether the party understands that the party has many rights that, if not timely asserted, may be lost permanently; and if errors occur and are not timely objected to, or otherwise timely raised by the party, the ability to correct these errors may be lost permanently.

**Official Note:** Rule 1152 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1152 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Rule 1154. Duties of Guardian *Ad Litem*.**

A guardian *ad litem* shall:

- 1) Meet with the child as soon as possible following assignment pursuant to Rule 1151 and on a regular basis thereafter in a manner appropriate to the child's age and maturity;
- 2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the guardians or the child, and medical, psychological, and school records;
- 3) Participate in all proceedings, including hearings before juvenile court hearing officers, and administrative hearings and reviews to the degree necessary to adequately represent the child;
- 4) Conduct such further investigation necessary to ascertain the facts;
- 5) Interview potential witnesses, including the child's guardians, caretakers, and foster parents, examine and cross-examine witnesses, and present witnesses and evidence necessary to protect the best interests of the child;
- 6) At the earliest possible date, be advised by the county agency having legal custody of the child of:
  - a) any plan to relocate the child or modify custody or visitation arrangements, including the reasons, prior to the relocation or change in custody or visitation; and
  - b) any proceeding, investigation, or hearing under the Child Protective Services Law, 23 Pa.C.S. § 6301 *et seq.* or the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, directly affecting the child;
- 7) Make any specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, including the child's educational, health care, and disability needs;
- 8) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition, and emotional condition; and
- 9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court.

**Comment**

If there is a conflict of interest between the duties of the guardian *ad litem* pursuant to paragraphs (7) and (9), the guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem* when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child. If there is not a conflict of interest, the guardian *ad litem* represents the legal interests and best interests of the

child at every stage of the proceedings. 42 Pa.C.S. § 6311(b). To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. *See* Rules 1151 and 1800. *See also* Pa.R.P.C. 1.7 and 1.8.

“Legal interests” denotes that an attorney is to express the child’s wishes to the court regardless of whether the attorney agrees with the child’s recommendation. “Best interests” denotes that a guardian *ad litem* is to express what the guardian *ad litem* believes is best for the child’s care, protection, safety, and wholesome physical and mental development regardless of whether the child agrees.

Pursuant to paragraph (7), the guardian *ad litem* is to make specific recommendations to the court regarding the appropriateness of the child’s placement, giving consideration to the proximity and appropriateness of the child’s school. *See* 42 Pa.C.S. § 6311(b)(7) and 42 U.S.C. § 675(1)(G). Inquiries into the child’s education should include the right to: 1) educational stability, including the right to remain in the same school regardless of a change in placement when in the child’s best interest and the right to immediate enrollment when a school change is in the child’s best interest, 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, 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 independent living, 42 Pa.C.S. § 6351 if a child is sixteen or older; and 5) a transition plan that addresses the child’s educational needs, 42 U.S.C. § 675(5)(H), if the child will age out of care in the next ninety days.

*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.

Pursuant to paragraph (7), the guardian *ad litem* is to make specific recommendations to the court regarding the appropriateness of the child’s placement, giving consideration to meeting the child’s needs concerning health care and disability. Inquiries into the child’s health should include the right of: 1) the child to receive timely and medically appropriate screenings and health care services, 55 Pa. Code §§ 3700.51 and 3800.32, 42 U.S.C. § 1396d(r); and 2) a child with disabilities to receive necessary accommodations, 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.*

The guardian *ad litem* may be appointed as the educational decision maker. If the guardian *ad litem* is not the educational decision maker, the guardian *ad litem* is to coordinate efforts and consult with the educational decision maker. *See* Rule 1147 for duties of the educational decision maker.

**Official Note:** Rule 1154 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 1154 published with the Court’s Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1154 published with the Court’s Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 1154 amended April 29, 2011, effective July 1, 2011, 41 Pa.B. 2413; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (377963) to (377964).

**Rule 1158. Assignment of Court Appointed Special Advocates.**

A court appointed special advocate shall follow the duties as set forth in the Juvenile Act, 42 Pa.C.S. § 6342(d) and in the Juvenile Court Judges’ Commission’s Juvenile Court Standards, 37 Pa. Code, Chapter 200.

**Official Note:** Rule 1158 adopted August 21, 2006, effective February 1, 2007.

### PART C. RECORDS

#### PART C(1). ACCESS TO JUVENILE COURT RECORDS

##### **Rule 1160. Inspection of the Official Court Record.**

The official court record is only open to inspection by:

- 1) The judges, officers, and professional 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 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) 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.

##### **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). *See* 23 Pa.C.S. § 6340.

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

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

*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).

**Source**

The provisions of this Rule 1160 amended December 24, 2009, effective immediately, 40 Pa.B. 222. Immediately preceding text appears at serial pages (342575) to (342576).

**PART C(2). MAINTAINING RECORDS**

**Rule 1165. Design of Forms.**

The Court Administrator of Pennsylvania, in consultation with the Juvenile Court Procedural Rules Committee, shall design and publish forms necessary to implement these rules.

**Comment**

The purpose of the unified judicial system can be further achieved by creating uniform forms to implement a particular rule.

**Official Note:** Rule 1165 adopted August 21, 2006, effective February 1, 2007.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1165 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

**Rule 1166. Maintaining Records in the Clerk of Courts.**

A. *Generally.* The juvenile court file is the official court record and shall contain all original records, papers, and orders filed, copies of all court notices, and docket entries. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the official court record and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

- 1) the child's name, address, date of birth, if known;
- 2) the guardian's name, address, if known;
- 3) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);
- 4) notations concerning all papers filed with the clerk, including all court notices, appearances, motions, orders, findings and adjudications, dispositions, permanency reviews and adoptions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;
- 5) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;
- 6) a notation of every judicial proceeding, continuance, and disposition;
- 7) the location of exhibits made part of the record during the proceedings; and
- 8)a) the date of receipt in the clerk's office of the order or court notice;  
b) the date appearing on the order or court notice; and  
c) the date and manner of service of the order or court notice; and
- 9) all other information required by Rule 1345.

D. *Electronic Format.* If a judicial district has provided for electronic filing pursuant to Rule 1205, the juvenile court file in which electronic filing has been utilized may be maintained solely in an electronic format as long as copies of the documents maintained in the juvenile court file may be produced in a physical paper format.

#### Comment

This rule sets forth the mandatory contents of the list of docket entries and the official court record. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a dependency case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by juvenile court hearing officers. Nothing in this rule is intended to preclude the use of automated or other electronic means for time-stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by juvenile court hearing officers, at any stage of the dependency case.

This rule is not intended to include items contained in the county agency records or reports.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(3) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any party in the case. The requirement also ensures that attorneys are served as required by Rules 1167 and 1345. *See also* Rule 1345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(3) is to include the facsimile number or electronic address.

Paragraph (C)(5) recognizes that occasionally resolution of oral motions presented in open court should be reflected in the docket, such as motions and orders.

Paragraph (D) permits electronically filed documents to be part of the juvenile court record in an electronic format. Accordingly, the juvenile court record may exist in both paper and electronic form, provided the electronic form can be produced in a paper form.

**Official Note:** Rule 1166 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. Amended April 6, 2017, effective September 1, 2017. Amended December 12, 2019, effective June 1, 2020.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1166 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1166 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 1166 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

Report explaining the amendments to Rule 1166 published with the Court's Order at 49 Pa.B. 7573 (December 28, 2019).

**Source**

The provisions of this Rule 1166 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313; amended December 12, 2019, effective June 1, 2020, 49 Pa.B. 7573. Immediately preceding text appears at serial pages (387415) to (387417).

**Rule 1167. Filings and Service of Court Orders and Notices.**

A. *Filings.*

- 1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time-stamped promptly with the date of receipt.
- 2) All orders and court notices shall be filed in the official court record.

B. *Service.*

- 1) A copy of any order or court notice shall be served promptly on each party's attorney, and the party, if unrepresented.
- 2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or its designee.
- 3) *Methods of Service.* Service shall be:
  - a) by:
    - i) personal delivery to the party's attorney, and if unrepresented, the party;
    - ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;
    - iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;
    - iv) sending a copy to an unrepresented party by first class mail addressed to the party's place of business, residence, or detention;
    - v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the party has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case;

- vi) delivery to the party's attorney, and if unrepresented, the party by carrier service; or
- b) orally in open court on the record; or
- c) in a judicial district that permits electronic filing pursuant to Rule 1205, service of court orders or notices shall be made as provided in Rule 1205(D)(2) and (H)(1).

C. *Unified Practice.* Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

#### Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the party's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the party, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time-stamping.

**Official Note:** Rule 1167 adopted August 21, 2006, effective February 1, 2007. Amended December 24, 2009, effective immediately. Amended December 12, 2019, effective April 1, 2019.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1167 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1167 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Report explaining the amendments to Rule 1167 published with the Court's Order at 49 Pa.B. 7573 (December 28, 2019).

#### Source

The provisions of this Rule 1167 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended December 12, 2019, effective June 1, 2020, 49 Pa.B. 7573. Immediately preceding text appears at serial pages (387417) to (387418).

### PART D. JUVENILE COURT HEARING OFFICERS

#### **Rule 1182. Qualifications of Juvenile Court Hearing Officer.**

A. *Education, Experience, and Training.* To preside as a juvenile court hearing officer over cases governed by the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, an individual shall:

- 1) be a member, in good standing, of the bar of this Commonwealth;
  - 2) have been licensed to practice law for at least five consecutive years;
- and
- 3) have completed six hours of instruction, approved by the Pennsylvania Continuing Legal Education Board prior to hearing cases, which specifically addresses all of the following topics:
    - a) the Juvenile Act;

- b) the Pennsylvania Rules of Juvenile Court Procedure;
- c) the Child Protective Services Law;
- d) evidence rules and methodology; and
- e) child and adolescent development.

B. *Continuing Education.* Upon meeting the requirements of paragraph (A)(3), a juvenile court hearing officer shall thereafter complete six hours of instruction from a course(s) designed by the Office of Children and Families in the Courts, in juvenile dependency law, policy, or related social science research every two years.

C. *Compliance.*

1) A juvenile court hearing officer shall sign an affidavit attesting that he or she has met the requirements of this rule.

2) Prior to presiding as a juvenile court hearing officer, the attorney shall send the affidavit to the President Judge or his or her designee of each judicial district where the attorney is seeking to preside as a juvenile court hearing officer.

3) After submission of the initial affidavit pursuant to paragraph (C)(2), juvenile court hearing officers shall submit a new affidavit every two years attesting that the continuing education requirements of paragraph (B) have been met.

**Comment**

Pursuant to paragraphs (A)(1) & (2), juvenile court hearing officers are to be in good standing and have at least five consecutive years of experience as an attorney. It is best practice to have at least two years of experience in juvenile law.

Pursuant to paragraph (A)(3), the initial training program(s) is to be approved by the Pennsylvania Continuing Legal Education Board (Board). The program may be one course or multiple courses with at least six hours of instruction, equivalent to at least six CLE credits. When the Board is approving courses designed to address the requirements of this rule, it should consult with the Office of Children and Families in the Courts to ensure proper course requirements are being met. Additionally, for this initial training course(s), training already provided by the Office of Children and Families in the Courts or the Juvenile Court Judges' Commission may meet the requirements of this Rule.

For continuing education under paragraph (B), juvenile court hearing officers are to attend six hours of instruction from a course or multiple courses designed by the Office of Children and Families in the Courts. This is to ensure uniform training among juvenile court hearing officers.

These requirements are additional requirements to the Pa.R.C.L.E. because they mandate specific training in juvenile dependency law. However, the credit hours received do count towards the total maximum required under Pa.R.C.L.E. 105.

Pursuant to paragraph (C), a juvenile court hearing officer is to certify to the court that the requirements of this rule have been met prior to presiding as a juvenile court hearing officer, and submit new affidavits every two years thereafter.

**Official Note:** Rule 1182 adopted September 11, 2014, amended July 13, 2015, effective August 1, 2017. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1182 published with the Court's Order at 44 Pa.B. 6087 (September 27, 2014).

Final Report explaining the amendments to Rule 1182 published with the Court's Order at 45 Pa.B. 3986 (July 25, 2015).

Final Report explaining the amendments to Rule 1182 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 1182 adopted September 11, 2014, effective October 1, 2016, 44 Pa.B. 6087; amended July 13, 2015, effective August 1, 2017, 45 Pa.B. 3986; amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (377965) to (377966).

**Rule 1185. Appointment to Cases.**

A. *Appointment.* If necessary to assist the juvenile court judge, the president judge or his or her designee may appoint juvenile court hearing officers to hear designated dependency matters.

B. *Prohibited practice.* Juvenile court hearing officers shall not engage in practice before the juvenile court in the same judicial district where they preside over dependency matters.

**Comment**

Under paragraph (A), the president judge of each judicial district may restrict the classes of cases to be heard by the juvenile court hearing officer, in addition to the restrictions of Rule 1187. See 42 Pa.C.S. § 6305(b) and Rule 1187.

**Official Note:** Rule 1185 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1185 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1185 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 1185 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial page (373803).

**Rule 1187. Authority of Juvenile Court Hearing Officer.**

A. *No authority.* A juvenile court hearing officer shall not have the authority to:

- 1) preside over:
  - a) termination of parental rights hearings;
  - b) adoptions;
  - c) any hearing in which any party seeks to establish a permanency goal of adoption or change the permanency goal to adoption;
- 2) enter orders for emergency or protective custody pursuant to Rules 1200 and 1210;
- 3) issue warrants; and
- 4) issue contempt orders.

B. *Right to hearing before judge.*

- 1) Prior to the commencement of any proceeding, the juvenile court hearing officer shall inform all parties of the right to have the matter heard by a judge. If a party objects to having the matter heard by the juvenile court hearing officer, the case shall proceed before the judge.

2) If a party objects to having the matter heard by the juvenile court hearing officer pursuant to paragraph (B)(1), the juvenile court hearing officer or the court's designee for scheduling cases shall immediately schedule a hearing before the judge. The time requirements of these rules shall apply.

**Comment**

A juvenile court hearing officer's authority is limited under this rule. To implement this rule, Rule 1800 suspends 42 Pa.C.S. § 6305(b) only to the extent that juvenile court hearing officers may not hear all classes of cases.

Under paragraph (A)(1)(c), once the permanency goal has been approved for adoption by a judge, all subsequent reviews or hearings may be heard by the juvenile court hearing officer unless a party objects pursuant to paragraph (B).

Under paragraph (A)(3), nothing is intended to limit the juvenile court hearing officer's ability, in a proper case before the juvenile court hearing officer, to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (B), see 42 Pa.C.S. § 6305(b).

Under paragraph (B)(2), it should be determined whenever possible before the date of the hearing whether there will be an objection to having the matter heard before a juvenile court hearing officer. If it is anticipated that there will be an objection, the case is to be scheduled in front of the judge, rather than the juvenile court hearing officer to prevent continuances and delays in the case.

See Rule 1127 for recording of proceedings before a juvenile court hearing officer.

**Official Note:** Rule 1187 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1187 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1187 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 1187 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (373803) to (373804).

**Rule 1190. Stipulations Before Juvenile Court Hearing Officer.**

A. *Types of cases.* Juvenile court hearing officers may accept stipulations in any classes of cases that they are permitted to hear pursuant to Rule 1187.

B. *Requirements.* The stipulation requirements of Rule 1405 shall be followed.

**Comment**

Under paragraph (A), a juvenile court hearing officer may accept stipulations in those permissible classes of cases pursuant to Rule 1187. In addition, the president judge of each judicial district may further restrict the classes of cases. See Rule 1185.

The court is to receive corroborating evidence, in addition to the stipulated facts, to make an independent determination that a child is dependent. See Rule 1405 and its Comment.

**Official Note:** Rule 1190 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1190 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1190 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).

**Source**

The provisions of this Rule 1190 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial page (373804).

**Rule 1191. Juvenile Court Hearing Officer's Findings and Recommendation to the Judge.**

A. *Announcement of Findings and Recommendation.* At the conclusion of the hearing, the juvenile court hearing officer shall announce in open court on the record, the juvenile court hearing officer's findings and recommendation to the judge.

B. *Submission of Papers and Contents of Recommendation.* Within two business days of the hearing, the juvenile court hearing officer shall submit specific findings and a recommendation to the juvenile court judge. If requested, a copy of the findings and recommendation shall be given to any party.

C. *Challenge to Recommendation.* A party may challenge the juvenile court hearing officer's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation. The motion shall request a rehearing by the judge and aver reasons for the challenge.

D. *Judicial Action.* Within seven days of receipt of the juvenile court hearing officer's findings and recommendation, the judge shall review the findings and recommendation of the juvenile court hearing officer and:

- 1) accept the recommendation by order;
- 2) reject the recommendation and issue an order with a different disposition;
- 3) send the recommendation back to the juvenile court hearing officer for more specific findings; or
- 4) conduct a rehearing.

**Comment**

The juvenile court may promulgate a form for juvenile court hearing officers to use. The findings and recommendation may take the form of a court order to be adopted by the court.

If a party contests the juvenile court hearing officer's decision, the copy of the findings and recommendation may be used as an attachment in a motion for a rehearing in front of the judge.

The juvenile court hearing officer's decision is subject to approval of the judge. When the judge, in rejecting the juvenile court hearing officer's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the juvenile court hearing officer's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. *See In re Perry*, 459 A.2d 789 (Pa. Super. 1983).

Nothing in this rule prohibits the court from modifying conclusions of law made by the juvenile court hearing officer.

**Official Note:** Rule 1191 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1191 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1191 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).



GENERAL PROVISIONS

**237 Rule 1191**

**Source**

The provisions of this Rule 1191 amended April 6, 2017, effective September 1, 2017, 47 Pa.B. 2313. Immediately preceding text appears at serial pages (373804) to (373805).

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