

## **RULE 16. Exhibits and Evidence**

Counsel is responsible for marking all trial exhibits prior to commencement of hearing and providing two copies of all documentary exhibits to the Court. All exhibits must be marked and identified if referenced on the record. Once marked and admitted, all exhibits will be maintained in the sole possession of the court until the conclusion of the case, including time for appeal, unless the court otherwise orders return of the exhibit. Upon the conclusion of the case including time for appeal, the court may dispose of exhibits pursuant to law and at such time as it deems feasible following notice to proponent, victim, or owner.

Where appropriate and by court order, photographs as defined in Evid. R. 1001(2) may be taken of an exhibit and introduced as evidence in the hearing. The admission of such photographs is subject to the relevancy requirements of Evid. R. 401, Evid. R. 402, Evid. R. 403, the authentication requirements of Evid. R. 901, and the best evidence requirements of Evid. R. 1002.

When evidence requires the use of other devices to be seen or heard, the proponent of the evidence bears the responsibility for producing such equipment or device at the hearing. The following court equipment may be utilized subject to availability through prior arrangement with a case manager or court officer: VHS video tape player, video monitor, compact disc player, and flip chart.

## **RULE 17. Continuances**

~~When all parties are in agreement with a continuance, one party may file a written request for a continuance on behalf of all. Such request shall state the reason for the request and be signed by all other parties or their counsel. The party filing the request may sign for any counsel or party if so authorized. The party filing the request shall then submit it to the bailiff of the assigned judge, or to the case manager of the assigned magistrate in a custody or a dependency, neglect, or abuse case, or in all other cases, to the case manager of the magistrate scheduled to conduct the next hearing. If the court grants the request, the requesting party shall assure that the date selected is accommodating to the schedules of all other parties.~~

~~All other requests for continuances shall state the reasons for the request and shall be filed with the clerk's office no later than 14 days before the hearing sought to be continued and served upon all other parties. The party filing the request for continuance shall then submit it to the bailiff of the assigned judge, or to the case manager of the assigned magistrate in custody or a dependency, neglect, or abuse case, or in all other cases, to the case manager of the magistrate scheduled to conduct the next hearing.~~

Continuances shall only be granted for good cause shown. All requests for continuances shall be in writing, state the reasons for the request and be filed with the clerk's office no later than 14 days before the event or hearing sought to be continued and served upon all other parties. The motion for continuance shall specifically state and name other parties to the action that have indicated their agreement to the continuance request. The party filing the request for continuance shall then submit it to the bailiff of the assigned judge, or to the case manager of the assigned magistrate in a custody or a dependency, neglect, or abuse case, or in all other cases, to the case manager of the magistrate scheduled to conduct the next hearing. The Court shall within three (3) business days, rule upon the continuance and issue a new date if the continuance is agreed to by all parties or set a hearing prior to the scheduled hearing or event date to hear argument of the parties regarding the continuance.

## **RULE 28: Complaints**

### **A. Filing of Complaints**

When a complainant requests an emergency hearing to take a child into custody pursuant to R.C. 2151.31 and 2151.314 for a complaint alleging a child is neglected, dependent or abused, the party alleging the conduct shall file a complaint pursuant to R.C. 2151.27 and Juv. R. 10 no later than one hour prior to the scheduled start of the hearing. For an emergency hearing scheduled less than two hours from the time of the request, the complaint shall be filed within one hour of obtaining the time for the hearing.

For all other initial hearings scheduled for a complaint alleging a child is neglected, dependent or abused, the party alleging the conduct shall file a complaint pursuant to R.C. 2151.27 and Juv. R. 10 no later than one business day prior to the scheduled start of the hearing.

To ensure compliance with Rule 45 of the Rules of Superintendence for the Courts of Ohio, the complainant shall underline and use bold font for all references to a child's name in all complaints, motions and supporting affidavits for any child who is the subject of a complaint alleging the child is neglected, dependent or abused.

### **B. Information Form**

The party filing a complaint alleging a child is neglected, dependent or abused, shall provide the Court, the Guardian ad Litem Division of the Hamilton County Office of the Public Defender and ProKids, with a copy of the Information Form when contacting the Court to schedule the initial or an emergency hearing on the complaint in order to facilitate the appointment of ~~Attorneys/Guardians as Litem~~ Attorneys/Guardians ad Litem and to assist in coordinating transportation for any parent or custodian who may be incarcerated in a local institution. The Information Form may be transmitted to the Court by personal delivery, email or facsimile. A copy of the Information Form is available in the Clerk's Office or on the Court's website.

### **C. Copy of Birth Certificate Required**

A copy of the child(ren)'s birth certificate shall be filed with the complaint or within 60 days if unavailable at the time of filing.

### **D. Notice of Emergency Hearing**

The party requesting an initial or emergency hearing on a complaint alleging a child is neglected, dependent or abused, shall be responsible to provide notice of the date, time and location of the scheduled hearing to all parties, including all counsel and Guardians ad Litem who have been appointed or entered an appearance in the case number associated with the filing. Notice to the parties, including all counsel and Guardians ad Litem, shall be initiated by the complainant within one hour of obtaining the date, time and location of the hearing from the Court. For an emergency hearing scheduled less than two hours from the time of the request, the complainant shall make good faith efforts to provide notice to the parties, including all counsel and ~~Guardians ad Litem~~ Guardians ad Litem. The party requesting the hearing shall provide certification to the Court, prior to or at the start of the hearing, that notification was provided to the party, the means by which notification was

made, and/or the efforts that were made to notify the parties, including all counsel and ~~Guardians ad Litem~~ Guardians ad Litem who have been appointed or entered an appearance in the case number associated with the filing.

## E. Service

A Written Request for Service must be filed with the Clerk identifying the type of service requested, the name and address of the person to be served (if service by certified and/or ordinary mail), and a time stamped copy of the document to be served.

### WHO MUST BE SERVED

1. All persons who are parties to the case as defined in Juvenile Rule 2(Y) must be served, except a child who is the subject of a dependency, neglect, abuse, or custody claim, unless the Court otherwise directs.

Hamilton County Department of Job & Family Services is not required to serve relatives or other caregivers of a child in abuse, neglect and dependency cases unless the child's removal was from the home of the relative or other caregiver.

2. If a party is represented by an attorney, service on the party may be achieved by serving the attorney of record. However, initial pleadings, amended complaints containing substantive changes (i.e. modifications of disposition request, additional factual allegations, parties added) and motions to modify a disposition must be served on the party, not their attorney.
3. Sufficient copies shall be provided to the Clerk for each party to be served.

### WHEN MUST SERVICE BE REQUESTED

The agency or the person filing a complaint alleging abuse, neglect or dependency shall file with the Clerk a Written Request for Service upon all parties to the case within three (3) business days from the filing of a complaint unless the party received personal service of the summons and complaint at an initial hearing. When a request for certified mail service is made, the Clerk will initiate ordinary mail service when the certified mail envelope attempting service is returned with an endorsement stating that the envelope was unclaimed. Upon notification from the Clerk that service has failed or been returned, the agency or person shall file a Written Request for Service upon the parties for which service failed or was returned within three (3) business days of the notification.

## **F. Scheduling Order**

At the preliminary protection hearing on a complaint alleging abuse, neglect or dependency, the Court will journalize a scheduling order to insure the timely completion of the case. The scheduling order shall include any and all orders the Court deems necessary for the timely resolution of the complaint.

Any request for a continuance of the dates ordered must be made pursuant to Rule 17 of these Local Rules. The Court may file a revised scheduling order upon the granting of any continuance.

## **G. Discovery**

Timely exchange of discovery facilitates settlement, enhances preparation, identifies and narrows the issues in controversy, and expedites the hearing process. Broad and timely exchange of discovery is critical in meeting the short statutory timeframes for adjudicating and disposing of child abuse, neglect and dependency complaints in order to achieve the goal of securing a safe, permanent and nurturing home for every child whether that involves maintenance in the home, return home or placement in an alternative, permanent setting.

Discovery authorized by Juv. R. 24 or Civ. R. 26 shall proceed upon the written request of one party to another without a prior court order. Unless otherwise specified by a party, all requests for discovery are presumed to request the inspection, copying, or photographing, of the following discoverable items:

1. Names and last known addresses of each witness to any of the allegations of the complaint and/or witnesses who will testify at the adjudication or disposition of the complaint;
2. Copies of any written statements made by any party or witness to any of the allegations of the complaint and/or witness who will testify at the adjudication or disposition of the complaint;
3. Transcriptions, recordings, and summaries of any oral statement of any party or witness to any of the allegations of the complaint and/or witnesses who will testify at the adjudication or disposition of the complaint;
4. Any scientific reports or other reports that a party intends to introduce at the adjudicatory or dispositional hearing or that pertains to physical evidence that a party intends to introduce;
5. Photographs and any physical evidence which a party intends to introduce at an adjudicatory or dispositional hearing;
6. All police reports containing information relevant to any of the allegations of the complaint;
7. The children's services agency case file (excluding the referral sources, third party investigation reports, foster parent records,

adoption records, attorney-client privileged information and attorney work product) and provider reports;

8. Other evidence favorable to the requesting party and relevant to the subject matter involved in the pending action.

A party requesting discovery shall file the request in a timely manner to allow opposing party time allotted under this Rule to comply with the request, not impact future hearing dates, and allow for completion of discovery by the scheduling order's discovery completion date in the case. The party from whom discovery is requested shall respond to the request within two (2) weeks.

Discoverable materials shall be produced as follows or as otherwise agreed by the parties or instructed by the Court:

1. if the requested party is non-governmental and represented by counsel, at the office of the attorney for the requesting party;
2. if Hamilton County Department of Job & Family Services is the requested party, at the Hamilton County Office of the Prosecuting Attorney;
3. if the Guardian ad Litem is employed by the Hamilton County Public Defender and is the requested party, at the Hamilton County Office of the Public Defender, Guardian ad Litem Division.

Should a party request discovery of any item not specifically provided for under this Rule, the party from whom the item is requested shall comply within two (2) weeks of the request or provide written notification to the requesting party of their intention not to provide said item and their reasoning for doing so.

Parties shall engage in good faith efforts to resolve any dispute that should arise regarding the exchange of discovery. If an unresolvable conflict shall arise between parties regarding discovery, then a motion shall be filed with the Court and a hearing shall be set prior to the expiration of the discovery completion date ordered as part of the scheduling order in the case.

Counsel is ultimately responsible for the production of the discoverable material.

**Documentary Evidence:**

When the discoverable materials are documents, any party may comply with a request for discovery by forthwith mailing or otherwise electronically transmitting accurate and legible copies to the attorney of the requesting party.

**Physical Evidence:**

If a discoverable item is physical evidence or other evidence that is not readily copied, then the item shall forthwith be made available to the requesting party for inspection, photographing or other copying.

**Prohibition Against Copying, Disseminating and Re-releasing Discovery:**

Copies of discovered materials shall not be given by counsel to a party. Attorneys shall not re-release any documents that are shared with them including, but not limited to, reports of the Guardian *ad Litem*, police reports and all supplemental reports.

~~**RULE 33. Waiver of Case Completion Requirement**~~

~~The court may waive the requirement to complete the adjudicatory and dispositional hearings within 90 days if all parties are in agreement.~~