

**TUSCARAWAS COUNTY  
COURT OF COMMON PLEAS**

**JUVENILE DIVISION**

**LOCAL RULES**

**EFFECTIVE JANUARY 1, 2024**

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## **ADOPTION, SCOPE, AND APPLICATION OF LOCAL RULES**

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 January 1, 2024.

These rules are available to view online on the [Juvenile Court's Website](#). 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, Rooms 205 and 208, 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.

# **RULE 1 GENERAL**

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## **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**

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. Format**

All pleadings, motions and other court filings shall be legibly typewritten or printed on a single-sided 8 ½ 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 folded excessively, discolored, and or not legible for any reason, may be refused, or if filed, may be stricken unless there is a legible copy attached thereto. Motions must be bound only by a staple and free of dividers or tabs. If dividers or tabs are submitted, the clerk of courts is authorized to remove them prior to filing, docketing and/or scanning.

### **B. Case Numbering**

All case numbers on pleadings, motions and other court filings shall appear in the caption.

### **C. Names, Addresses, Phone Numbers, and Email Addresses of Parties**

On all pleadings and motions to open or reopen a case, the address of the parties shall be listed in the case caption. If a party's address changes while the case is pending, the party shall report the change to the clerk of courts by filing a written Notice of Change of Address.

All individuals who are not represented by legal counsel shall include their telephone number and email address on all pleadings and motions filed with the Court.

**D. Attorney Registration Number**

The attorney signature blocks of all pleadings, motions and filings shall include the attorney registration number assigned by the Supreme Court of Ohio.

**E. Motion Requirements**

All motions shall be accompanied by a brief or memorandum stating the grounds for the motion and citing relevant authorities. The motion, together with the brief or memorandum, whether supporting or opposing a motion, shall not exceed 15 pages, exclusive of any supporting documents. If a party fails to provide a brief or memorandum or exceeds the 15-page limit, the Court may overrule the motion without consideration.

All motions on the non-oral docket shall also be accompanied by a proposed judgment entry.

Oral argument upon a motion will not be held unless written request is made by the party submitting or opposing the motion. The reasons for the necessity of an oral hearing shall be stated in the body of the motion, and the words “Oral Hearing Requested” shall be placed in the caption of the motion.

**F. Service on Opposing Parties**

Every pleading, motion, brief, or memorandum filed with the Court shall be served on all opposing counsel or upon all parties not represented by counsel.

If the case is being opened, reopened, or if claims are being made against additional parties, the clerk of courts shall serve all opposing parties. The party filing the pleading or motion that opens or reopens the court file must request that the clerk of courts serve the document by filing a Request for Service, unless the party has filed a Waiver of Service under Civ. R. 4.7. The Request for Service may be filed as a separate document or at the end of the pleading or motion. **Every Request for Service must state the full names and addresses of those to be served.**

All other documents shall be served by the party filing the document as provided in Civ. R. 5. The pleading or motion must contain a Proof of service, which is a statement notifying the Court that the opposing counsel or unrepresented parties have been sent or given a copy of the document. **Every Proof of Service must state the full names and addresses of those served.**

No filing without a correct Request for Service, Proof of Service or Waiver of Service will be considered by the Court.

- G.** 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.
- H.** 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.
- I.** The Court will **not** accept filings via facsimile machine.
- J.** The Court will not return file-stamped copies by mail unless copies are provided along with a postage-paid, self-addressed envelope.
- K.** All applications and other motions shall be set for oral hearing unless the Court, upon review of the matter, decides there is cause for non-oral hearing, such as when all interested parties have consented to the relief for good cause.
- L.** 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.
- M.** 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.

N. Email filing is available for the convenience of all parties and their attorneys.

1. **Definitions**

- a. “Email transmission” means a method of exchanging digital messages between computer users.
- b. “Source document” means the document transmitted to the Juvenile Court Clerk by email.
- c. “Effective original document” means the printed copy of the source document received by the Juvenile Court Clerk and maintained as the original document in the Court’s file.

2. **Procedure**

- a. Pleadings and other documents subsequent to the original Complaint, and **not** requiring a security deposit pursuant to Local Rule, may be filed with the Paternity Clerk by email transmission to [paternityoffice@co.tuscarawas.oh.us](mailto:paternityoffice@co.tuscarawas.oh.us) and with the Juvenile Probation Clerk to [juvenileprobation@co.tuscarawas.oh.us](mailto:juvenileprobation@co.tuscarawas.oh.us).
- b. A document filed by email shall be accepted as the effective original document.
- c. The original document filed by email shall be maintained by the person making the filing until the case is closed and all opportunities for post-judgment relief are exhausted.
- d. Email filings may not be sent directly to court employees for filing but may only be sent to [paternityoffice@co.tuscarawas.oh.us](mailto:paternityoffice@co.tuscarawas.oh.us) for filings in the Paternity Office or [juvenileprobation@co.tuscarawas.oh.us](mailto:juvenileprobation@co.tuscarawas.oh.us) for Juvenile Probation filings.
- e. The Court will **not** accept via email the documents needed to open or initiate a case.
- f. The Court will **not** accept via email any filing that requires prepayment of costs pursuant to Local Rule.
- g. The Juvenile Court Clerk may, but need not, acknowledge receipt of an email transmission.
- h. The risk of transmitting a document by email to the Juvenile Court Clerks shall be borne entirely by the sending party. Anyone using email filing is urged to verify receipt of such filing by the Juvenile Court Clerk.

3. The Court will accept via email a signed source document.
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.
5. The Court will **not** accept any filing via email that has an exhibit attached that cannot be accurately transmitted via email. Any filing that has an exhibit that cannot be emailed must be filed either in person or by regular mail.
6. Subject to the provisions of these rules, all documents sent by email and received by the clerk shall be considered filed with the Juvenile Court Clerk as of the date the clerk receives the document, as opposed to the date, if different, of the email transmission. Emailed filings that are received by the Clerk on or before 4:30 p.m. on any business day will be stamped as being received that day.
7. The Juvenile Court Clerk will assess a fee of \$2 per email filing and \$1 per page pursuant to ORC 2303.29(Y). Said fees will be assessed as court costs.

## **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. Costs may be paid by cash, check, money order or credit card (subject to processing fees).

### **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/Petition/Motion to Establish Paternity	\$140.00
Complaint/Petition/Motion for Custody/Visitation	\$140.00
Complaint/Motion to Establish Child Support	\$125.00
Counterclaim	\$125.00
Request for Sheriff Service	\$50.00
Initial Deposit-Preceipe for Subpoena	\$50.00
Consent Entry	\$90.00
Motion to Reopen or New Action on Existing Case	\$140.00
Email filing	\$2.00 <b>plus</b> \$1.00 per page
Request for Service by Publication	\$625.00
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	\$30.00
Tobacco Offense	\$70.00
Drug Test	\$5.00
Alcohol Test	\$5.00
Electronic House Arrest (per day)	\$7.00
Probation (6 months or less/1 year)	\$20.00/\$40.00
Psychological Evaluation	\$50.00
Shoplifting Diversion Program	\$75.00

Anger Management Group	\$40.00
Driving Skills for Life	\$75.00
Substance Abuse and Family Education (SAFE)	\$50.00
SAFE Program Workbook	\$25.00
Juvenile Alcohol and Drug Education (JADE)	\$35.00
TUFF Bags Program	\$10.00
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.

### **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 Guardian ad Litem 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 March 15, 2021, it is ordered that the clerk of this Court is authorized and directed to charge as Court costs a fee of \$25.00 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 all juvenile cases.

## **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 \$75.00 per hour out-of-Court and \$75.00 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 no less than 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.

Under Civ. R. 4.4, if the residence of a party is unknown service may be completed by Publication or Posting:

### **Service by Publication in a Newspaper.**

If a party's address is unknown, the filing party may file a Request for Service by Publication and [Affidavit for Service by Publication/Posting](#) 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). The publication shall be published at least once a week for six successive weeks unless publication for a lesser number of weeks is specifically provided by law. Service of process shall be deemed complete at the date of the last publication.

### **Service by Posting and Mail.**

#### **In actions pertaining to the care, custody, and control of children whose parents are not married:**

- (i) if the residence of the party upon whom service is sought is unknown; and,
- (ii) if the matter is not governed by Civ. R. 65.1; and,
- (iii) if the party requesting service upon another party is proceeding with a poverty affidavit;

service by publication shall be made by posting and mail. Before service by posting and mail can be made, an [Affidavit for Service by Publication/Posting](#) of the party requesting service or that party's counsel shall be filed with the court.

Upon the filing of the affidavit, the Clerk of the Paternity Office shall post the service of notice on the bulletin board outside of the Common Pleas General Division Magistrate's courtroom, on the bulletin board at the office of the Clerk of Courts, and in the public area of the Tuscarawas County Job and Family Services' building. The notice shall contain the same information to be contained in a newspaper publication. The notice shall be posted for six successive weeks.

## **RULE 5                    CASE MANAGEMENT**

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### **5.1 CONTINUANCES**

- A) All requests for continuances or advancements shall be in the form of a proper motion 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 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 case caption including case number and current addresses and phone numbers for each party;
  2. The date on which the need for continuance arose;
  3. The reason(s) for requesting the continuance;
  4. 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
  5. 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.
- C) All parties and/or counsel shall file their respective Witness Lists (including witness name, address and phone number) and Exhibit Lists (listing all documents they plan to present as part of their case) with the Court and provide copies to all parties/counsel no less than seven (7) days prior to trial.

### **5.4 APPEARANCE IN PERSON REQUIRED**

- A) All parties, attorneys of record, witnesses, and Guardians ad Litem shall appear in-person for all scheduled hearings.

- B) Any request for permission to appear by the Court's videoconferencing software shall be made by written motion at the earliest possible time, but no later than ten (10) working days prior to the hearing, and shall include the approval of all parties.
- C) Parties and Attorneys shall provide copies of all Exhibits to remote witnesses in advance of the hearing.
- D) Videos and in court exhibits are not viewable nor audible by remote participants.
- E) Appearance in person shall be presumed by the Court unless otherwise ordered by the Court.

## **5.5 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. All initial filings shall list all parties and their current addresses in the case caption.
- B) All filings must be accompanied by a [UCCJEA](#), in accordance with O.R.C. 3127.23(A) and [Confidential Information Page](#).
- C) All filings must be accompanied by a Request for Service.
- D) If a party's address is unknown the filing party may file a Request for Service by Publication and/or Posting (see Local Rule 4). The Court will publish notice upon the filing of such request, required affidavit(s) and payment of the required deposit (see Local Rule 2.1).

### **6.3    FILINGS OF AGREEMENTS**

- A) Filings of agreements shall be accompanied 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**

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

[Standard Parenting Schedule and Rules](#)

[Long Distance Visitation Order](#)

## **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) The Court will appoint 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 GUARDIAN AD LITEM REPORTS AND RECOMMENDATIONS**

A) Guardians as Litem shall submit their Report and Recommendations no less than seven (7) days prior to any pretrial/trial, unless an exception is made by the Court. The Report and Recommendations will be kept in the confidential section of the case file. The Guardian ad Litem shall serve all parties and counsel of record with a copy of the same.

B) Pursuant to Sup. Rule 48.06(A)(2) effective immediately all reports shall include the following warning:

*“The guardian ad litem report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure or distribution of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration.”*

C) All reports shall include the following statement, in addition to the above warning:

*“Unauthorized disclosure or distribution of the report includes, but is not limited to, posting all or any portion of the report on social media and/or providing copies of all or any portion of the report to someone other than the parties of this case.”*

D) All reports shall include acknowledgement that the GAL has checked the Ohio Adult Sex Offender Registry for all parties and individuals considered for placement of the child(ren).

## **8.4 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.

## **8.5 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, 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 the Juvenile Judge 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, money order or credit card (subject to processing fees).

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 208, 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.

**15.01 MEDIATION – GENERAL INFORMATION**

This Local Rule incorporates by reference R.C. § 2710 “Uniform Mediation Act” (UMA), § 3109.052, Mediation of Differences as to the Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

**A. Mediation Defined**

Mediation is any process in which a neutral third party, the Mediator, helps the parties communicate and negotiate with each other to help them reach a voluntary agreement regarding their dispute.

Statements made by the Mediator shall not be construed as giving legal advice.

**B. Communication Defined**

Mediation communications are oral or written statements and may be verbal or nonverbal. Statements are considered mediation communications if they are made during a mediation conference, or before or after the mediation conference if they are made for purposes connected with the mediation, including considering, conducting, participating in, initiating, continuing, or reconvening a mediation conference.

**C. Program Summary**

The Court provides in-house mediation services for cases involving allocation of parental rights and responsibilities and division of parenting time at no cost to the parties beyond the initial filing fee. In the event that the Court’s mediation program has a conflict, the Court may appoint an outside mediator and would direct the payment of costs to one or both parties.

**D. Qualifications of Mediators**

The minimum qualifications of mediators shall be those established by the Supreme Court of Ohio. This Court may establish additional minimum qualifications that are not inconsistent with the qualifications established by the Supreme Court of Ohio.

Mediators shall follow the “Core Values of Mediation” as approved by the Supreme Court Dispute Resolution Sanction.

Mediators of Juvenile Court cases shall comply with the Model Standards of Practice for Family and Divorce Mediations.

#### **RULE 15.02 – PRIVILEGE V. CONFIDENTIALITY**

Mediation communications are privileged as described in R.C. Chapter 2710 Ohio Uniform Mediation Act. If the parties believe that confidentiality beyond the scope of privilege is necessary, they may sign a written confidentiality agreement prior to the mediation. Except where otherwise required by law, the mediator shall keep all mediation communications confidential unless all mediation participants and the mediator have consented to disclosure. All disclosures by the mediator shall be in compliance with R.C. 3109.052 and R.C. 2710.03 – 2710.05.

**There are no privileges to mediation communications if any of the following apply:**

1. The terms of an agreement are contained in a signed written agreement;
2. The communication is available to the public under R.C. 149.43;
3. The communication involves an imminent threat or a statement of a plan to inflict bodily injury or commit a crime of violence;
4. The communication is sought to prove or disprove a claim of professional misconduct or malpractice;
5. The communication is used to plan, attempt to commit, commit a crime, or conceal an ongoing crime;
6. The communication is required to be disclosed under R.C. 2921.22: Duty to report a felony;
7. The communication is used to prove or disprove a claim of abuse or neglect; or
8. The communication is perceived by an attorney mediator as professional misconduct by an attorney participant.

## **RULE 15.03 – MEDIATION REFERRAL/REQUEST**

Upon the request of any party to an action or upon its own motion, the Court, in its discretion, may order the parties to participate in mediation. Mediation is available as follows:

A. **For open cases on the Court’s pending docket:**

1. Any party may request mediation, any time after the commencement of an action, by filing a motion for mediation and serving the motion on all parties. There is no cost for the parties in an open case to participate in mediation.

B. **Before reopening a case or filing a post-decree motion:**

1. Mediation is available to parties with a decree issued by this Court that: allocates parental rights and responsibilities, establishes shared parenting, or establishes visitation; who:
  - i. Want to make a change to the prior decree; **or**
  - ii. Disagree on the language of the prior decree, but the decree requires mediation prior to filing a post-decree motion with the Court.
2. Both parties must agree to address the issues through mediation and complete/sign the **Request for Post-Decree Mediation Before Filing Motion** form. This form is available online at:  
<https://www.co.tuscarawas.oh.us/Courts/juvenile-court-forms>, **and shall be filed at the Paternity Clerk’s office.**
3. The cost is \$108.00 and must be paid at the time of filing the Request form.
4. Mediation **is not available** in cases where:
  - i. One party has a Domestic Violence conviction or pending Domestic Violence charge(s) and the other party, or a minor child involved in the case, is the victim or alleged victim; **or**
  - ii. There is a current protection order where one party, or a minor child involved in the case, is the protected person from the other party.
5. The mediator will screen for domestic violence or protection orders at the beginning of the mediation session and determine if mediation is appropriate. If mediation is not appropriate due to number 4 above, the \$108.00 filing fee will not be refunded.
6. Attorneys shall participate in the mediation conference.

C. **Before filing an initial action or opening a new case:**

1. Mediation is available prior to filing: a Complaint for Custody, Complaint for Allocation of Parental Rights and Responsibilities, or Complaint to Establish Visitation with the Clerk's Office; if all parties jointly submit a **Joint Request for Mediation Services** form.
2. This form is available online at:  
<https://www.co.tuscarawas.oh.us/Courts/juvenile-court-forms>. The form must be sent to the Juvenile Court Mediator – **and shall be filed at the Paternity Clerk's office along with a \$30 fee.**
3. If mediation is successful, the parties shall file their own Agreed Judgment Entry and UCCJEA paperwork after the mediation and pay the applicable filing fee. Failure to file the Agreed Judgment Entry results in no order from the Court concerning custody or visitation and an unenforceable agreement.
4. To be eligible to participate in this mediation, the minor child(ren):
  - a. Must currently reside in Tuscarawas County; **and**
  - b. Must have lived in Ohio for at least six-months prior to the request for mediation.
5. Mediation **is not available** in cases where:
  - a. One party has a Domestic Violence conviction or pending Domestic Violence charge(s) and the other party, or a minor child involved in the case, is the victim or alleged victim; **or**
  - b. There is a current protection order where one party, or a minor child involved in the case, is the protected person from the other party.
6. The mediator will screen for domestic violence or protection orders at the beginning of the mediation session and determine if mediation is appropriate. If mediation is not appropriate due to number 5 above, mediation will not be held and the parties shall file the appropriate action with the Juvenile Clerk's Office if they want an order from the Court.
7. Attorneys shall participate in the mediation conference.

## **RULE 15.04 – DOMESTIC VIOLENCE SCREENING**

In referring parties to mediation, the Court shall effectively screen and assess the parties relating to problems involving domestic violence convictions or allegations of domestic violence. If the case proceeds to mediation, the screening shall continue throughout the mediation process. The parties and counsel shall cooperate with all portions of the domestic violence screening process.

Mediation will not be scheduled in cases where the person who is or may be a victim of domestic violence is self-represented.

All parties and counsel shall advise the Court and Mediation Department of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following the referral to mediation, but before the conclusion of the mediation proceedings.

Where there is a need, the Mediator shall provide referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.

When violence or fear of violence is alleged, suspected, or present, mediation may proceed when the following conditions are satisfied:

- A. The person who is or may be the victim of domestic violence is fully informed about the mediation process, right to decline participation in the mediation process, and of the option to have a support person, in addition to an attorney present at the mediation session.
- B. The parties have the capacity to mediate without fear of coercion or control.
- C. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- D. Procedures are in place for the mediator to terminate mediation if he or she believes there is a continued threat of domestic violence or coercion between the parties.
- E. Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052 to refer certain cases involving domestic violence to mediation.

Mediation shall not be used as follows:

- A. As an alternative to the prosecution or adjudication of domestic violence;
- B. In determining whether to grant, modify or terminate a protection order;
- C. In determining the terms and conditions of a protection order; or
- D. In determining the penalty for violation of a protection order.

#### **RULE 15.05 – MEDIATION ATTENDANCE**

All parties shall personally attend the mediation conference and be prepared to discuss all relevant issues, including settlement. If represented by counsel, the attorney shall also attend the mediation conference and actively participate in settlement discussions.

The mediator may permit one or more parties / attorneys to participate in a mediation conference by video conference. Attendance by telephone will not be permitted.

If there is a guardian ad litem for any child involved in a case that is subject to mediation, the guardian ad litem shall have the right to be involved in the mediation process and attend the mediation conference.

#### **RULE 15.06 – MEDIATION CONTINUANCES**

Continuances of mediation conferences are counter-productive, and requests are discouraged absent exigent circumstances. Should a request for continuance be necessary, the party/counsel requesting the continuance is required to file the request **in writing with the Paternity Clerk's Office, and provide a copy to the Juvenile Court Mediator by email to: [greenham@co.tusarawas.oh.us](mailto:greenham@co.tusarawas.oh.us).**

## **RULE 15.07 – MEDIATION PROCEDURES**

- A. At least five days prior to the mediation conference, the parties shall submit the following directly to the Mediation Department:
  - 1. Completed Mediation Intake Form; and
  - 2. Any other materials a party believes would be beneficial to the mediator (ex: income information to establish child support).
- B. The mediator shall make a reasonable inquiry to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator. The mediator shall disclose those facts to the parties as soon as is practicable.
- C. During the mediation conference, the mediator shall:
  - 1. Permit each party, through counsel or otherwise, to orally present the dispute;
  - 2. Help to refine and prioritize the issue(s) in dispute; and
  - 3. Hold separate, private caucuses with any party or counsel as needed.
- D. Upon completion of successful mediation, the Mediator, parties, and counsel will immediately report to the Juvenile Court for the agreement to be read into the record and adopted as the order of the Court by the Judge or Magistrate.
- E. Should mediation be unsuccessful, the Mediator will provide the Court with a Notice of Failed Mediation. The Court will then issue any necessary orders which may include the appointment of a Guardian ad Litem at the expense of the parties.

### **RULE 15.08 – SANCTIONS**

For a violation of this rule, upon motion by a party, the mediator, or upon the Court's own motion, a party or the party's attorney may be subject to appropriate action, including but not limited to contempt, dismissal, default judgment, attorney fees and/or costs.

### **RULE 15.09 – EVALUATION, COMMENTS, AND COMPLAINTS**

It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution, and to provide a process that is timely and flexible that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of a mediator to the Court Administrator.

## **RULE 16                      ELECTRONIC SIGNATURES**

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### **A. PURPOSE**

These rules are established to allow the use of electronic signatures by the Judge, Magistrates and Court Personnel, to address the authenticity of a signature. If it is established that a document was electronically signed without authority, the Court shall be immediately notified. The Judge shall order the Clerk to strike the unauthorized document from the record.

### **B. SIGNATURE OF JUDGE**

Documents may be signed by a Judge or Magistrate with an electronic signature. All orders, decisions, entries, permits, judgments and other documents signed in this manner shall have the same force and effect as if the Judge or Magistrate had affixed his or her signature in a conventional manner. To ensure the electronic signature is authentic, the signer must use a user name and password to log into the court's secured network to access the document to be signed. No Judge or Magistrate shall share these passwords with users except for the electronic records manager.

### **C. SIGNATURE OF COURT PERSONNEL**

Electronic signatures in case records will be limited to Court personnel. To ensure that the electronic signature is authentic, the signer must use a user name and password to log into the court's secured network to access the document to be signed. No personnel shall share these passwords with others except for the electronic records manager.