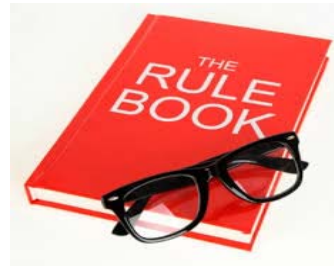


USING THE LOCAL RULES OF JUVENILE COURT TO YOUR ADVANTAGE:

A VIEW FROM THE DAVIDSON COUNTY BENCH

JUDGE SHEILA D.J. CALLOWAY
DAVIDSON COUNTY JUVENILE COURT

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DAVIDSON COUNTY JUVENILE COURT



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When you know your Local Rules, even the grumpiest judge will smile when they see you walk into the courtroom.



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Why do we have Local Rules of Court?

Tennessee Supreme Court Rule 18

Rule 18. Local Rules of Practice in the Trial Courts of Tennessee.

- ▶ (a) The judges in each judicial district shall adopt written uniform local rules prescribing procedures for
 - ▶ (1) setting cases for trial;
 - ▶ (2) obtaining continuances;
 - ▶ (3) disposition of pre-trial motions;
 - ▶ (4) settlement or plea bargaining deadlines for criminal cases;
 - ▶ (5) preparation, submission and entry of orders and judgments.
- ▶ Each judicial district may also adopt other uniform rules not inconsistent with the statutory law, the Rules of the Supreme Court, the Rules of Appellate Procedure, the Rules of Civil Procedure, the Rules of Criminal Procedure, the Rules of Juvenile Procedure, and the Rules of Evidence.



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Where can I find the Local Rules for the Juvenile Court in my county?

A screenshot of the Tennessee State Courts website. The page is titled "LOCAL RULES OF PRACTICE" and lists the local rules for various judicial districts. The left sidebar contains a navigation menu with categories like "COURT RULES", "SUPREME COURT", "COURT OF APPEALS", "COURT OF CRIMINAL APPEALS", "APPELLATE COURT CLERK'S OFFICE", "CIRCUIT, CRIMINAL, CHANCERY & BUSINESS COURTS", "GENERAL SESSIONS COURTS", "JUVENILE & FAMILY COURTS", "MUNICIPAL COURTS", and "COURT CLERKS". The main content area lists the following:

- 1st Judicial District**: Carter, Johnson, Union, Washington counties; Civil, Chancery, and Criminal Courts; Johnson City Juvenile Court
- 2nd Judicial District**: Sullivan County; Civil and Chancery Court Rules; Criminal Court Rules
- 3rd Judicial District**: Hancock, Hawkins, Hamblen, Greene counties; Civil Court Rules; Civil Court Appendices F, G, H (Excel format); Civil Court Appendix I; Chancery Court Rules; Chancery Court Financial Statement (Excel format)
- 4th Judicial District**: Cooke, Granger, Jefferson, Sevier counties; Civil Court Rules (Criminal); Civil Court Rules (Civil); Chancery Court Rules; General Sessions Court Rules of Jefferson County
- 5th Judicial District**: Blount County; Civil Court Divisions I and II, and Chancery Court for Blount County Cases Only
- 6th Judicial District**: Knox County; Chancery Court Rules (Effective 06-01-13); Civil Court - Divisions I, II, III (Effective 07-01-00); Criminal Court Rules Revised (Effective 06-01-14); Juvenile Court Rules
- 7th Judicial District**: Anderson County

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Example of Local Rules: Davidson County Juvenile Court



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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.



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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.

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



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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.

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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.

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Rule 5. Pleadings and Exhibits

All pleadings filed or presented to this Court shall be on letter-sized (8 1/2" 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.**



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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.****



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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.



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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.

3. 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.

4. 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.



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Rule 8, continued:

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.

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Rule 10, continued:

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.

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Rule 10, continued:

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.

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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.



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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.



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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
- Granting of Age Waiver for Marriage License
- Judicial Bypass
- Request for Authorization for Use of Child in Law Enforcement Operation
- Handling of Criminal Injuries Compensation Awards for Minors





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 twelve (12) months of the date of filing, last summons issued or service, whichever is later.

In all parentage cases, including, but not limited to, all IV-D child support cases, custody and parenting time cases, if the case is not disposed of within twelve (12) months of the date of filing, last summons issued or service, whichever is later, the case shall be dismissed unless the party petitioning the court files for relief from this rule prior to the dismissal.

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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 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."*



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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.

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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.

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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.

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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.

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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.



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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 (Students, Training, Attorneys, and Resources) Team of Juvenile Court.

TRAINING



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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.



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Make sure you also know the **UNWRITTEN** Local Rules of Juvenile Court in your jurisdiction.



- ❖ Know your Judges!
- ❖ Don't put the Judicial Officers in awkward situations:
 - Communicating with a Judge about a "hypothetical" case is probably inappropriate
 - Sending clients to ask for continuances/Asking to "appear by phone"
 - "Threatening" the Judge with an appeal even before the decision is made
 - Ask before you enter

10 WAYS TO BE A GREAT ADVOCATE:

- ▶ Remember your comments on social media are not always private.
- ▶ Remember your conversations around the courthouse can be overheard.
- ▶ Remember your attitude with staff can reflect on you positively or negatively.
- ▶ Remember that concerns should be addressed in a respectful manner to the Court Administrator or staff supervisors, not the Judicial Officers.
- ▶ Remember that your clients deserve to know you care about their case.
- ▶ Remember to maintain appropriate contact with your clients.
- ▶ Remember to be prepared for court.
- ▶ Remember to be courteous to all parties and the court.
- ▶ Remember you have a right to appeal...no need to argue with the Judicial Officer.
- ▶ Remember to always be willing to learn more and improve your practice.

