LOCAL RULES OF THE JUVENILE COURT FOR THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

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Rule 1. Scope and Purpose

These rules shall govern the practice and procedure in the Juvenile Court of Metropolitan Nashville and Davidson County, Tennessee. These rules will be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay. The Judge will deviate from these local rules only in the exceptional cases where justice so requires. These rules supersede all Rules of Practice and Procedure in the Juvenile Court of Metropolitan Nashville and Davidson County, Tennessee. These rules are effective August 1, 2016.

Rule 2. Courtroom Decorum

There will be no use of tobacco products, eating, drinking or chewing of gum in the courtroom. Attorneys and court staff may have drinks in closed containers in the courtroom. Attorneys, court attendants and all parties will be appropriately dressed while in court attendance.

There will be no telephones or other electronic devices allowed in the court unless the device is silenced. No texting, recording, photography or emailing will be allowed in the courtroom while court is in session, absent permission of the Court.

Rule 2a. Nashville Bar Association's Professionalism Committee Lawyer's Creed of Professionalism

PREAMBLE

A lawyer owes to the administration of justice personal dignity, integrity and independence and a duty to make the system of justice work fairly and efficiently. In order to carry out that responsibility, a lawyer must comply with the letter and spirit of the disciplinary standards applicable to all lawyers, as well as conducting himself or herself in accordance with the following Creed of Professionalism when dealing with a client, adverse parties, their counsel, the Courts and the general public.

WITH RESPECT TO MY CLIENT:

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my judgment or ability to provide my client with objective and independent advice;
2. I will endeavor to achieve my client's lawful objectives in all matters of representation as expeditiously and economically as possible;
3. In approaching cases, I will counsel my client with respect to mediation, arbitration, and other alternative methods of resolving disputes;
4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and against insisting on tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
5. I will advise my client that civility and courtesy are expected and are consistent with zealous representation;

6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.
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WITH RESPECT TO ADVERSE PARTIES AND THEIR COUNSEL:

1. I will conduct myself with candor, in a spirit of cooperation and scrupulously observe all agreements and mutual understandings;
2. I will be courteous and civil, both in oral and in written communications;
3. I will not knowingly make statements of fact or of law that are untrue;
4. I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
5. I will endeavor to consult with adverse counsel before making scheduling decisions and before any required rescheduling, and I will cooperate with adverse counsel when scheduling changes are requested;
6. I will not use litigation or any other course of conduct to abuse or harass, such as seeking discovery which is clearly improper, abusive or excessive, or seeking sanctions or disqualification unless it is justified both by my client's lawful objective and by the interests of justice;
7. I will not use tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
8. In all matters of legal representation I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect, including making disparaging personal remarks toward adverse parties, counsel and witnesses and making demeaning comments regarding race, religion, national origin or gender*;
9. I will not provide drafts of time sensitive documents or serve pleading, motions or briefs on another party or counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;
10. In business transactions I will not unreasonably quarrel over irrelevant matters of form or style, but will concentrate on matters of substance and content;
11. I will attempt to prepare and revise documents which correctly reflect the agreement of the parties, and will not purposely include provisions which have not been agreed upon or purposely omit provisions which are necessary to reflect the agreement of the parties;
12. I will clearly identify, for other counsel or parties, all changes that I have made in documents submitted to me for review;

13. Where consistent with my client's interest, I will communicate with adverse counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;
14. I will not take action adverse to the interests of a party known to be represented by counsel without notice to adversary counsel sufficient to permit a response;
15. I shall respond promptly to attempts by other lawyers to contact me whether by telephone or by correspondence.

WITH RESPECT TO THE COURTS AND OTHER TRIBUNALS:

1. I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the Court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;
2. I will treat with respect the Court, members of the jury, witnesses, adverse parties and adverse counsel;
3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;
4. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;
5. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleading and discovery requests;
6. When hearings or depositions have to be canceled, I will notify adverse counsel, and, if appropriate, the Court as early as possible;
7. Before setting dates for hearings or trials (or if that is not feasible, immediately thereafter) I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court and adverse counsel of any likely problem in that regard;
8. I will be punctual in attending Court hearings and depositions;
9. I will be candid with the Court at all times;
10. I will refrain from commentary that reflects or references race, religion, national origin or gender* in a demeaning fashion.

WITH RESPECT TO THE PUBLIC AND TO OUR SYSTEM OF JUSTICE:

1. The law is a learned profession and I am committed to its goals of devotion to public service and improvement of the administration of justice;
2. I will keep myself current in the areas in which I practice and, when necessary, will associate with, or refer my client to counsel knowledgeable in another field of practice;
3. I will be mindful that the law is a self-regulated profession and it is my duty to report unprivileged knowledge of any violation of D.R. 1-102;
4. I will be mindful of the need to protect the interests of the public and promote the image of the justice system in the eyes of the public when considering methods and contents of advertising;
5. I will contribute my talents, time, resources and civic influence on behalf of those persons who cannot afford adequate legal assistance and those organizations which serve the public good;

6. I will give of my talents and time to the organized bar to better the professional education of the bar, assist in efforts to improve the law, aid in efforts to assist colleagues and to promote public understanding of the justice system.

*The Davidson County Juvenile Court adds "gender identity and sexual orientation" to all references to "race, religion, national origin or gender" in the Creed of Professionalism.

Rule 3. Sessions and Office Hours

There shall be a session of Court daily, except on non-judicial days, which are Saturdays, Sundays, and holidays. Court hours are 8:00 a.m. to 4:30 p.m. Exceptions to this schedule may be authorized by the Magistrate or Judge assigned to a case. Other days and hours may be designated by the Judge. Unless the Judge directs otherwise, a Magistrate may hear any case in which the Court has jurisdiction, with the exception of judicial bypass.

The offices of the Court shall be open for the regular transaction of business from 8:00 a.m. to 4:30 p.m., except on non-judicial days.

Rule 4. Court Costs and Filing Fees

Costs for filing a pleading, service of process, and court costs are to be established and assessed by the Clerk of the Juvenile Court. The schedule of fees is available for inspection and copying upon request in the Office of the Juvenile Court Clerk. Filing fees or costs may be waived by the Court for good cause.

Rule 5. Pleadings and Exhibits

All pleadings filed or presented to this Court shall be on letter-sized (8 ½" x 11") paper. An original pleading shall be filed in all causes and shall be accompanied by sufficient copies necessary for service upon the parties and sibling files. Attorneys shall provide copies of all exhibits for the Court and parties.

Rule 6. Service of Process, Subpoenas and Other Documents

Except as provided below, all process shall be delivered directly to the Office of the Juvenile Court Clerk. Process shall be issued by the Clerk of the Juvenile Court and shall be completed by the appropriate statute or rule of procedure.

After service of process is effectuated by personal service for an initial scheduling and the party has presented him/herself to the Court, subsequent notice may be made by mail or in open court. All parties shall appear at all proceedings unless excused by the Judge or Magistrate.

Rule 7. Record of Proceedings

The Clerk shall record the proceedings in all hearings. Audio/video recordings shall be catalogued and maintained within the Office of the Clerk, by the Clerk, for a period of one (1) year. Requests to maintain recordings beyond this period must be filed by Order of the Court with the Clerk and include a specific time period recordings shall be held.

Rule 8. Scheduling of Hearings and Continuances

1. At any time prior to the trial date upon Motion of any party or on its own Motion, the Court may refer any appropriate case for mediation.
2. Cases may be continued only by leave of Court. Cases will not be continued except for good cause. All cases continued by leave of the Court will be by written order stating the reason for passing, at whose instance, and the date of reassignment. Agreed upon continuances shall be by Order signed by counsel for all parties and shall specify a new trial date. It is the responsibility of the party requesting the continuance to notify all parties and witnesses subpoenaed of the continuance and the reset Court date. A Motion must be filed unless otherwise approved by the Court.
3. No case shall be "continued indefinitely". Any case not specifically scheduled for hearing within one (year) of the date of filing or last issued process or service, whichever is later, shall be subject to dismissal pursuant to Rule 15 of the Local Rules.
4. Absence of a witness will not be grounds for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and the Rules of Civil Procedure.
5. When a case is set without objection, failure to complete discovery, unavailability of counsel on the trial date, inability to take depositions, or failure to complete any other trial preparation will not be grounds for a continuance, except for good cause shown prior to trial date. In cases continued or passed for reassignment, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as Court costs.
6. All dispositional hearings shall occur immediately after the adjudication of a petition unless the Court deems otherwise. The Court may on its own Motion set a later dispositional date.
7. Bond in Transfer Hearings:

If a child is detained beyond the statutory ninety (90) day time period, upon appropriate application to the Court by the attorney for the child, the Court will entertain a Motion to Set Bond.

Rule 9. Guardian Ad Litem and CASA

The Court may appoint a guardian ad litem either on its own Motion or at the request of any party when the Court deems such an appointment to be appropriate.

The Court may also appoint CASA to act on behalf of a child in determining the best interest of the child. Any party to a proceeding may request that CASA be appointed to the case. CASA shall be given notice of all hearings, staffings, adjudications, dispositions and any other notices given to the parties with regards to the case in which they were appointed. CASA shall be entitled to be present at any court proceedings or any other formal or informal proceeding, including, mediations, pre-trial conferences or other such proceedings involving the child and to which the other parties have a right to be present.

Rule 10. Motions

I. Motions – Generally

(a) Motions shall be set for hearing on the Dockets designated by the Judicial Officers to whom the case has been assigned. Legal argument may be heard and agreements announced on the Motion docket. Testimony will not be heard at the initial Motion docket. If testimony is required, the case will be re-docketed. Briefs and responses may be required at the discretion of the judicial officer.

(b) Motions shall be filed at least fourteen (14) days prior to setting for hearing, unless special approval from the Court is obtained prior to the filing. Any request for reimbursement of attorney fees requested from Metropolitan Government shall give two (2) weeks' notice to the Legal Department.

Motions to Withdraw may set forth language as follows: *"Failure to file a response prior to the Motion date may result in the Motion being granted."* If said language is included, the attorney need not appear. If someone appears and opposes said Motion, it will be docketed for hearing and all parties notified.

Complex and Lengthy Fee Request Motions may include language as follows: *"This Motion is expected to be heard at _____ on _____, 20___ before the Honorable _____; if no one appears to oppose said Motion, the Court will review the fee request without the necessity of a hearing."*

(c) Motions for Discovery in Dependent and Neglect cases shall be routinely granted unless a written objection is filed. If an objection is filed, the Motion shall be set for a contested hearing.

(d) "Special" set Motions must have prior approval of the Court and shall not be set upon the Docket unless the movant certifies as documented in the certificate of service that he/she has attempted to resolve the matter by making contact with all attorney/parties and that circumstances necessitate the Motion needs to be set outside the fourteen (14) day rule.

II. Motions – Delinquency Proceedings

Delinquency pre-trial Motions must be set on the Motion docket of the judicial officer set to hear the trial on the general issue.

The following must be raised prior to trial or transfer hearing by written Motion:

- Motions to Suppress evidence
- Request for discovery and inspections
- Requests for a severance or consolidation of charges or defendants

Failure of a party to raise defenses or objections or to file Motions required prior to trial shall constitute waiver thereof, but the Court may grant relief from the waiver for good cause.

III. Motions for Depositions of Victims for Juvenile Court Proceedings – Criminal Court Case Pending

Attorneys filing Motions to depose victims in neglect, abuse or sexual abuse cases or children in custody cases where neglect, abuse or sexual abuse is alleged, shall give notice to the Office of the District Attorney General and criminal defense counsel when the attorney is aware that a criminal charge is pending regarding the same matter.

Rule 11. Certificate of Readiness – Witness and Exhibit Lists

In all cases set for adjudication and/or disposition except for delinquency cases, a Certificate of Readiness containing the following shall be filed with the Court and served upon all parties no later than ten (10) days prior to the scheduled hearing.

(a) A Witness List – including the names, addresses and phone (if known) of all witnesses (other than impeachment and rebuttal witnesses). Any witness not so listed shall not testify other than impeachment or rebuttal witnesses.

(b) An Exhibit List – copies of exhibits to be proffered at trial (other than impeachment or rebuttal exhibits). Exhibits, which are not easily capable of photocopy reproduction, shall be identified and made available for inspection by opposing counsel.

Failure to comply with this rule could result in sanctions to the attorneys and offending parties' witnesses not being able to testify.

Rule 12. Mediation and Parenting Plans

Parties shall be made aware that Mediation services are available and may be ordered at the discretion of the court in contested cases. The Court may also order that a Parenting Plan be submitted and incorporated by reference into any Final Order. The Court may also require co-parenting classes.

Rule 13. Extraordinary Relief

In any case where extraordinary relief is needed or requested, a Petition must be filed. The Court will determine whether the matter is an emergency and should be heard immediately ex parte or whether all parties can be given notice prior to the hearing on the request for extraordinary relief. Any request for extraordinary relief must comply with statutory requirements.

Restraining Orders: No restraining order shall be granted unless notice is given to the opposing party or good cause for dispensing with notice is shown and supported by affidavit. Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the Court. The restraining order shall provide for the setting of a hearing for a temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing.

Granting of Age Waiver for Marriage License: The Court may determine whether to grant judicial consent authorizing the county clerk to issue a marriage license waiving the waiting period or age limit upon proper application consistent with *Tenn. Code Ann. § 36-3-107.*

Judicial Bypass: The Court may determine whether to grant judicial consent to abortion upon proper application consistent with *Tenn. Code Ann. § 37-10-304.*

Request for Authorization for Use of Child in Law Enforcement Operation: The Court may determine whether to grant permission to use a child in a law enforcement operation.

Handling of Criminal Injuries Compensation Awards for Minors: Where an attorney has been directed by the Tennessee Claims Commission or the Division of Claims Administration to turn over criminal injury compensation awards to the Juvenile Court Clerk's Office, said money shall be accompanied by a petition and order directing the clerk to establish an account for the minor child. The petition shall state the child's name, social security number, that the funds are a result of criminal injury compensation award and the amount that is to be tendered into the Court. The petition will also request that the funds be placed in an interest bearing account for the benefit of the minor child. The order shall state the child's name, when the money was received by the Court, the amount being tendered to the Court, that the same shall be placed in an interest bearing account, that to encroach the fund a Motion must be filed setting out the need for the funds, the location of the account, and a certificate of service to the custodian of the minor child and any other appropriate individuals.

Form petitions meeting the requirements of this rule may be obtained from the Court Clerk's Office. Encroachment on the funds shall be allowed for any injury related expenses specifically contemplated by the claims commission in granting the compensation award. Encroachment on the funds may also be allowed for unusual

medical expenses (e.g., eyeglasses or braces) or unusual educational opportunities, (e.g., school field trips), or other needs with good cause shown. In order to obtain encroachment on the funds, the custodian or other appropriate individuals must file a Motion with the Juvenile Court. The Motion shall state the child's name, the amount of money being currently held in the clerk's office for the benefit of the minor child, the particular need or expense for which disbursement is sought, and the amount sought. A written estimate or other appropriate documentation of the specific amount requested should be attached to the Motion.

The clerk's office shall ensure that the attorney who represented the child in obtaining the compensation award is served with a copy of any Motion to encroach. The attorney shall either appear at the hearing on the Motion or the custodian or individual petitioning the Court to encroach shall be placed under oath and shall testify as to the child's need. If the Court grants the Motion, an order shall be filled out stating the date, the amount of the disbursement, and to whom the check(s) are to be made payable. In the event that the check is to be made payable to a health care provider, school, agency or other appropriate person, the clerk's office shall be charged with the responsibility of obtaining the address of the healthcare provider, school, agency or other appropriate person and forwarding the check directly to them. In the event the sum is made payable to the custodian or other appropriate individual, that person shall be responsible for making an accounting to the Court within thirty (30) days from the date of the hearing as to how the money was spent. In these situations, the Court shall direct a deputy clerk to monitor the file and issue a show cause hearing in the event the custodian or other appropriate individual does not make the accounting to the Court.

Rule 14. Dormant cases

To expedite cases, the Court may take reasonable measures to purge cases that have not been disposed or scheduled for hearing within 12 months of the date of filing, last summons issued or service, whichever is later.

Rule 15. Orders and Decrees

Unless otherwise directed the prevailing party shall draw the order and file the same within 10 days of the hearing (excluding non-judicial days). All Orders must include a certificate of service to all parties.

Any Agreed Order that is announced in open court on the record does not have to be circulated to parties for their signature(s) prior to being submitted to the Clerk but must state in the body of the Order that the agreement was announced in open court, unless otherwise specified.

Required Additional Language for Magistrate Orders: The following language should be inserted in all Magistrate orders: "*This order may be appealed to the Juvenile Court Judge or as provided by Statute, by filing a request for rehearing with the Juvenile Court Clerk. This order must be obeyed until the Judge rules otherwise.* ***ANY FAILURE TO COMPLY WITH THIS MAGISTRATE'S ORDER IS***

PUNISHABLE BY CONTEMPT, FOR WHICH THE PENALTIES MAY INCLUDE A FINE AND/OR IMPRISONMENT."

Rule 16. Restitution

The Court may set restitution in Delinquency cases on Motion. The Court may limit discovery if it determines that the information sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or expensive, or the discovery sought is unduly burdensome or expensive, taking into account, the needs of the child and the case.

It is not necessary for the victim to attend the Motion for Restitution docket. If no settlement is reached, the matter will be set for hearing on the issue of restitution and the victim notified to attend.

The amount of restitution may be "Reserved" by the State at disposition for future action when, in the opinion of the Court it is in the child's best interest to begin treatment and rehabilitation despite the fact that the amount of restitution is unresolved.

If the child is found to be delinquent, the Court shall determine if any monetary damages actually resulted from the child's delinquent conduct. Upon a determination that monetary damages resulted from such conduct, the Court shall order the child to make restitution for such damages unless the Court further determines that the specific circumstances of the individual case render such restitution, or a specified portion thereof, inappropriate. *Tenn. Code Ann. § 37-1-131(b)(1).*

Rule 17. Foster Care Review Board Proceedings

Rule 17.a. Applicable Rules

Davidson County Foster Care Review Board (FCRB) Program will abide by Rule 403 of the Tennessee Rules of Juvenile Practice and Procedure in addition to the local rules set forth herein.

Rule 17.b. Scheduling & Notice

The Department of Children's Services (DCS) is required to provide written notice to all parties, their attorneys, guardian ad litem (GAL) and foster parents. Timely notice must be given not less than ten (10) calendar days prior to the scheduled board review.

Should there be an error where notice was not provided in a timely manner, the DCS Liaison shall notify the Court Facilitator, who will have the case reset for the following month.

If a party is not present and it is determined at the board meeting timely notification was not given, the board will not review the case and it will be reset. The DCS Regional Administrator will be notified of the rescheduled review.

If it is determined at the board meeting required documents are missing or outdated, the board will reset the review for the following month. The DCS Regional Administrator will be notified of the rescheduled review.

The board will reschedule the review for the following month if a child is absent without prior approval from the Court Facilitator. The Court will notify the DCS Regional Administrator of the rescheduled review. If the rescheduled review is unable to proceed because of the child's absence, the board will file a direct referral to the Court and notify the DCS Regional Administrator and the DCS Commissioner.

Timely notice must be provided to all parties by DCS prior to any rescheduled review. If it is determined timely notice was not given to all parties or necessary documentation was not provided, the board will file a direct referral to the Court notifying the DCS Regional Administrator and the DCS Commissioner of the noncompliance.

Rule 17.c. Documentation

A copy of each notification letter must be included in the case documentation packet submitted to the Court. Each notification letter must identify the intended party, their association to the case, method of contacting the party with address, e-mail address and/or telephone number and the date notice was given.

All required documentation shall be transmitted to the Court Facilitator at least ten (10) days prior to the scheduled review. The DCS Liaison shall ensure its accuracy and completeness prior to submitting packet to the Court. The DCS Liaison shall ensure compliance with this policy.

The Court Facilitator will review the case packets when received and notify the DCS Liaison via email if any documentation is missing and/or outdated. DCS shall then supply the missing information.

Rule 17.d. Quorum and Attendance

The Court Facilitator is responsible for determining that a quorum of members, with a minimum of four (4), exists prior to each review. The review will only proceed if all necessary persons are present or it is determined that those who are absent were provided proper notice.

All children and youth in Foster Care shall attend all initial and subsequent reviews. DCS is responsible to facilitate the transportation for the child to attend the reviews. DCS shall arrange for transportation whether the child's placement is a DCS Foster home, a contract facility or an agency placement.

If the youth or young adult (age 14 & older) is scheduled to meet with a peer advocate, DCS shall assure they arrive 30 minutes prior to the scheduled review time.

Prior approval from the Court Facilitator is necessary for any child's absence from the review. Such absence will only be approved if a medical doctor determines attendance poses some risk to the child or if there are extenuating circumstances and supporting documentation is provided. The board will reschedule the review for the following month if a child is absent as set forth above.

The board members will vote on resetting the review upon late arrival of any party.

Rule 17.e. Conduct of the Review

The board members will ask questions and hear testimony from the parties. All parties including children, parents, attorneys and DCS will exit the meeting room for the board to deliberate. Only the Court Facilitator and the board members are allowed to be present for deliberation and recommendation development. The parties and attorneys should return to hear the board's recommendations.

Rule 17.f. Extension of Foster Care (EFC)

Pursuant to DCS policy, the 'Best Interest' Order must be issued by the Court of Jurisdiction within one hundred seventy-nine (179) days of the Voluntary Placement Agreement (VPA) date. The VPA date counts as day one (1). The young adult becomes ineligible for Title IV-E on the one hundred eighty-first (181st) day from the Voluntary Placement Agreement (VPA) date, for the rest of the EFC episode. DCS should file its Motion for a Best Interest Hearing within thirty (30) days of the youth signing a voluntary placement agreement so that scheduling of FCRB and annual Permanency Planning Hearings can be expedited.

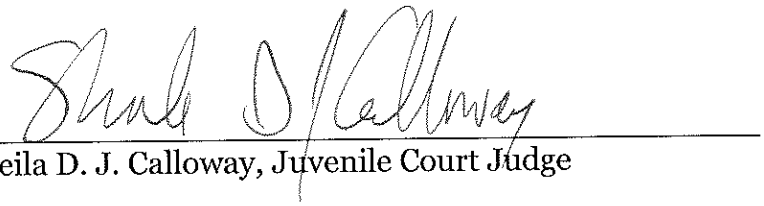
Rule 18. Requirements for Court Appointed Counsel in Delinquency and Dependent and Neglected Cases

Absent judicial waiver by the Judge of the Court, before any attorney shall be eligible to accept appointments for Delinquency or Dependent and Neglected cases in Davidson County Juvenile Court, he/she shall have attended training seminars approved by the Court. Information on becoming eligible is available through the STAR (Statistics, Training, Analysis, and Resources) Team of Juvenile Court.

Rule 19. Waivers or Modification of Rules

Any of the rules herein enacted may be waived or modified by special order of the Court when in the Court's opinion such waiver or modification is necessary in order to do justice or to arrive at the equities of the case between or among the parties involved.

Entered on the minutes of the Court and filed with the Juvenile Court Clerk, this the 2nd day of September, 2016.



Sheila D. J. Calloway, Juvenile Court Judge

AMENDED September 2016