

CHAPTER 4. ADJUDICATORY HEARING

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Rule 401. Introduction to Chapter Four.

Under these rules and the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, a determination for each case requires separate and distinct findings. First, the court is to hold an adjudicatory hearing, governed by Rule 406 or receive an admission from the juvenile of the allegations, governed by Rule 407. Second, after hearing the evidence or receiving an admission, the court is to rule on the offenses pursuant to Rule 408, stating with particularity the grading and counts of each offense. Third, after ruling on the offenses or entering its findings, the court is to determine if the juvenile is in need of treatment, supervision, or rehabilitation pursuant to Rule 409. After the court has made these findings and if the court finds that the juvenile is in need of treatment, supervision, or rehabilitation, the court is to hold a dispositional hearing as provided for in Rule 512 and is to enter a dispositional order pursuant to Rule 515. Nothing in these rules precludes the court from making these determinations at the same proceeding as long as the requirements of Rules 406 through 409 are followed.

Official Note: Rule 401 adopted April 1, 2005, effective October 1, 2005.

Rule 404. Prompt Adjudicatory Hearing.

A. *Detained Juvenile.* If the juvenile is detained, an adjudicatory hearing shall be held within 10 days of the filing of the petition. If the adjudicatory hearing is not held within 10 days, the juvenile shall be released unless the exceptions of Rule 240(D) apply.

B. *Non-detained Juvenile.* If the juvenile is not detained, the adjudicatory hearing shall be held within a reasonable time.

Comment

The “filing of a petition” in paragraph (A) includes petitions filed pursuant to Rule 337 if the juvenile is detained following transfer from criminal proceedings.

Official Note: Rule 404 adopted April 1, 2005, effective October 1, 2005. Amended July 31, 2012, effective November 1, 2012. Amended November 30, 2021, effective April 1, 2022.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 404 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 404 published with the Court’s Order at 42 Pa.B. 5350 (August 18, 2012).

Final Report explaining the amendments to Rule 404 published with the Courts' Order at 51 Pa.B. 7629 (December 11, 2021).

Source

The provisions of this Rule 404 amended July 31, 2012, effective November 1, 2012, 42 Pa.B. 5350; amended November 30, 2021, effective April 1, 2022, 51 Pa.B. 7629. Immediately preceding text appears at serial pages (393103) to (393104).

Rule 405. Forensic Laboratory Report and Certification.

(a) *Report and Certification In Lieu of Expert Testimony.*

(1) If the requirements of this rule have been met, the attorney for the Commonwealth may seek to offer a forensic laboratory report into evidence in lieu of testimony in any adjudicatory hearing of a non-detained juvenile.

(2) The report shall be supported by a certification, as provided in subdivision (e), from the expert who drafted the report and performed the analysis or examination.

(b) *Notice.*

(1) The attorney for the Commonwealth shall file the written notice and serve the written notice, together with the report and certification, upon the juvenile's attorney.

(2) The notice shall include a statement informing the juvenile that:

(i) if no written demand for testimony is made within 10 days of the service of the notice, the forensic laboratory report and certification are admissible in evidence, as provided in subdivision (c)(3); and

(ii) the expert who drafted the report does not have to testify.

(3) Service shall occur no later than 20 days prior to the adjudicatory hearing.

(4) Once entered into evidence, the report and certification shall qualify as if the expert had testified personally.

(c) *Demand.*

(1) Within 10 days of service of the notice, the juvenile's attorney may file and serve a written demand upon the attorney for the Commonwealth requiring the expert to testify at the adjudicatory hearing.

(2) If a written demand is filed and served, the expert must testify.

(3) If no demand is filed and served as required by subdivision (c)(1), the report and certification are admissible in evidence without the expert's testimony.

(d) *Extension.* For cause shown, the judge may:

(1) extend the time requirements of this rule; or

(2) grant a continuance of the adjudicatory hearing.

(e) *Certification.* The expert shall complete a certification providing:

(1) the education, training, and experience that qualify the expert to perform the analysis or examination;

(2) the entity by which the expert is employed and a description of the expert's regular duties;

- (3) the name and location of the laboratory where the analysis or examination was performed;
- (4) any state, national, or international accreditations of the laboratory at which the analysis or examination was performed;
- (5) that the analysis or examination was performed under industry-approved procedures or standards; and
- (6) the report accurately reflects the findings and opinions of the expert.

Comment:

This rule is intended to establish a uniform procedure for delinquency proceedings, similar to Pa.R.Crim.P. 574, for the admission of laboratory reports without the expense of live expert testimony while protecting a juvenile's confrontation rights. The rule provides a "notice and demand" procedure for delinquency proceedings. Under this rule, the attorney for the Commonwealth may seek to admit a forensic laboratory report as evidence without expert testimony if the notice requirements are met and no demand for the presence of the expert is made. If the juvenile makes such a demand, the expert is required to testify before the report can be admitted into evidence.

Given the prompt adjudicatory hearing requirement of the Juvenile Act, 42 Pa.C.S. § 6335(a) (if the juvenile is detained, then the adjudicatory hearing must be held within 10 days of the filing of a petition), this rule is only available for adjudicatory hearings of non-detained juveniles. *See* Pa.R.J.C.P. 404(B) (if the juvenile is not detained, then the adjudicatory hearing must be held within a reasonable time).

Nothing in this rule is intended to: 1) preclude a stipulation agreed to by the parties for the admission of the report without the expert's presence; 2) prevent further stipulation by the parties in light of the admission of the report and certification; or 3) change the discovery requirements pursuant to Rule 340.

Pursuant to subdivision (d), the court may permit filing of the notice or demand after the time period required in the rule if the party seeking the late filing shows cause for the delay. In the situation where the judge permits the late filing of the notice, the juvenile still has ten days to make the demand for the live testimony of the expert. This may necessitate a continuance of the adjudicatory hearing.

The certification in subdivision (e) does not require a description of the actual tests performed for the analysis. This information more properly belongs in the report itself. Because one of the goals of this rule is to permit the juvenile to make an informed decision regarding whether to demand the live testimony of the expert, the report should provide information sufficient to describe the methodology by which the results were determined.

For purposes of this rule, a laboratory is "accredited" when its management, personnel, quality system, operational and technical procedures, equipment, and physical facilities meet the ISO/IEC 17025 standard in the forensic field of testing as determined by an International Laboratory Accreditation Cooperation recognized accreditation organization that has been evaluated to meet the ISO/IEC 17011 standard and that has expertise in the forensic laboratory accreditation field.

See Rule 345 for filing and service requirements.

Source

The provisions of this Rule 405 added September 11, 2023, effective January 1, 2024, 53 Pa.B. 5887.

Rule 406. Adjudicatory Hearing.

A. Manner of hearing.

- 1) The court shall conduct the adjudicatory hearing without a jury, in an informal but orderly manner.

4-2.1

- 2) The attorney for the Commonwealth shall:
 - a) attend the hearing; and
 - b) have the burden of establishing beyond a reasonable doubt that the juvenile committed the delinquent act(s).
- B. *Recording*. The adjudicatory hearing shall be recorded.
- C. *Advanced communication technology*. A court may utilize advanced communication technology pursuant to Rule 129 for the appearance of the juvenile or witness only if the parties consent.

Comment

Under paragraph (A), the juvenile does not have the right to trial by jury. *McKeiver v. Pennsylvania*, 403 U. S. 528 (1971).

Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333.

Official Note: Rule 406 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 406 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 406 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 406 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 406 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 406 published with the Court's Order at 42 Pa.B. 4909 (August 4, 2012).

Source

The provisions of this Rule 406 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 26, 2011, effective July 1, 2011, 41 Pa.B. 3180; amended July 18, 2012, effective October 1, 2012, 42 Pa.B. 4909. Immediately preceding text appears at serial pages (360295) to (360296).

Rule 407. Admissions.

A. *Admissions.* At any time after a petition is filed, the juvenile may tender an admission to some or all of the delinquent acts charged.

1) *Requirements.*

a) Before the court can accept an admission, the court shall determine that the admission is knowingly, intelligently, and voluntarily made.

b) As a part of this determination, the court shall ensure:

i) an attorney has reviewed and completed the admission colloquy with the juvenile pursuant to paragraph (C); and

ii) there is a factual basis for the admission.

c) At the hearing, the court shall conduct an independent inquiry with the juvenile to determine:

i) whether the juvenile understands the nature of the allegations to which he or she is admitting and understands what it means to admit;

ii) whether the juvenile understands that he or she has the right to a hearing before the judge and understands what occurs at a hearing;

iii) whether the juvenile is aware of the dispositions that could be imposed and the consequences of an adjudication of delinquency that can result from an admission;

iv) whether the juvenile has any questions about the admission; and

v) whether there are any other concerns apparent to the court after such inquiry that should be answered.

2) *Agreements.* If the parties agree upon the terms of an admission, the tender shall be presented to the court.

3) *Court Action.* If the court accepts the tender, the court shall enter an order incorporating any agreement. If the court does not accept the tender, the case shall proceed as if no tender had been made.

4) *Limitations on Withdrawals.* An admission may be withdrawn prior to the court entering the dispositional order. After the court has entered the dispositional order, an admission can be withdrawn only upon a demonstration of manifest injustice.

B. *Incriminating Statements.* An incriminating statement made by a juvenile in the discussions or conferences incident to an admission that is not ultimately accepted by the court or otherwise permitted to be withdrawn by the court shall not be used against the juvenile over objection in any criminal proceeding or hearing under the Juvenile Act, 42 Pa.C.S. § 6301 et seq.

C. *Written Admission Colloquy.* If a juvenile is making an admission, the colloquy shall be:

(1) in writing;

(2) reviewed and completed with the juvenile by an attorney;

(3) submitted to and reviewed by the court; and

(4) substantially in the following form:

ADMISSION COLLOQUY FORM

In re _____ JD _____
 (Juvenile) _____

 Delinquent Act(s): _____

Answer all of the questions on this form. If you do not understand any question, leave it blank and ask your lawyer or the judge.

I admit that I did the following things (attorney shall list the delinquent acts, grading of acts, and counts): _____

General Information:

- 1) What is your full name? _____
- 2) Do you have any other name or nickname? _____
 If yes, state: _____
- 3) How old are you today? _____
- 4) What grade are you in? _____
- 5) Can you read, write, and understand English? _____ (if yes, go to #6)
 - a) If you cannot read, has someone read this form to you? _____
 If so, who? _____ (print name)

(signature of reader verifies that the form has been read to the juvenile)

- b) If you do not read English, have you been given a translator or a lawyer who speaks your language? _____
- c) Did your translator or lawyer read this form to you and explain it? _____

If so, who? _____ (print name)

(signature of reader verifies that the form has been read to the juvenile)

Knowing and Voluntary Admission:

- 6) Are you now a patient in a mental hospital? _____
 - a) If yes, where? _____
 - b) Are you being treated for a mental illness? _____
 - c) If yes, what are you being treated for? _____
- 7) Have you taken any drugs or alcohol yesterday or today that do not make you think clearly? _____
 If yes, specify type of drugs and/or alcohol: _____
- 8) Has anyone threatened or forced you to sign this form? _____
 If yes, explain: _____

9) Have you been promised anything for this admission? _____

If yes, explain: _____

Understanding the Admission:

10) Has your lawyer told you what you did was against the law? _____

11) By admitting what you did, do you understand that you are giving up:

a) the right to be presumed innocent, which means the judge does not think you broke the law until the D.A. (District Attorney) proves beyond a reasonable doubt that you broke the law (a reasonable doubt is a belief that it is very possible you did not break the law); _____

b) the right to a hearing by a fair judge; _____

c) the right to remain silent and your silence cannot be held against you; _____

d) the right to tell the judge your side of the story; _____

e) the right to ask witnesses questions; _____

f) the right to present witnesses or evidence to help tell your side of the story, but you do not have to do anything; _____

g) the right to tell the judge you disagree with something; _____

h) the right to ask the judge to decide if he or she should hear certain things; and _____

i) the right to have a higher court review this judge's decision. _____

12) Do you understand if the judge accepts your admission and believes you need help (finds you delinquent), the judge may make you get help? _____

Possible Consequences of Adjudication of Delinquency:

13) Do you understand that if you are found delinquent, the judge may make you pay money and place you outside of your home or on probation until you turn 21 years old? _____

14) Are you aware that if you are admitting to _____ that your driving license will be suspended now or in the future (which means you will not be able to drive)? (lawyer shall write acts on this line, cross off, or write n/a).

15) Do you understand that this case can be used against you in the future? For example, if you break the law again, you may get a longer sentence in jail. _____

16) Do you understand that if you are found delinquent, other people may find out about it? You may also have to tell people, including colleges, military recruiters, or employers? _____

17) Do you understand that if you are not a U.S. citizen, it may cause problems, which could include being forced to leave the U.S.? _____

18) Do you understand that if you are admitting to sexual assault that you cannot attend the same school as the victim? You will either be expelled or transferred to another school or an alternative education program. _____

Admission Agreements:

19) Are you aware that the judge does not have to accept any agreement between you and the District Attorney? _____ (write n/a if no agreement)

20) If you change your mind about admitting to the charges before the judge decides your disposition or consequences, then you can ask the judge to let you take back your admission.

Appeals:

21) If you are found delinquent after this admission, you can have a higher court review your case for only three reasons:

- a) whether your admission was voluntary (you made your own decision to admit to a charge. No one forced you to do this. You understood what you were doing, including the consequences.); _____
- b) whether the court was the correct court to hear your case (the court had the authority over your case); or _____
- c) whether the court abused its responsibility or made any mistakes in the things that were ordered as your consequences. _____

If you do not admit, do you understand you have other rights? _____

Lawyer's Representation and Opportunity to Speak with Guardian

22) Are you okay with what your lawyer did for you and how he or she explained everything? _____

23) Did you talk with your parent or guardian about admitting to the charge(s)? _____

I promise that I have read the whole form or someone has read the form to me. I understand it. I am telling the truth. I am saying that I have done the things on page 1. I believe that this admission is best for me. The signature below and initials on each page of this form are mine.

JUVENILE

DATE

I, _____, lawyer for the juvenile, have reviewed this form with my client. My client has told me and I believe that he or she understands this form.

LAWYER FOR JUVENILE

DATE

D. *Admission to an Act of Sexual Violence.* If a juvenile is making an admission to an act of sexual violence, see 42 Pa.C.S. § 6358, which may render the juvenile eligible for civil commitment for involuntary treatment upon attaining 20 years of age and subject to SORNA requirements, then the admission colloquy form set forth in paragraph (C) shall be amended to include substantially the following form:

ADDENDUM TO ADMISSION COLLOQUY FORM

In re : _____ JD _____
 (Juvenile) :
 : Delinquent Act(s): _____
 : _____
 : _____
 : _____

ELIGIBILITY FOR CIVIL COMMITMENT FOR INVOLUNTARY TREATMENT

Civil Commitment Cases

I did at least one of the crimes (in the box below); AND

If the judge says that I am a delinquent; AND

If I am in placement when I turn age 20,

I can go to a different placement against my will.

See 42 Pa.C.S. § 6401 et seq.

Check all that are true:

<input type="checkbox"/> Rape, 18 Pa.C.S. § 3121	<input type="checkbox"/> Sexual Assault, 18 Pa.C.S. § 3124.1
<input type="checkbox"/> Involuntary Deviate Sexual Intercourse, 18 Pa.C.S. § 3123	<input type="checkbox"/> Indecent Assault, 18 Pa.C.S. § 3126
<input type="checkbox"/> Aggravated Indecent Assault, 18 Pa.C.S. § 3125	<input type="checkbox"/> Incest, 18 Pa.C.S. § 4302

1) If I am in placement when I am age 20, SOAB (State Sexual Offenders Assessment Board) will look at information about me to see if I have mental problems that make it hard for me to stop doing sexual crimes. _____ initials

See 42 Pa.C.S. § 6358.

2) If SOAB thinks that I need treatment, the judge will have a hearing. _____ initials

See 42 Pa.C.S. § 6358.

3) If the judge agrees I need treatment, I will have a second hearing. _____ initials

See 42 Pa.C.S. § 6358.

4) At the hearing, the judge will decide if I have mental problems that make it likely that I will do sexual crimes again. If the judge says yes:

a) I will go to a different placement for at least one year. _____ initials

See 42 Pa.C.S. §§ 6403 & 6404.

b) I will be required to register as a sex offender under the Sex Offender Registration and Notification Act. _____ initials

See 42 Pa.C.S. § 9799.13(9)

c) If and when I am released from this different placement, I must register with the state police and report to them every 90 days for at least 25 years. It is a crime not to register and report to the state police. Information about me and my crime will also be available for everyone to see on the internet. _____ initials

See 42 Pa.C.S. §§ 9799.15(a)(5), (a.2) & 9799.15(b)(1)(iii); 18 Pa.C.S. § 4951.1.

d) If I am released from this different placement and continue to register and report to the state police and I do not commit any more serious crimes for at least 25 years, I can ask the judge whether I can stop registering and reporting to the state police. _____ initials

See 42 Pa.C.S. § 9799.15(a.2).

5) The judge will look at my case each year. I will stay in that placement for as long as the judge decides that I have mental problems that make it likely that I will do sexual crimes again. _____ initials

See 42 Pa.C.S. § 6404.

6) If the judge says I can leave placement, I must continue to get treatment when told for my mental problems. The judge will look at my case after one year. _____ initials

See 42 Pa.C.S. §§ 6404.1 & 6404.2.

7) If the judge says I can stop getting treatment after one year, I still must talk to a counselor every month. _____ initials

See 42 Pa.C.S. §§ 6404.1 & 6404.2.

8) If I do not obey these rules or the counselor says I cannot stop my bad actions, I will be sent back to placement. _____ initials

See 42 Pa.C.S. § 6404.2.

Lawyer's Representation and Opportunity to Speak with Guardian

9) Did you talk with your lawyer before you decided to tell the judge you did the crimes (delinquent acts)? ☐ Yes ☐ No

10) Are you okay with what your lawyer did for you? ☐ Yes ☐ No

11) Did your lawyer answer all your questions? ☐ Yes ☐ No

12) Did you talk with your parent or guardian about saying you did the crimes? ☐ Yes ☐ No

If you answered no, would you like to talk with them now? ☐ Yes ☐ No

I have read this form or someone has read this form to me.

I understand the form and what I have to do. The signature below and initials on each page of this form are mine.

JUVENILE

DATE

I, _____, lawyer for the juvenile, have reviewed this form with my client. My client has informed me and I believe that he or she understands the rights, consequences, and dispositions outlined in this form. I have completed the foregoing sections with my client. I have explained them. I have no issues with my client admitting to the delinquent acts.

LAWYER FOR JUVENILE

DATE

Comment

Under paragraph (A)(1), the court is to determine if the admission is knowingly, intelligently, and voluntarily made by asking questions to ascertain the juvenile's ability to comprehend the written colloquy and to make an admission.

The written colloquy serves as an aid for the court in making its determination that the admission is knowingly, intelligently, and voluntarily made and it does not supplant the court's responsibility to conduct a sufficient inquiry to support its determination pursuant to paragraph (A)(1).

Nothing in this rule prohibits the judge from reviewing the entire written colloquy with the juvenile on the record or asking more questions than required under paragraph (A)(1)(c).

The admission colloquy is similar to a guilty plea colloquy in criminal court; however, the juvenile court judge has special responsibilities under the Juvenile Act in providing a balanced attention to the protection of the community, the imposition of accountability for delinquent acts committed, and the development of competencies to enable juveniles to become responsible and productive members of the community. *See* 42 Pa.C.S. § 6301.

If the court finds an admission is not knowingly, intelligently, and voluntarily made, the case is to proceed to a hearing pursuant to Rule 406. The decision whether an admission is knowingly, intelligently, and voluntarily made is not appealable to another common pleas judge; therefore, the admission may not be presented to another judge once this determination has been made.

Under paragraph (A)(3), if the disposition agreed upon by the parties is unavailable or the court does not agree with the terms of the tender, the case is to proceed as if no tender had been made.

The court is not to accept a plea of *nolo contendere*. *See In re B.P.Y.*, 712 A.2d 769 (Pa. Super. 1998).

If the court does not accept an agreement or finds an admission not to be knowingly, intelligently, and voluntarily made, a motion for recusal of the judge may be appropriate for the adjudicatory hearing.

Pursuant to paragraph (C), an attorney is to review the written admission colloquy with the juvenile prior to entering the courtroom. The practice in some judicial districts permitting the juvenile probation officer to review this colloquy with the juvenile is inconsistent with this rule.

As used in Question 18 of the admission colloquy in paragraph (C)(4), "sexual assault" includes rape, 18 Pa.C.S. § 3121, statutory sexual assault, 18 Pa.C.S. § 3122.1, involuntary deviate sexual intercourse, 18 Pa.C.S. § 3123, sexual assault, 18 Pa.C.S. § 3124.1, aggravated sexual assault, 18 Pa.C.S. § 3125, and indecent assault, 18 Pa.C.S. § 3126. *See* 24 P.S. § 13-1318.1(j) (defining "sexual assault").

Pursuant to paragraph (D), the written admission colloquy in paragraph (C) is to be amended when the juvenile is admitting to an act that would render the juvenile eligible for court-ordered involuntary treatment upon attaining 20 years of age and SORNA registration and reporting requirements. *See* 42 Pa.C.S. §§ 6358, 6403, 9799.13(9), and 9799.15(a)(5). The court is to conduct a colloquy as to the potential consequences of an admission of this type using the form in paragraph (D).

The colloquy forms use several age-appropriate terms for the juvenile to understand; however, certain legal terms are contained in the form. It is expected that attorneys will explain these forms until their clients understand.

The forms used for admissions are to be substantially in the forms found at paragraphs (C)(4) and (D). The questions set forth are the minimal standard. A judicial district may choose to add requirements to these admission colloquies. Any addition to the required colloquies is considered a local rule and the procedures of Rule 121 and Rule of Judicial Administration 103(d) are to be followed if a judicial district chooses to make additions. *See* Pa.R.J.C.P. 121; Pa.R.J.A. No. 103(d).

The admission colloquies can be downloaded from the Supreme Court's webpage at <http://www.pacourts.us/forms/juvenile-delinquency-forms>. The forms are also available in Spanish.

The Pennsylvania Juvenile Collateral Consequences checklist is also available on the Supreme Court's webpage.

Nothing in this rule precludes the court from entering a consent decree after the acceptance of an admission.

Official Note: Rule 407 adopted April 1, 2005, effective October 1, 2005. Amended January 18, 2012, effective April 1, 2012. Amended January 23, 2017, effective April 3, 2017. Amended May 26, 2021, effective October 1, 2021. Amended November 30, 2021, effective April 1, 2022.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 407 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 407 published with the Courts' Order at 42 Pa.B. 664 (February 4, 2012).

Final Report explaining the amendments to Rule 407 published with the Courts' Order at 47 Pa.B. 820 (February 11, 2017).

Final Report explaining the amendments to Rule 407 published with the Courts' Order at 51 Pa.B. 3090 (June 5, 2021).

Final Report explaining the amendments to Rule 407 published with the Courts' Order at 51 Pa.B. 7627 (December 11, 2021).

Source

The provisions of this Rule 407 amended January 18, 2012, effective April 1, 2012, 42 Pa.B. 664; amended January 23, 2017, effective April 1, 2017, 47 Pa.B. 820; amended May 26, 2021, effective October 1, 2021, 51 Pa.B. 3090; amended November 30, 2021, effective April 1, 2022, 51 Pa.B. 7627. Immediately preceding text appears at serial pages (405387) to (405394).

Rule 408. Ruling on Offenses.

A. *Entered finding.* Within seven days of hearing the evidence on the petition or accepting an admission under Rule 407, the court shall enter a finding by specifying which, if any, offenses, including grading and counts, alleged in the petition were committed by the juvenile.

B. *Did not commit acts.*

1) If the court finds the juvenile committed none of the alleged delinquent acts, the court shall dismiss the petition and release the juvenile, if detained, unless there are other grounds for the juvenile's detention.

2) The court shall order, *sua sponte*, the expungement of the record and destruction of fingerprints and photographs related to the dismissed petition pursuant to 18 Pa.C.S. § 9123(a)(1), 42 Pa.C.S. § 6308, and Rule 170(A).

3) Absent cause shown, the court shall expunge or destroy the records, fingerprints, and photographs.

C. *Committed act.* After an adjudicatory hearing, if the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409 or enter a consent decree pursuant to Rule 370.

Comment

Under paragraph (A), for any offense the court finds that the juvenile committed, the court is to specify the grading and count(s). *See* 42 Pa.C.S. § 6341(b). It is noted that some offenses have no specific grading, i.e., ungraded felony or misdemeanor of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 *et seq.*, or the ungraded delinquent act of failure to comply with a sentence for a summary offense, 42 Pa.C.S. § 6302 (definition of “delinquent act”).

Pursuant to paragraph (B), if the court finds that the juvenile committed none of the alleged delinquent acts, the court, *sua sponte*, is to expunge or destroy the records, fingerprints, and photographs pursuant to Rule 170(A) and 18 Pa.C.S. § 9123(a)(1). Absent cause shown, the court is to expunge the records pursuant to Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no expungement or destruction of records, fingerprints, or photographs.

In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. *See* Comment to Rule 170 for further definition of a reference number.

Paragraph (C) requires that there is to be an adjudicatory hearing before proceeding pursuant to Rule 409. This rule is not meant to preclude the entry of a consent decree after a finding on an offense pursuant to paragraph (C). If a consent decree is ordered, the court does not proceed under Rule 409.

If the court finds that the juvenile committed none of the alleged delinquent acts and dismisses the petition, the victim, if not present, shall be notified of the final outcome of the proceeding. *See* Victim’s Bill of Rights, 18 P.S. § 11.201 *et seq.*

Official Note: Rule 408 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 26, 2011, effective July 1, 2011. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 408 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 408 published with the Court’s Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 408 published with the Court’s Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 408 published with Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

Source

The provisions of this Rule 408 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447. Immediately preceding text appears at serial pages (360301) to (360302).

Rule 409. Adjudication of Delinquency.

A. *Adjudicating the Juvenile Delinquent.* Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) *Not in Need.* If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, the court shall enter an order providing that:

- a) the petition shall be dismissed and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; and
- b) any records, fingerprints, and photographs taken shall be expunged or destroyed.

2) *In Need.*

a) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512.

b) The court also shall order the law enforcement agency that submitted the written allegation:

- i) to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and
- ii) to ensure that these records, including the case reference number, are forwarded to the central repository maintained by the Pennsylvania State Police.

B. *Timing.*

1) If the juvenile is in detention, the court shall make its finding within twenty days of the ruling on the offenses pursuant to Rule 408.

2) If the juvenile is not in detention, the court shall make its finding within sixty days of the ruling on the offenses pursuant to Rule 408.

C. *Extending Time by Agreement.* The time restrictions under paragraphs (B)(1) and (B)(2) may be extended if there is an agreement by both parties.

Comment

Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. *See* 42 Pa.C.S. § 6341(b).

If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation and the court enters an order dismissing the petition, the victim, if not present, shall be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

This rule addresses adjudicating the juvenile delinquent or dismissing the petition. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

Pursuant to paragraph (A)(1)(b), the court is to specify which items are to be expunged and which items are to be destroyed. *See* Rule 172(A)(2) and its Comment.

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. *See* Comment to Rule 170 for further description of a case reference number.

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. *See* 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, see Chapter Five.

Official Note: Rule 409 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 26, 2011, effective July 1, 2011. Amended July 28, 2014, effective September 29, 2014. Amended April 23, 2018, effective July 1, 2018.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 409 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 41 Pa.B. 3180 (June 25, 2011).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 48 Pa.B. 2615 (May 5, 2018).

Source

The provisions of this Rule 409 amended December 24, 2009, effective immediately, 40 Pa.B. 222; amended May 26, 2011, effective July 1, 2011, 41 Pa.B. 3180; amended July 28, 2014, effective September 29, 2014, 44 Pa.B. 5447; amended April 23, 2018, effective July 1, 2018, 48 Pa.B. 2615. Immediately preceding text appears at serial pages (392311) to (392312).

Rule 415. Challenge to the Weight of the Evidence.

A. *Timing and Manner.* A claim that a ruling on the offense or an adjudication of delinquency was against the weight of the evidence shall be raised with the juvenile court judge:

- 1) by oral motion, on the record, at any time after the ruling or adjudication and before disposition;
- 2) by written motion at any time after the ruling or adjudication and before disposition; or
- 3) in a post-dispositional motion pursuant to Rule 620(A)(1).

B. *Decision.* If the claim is raised before disposition:

- 1) the judge shall decide the motion before entering disposition and shall not extend the date for disposition or otherwise unduly delay the disposition hearing in order to dispose of the motion; and
- 2) the claim shall be preserved for appeal.

C. *Appeal.* An appeal of a decision shall be governed by the timing requirements of Rule 620(B)(2) or (3), whichever applies.

Comment

The purpose of this rule is to make it clear that a challenge to the weight of the evidence must be raised with the juvenile court judge or it will be waived. *See also In re J.B.*, 106 A.3d 76, 95 (Pa. 2014) (claim cannot be raised via closing argument). When a claim is raised pursuant to paragraph (A)(1) or (A)(2), it need not be raised again in a post-dispositional motion to preserve the claim for appeal.

Official Note: Rule 415 adopted May 23, 2018, effective October 1, 2018.

Committee Explanatory Reports:

Final Report explaining the adoption of Rule 415 published with the Court's Order at 48 Pa.B. 3407 (June 9, 2018).

Source

The provisions of this Rule 415 adopted May 23, 2018, effective October 1, 2018, 48 Pa.B. 3407.

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