

**TUSCARAWAS COUNTY  
COURT OF COMMON PLEAS**

**JUVENILE DIVISION**

**LOCAL RULES**

**EFFECTIVE AUGUST 23, 2016**

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It is ordered that the following rules be and are hereby adopted for the governance of the practice and procedures in the Tuscarawas County Court of Common Pleas, Juvenile Division, until otherwise provided, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Ohio. The Court may amend or revise these rules as needed or required by law.

These rules are intended to supplement and complement the Ohio and U.S. Constitutions, the Rules of Juvenile Procedure, the Ohio Rules of Civil Procedure, the Superintendence Rules of the Supreme Court of Ohio, and controlling statutes. Any previously ordered Local Rules that conflict with the following rules shall be rendered void and of no force and effect.

These rules shall be construed, applied, and enforced so as to secure just and expeditious determination of all proceedings. For good cause shown, the Court may grant exception to the Local Rules of the Juvenile Court of Tuscarawas County should the circumstances so warrant in any particular case.

These rules are effective June 13, 2014.

These rules are available to view online on the Juvenile Court's website: <http://www.co.tuscarawas.oh.us>. Written copies of these rules are also available for public viewing at the office of the Juvenile Court, 101 East High Avenue, New Philadelphia, Ohio, Room 108, and at the Tuscarawas County Law Library located in the Tuscarawas County Courthouse/Tuscarawas County Office Building.

Copies of these Local Rules have been provided to the offices of the Tuscarawas County Commissioners, Auditor, Treasurer, and Clerk of the Court of Common Pleas, General Division, as well as being filed with the Ohio Supreme Court.

Copies of these Local Rules may be purchased from the Court at a cost of \$5.00 for a complete copy, or at a cost of \$.25 per page for copies of individual rules.

## **1.1 SESSIONS OF COURT**

The Court office shall be open for the transaction of ordinary business from 8:00 a.m. to 4:30 p.m. on all business days, Monday through Friday, except for legal holidays and such other occasions as may be specifically ordered by the Court. Additionally, the Court shall be closed the day after Thanksgiving.

## **1.2 CONDUCT IN COURT**

- A) All parties and witnesses appearing herein shall be treated with professional courtesy and respect by counsel. Conduct which interferes, or tends to interfere with the proper administration of justice and/or the business of the Court is strictly prohibited and may, at the discretion of the Court, subject the offending counsel, parties, or other participants to sanctions including, but not limited to, contempt.
- B) Appearance in Court under the influence of alcohol or drug abuse by any person is strictly prohibited. Any party or other person appearing in this Court who appears to be under the influence of alcohol and/or any drug of abuse may, at the discretion of the Court, be ordered to submit to alcohol testing and drug screening. A positive alcohol test and/or drug test may result in a finding of direct contempt. A finding of contempt may subject the contemnor to a fine, incarceration, or both.
- C) All persons must dress in proper attire when entering the Court facility. No attorney, party, observer, or witness shall be permitted to enter the Court facility or offer testimony while dressed inappropriately, including shorts and/or tank tops, or wear any attire with language which may appear to be inappropriate, discriminatory, or otherwise offensive to another party. It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in Court.
- D) No person shall be permitted to enter the Court facility while exhibiting inappropriate hygiene or appearing to create a public health concern.

## **1.3 OHIO ATTORNEY**

- A) No action in the Court of Common Pleas, Juvenile Division, shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio, unless there is co-counsel admitted to practice in this state. This does not preclude individuals who represent themselves (pro se appearances).
- B) At the request of the Judge or Magistrate, an attorney may be required to present identification that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this state.

#### **1.4 COURT RECORDS**

- A) Official Court records for cases involving juveniles shall be open for review and inspection as required by public records law. All medical reports, psychological reports, social histories, and home studies are considered confidential and shall not be available to any person except by order of the Judge or Magistrate.
- B) Reports and records generated by the Probation Department and Court staff shall be considered confidential information and shall not be made public. The inspection of probation records by attorneys and interested parties shall be governed by Rule 32(c) of the Rules of Juvenile Procedure.
- C) The records of adult cases shall be public records as provided by law.
- D) Most written requests for information (i.e. military, government, employment) will be processed within a reasonable period of time based upon the nature of the request. Written consent of juvenile is required for release of Court information.
- E) In civil cases regarding custody, parenting time, and support, Court records shall be open for review and inspection by parties and counsel of record.

F) Copies of public records shall be provided at a cost of \$.25 per page. If a request is received to send copies by regular U.S. mail, such copies will be mailed only if the cost of the copies, postage, and any other mailing expenses are pre-paid (Section 149.43 O.R.C.).

## **1.5 OFFICIAL RECORD OF PROCEEDINGS**

- A) The Court will make a digital recording of the proceedings as a record of the Court unless a stenographic record is requested. Parties who desire to have a stenographic record of the proceedings must notify the Court in writing, and the requesting party shall pay the costs of the stenographic record unless otherwise ordered by the Court.
- B) The digitally-produced recording of the court proceeding and the previously used audio tapes shall be maintained by the Court for three years from the date of the final appealable order in the case or the final decision on appeal, whichever is later. Any person desiring to preserve the record beyond this period must make arrangements to have the record transcribed.
- C) No public use shall be made by any person, including a party, of any Juvenile Court record, including the recording or transcript thereof of any Juvenile Court hearing, except in the course of an appeal or as authorized by order of the Court.
- D) All requests for typing of transcripts for the purpose of an appeal or objection to a Magistrate's Decision shall be filed with the clerk of the Juvenile Court. All original transcripts produced shall be filed with the clerk and shall become part of the official record of the case. The compensation for preparing transcripts and copies shall be paid forthwith by the party for whose benefit the same is made at an amount and upon such terms as the Court shall determine. No transcript will be prepared by the Court for any party until satisfactory arrangements for payment have been made.

## **1.6 PHOTOGRAPHING, RECORDING, OR BROADCASTING OF PROCEEDINGS**

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No radio or television transmission, voice recording device, or cell phone, other than a device used in making an official record of the proceeding for the Court, or the making or taking of photographs, shall be permitted without the prior approval of the Judge.

## **1.7 FILINGS AND JUDGMENT ENTRIES**

- A) When required on a Court document, an address must be a street address and, if applicable, any post office box numbers used as a mailing address. Also, a telephone number of the attorney must be included on a Court document.
- B) All filings must be legible, on 8-1/2" x 11" paper and type size for the body of the document shall not be less than ten (10) point or greater than twelve (12) point. Filings that are not legible for any reason, including poor handwriting or photocopying may be refused, or if filed, may be stricken unless there is a legibly typed copy attached thereto. The Court will accept for filing only pleadings that are complete.
- C) Any proposed entry submitted to the Court which is subject to Civ. R. 58(B) as modified by Civ. R. 73(I) must contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.
- D) Social Security numbers are confidential and shall not be placed upon any filing in this Court that is available for inspection by the general public.
- E) All financial account numbers shall be treated as confidential and will not be part of the public record. A separate confidential file will be maintained by the Court which contains such numbers.
- F) Pursuant to the authority extended to the Court by Civ. R. 5(E) and Juvenile Rule 8, the Court adopts the following procedures for the

acceptance of facsimile copies, subsequent to the original complaint, of pleadings and other papers not longer than five (5) pages in length:

1. The Court shall maintain an independent private telephone line, publish the number of the same, and maintain a facsimile machine for utilization by members of the bar authorized to practice law in Ohio and/or pro se parties in filing documents with the Court and its clerk as provided herein. The facsimile number is (330) 364-3190.
2. The filing of pleadings or other papers, subsequent to the original complaint and not requiring a security deposit pursuant to Local Rule, may be filed with the clerk by facsimile copy. Within three (3) business days after the transmission to the clerk of a facsimile copy, an original document bearing original signatures shall be filed with the clerk. The clerk shall docket any facsimile copy when received as a facsimile copy. Thereafter, when the original document is filed, the clerk shall docket it in the usual and customary manner and the filing shall relate back to the date upon which the facsimile copy was filed. In the event any facsimile copy is received by the clerk after 3:30 p.m. on a regular business day, or anytime on a weekend or holiday, the facsimile copy shall be considered filed on the next ensuing regular business day for the clerk. To ensure timely filing of pleadings or other papers, contact the Juvenile clerk prior to transmission at (330) 365-3252.
3. Any facsimile copy filed pursuant to this rule shall conform to the requirements of applicable Civil Rules, Juvenile Rules, and Local Rules, in both form and substance, and shall be preceded in transmission by a cover page which includes the following information:
  - a. Name of forwarding attorney;
  - b. Address of forwarding attorney;
  - c. Ohio Supreme Court registration number of attorney;
  - d. Telephone number of attorney;
  - e. Facsimile telephone number of attorney;



- f. Date and time of facsimile initiation; and
- g. Number of pages in document being forwarded.

4. Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken.

G) A request for Issuance of Summons shall be filed with all original and amended complaints or petitions in civil actions.

H) All filings must contain original signatures. Persons who are not attorneys may not sign on behalf of an attorney, or any persons other than themselves.

## **1.8 ASSISTING ILLITERATE CLIENTS**

Court clerks may assist illiterate persons with completing forms. Such assistance shall be limited to writing, verbatim, information provided to the clerk without making changes, corrections, or editing. The clerk shall then read back to the party what has been written on the form to confirm accuracy. A disclaimer shall be added as follows: "Dictated by Court user, written verbatim by Court staff." The clerk shall then sign the document and provide the reason assistance was necessary.

## **RULE 2 SECURITY FOR COSTS**

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No civil action or proceeding, initiated by a person or non-governmental agency, shall be accepted for filing unless the party offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in such action or proceeding, except as otherwise provided by law.

### **2.1 DEPOSIT FOR COSTS AND FEES**

Court costs and fees may be changed by the Court without amendment of these Local Rules or as required by statute.

Affidavit of Indigency	\$25.00
Complaint/Motion to Establish Paternity/Support	\$90.00
Complaint/Petition for Custody/Visitation	\$90.00
Initial Deposit-Precipe for Subpoena	\$50.00
Consent Entry	\$90.00
Motion to Reopen or New Action on Existing Case	\$90.00
Request for Service by Publication	\$125.00
Contributing Offense	\$110.00
Felony Offense	\$105.00
Misdemeanor Offense	\$75.00
Unruly Offense	\$70.00
Traffic (Non-moving/Moving)	\$65.00/\$85.00
No Seat Belt	\$30.50
Tobacco Offense	\$70.00
Drug Test	\$2.00
Electronic House Arrest (per day)	\$2.00
Diversion (Initial Consultation/Follow-up)	\$10.00/\$5.00
Probation (6 months or less/1 year)	\$20.00/\$40.00
Psychological Evaluation	\$25.00
Shoplifting Diversion Program	\$75.00
Substance Abuse and Family Education (SAFE)	\$40.00
Juvenile Alcohol and Drug Education (JADE)	\$35.00
Work Program (1-40 hours/Summer)	\$10.00/\$50.00
Transcript	As required by Court transcriber

The Court may also impose a fine in accordance with the following schedule (O.R.C. 2152.20):

Minor Misdemeanor	Not to exceed \$50.00
4 <sup>th</sup> Degree Misdemeanor	Not to exceed \$100.00
3 <sup>rd</sup> Degree Misdemeanor	Not to exceed \$150.00
2 <sup>nd</sup> Degree Misdemeanor	Not to exceed \$200.00
1 <sup>st</sup> Degree Misdemeanor	Not to exceed \$250.00
5 <sup>th</sup> Degree Felony	Not to exceed \$300.00
4 <sup>th</sup> Degree Felony	Not to exceed \$400.00
3 <sup>rd</sup> Degree Felony	Not to exceed \$750.00
2 <sup>nd</sup> Degree Felony	Not to exceed \$1000.00
1 <sup>st</sup> Degree Felony	Not to exceed \$1500.00
Aggravated Murder or Murder	Not to exceed \$2000.00
Tobacco Offenses	Not to exceed \$100.00
No Seat Belt – Driver	\$30.00
No Seat Belt – Passenger	\$20.00
All other Traffic Offenses	Not to exceed \$100.00

## **2.2 INABILITY TO SECURE COSTS**

- A) If a litigant claims inability to either prepay or give security for costs, the litigant shall complete an Affidavit of Indigency, as required by O.R.C. 2323.30 and O.R.C. 2323.31, substantiating such inability, all of which shall be filed with the pleadings and treated as other papers in such case. The final determination of indigence will be held in abeyance until the evidentiary hearing, but is subject to review by the Court at any stage of the proceedings.
- B) Litigants shall pay the required fee of \$25.00 along with the filing of the Affidavit of Indigency in order for the Court to make a determination regarding indigence. No civil action or proceeding shall be accepted for filing with an Affidavit of Indigency unless the party filing shall first deposit the \$25.00 fee, unless this fee is waived by the Court.

### **2.3 PAYMENT OF FINES AND COSTS**

In any case, regardless of its nature, where fine(s) and/or Court costs are assessed against a party, said fine(s) and/or Court costs are due and payable immediately unless otherwise ordered by the Court.

### **2.4 DEPOSIT FOR FEES OF GUARDIAN AD LITEM**

Any party requesting appointment of a Guardian ad Litem in a proceeding involving allocation of parental rights and/or parenting time shall, at the time of appointment of a Guardian ad Litem, deposit with the Court the sum of \$500.00 to be applied toward the satisfaction of the fees for the Guardian ad Litem, unless a different amount is specifically ordered by the Court. After the initial deposit for fees has been exhausted, additional deposits may be ordered by the Court. No deposit for fees of the Guardian ad Litem shall be required in cases alleging a child to be dependent, neglected, abused, unruly, or delinquent. The assessment of the costs for the fees of Guardian ad Litem shall be made by the Court at the completion of the proceedings. In any case, the Court reserves the right to reallocate fees of the Guardian ad Litem at the completion of the proceedings.

### **2.5 SPECIAL PROJECT FEES**

A) Pursuant to the authority of O.R.C. 2151.541, it is determined that, for the efficient operation of this Court, additional funds are required to obtain computerized legal research services.

1. The clerk of this Court is directed and hereby authorized to charge and collect an additional fee of three dollars (\$3.00) upon the filing of each cause or appeal under O.R.C. 2303.20(A), (Q), and (U).
2. All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization of this Court in procuring and maintaining computerized legal research services.

B) Pursuant to the authority of O.R.C. 2151.541, it is determined that, for the efficient operation of this Court, additional funds are required to computerize the office of the Clerk of the Court of Common Pleas, Juvenile Division.

1. The clerk of this Court is directed and hereby authorized to charge an additional fee of ten dollars (\$10.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in execution or petition to vacate, revive or modify a judgment under O.R.C. 2303.30(A), (P), (Q), (T), and (U).
2. All funds collected pursuant to this rule shall be paid to the County Treasurer and maintained by the County Auditor in a separate account, to be disbursed upon an order of the Court of Common Pleas, Juvenile Division, and subject to appropriation by the Board of Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas, Juvenile Division.

C) Pursuant to O.R.C. 2303.201(E)(1), the Court determines that for its efficient operation, additional fees are necessary to acquire and pay for the Special Projects of the Court that are permitted by statute.

1. Therefore, effective October 17, 2005, it is ordered that the clerk of this Court is authorized and directed to charge as Court costs a fee of \$25.50 for the purpose of purchasing equipment, supplies, and laboratory testing necessary to administer drug and alcohol screens and other associated evaluations. Said assessment shall be made on the filing of each delinquency and unruly action.

## **RULE 3                      COUNSEL OF RECORD**

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### **3.1    ATTORNEY REGISTRATION**

Any filing made by an attorney licensed to practice law in this state shall, in addition to the requirements of Rule 11 of the Rules of Civil Procedure, include the attorney's address, telephone number, and attorney registration number.

### **3.2    COURT APPOINTED COUNSEL**

- A) In any traffic, delinquency, unruly, abuse, neglect, and dependency case where a party believed to be indigent seeks counsel, said party shall file a Financial Disclosure/Affidavit of Indigency and motion with the Court. These forms can be obtained from the Court's clerk. The party submitting a Financial Disclosure/Affidavit of Indigency will be assessed a non-refundable \$25.00 application fee. The fee is to be paid to the clerk of this Court within seven (7) days of submitting this form, unless the fee is waived or reduced by the Court. No Court appointed counsel will be provided for any other juvenile cases, unless otherwise required by statute or rule.
- B) In the event that the Tuscarawas County Public Defender's Office has a conflict of interest on a Court-appointed case causing a party to be ineligible for their services, the Public Defender will file a motion to withdraw from the case and request that the Court appoint alternative counsel.
- C) In cases where counsel is appointed by the Court, representation shall continue until completion of the case, or until an order for withdrawal is approved by the Judge or Magistrate.
- D) Compensation for all Court-appointed counsel for delinquency, unruly, traffic, abuse, neglect, and dependency cases shall be at a rate of \$50.00 per hour out-of-Court and \$60.00 per hour in-Court. Additional fees may be approved at the Court's discretion.

- E) Appointed counsel shall submit an application for fees no later than 30 days from the date of disposition and no later than 30 days after all other Court hearings and post-adjudicatory matters. Any applications submitted after this deadline may have payments reduced or denied at the discretion of the Court.

### **3.3 WITHDRAWAL OF COUNSEL**

- A) Attorneys seeking to withdraw as counsel in a pending case shall submit a motion, memorandum, and order to the Judge or Magistrate assigned to hear the case. Said motion and order must contain a certificate of service to opposing counsel and to the withdrawing attorney's client.
- B) Leave to withdraw shall not be granted within thirty (30) days of a scheduled trial or hearing, except for good cause shown. Nonpayment of attorney's fees by the client is not a basis for withdrawal except by permission of the Court.

### **3.4 ATTORNEY SCHEDULING**

- A) Each attorney is responsible for requesting adequate Court time for all motion hearings and final hearings. In the event no Court time is requested, each motion hearing will be scheduled for ½ hour.
- B) In the event adequate time has not been requested, continuances will be granted at the discretion of the Court.
- C) Each attorney shall have a copy of his or her calendar available at all scheduling conferences, status conferences, pre-trial conferences, and hearings.
- D) Each attorney shall cooperate fully with the Court in the scheduling of all appearances before the Court with consideration for prior scheduled appearances in other Courts. Client appointments or conferences are not a basis for non-availability for scheduling.

### **3.5 ATTORNEY DECORUM**

- A) Counsel for all parties shall be present and before the Court at the assigned hearing time. If counsel is not present in Court at the assigned hearing time, the case may commence without counsel, may be continued, or may be dismissed. If counsel will be late for a hearing, counsel must make a reasonable effort to notify the Judge or Magistrate as soon as is practical in order to explain the reason for his or her lateness. Repeated lateness or absences may result in contempt of Court and/or removal of counsel from the appointment of cases in the Tuscarawas County Juvenile Court.
  
- B) Counsel for all parties shall advise the Court, opposing counsel, and all unrepresented parties in writing of any potential conflict or appearance of conflict of interest at the earliest possible time.



**RULE 4                      SERVICE**

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Service in any matter filed or pending before the Court shall be in accordance with the Rules of Practice and Procedure in Ohio Courts.

## **RULE 5                    CASE MANAGEMENT**

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### **5.1    CONTINUANCES**

- A) All requests for continuances or advancements shall be in writing and shall be submitted to the Judge or Magistrate to whom the case is assigned at the earliest possible time, at least fourteen (14) working days prior to the date of a jury trial, seven (7) days prior to other hearings, unless an immediate emergency is shown, as outlined below in section C.
- B) All requests for continuances shall contain the following information:
1. The date on which the need for continuance arose;
  2. The reason(s) for requesting the continuance;
  3. The date on which all other attorneys of record and Guardians ad Litem were contacted, and whether these attorneys and guardians agree on the need for a continuance; and
  4. The earliest date that all parties will be ready to proceed.
- C) No case will be continued on the day of the trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing, and provided that the party and/or counsel have used due diligence to be ready for trial and have notified or made diligent efforts to notify opposing counsel or party as soon as they became aware of the necessity to request a continuance. This rule may not be waived by consent of counsel.

### **5.2    PRE-TRIAL**

- A) The Court may, on its own motion, set any matter for pre-trial hearing. Any party may move, in writing, for a pre-trial. If the Judge or Magistrate determines that a case warrants a pre-trial, a date and time shall be set. All parties named in the action shall be present at the pre-trial unless their presence is excused, in advance, by the Judge or Magistrate.

- B) It shall be the duty of counsel to come to the pre-trial fully prepared and authorized to negotiate toward settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the Judge or Magistrate deems appropriate.
- C) If requested by the Court, each party shall file pre-trial memorandums or briefs with the Court stating their respective case, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Said briefs or memorandums shall be filed at least one (1) week prior to the pre-trial and copies shall be furnished to opposing counsel, unless otherwise directed by the Court.

### **5.3 TRIAL**

- A) Motions *in limine* shall be filed not less than seven (7) days prior to trial, except for good cause shown.
- B) If requested by the Court, the parties shall file trial briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial. Trial briefs shall be filed at least two (2) weeks prior to trial, unless otherwise directed by the Court.

### **5.4 FAILURE TO APPEAR**

In addition to or in lieu of holding a party in contempt when that party fails to appear within fifteen (15) minutes of a scheduled conference or hearing, the Court may:

- A) When the moving party fails to prosecute or comply with these rules or any Court order, the Court may, after notice to counsel, dismiss the case or grant any other appropriate relief to the responding party;

- B) When the responding party fails to appear at a pre-trial conference or the trial/hearing, the Court may order that the case will proceed ex parte; or
- C) Issue an arrest warrant.

**RULE 6                    ALLOCATION OF PARENTAL RIGHTS  
AND RESPONSIBILITIES**

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**6.1    ACTIONS INVOLVING MINORS**

Actions for parentage, child support, and contempt for failure to pay child support, in which a parent or an alleged parent is a minor, require the attendance of the minor parent's parent, legal guardian, or custodian at all hearings.

**6.2    FILINGS REQUESTING HEARINGS**

A) An initial filing in a case is a complaint and any additional filings thereafter are motions. A filing must be accompanied by a Parenting Proceeding Affidavit (U.C.C.J.E.A. Affidavit), in accordance with O.R.C. 3127.23(A).

B) All filings must be accompanied by a Request for Service.

C) If a party's address is unknown then the filing party shall file a Request for Service by Publication stating they cannot obtain an address with due diligence. The Court will publish notice upon the filing of such request accompanied by payment of the required deposit (see Local Rule 2.1).

**6.3    FILINGS OF AGREEMENTS**

A) Filings of agreements shall be by a complaint or a motion with notarized signatures of the parties and counsel of record.

B) A shared parenting plan or custody agreement shall include the following:

1. Physical living arrangements of the children;
2. Child Support Worksheet, including findings of fact with a schedule for deviation;
3. An agreement to contact CSEA to establish child support;
4. Health insurance coverage and division of uninsured costs;

5. School placement;
6. Parenting time schedule;
7. A designation of legal custodian if necessary for public assistance or school or upon agreement;
8. Parenting Proceeding Affidavit (U.C.C.J.E.A. Affidavit); and
9. Allocation of income tax dependency exemption.

C) The Court may refuse to approve orders which are not, in the Court's opinion, in the best interest of the children.

D) Settlement agreements shall be filed with the Court within twenty-one (21) days of the hearing, or as otherwise ordered or allowed by the Judge or Magistrate. Failure to file in a timely manner may result in a review hearing to determine the cause for delay and possible sanctions.

#### **6.4 CONTEMPT**

The party filing any contempt action shall file therewith an affidavit which shall set forth the claimed reason for the contempt and identify the specific Court order the contemnor has allegedly violated by identifying the filing date of the order and the specific paragraph or section where the order may be found. A copy of the Court order the contemnor has violated shall be attached to the affidavit. If the claim is a failure of payment of support, the affidavit shall include the amount of delinquency claimed. In the event the claim is for failure to pay medical expenses, the affidavit shall include the amount of such medical expenses. The party against whom the contempt action has been filed shall be served with a copy of the affidavit along with the motion for contempt.

## **RULE 7            PARENTING/VISITATION TIME**

The Court has adopted a Standard Visitation Parenting Order and a Standard Long Distance Visitation Order which may be adopted or modified at the Court's discretion.

## **RULE 8                      GUARDIAN AD LITEM**

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### **8.1    APPOINTMENT**

- A) All appointments of a Guardian ad Litem will be in compliance with Rule 48 of the Rules of Superintendence for the Courts of Ohio.
- B) The Court will appoint a Guardian ad Litem when necessary and appropriate to protect the interests of a child or whenever the Court is required to do so by statute.
- C) Appointment may also be made for a person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under Section 2151.011(B)(6) or Section 2152.02(C) of the Ohio Revised Code.
- D) If the Guardian ad Litem finds that a conflict of interest exists with his/her appointment, he/she must file an appropriate motion.
- E) As practical, the Court will attempt to appoint local (in-county) qualified individuals that have completed the training requirements set forth in Rule 48 (D), (E), and (F) of the Rules of Superintendence for the Courts of Ohio.
  - 1. Special needs of a particular case may be considered in the appointment of a Guardian ad Litem with specialized qualifications or skills.
  - 2. In cases returning to the Court which require a Guardian ad Litem, every effort will be made to ensure the reappointment of the previous Guardian ad Litem to the case, unless otherwise specified by the Court.
- F) An attorney who wishes to serve as Guardian ad Litem and attorney for the ward may be appointed as an explicit dual appointment by the Court, provided no conflict between these roles exists.



- G) Attorneys appointed to serve as Guardians ad Litem shall be compensated at the appointed counsel fee as determined by the Court.
- H) The Court will maintain a list of Guardians ad Litem and may offer appointment on cases in a rotating order. The Guardian ad Litem can deny the appointment to the case, at which time the next person designated in order on the list may be asked to accept the appointment.

## **8.2 DUTIES**

- A) Comply fully with Rule 48 of the Rules of Superintendence for Ohio Courts.
- B) The duties of a Guardian ad Litem, including Attorney/Guardian ad Litem appointments, conclude 30 days after the case is closed unless otherwise ordered by the Court.
- C) The Guardian ad Litem shall have full access to all Court records, school records, medical records, and Job and Family Services records as ordered by the Court regarding that child or children, including closed prior cases. The Guardian ad Litem will perform whatever functions are necessary to protect the best interests of the child or incompetent adult pursuant to Ohio Revised Code, including subpoenaing and examining witnesses. All costs will be waived for any filings made by a Guardian ad Litem.
- D) If a Guardian ad Litem finds that one or more of the listed duties are impractical or unreasonable to complete, they shall file a preliminary report to the Court regarding the exception to duty which prevents them from completing all aspects of the report and the reasons therefore. The Court will make reasonable efforts to provide service to the parties involved with the case.

## **8.3 QUALIFICATIONS**

- A) A Guardian ad Litem shall successfully complete the pre-service training course and annually complete a minimum of three (3) hours of in-service

continuing education training, as set forth in Rule 48(E) of the Rules of Superintendence for Courts in Ohio.

- B) An attorney who wishes to serve as a Guardian ad Litem shall meet all the requirements to be a Guardian ad Litem as outlined above and shall be duly licensed to practice law in the State of Ohio.
- C) In order to be considered on the Court's Guardian ad Litem appointment list, the applicant or attorney shall do the following:
  - 1. Complete and submit a resume outlining education, training, and expertise demonstrating the person's ability to successfully perform the responsibility of Guardian ad Litem;
  - 2. Complete a BCI background check;
  - 3. Provide copies of training certificates that will be maintained by the Court to document certification standards that said Guardian ad Litem has completed educational requirements as set forth by Rule 48 of the Rules of Superintendence for Ohio Courts.
  - 4. At the Court's own discretion, applicants and attorneys may be required to participate in an interview and/or provide additional qualifying information.
  - 5. At the Court's own discretion, the Court may limit the number of Guardian ad Litem investigator positions to be considered and maintained on the Court's appointment list.
- D) Based upon review of the criteria listed in Local Rule 8.3(C) 1-5, the Court may add the applicant or attorney to the Court's appointment list.
- E) In order to be maintained on the Court's Guardian ad Litem appointment list, the applicant or attorney shall provide updated training certificates annually and certify, in writing, that they are unaware of any circumstances that would disqualify them from serving as Guardian ad Litem.

- F) Guardian ad Litem appointments shall be reviewed on an annual basis by the Court to determine qualification to remain on the appointment list. Criteria for removal may include, but is not limited to, the following: not performing the duties as outlined in this Court's rules or Rule 48 of the Rules of Superintendence for Ohio Courts; not meeting continuing educational requirements; committing a criminal offense; or for any other factor which the Court believes may hinder the effectiveness or ability to complete the assignment as Guardian ad Litem.
- G) Any Guardian ad Litem may be removed from the Court's appointment list at their own request. The Court may, in its own discretion, remove any Guardian ad Litem from the Court's appointment list at any time.

#### **8.4 GRIEVANCE PROCEDURE**

- A) It is the goal of the Tuscarawas County Juvenile Court to resolve problems and grievances regarding a Guardian ad Litem fairly and promptly and as soon as is reasonable. When a parent, family member, attorney, professional, or any other person has a grievance or concern about a Guardian ad Litem, that person shall try first to resolve the issue with the Guardian ad Litem directly.
- B) If such effort is unsuccessful or impractical, the person shall utilize a formal process by outlining concerns in writing and presenting these to the Court for review by the Juvenile Judge.
  - 1. Comments or complaints regarding the performance of a Guardian ad Litem appointed pursuant to Ohio Superintendence Rule 48 shall be in writing and shall be directed to the Court's Administrative Assistant, Betsy Elliott, Tuscarawas County Court of Common Pleas, Probate and Juvenile Division.
  - 2. A copy of written comments and complaints submitted to the Court shall be provided to the Guardian ad Litem who is the subject of the complaint or comment. The administrative assistant shall forward

any comments and complaints to Judge Linda A. Kate for consideration and appropriate action.

3. If no resolution is reached regarding the dispute, the Juvenile Judge shall resolve the dispute and the finding shall be final.
4. The administrative assistant shall maintain a written record in the Guardian ad Litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject Guardian ad Litem of the disposition.

## **RULE 9                      TRAFFIC**

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### **9.1    TRAFFIC VIOLATIONS BUREAU**

Pursuant to Ohio Traffic Rule 13.1, there is hereby established a traffic violations bureau for juvenile traffic offenders to be operated in the manner prescribed by Ohio Traffic Rules 13, 13.1, and as prescribed herein. The Juvenile Judge shall serve as violations clerk, and shall appoint deputy clerks to conduct the business of said bureau as necessary. The violations bureau shall accept proof of insurance (if not shown at the time of violation), waiver of trial/plea of admission, and payment of fines and costs for offenses within its authority.

A) Juvenile traffic offenses that may be disposed of by said violations bureau may include non-moving violations such as expired tags, seat belt violations, and other minor moving and non-moving violations at the discretion of the Court except:

1. An offense listed in Traffic Rule 13(B)(1) to (5) and (7) to (9);
2. A second or subsequent moving offense;
3. An offense that involves an accident; and
4. A 16-year-old traffic violator who is within the first six months of receiving their driver's license.

B) A defendant charged with an offense that the Court has decided to include in the violations bureau shall not be required to appear at an arraignment hearing if a signed waiver of trial/plea of admission, proof of insurance (if not shown at the time of violation), and full payment of fines and costs assessed are received at the Court prior to the scheduled Court appearance. Payment shall be in the form of cash, check, or money order.

C) All cases processed in the violations bureau shall be numbered and recorded for identification and statistical purposes. In any statistical reports required by law, the number of cases disposed of by the violations bureau shall be listed separately from those disposed in open Court.

## **9.2 USE OF ELECTRONICALLY PRODUCED TRAFFIC TICKET**

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Tuscarawas County Juvenile Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

## **RULE 10 SEALING AND EXPUNGEMENT OF RECORDS**

In most cases, application may be made to the Tuscarawas County Juvenile Court for an order to seal a juvenile record, or to expunge the record under Section 2151.358 of the Ohio Revised Code.

### **10.1 SEALING**

- A) The Court shall consider sealing of juvenile records upon application, or upon the Court's own motion, at any time six months after one of the following:
1. The termination of any Court order made in relation to the adjudication;
  2. The unconditional discharge of the person from the Ohio Department of Youth Services or other institution or facility; or
  3. The Court enters an order determining that the child is no longer a juvenile offender registrant.
- B) To seal a juvenile record means to have the record removed from the main file of similar records and to have it secured by the Court in a separate file that contains only sealed records accessible only to the Juvenile Court, as defined in Section 2151.355(B) of the Ohio Revised Code.
- C) Cases adjudicated delinquent for committing aggravated murder, murder, or rape shall not be sealed, as outlined in Section 2151.356(A). Cases adjudicated delinquent for committing sexual battery or gross sexual imposition may be considered for sealing, pursuant to Section 2151.356 of the Ohio Revised Code.
- D) No fee shall be charged for any person applying to have their records sealed, pursuant to Section 2151.356(C)(1) of the Ohio Revised Code.

## 10.2 EXPUNGEMENT

- A) The Court must expunge all sealed records either five years from the date of sealing or five years from the juvenile reaching age 23, whichever comes first. After the record has been sealed, application may be made for earlier expungement. If the Prosecutor's Office files a response that objects to the expungement of the record, the Court must conduct a hearing before the record may be expunged, as defined in Section 2151.358 of the Ohio Revised Code.
- B) To expunge the record means to destroy, delete, and erase the record, as appropriate for the record's physical or electronic form or characteristic, so that the record is permanently irretrievable as defined in Section 2151.355(A) of the Ohio Revised Code.



## **RULE 11          JURY MANAGEMENT**

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The Tuscarawas County Court of Common Pleas General Trial Division Local Rules, as they relate to juries, shall apply to proceedings in the Juvenile Division, except to the extent that by their nature they would be clearly inapplicable.

## **RULE 12            CIVIL PROTECTION ORDERS                          INVOLVING A MINOR**

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The Court shall follow all provisions of O.R.C. 2151.34, and has adopted forms as prescribed by the Supreme Court of Ohio, for the filing of Civil Protection Orders involving juveniles. These forms are available on the Supreme Court of Ohio website or in person at the Tuscarawas County Juvenile Court, 101 East High Avenue, Room 108, New Philadelphia, Ohio or the Tuscarawas County Prosecutor's Office, 125 East High Avenue, New Philadelphia, Ohio, during normal business hours.

### **12.1 FILING OF PETITIONS**

- A) All petitions filed with the Court shall be filed by an adult seeking relief on behalf of a minor, as outlined in O.R.C. 2151.34(C).
- B) Information contained in the petition must include the nature of the allegation, the type of relief sought, the extent to which the respondent presents a continuing danger, and any other information which may be helpful to the Court in making a determination whether to grant a temporary or full protection order.

### **12.2 COURT HEARINGS/NOTICES**

- A) The Court shall decide within 24 hours, or no later than the next Court day, whether to grant the petition for a temporary protection order at an ex parte hearing. If necessary, the Court will set further hearings to make a determination whether to grant the full protection order. All hearing date timelines shall adhere to the guidelines established in O.R.C. 2151.34.
- B) All notices of hearings, data input into the National Crime Information Center, and enforcement of the valid protection orders shall be made by local law enforcement.

### **12.3 RECORDS**

- A) The Court shall maintain a registry of certified copies of protection orders involving a minor from this county as well as from other counties, if they have been registered with this Court.

## **RULE 13            COMPETENCY PROCEEDINGS**

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The purpose of this rule is to expedite proceedings under Sections 2152.51 to 2152.59 of the Ohio Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on the underlying complaint are stayed pending the determinations under these sections.

### **13.1   EXPEDITED HEARINGS**

Competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute.

### **13.2   NOTICE**

Upon the conclusion of each hearing, the Court shall provide written notice to the prosecuting attorney, the child's attorney, and the child's parent, guardian, or custodian of the date, time, and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon the conclusion of the immediately preceding hearing.

### **13.3   STAY OF PROCEEDINGS**

Upon the filing of a motion for a determination regarding a child's competency, or upon the Court's own motion, the Court shall stay all delinquency proceedings pending a determination of competency. If the Court determines that the child is not competent but could likely attain competency, the Court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceedings are dismissed.

## **RULE 14            USE OF RESTRAINTS**

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### **14.1 USE OF RESTRAINTS ON JUVENILES**

- A) Physical restraints shall be removed from a juvenile prior to the commencement of a proceeding unless the judge or magistrate before whom the juvenile is appearing determines on the record, after providing an opportunity to be heard, that restraints are necessary because of either of the following:
1. The juvenile presents a current and significant threat to the safety of the juvenile or another; or
  2. There is a significant risk that the juvenile will flee the courtroom.
- B) In addition, the court must find there are no less restrictive alternatives to restraints that will alleviate either of the above, including, but not limited to, the presence of court personnel, law enforcement officers or bailiffs.
- C) The Court shall provide the juvenile, or any other party as defined in Juv. R. 2(Y), an opportunity to be heard before the court orders the use of restraints on a juvenile during a particular court proceeding. The juvenile shall remain in restraints during this hearing to determine the necessity of the use of physical restraints in further court hearings.
- D) If restraints are ordered on a juvenile pursuant to this rule, the judge or magistrate shall make written findings of fact in support of the order.
- E) Any restraint ordered herein shall be the least restrictive necessary to meet the risk requiring the restraint and any restraint shall not unnecessarily restrict the movement of the juvenile's hands.
- F) Nothing in this rule shall prohibit a deputy or other court personnel from immediately restraining a juvenile during a court hearing should the juvenile's behavior suddenly become disruptive to the extent that restraining the juvenile is necessary to maintain the safety of the juvenile, court personnel or the public.