

RULES OF THE COURT OF COMMON PLEAS
JUVENILE DIVISION
LORAIN COUNTY, OHIO

EFFECTIVE November 1, 2011
AMENDED October 25, 2022

**Sherry L. Glass, Judge
Frank J. Janik, Judge
Lisa I. Swenski, Judge**

Juvenile Rules

INDEX

<u>RULE</u>	<u>PAGE NO.</u>
1. Scope of Rules	4
2. Pleadings and Motions	4
3. Assignment of Cases	6
4. Service of Copies and Notice	8
5. Security for Costs	9
6. Facsimile Filings	10
7. Removal of Papers from Custody of the Clerk	13
8. Court Decorum	15
9. Seminar for Unmarried Parents	15
10. Hearing and Submission of Motions	16
11. Discovery	17
12. Expert Reports	17
13. Home Inspections/Investigations	17
14. Guardian ad Litem	18
15. Requests for Interpreters	20
16. Motions to Set Aside and Objections	21
17. Agreed Journal Entries	21
18. Judgment Entries	22
19. Mediation	22
20. Ex Parte Order Practice	29
21. Continuances	31
22. Withdrawal or Substitution of Counsel	33
23. Waivable Cases	34
24. Public and Media Access	35
25. Jury Use and Management Plan	36
26. Specialized Dockets	46
27. Use of Restraints during Juvenile Court Proceedings	60
28. Appointed Counsel	62

29.	Parenting Coordination	67
30.	Use of Electronically Produced Ticket	79
31.	Truancy Complaint Filing Process	80

1. SCOPE OF RULES

- A. The Juvenile Division of the Common Pleas Court for Lorain County, Ohio, adopts the following rules for the management of proceedings and other functions of the court pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio. The court may amend these rules from time to time as needed or as required by law.
- B. These rules are intended to supplement and complement the Ohio Rules of Court, the Superintendence Rules of the Supreme Court of Ohio, and other controlling statutes.
- C. These rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings of this court. In their application, they shall be construed so as to provide fairness and to secure a just, expeditious and inexpensive determination of all proceedings. They shall apply to proceedings pending at the time they take effect.
- D. Any matters not specifically addressed herein shall be governed by the Rules of the Lorain County Court of Common Pleas, Domestic Relations Division.
- E. These rules shall be effective November 1, 2011, and supersede all previous rules promulgated by this court.

2. PLEADINGS AND MOTIONS

- A. Form
 - 1. All pleadings, motions, briefs and other papers shall be legibly typewritten or printed on letter size paper (approximately 8 ½ x 11), without backing or cover, and printed on only one side.

2. The caption in every complaint or petition involving the following types of actions shall state the name, address, and date of birth, if known, of each party: paternity, parental rights and responsibilities, child support.
3. The captions in every complaint or petition involving abuse, neglect or dependency cases shall state "In re" or "In the matter of" and the child's initials. In addition, in conformance with and pursuant to Sup.R. 44 and 45, all case documents submitted in these cases shall use the juvenile's initials and omit the juvenile's full name.
4. The caption of subsequent pleadings, motions and other papers shall state the case number, the name of the Judge to whom the case is assigned, and the proper caption as set forth above.
5. All captions shall briefly describe the general nature of the action.
6. Every pleading, motion and other paper filed in the cause shall be identified by title and shall bear the name, address, telephone number, fax number, and business e-mail address of the attorney or the party filing the same. If the filing is made by an attorney, the Supreme Court Registration Number of the attorney and the name of the firm with which the attorney is affiliated, if any, must also be included.
7. In all cases, a blank space of at least three (3) inches shall be left at the top of the first page.

B. Parenting Proceeding Affidavit

1. All parties involved in a proceeding concerning the allocation of parental rights and responsibilities shall file a Parenting Proceeding Affidavit pursuant to O.R.C. 3127.23.
2. The affidavits shall be attached to and filed with each party's initial pleading or motion regarding parenting.

3. A party who has filed no pleading, motion or other document regarding parenting shall nonetheless file the affidavit.
4. All Parenting Proceeding Affidavits shall be served upon each of the parties as provided under the Juvenile and Civil Rules. (Amended 7/1/12)

3. ASSIGNMENT OF CASES

- A. All cases filed prior to January 4, 1989, which are subsequently reopened shall be assigned as follows:
 1. Case Numbers ending in 1, 3, or 5 - Judge Frank J. Janik;
 2. Case Numbers ending in 2, 4, 6 or 0 – Judge Lisa I. Swenski;
 3. Case Numbers ending in 7, 8, or 9 – Judge Sherry L. Glass.
- B. All cases filed between January 4, 1989, and December 7, 1998, which are subsequently reopened, shall be assigned as follows:
 1. Cases will re-open to the assigned Judge with the exception of case numbers ending in 7, 8, or 9, which will reopen to Judge Glass;
 2. Assigned Judge Zieba or Judge Lilly cases will reopen to Judge Swenski plus cases ending in -0 (except 7, 8, 9);
 3. Assigned Judge Basinski cases will reopen to Judge Janik (except 7, 8, 9, or 0)
- C. New cases will be assigned as follows:
 1. New to the court with no previous involvement will be assigned by random draw; the Judge assigned to the family will remain the family's Judge except in those delinquency cases with a co-defendant, in which case the court will determine to which Judge the case is assigned.
 2. Cases that are new but on which a history exists will be assigned as follows:

a. Dismissed cases of the same action will be assigned to the same Judge assigned to the previous action;

b. Custody, Paternity, Support or Grandparent Powers of Attorney:

If a history exists, a Judge will be assigned by following the hierarchy below:

- i. Divorce action exists for said child;
- ii. Paternity exists for same child or sibling;
- iii. Custody or POA/CAA exists for same child or sibling;
- iv. Support exists for same child or sibling;
- v. LCCS filing exists for said child;
- vi. Delinquent case exists in which child was before the Judge for disposition, assigned a form of community control or entered into placement or confinement of some type.

c. Dependent, Neglect or Abuse Cases, or Permanent Custody filing: If a history exists, a Judge will be assigned by following the hierarchy below:

- i. LCCS filing exists for said child or sibling;
- ii. Paternity, support, custody or POA/CAA exists for said child
- iii. Delinquent case exists in which child was before the Judge for disposition, assigned a form of community control or entered into placement or confinement of some type.

d. Delinquency, Contributing, Tobacco, Unruly or Traffic: If a history exists, a Judge will be assigned by following the hierarchy below:

- i. Open case exists for said child;

- ii. Delinquent case exists in which child was before the Judge for disposition, assigned a form of community control or entered into placement or confinement of some type;
 - iii. LCCS filing exists for said child;
 - iv. Paternity, Support, Custody or POA/CAA exists for said child;
 - v. Prior Juvenile Civil Protection Order filing exists for said child.
- e. Juvenile Civil Protection Orders: If a history exists on Respondent the same Judge will be assigned. Should Respondent file for a protection order against the same Petitioner the matter shall be assigned to the Judge with the original case.

D. Any exceptions to; or transfers of these assignments must be entered upon the docket.

(Amended 1/3/17)

4. SERVICE OF COPIES AND NOTICE

- A. All service of copies and notice to parties must comply with Juvenile Rules 16 and 20 and Civil Rules 4 through 4.6 and 5.
- B. Waiver of service of summons by a party must be notarized or be upon the record.
- C. Pursuant to Ohio Rules of Juvenile Procedure, Rule 16(A) Service by publication, service shall be made by newspaper publication. In the event that the party requesting service by publication is indigent, then service by publication shall be made by posting and mail. The following locations have been designated for the posting of notices in accordance with this Rule:
 1. Lorain County Justice Center
 2. Elyria Municipal Court
 3. Lorain Municipal Court, Lorain City Hall

5. SECURITY FOR COSTS

A. Costs Deposit

The Clerk of Courts shall not accept any action or proceeding for filing without a deposit as security for costs in the sums set forth in the Clerk's Schedule of Costs. Child Support Enforcement Agency filings and filings by the Lorain County Prosecutor's Office are exceptions to this requirement.

B. In Forma Pauperis

The deposit for costs shall be considered to be met if a party files a Poverty Affidavit to proceed In Forma Pauperis, swearing that the party is without funds or assets to pay the deposit, and there is a certification by the attorney, if any, that no attorney fees have been paid or that the party is a client under the LCBA's Modest Means Lawyer Referral program. After the filing of such an Affidavit, the court may examine the party to determine if there are sufficient facts to support a conclusion that substantial justice requires that the party be relieved from liability for court costs. The court shall consider the guidelines set forth by the Ohio Public Defender's Office in making the determination. Nothing herein shall be construed to prevent the court from assessing costs.

C. Subsequent Deposit

If, during the course of a proceeding, the court determines that a party who has filed an Affidavit of Poverty is or has become able to pay the applicable costs deposit, the Court may order that party to pay the deposit within a reasonable period of time commensurate with the circumstances.

D. Responsibility for Costs

All judgment entries shall contain a provision allocating payment of costs. In the absence of any provision, after application of deposits, the balance of costs shall be paid as follows: by the Plaintiff in an uncontested paternity, or custody proceeding; equally between the parties in a contested paternity or custody proceeding; by the Juvenile in a delinquency or traffic proceeding; the obligor in any proceeding relating to the enforcement or modification of a support order, and by the moving party in a post-decree proceeding. The court or Clerk of Courts may require an additional deposit during the pendency of an action.

E. Court Deposits Applied

Upon final judgment, the Clerk of Courts is directed to apply the deposit to the costs in the case, regardless of the party against whom costs are assessed. The Clerk shall assess the costs against the proper party, reimbursing the deposit when appropriate.

(Amended 5/1/13)

6. FACSIMILE FILINGS

A. In General

This rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the Court assumes any new or additional responsibilities, obligations, or liabilities by virtue of this rule. This rule pertains only to the method of filing; it does not override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Civil Procedure.

B. Filings Not Accepted

Except for the following documents, this rule authorizes the filing of facsimile transmissions of pleadings, motions, and other documents that may otherwise be filed with the Clerk of Courts.

1. Commencement of an Action

Any filing commencing an action (e.g., a complaint, a third party complaint, a post-decree motion) for which the Clerk of Courts must collect an initial case deposit against costs or a specific filing fee and/or for which the Clerk of Courts is required to effectuate service or summons;

2. Journal Entry

Any entry which must be signed by a Judge.

C. Cover Page

Any faxed document must include a cover page containing the following information:

- Case number;
- Caption of the case;
- Assigned Judge;
- Description of the documents being filed;
- Date of Transmission;
- Transmitting fax and contact number; and
- Number of pages, including cover.

If the cover page does not contain all required information, the faxed documents shall not be entered on the docket and shall be considered a nullity. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.

D. Facsimile Machine

The facsimile machine available for receiving fax filing for Juvenile Court Cases is **(440) 329-5271**. This line is available twenty-four hours per day, seven days per week. Fax filings may not be sent directly to the Court for filing but may only be transmitted through the Clerk of Courts. Transmissions sent to any other location are neither covered by nor permitted under this rule. However, copies of filings otherwise properly filed with the Clerk of Courts, such as courtesy copies for the Court, may with Court approval be sent by facsimile directly to the Court. Facsimiles sent directly to the Court shall not be considered as having been filed thereby.

E. Document Restrictions

A fax transmission may contain more than one document but may not apply to more than one case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall be considered as part of a single file. If exhibits are impossible or burdensome to send by facsimile the original exhibits may be separately filed if done so within forty-eight hours of the related transmission. If the exhibits are filed separately, then an insert page describing the exhibit must be included in the facsimile transmission. Facsimile transmissions must comply with the filing requirements as otherwise stated in this rule and may not exceed twenty pages regardless of the number of documents being sent.

F. Date and Time

Subject to the other provisions of the rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision

and for entering such filings into the docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed at the top of each page of the incoming fax as printed out by the Clerk of Courts' facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender.

G. Original Filing

A document filed by fax shall be accepted as the original filing provided all the requirements set forth in this rule are satisfied. The source document shall not be filed with the Clerk of Courts. However, until the case is closed and all opportunities for post-judgment relief are exhausted, any source documents filed via facsimile shall be retained and available for production at the Court's request.

H. Signatures

Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.

I. Acceptance or Rejection

The Clerk of Courts is hereby authorized to reject and will not docket any facsimile transmission which fails to comply with these rules.

7. REMOVAL OF PAPERS FROM CUSTODY OF THE CLERK

A. Removal

No person, except a Judge or Magistrate or representative of either, shall remove any documents or case files from the custody of the Clerk of Courts.

B. Examination

Upon request, the Clerk shall allow any person to examine, but not remove, any case document or case file. Examination shall be allowed during the regular business hours of the Clerk.

C. Duplication.

Upon request and the payment of fees fixed by law, the Clerk shall provide copies of any case document, excluding transcripts, maintained by its office to any person. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk.

D. Transcripts

All transcripts of testimony that are filed with the Clerk of Courts may be examined and/or duplicated in accordance with the following procedures:

1. Removal

No filed original transcript of testimony may be removed from the Clerk's Office.

2. Examination

Upon request, the Clerk shall allow any person to examine, but not remove, any original transcript of testimony that has been filed with its office. Examination shall be allowed during the regular business hours of the Clerk.

3. Duplication

Upon request to the Official Court Reporter and the payment of fees fixed by the Court, copies of a filed transcript will be made available within a reasonable time to any person.

8. COURT DECORUM

- A. At court hearings, all parties and witnesses shall be properly attired. If the parties are not properly attired, the Court may continue the hearing.
- B. Parents are encouraged not to bring children to any hearing, unless otherwise ordered by the Court. Delinquency and traffic matters are an exception to this rule where the Juvenile who is the subject of the matter must appear.

9. SEMINAR FOR UNMARRIED PARENTS

- A. All parties filing initial actions relating to paternity or the allocation of parental rights and responsibilities shall attend an educational seminar for parents sponsored by the court. Seminar attendance may also be required by order of the court after the filing of motions concerning the modification of parental rights and responsibilities and modification or enforcement of parenting time.
- B. Every party and/or attorney filing an initial action with minor children shall submit a completed “Notice of Parenting Seminar” for each parent, custodian or other interested party involved in the action. The Clerk of Courts shall not accept for filing any case that does not have the “Notice of Parenting Seminar.” The Clerk of Courts shall forward this notice to Family Court Services, who shall schedule attendance at the appropriate seminar and issue notice to the parties.
- C. Upon satisfactory completion of the seminar, Family Court Services shall file a notice of compliance with the Clerk of Courts.
- D. No action shall proceed to final hearing until there has been compliance with this rule, provided, however, that non-compliance by a party who does not enter an appearance or does not contest the action shall not delay the final hearing.

E. No Shared Parenting Plan shall be approved unless both parties have attended the seminar.

F. The Court, for good cause shown, may waive this requirement.

G. Failure by any party to comply with this rule may result in the imposition of appropriate sanctions, including, but not limited to, those contained in this rule, contempt of court, or dismissal of their pleadings. In addition a party may not be awarded parenting time until they petition the court and submit proof of compliance with this rule.

10. HEARING AND SUBMISSION OF MOTIONS

A. All motions, except motions for continuance, shall be subject to oral hearing, unless otherwise waived by Court Order. The party seeking the order shall schedule the hearing at the time of the filing. Failure to schedule the motion for hearing may result in dismissal of the motion.

B. The first scheduled hearing upon any motion shall proceed as a pretrial and may be scheduled for a contested hearing, if necessary. The first scheduled hearing may proceed as a contested hearing with approval of the Court.

C. The moving party shall serve and file with the motion a brief written statement of reasons in support of the motion or affidavit and citations of the authorities on which the movant relies. The motion and/or affidavit shall contain specific facts upon which the moving party relies in bringing their motion.

D. Motions for a determination regarding competency filed in delinquency proceedings pursuant to R.C. 2152.51 to 2152.59 shall be in writing and scheduled for hearing in strict compliance with the applicable deadlines established by statute. Competency hearings shall be scheduled and heard on an expedited basis. The moving party shall be

responsible for ensuring that the motion is timely scheduled for hearing and for providing notice to all other parties. The filing of this motion shall stay all proceedings on the underlying complaint pending determination of the motion as provided in R.C. 2152.51(B).

11. DISCOVERY

- A. All discovery in delinquency, traffic and abuse, dependency and neglect matters shall comply with Juv.R. 24. All discovery in all other matters shall comply with Ohio Civil Rules 26 through 37.
- B. Discovery is to be held in Lorain County unless otherwise ordered by the Court or agreed between the parties.

12. EXPERT REPORTS

- A. Any written reports from experts shall be exchanged between all parties no less than ten days prior to trial unless otherwise ordered. Failure to exchange such reports may result in exclusion of that witnesses' testimony.
- B. Reports in delinquency and traffic cases are specifically excluded from this rule and shall proceed as outlined under the Juvenile Rules relating to discovery.

13. HOME INSPECTIONS/INVESTIGATIONS

- A. There will be no home inspection or investigation conducted unless ordered by the Court. Said order may be requested by a party or be made on the court's own motion. Said order shall be accompanied by a completed Referral Form for Mediation and Court Services.

- B. Reports prepared hereunder shall be made available and accessible to the parties or any counsel of record upon completion as provided in R.C. 2317.39. The Court shall order the Clerk of Courts to serve Counsel or the party, if a party is unrepresented, with written notice that the report is available for examination when completed. Counsel and unrepresented parties may examine the completed report by presenting themselves to Family Court Services' office on the 2nd Floor of the Justice Center and presenting proper identification when necessary. Counsel and parties may not remove the report from the Court premises or make copies of the same by any means, whether electronic or photographic.
- C. The investigator shall sign the report and shall be subject to cross-examination by either party or their counsel concerning the contents of the report.
- D. If a party misses an appointment and fails to reschedule it within two (2) days, it will be deemed as non-cooperation unless otherwise demonstrated.
- E. Failure to cooperate with Family Court Services may result in: (1) dismissal of action; (2) dismissal of request for custody by the noncomplying party; or (3) any other appropriate sanctions.
- F. A supplemental investigation may be ordered upon timely request and where appropriate.

(Amended 12/28/18)

14 GUARDIAN AD LITEM

- A. Qualification
 - 1. Guardians ad Litem must comply with Sup.R. 48. Training verification and other paperwork required to be submitted to the Court shall be submitted to the Court Administrator's Administrative Assistant by Dec. 31 of each calendar year, beginning with 2009.

B. Appointment

1. Upon the motion of any party or at the discretion of the Court, the Court may order a guardian ad litem when it deems it essential to protect the interests of a minor child of the parties or to represent an incompetent person. No motion for appointment of guardian ad litem shall be granted, except by leave of Court, once the matter has been set for trial.
 2. The Court shall not appoint a guardian without payment of the deposit toward the guardian's fees as directed by the court. Failure to post the deposit as ordered may result in the dismissal of the motion.
 3. The Court Administrator's Administrative Assistant shall maintain a list of individuals qualified and willing to serve as guardians ad litem. Counsel may agree to appoint a guardian ad litem from that list to a case. If counsel is unable to agree or their chosen guardian ad litem is unavailable, the court shall appoint a guardian ad litem from the list on a rotating basis to ensure equitable distribution of appointments.
 - a. The court shall send a courtesy copy of the journal entry appointing a GAL to the Admin. Asst.
 4. It shall be the responsibility of counsel in the case to copy the guardian ad litem with all pleadings, notices of hearings and depositions, entries and any other necessary documents. Any additional expense incurred by the guardian as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party or parties responsible for such failure.
- C. Removal - A GAL may be removed upon motion of any party and/or at the discretion of the court only upon good cause shown.
- D. Fees

1. The party or parties requesting the guardian ad litem shall deposit sufficient funds, as determined by the court, toward the payment of the guardian's fees with the Clerk of Courts or as otherwise directed by the court prior to the appointment of any guardian ad litem.
 2. After the initial deposit, the Court may award fees to the guardian ad litem for services rendered through the completion of the guardian's employment. Fees may be taxed against any or all parties.
- E. Duties, Report - Guardians ad Litem shall comply with Sup.R.48.
- F. The final judgment entry shall provide for the allocation of payment of fees for the guardian ad litem and discharge of the guardian.
- G. Comments, Complaints - Comments or complaints regarding the performance of guardians ad litem shall be in writing and submitted to the Court Administrator's Administrative Assistant, who shall comply with Sup.R. 48(G)(9) in handling said comments or complaints.

15. REQUESTS FOR INTERPRETER

- A. When interpretive services are needed, the attorney or party requesting an interpreter shall complete the REQUEST FOR INTERPRETER form, available from the Domestic Relations Clerks, Juvenile Clerks or from the Assignment Commissioners, and submit it to the hearing officer to whom the case is assigned, no later than ten days prior to the scheduled hearing.
- B. The Court will arrange for an appropriate interpreter to be present at the hearing.
- C. It is the responsibility of the requesting party to immediately notify the hearing officer if there is any change in the date or time of the hearing. Failure to do so may result in the

requesting party being held responsible for payment of the interpreter's fee for time spent in attempting to attend the hearing.

16. MOTIONS TO SET ASIDE AND OBJECTIONS

A. Motion to Set Aside a Magistrate's Order

1. A Motion to Set Aside a Magistrate's Order shall be filed with the Clerk of Court's within ten (10) days of the filing of the Magistrate's Order. The order is not stayed unless the Judge or Magistrate grants a stay. The Magistrate may continue to enter orders while a Motion to Set Aside is pending.
2. A Motion to Set Aside a Magistrate's Order shall state with specificity the reasons for the motion. Unless otherwise ordered, a transcript of the proceedings is not necessary for a Motion to Set Aside a Magistrate's Order.
3. The party first filing the Motion to Set Aside shall obtain a hearing date on their motion. The hearing shall be set on the Magistrate's docket that issued the respective order. A copy of all motions shall be served upon all other parties.
4. Unless the Court orders otherwise, a Motion to Set Aside a Magistrate's Order will be determined by the Magistrate that issued the order. The Magistrate will issue an order that rules on the Motion to Set Aside in a timely manner.

B. Motion to Review Magistrate's Order that ruled on a Motion to Set Aside

1. A Motion to Review Magistrate's Order that ruled upon a motion to set aside shall be filed with the Clerk of Courts within ten (10) days of the filing of the Magistrate's Order on the Motion to Set Aside.
2. A copy of the Motion to Review Magistrate's Order that ruled upon a motion to set aside shall be provided to the respective Judge's administrative assistant or bailiff. A copy may be facsimiled, emailed, or hand delivered.
3. The order is not stayed unless the Judge grants a stay.
4. A Motion to Review Magistrate's Order shall state with specificity the reasons necessitating judicial review. Unless otherwise ordered, a transcript of the proceedings is not necessary for a Motion to Review Magistrate's Order that ruled on a motion to set aside.

5. A Motion to Review a Magistrate's Order that ruled on a motion to set aside shall be determined by the Judge.
6. Upon receipt of a Motion to Review Magistrate's Order that ruled on a motion to set aside, the Judge may issue a Judicial Order that does one of the following:
 - a. Summarily grants the motion;
 - b. Summarily denies the motion;
 - c. Sets the motion for a hearing on the Judge's docket; or
 - d. Summarily modifies the Magistrate's Order.

C. Objections to a Magistrate's Decision

1. The party first filing objections shall obtain a hearing date on their objections before the Judge. A copy of all objections or responses shall be served upon all other parties. Failure to obtain a hearing date may result in dismissal of the objections.
2. The party filing objections shall file a praecipe for preparation of the transcript and serve a copy on the Court's Official Court Reporter. If a deposit for costs of a transcript is not made within seven (7) days of the filing of the objection, the objection may be dismissed.
3. The original transcript submitted with an objection becomes part of the official record of the case. Should preparation of a transcript result in delay of the final disposition of the case, the Court may make such temporary orders as it deems necessary and just.

(Amended 10/2022; Eff. 11/1/22)

17. AGREED JOURNAL ENTRIES

- A. Agreed entries shall bear the signature of all parties and counsel.
- B. In cases where a party is not represented by counsel and an agreed entry purports to deprive such party of a right or otherwise operates to the potential detriment of such party, a hearing on the merits of such matters may be conducted by the Court before such entry is accepted and journalized by the Court.

18. JUDGMENT ENTRIES

- A. In those cases where neither party is represented by counsel, judgment entries must be presented to a Magistrate for review prior to submission to the Court. The Magistrate will review the entry to determine that all mandatory information has been provided and that all exhibits are attached. Upon approval by the Magistrate, the matter will be scheduled for and proceed to final hearing before the Court. A party who does not have the proper information or exhibits shall not proceed to final hearing.
- B. Copies of the proposed judgment entries shall be presented to the Court and reviewed at the time of the hearing. Any party or their counsel shall be prepared to explain and show justification for provisions proposed in the judgment entry.

19. MEDIATION

- A. Introduction – The Lorain County Court of Common Pleas, Domestic Relations and Juvenile Divisions, incorporates by reference the R.C. 2710 “Uniform Mediation Act” (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.
- B. Definitions – All definitions found in the “Uniform Mediation Act” (UMA) R.C. 2710.01 are adopted by this court including, but not limited to, the following:
1. “Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute;
 2. “Mediator” means an individual who conducts mediation.

C. Areas of Mediation and Procedures

1. Open Court Cases

- a. The Court, on its own motion, or the motion of any of the parties, may refer disputed parenting time issues to mediation by Journal Entry and the Referral Form For Mediation and Court Services.
- b. Appointment letters will be sent to parties assigned to a mediator, or the parties may schedule an appointment at the time of referral.
- c. If an agreement is reached, the agreement shall be reduced to writing, signed by the parties, and placed on the record by the Mediation Magistrate. A journal entry with the attached mediated agreement shall be submitted to the designated Judge for signature.

2. Pro Se Mediation.

- a. Any party may request mediation by completing the Pro Se Mediation Request Form requesting the following:
 - i. Return, exchange or transfer of property as previously ordered by the Court;
 - ii. Providing, exchanging, or modifying medical insurance information, including responsibility for coverage, as previously ordered by the Court;
 - iii. Payment of uninsured medical bills as previously ordered by the Court
 - iv. Compliance with a court-ordered parenting time schedule
 - v. Establishment of a parenting time agreement where there is an existing administrative or court-ordered determination of paternity.
 - vi. Establishment of parenting time schedule pursuant to Seminar for Unmarried Parents Rule

- vii. Suspension of support where the parties are residing in the same household; referred to a Domestic Support Magistrate
 - viii. Any other matters that the Court deems appropriate
- b. Family Court Services will determine the eligibility and appropriateness of each referral.
- c. Upon acceptance for mediation, all parties shall be notified by Family Court Services of the date, time and nature of the mediation.
- d. If an agreement is reached, the agreement shall be reduced to writing, signed by the parties, and placed on the record by the Mediation Magistrate. A journal entry with the attached mediated agreement shall be submitted to the designated Judge for signature.

3) Unofficial Truancy Mediation (UTR)

- a. Juvenile truants and their parents may be referred to mediation by the court's attendance officer. A referral to mediation may be made if the student has accrued five or more unexcused absences and is at least ten years old.
- b. The mediation shall consist of child and parent(s) and shall be used to try to resolve internal family issues which have contributed to the child not consistently attending school.
- c. No other parties or court personnel shall attend the mediation session.
- d. If an agreement is reached between child and parent(s), the agreement shall be reduced to writing and signed by the parties. A journal entry shall reflect that an agreement was reached and a copy shall be provided to the attendance officer. Where an open juvenile truancy case exists, the

journal entry and mediated agreement shall be submitted to the designated Judge for signature.

4) Mediation of Abuse, Neglect and Dependency

a. Referrals for the mediation of abuse, neglect and dependency cases (MAND) may be made by the Court or Lorain County Children Services at any time after the filing of the cases.

D. Mediator Selection and Assignment – Family Court Services shall randomly assign a mediator to the case from the trained mediator staff.

E. Procedures

1. Family Court Services shall utilize procedures for all cases that will:
 - a. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
 - b. Screen for domestic violence both before and during mediation.
 - c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
2. Mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children shall abide by all provisions set forth in (E)(1) of this rule, mediation may then proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in “Qualifications” section (I) of this rule and all of the following conditions are satisfied:

- a. The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.
- 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 continued threat of domestic violence or coercion between the parties.

F. Termination – If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated.

G. Continuances – If a party or parties fail to appear for any scheduled mediation without good cause shown, the Mediation Coordinator shall determine whether to reschedule the mediation.

H. Mediation Memorandum of Agreement – If the parties reach an agreement during mediation, that agreement shall be reduced to writing and signed by the parties. A hearing in front of the Mediation Magistrate shall follow and the agreement shall be read into the record. A journal entry shall be signed by all parties at the time of the hearing. The signed Memorandum of Agreement and the Journal Entry shall be given to the respective Judge for signature.

I. Qualifications

1. General Qualifications and Training - A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:
 - a. Possess a bachelor's degree or equivalent education or experience as is satisfactory to the division, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.
 - b. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.
 - c. After completing the above training, complete at least forty hours of specialized family or divorce mediation training which has been approved by the Dispute Resolution Section of the Supreme Court.
2. Specific Qualifications and Training: Domestic Abuse
 - a. A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution Section. A mediator who has not completed this specialized training may

mediate these cases only if he/she co-mediates with a mediator who has completed the specialized training.

J. Exceptions - Cases in which any of the following indicators are present are not suitable for mediation:

1. Chronic or severe domestic violence, where one party has been convicted of or pled guilty to a violation of R.C. 2919.22, or where one party is genuinely in fear of the other;
2. Severe alcohol and/or drug abuse exists;
3. Mental illness of one of the parties;
4. Physical distance between the parties being so great that it is not feasible for them to attend or maintain a consistent mediation schedule;
5. One of the parties has been determined to be the perpetrator of an act which resulted in adjudication that a child was abused or neglected;
6. Excessive levels of conflict and hostility between the parties.

K. Cost - No fee shall be charged for the court's mediation service; however, the Court may order a deposit for any costs that may be associated with the filing of a journal entry or the opening of a new Juvenile Court case from an administrative determination of paternity.

L. Confidentiality - Statements made during the course of mediation shall not be admissible as evidence in any subsequent proceeding in this Court. This Rule does not require the exclusion of any evidence, which is otherwise discoverable, merely because it is presented during the course of mediation. Further, this rule shall not preclude the mediator from testifying as to a crime committed in their presence or from their statutory duty to report child abuse pursuant to R.C. 2151.421.

20. EX PARTE ORDER PRACTICE

A. Any ex parte motion filed shall comply with the Ohio Revised Code and the Ohio Rules of Juvenile Procedure.

B. General Procedures

1. Unless otherwise specified by law, all Motions for ex parte relief shall be accompanied by an affidavit. Any request for ex parte relief shall be accompanied by a Complaint or a Motion for Allocation or Modification of Parental Rights unless such matter is currently pending before the Court. The bond for service shall be paid at the time of filing.
2. Ex parte requests shall take preference on the docket. Upon the filing of an ex parte request, the request and accompanying affidavit will be reviewed by the Court as soon as reasonably possible on the day it is filed. Upon review, the judicial officer will determine if an immediate hearing is warranted, unless otherwise required to hold a hearing by law. No ex parte motion for a change of custody will be granted without a hearing.
3. After the Court reviews the ex parte motion and affidavit, the Court has discretion to do any of the following:
 - a. Summarily dismiss the ex parte motion;
 - b. Hold the ex parte hearing the day the motion is filed;
 - c. Continue the ex parte hearing for another date; or
 - d. Take any other action authorized by statutes or rules.
4. After the review, if the Court does not hold an immediate hearing, the Court will provide the moving party or attorney with an entry of the outcome.

C. Ex Parte Hearing

1. If the Court conducts an immediate hearing or sets the motion for a hearing in the future, the party seeking the ex parte immediate relief shall appear and testify at the hearing.
2. After the Court conducts an ex parte hearing, the Court may do any of the following:
 - a. Deny the motion and dismiss the motion;

- b. Deny the motion and set the matter for a review;
- c. Grant the motion, in whole or part, and set for a review hearing.

D. Review Hearing

1. If an ex parte order is granted, service of process of the request, affidavit and entry with notice of hearing, shall be made by the Sheriff's service or personal process server. The bond for service, paid at the time of the filing, shall not be waived, and it is non-refundable until final judgment, as outlined in Local Rules.
2. The Court shall hold a review hearing as soon as possible, but no later than 10 court days, unless required to hold the hearing sooner by law. This requirement may be waived by the responding party.
3. On child-welfare cases, if a statute or rule requires the Court hold a shelter care hearing within 72 hours or the next business day, and the Court is closed, the shelter care hearing shall be scheduled for a day and time as determined by the Court. The moving party shall notify the parties and legal counsel as soon as practicable.

(Amended 10/2022; Eff. 11/1/22)

21. CONTINUANCES

- A. Requests for continuance of proceedings shall be by written motion.
 1. Requests for continuance of any trial before the Judge shall be filed no later than thirty (30) days prior to trial. All other requests for continuance shall be filed no later than seven (7) days prior to the proceeding. This requirement may be waived by the Court for good cause shown.
 2. The moving party shall first attempt to secure consent of the opposing party, set forth in the motion whether consent was obtained or denied, and shall state the number of prior continuances and who requested those continuances. The motion shall state the reason for the continuance and be signed by the party and counsel.

The Court may waive this requirement for good cause shown, provided that the motion states the reason why the attorney has been unable to obtain the signature.

3. A copy of the motion shall be served upon the opposing counsel or opposing party if not represented. At the time of filing, a copy of the motion shall be presented to the Judge or Magistrate before whom the hearing is scheduled for a ruling.

4. If the request for continuance is approved, the party granted the continuance shall contact opposing counsel and the Assignment Commissioner to schedule a new date for the hearing.

5. The party granted the continuance shall submit an entry setting forth the new date, which shall be submitted in person or by facsimile transmission by the close of business on the day the continuance is granted.

6. Failure to comply with these rules may result in the continuance being denied and the matter proceeding as originally scheduled.

B. In Juvenile cases upon the Magistrate's docket where the Lorain County Prosecutor's Office is counsel of record, parties requesting continuances of pretrials shall contact the Lorain County Prosecutor's Office, counsel of record and unrepresented parties to secure the consent for the continuance.

1. If agreed and approved by the Court, the moving party, the Prosecutor and any additional parties shall secure a new date on the docket. The party granted the continuance shall submit an Entry setting forth the new date of the pretrial.

2. If no agreement is reached regarding the continuance, the moving party shall file a motion for continuance.

C. Conflict of Trial Assignment Dates

1. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date, in the same court or a different court, the case that was first set for trial shall have priority and shall be tried on the date assigned.
2. Criminal cases assigned for trial have priority over civil cases assigned for trial.
3. The Court will not consider any motion for continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty days prior to trial.

D. Engaged Counsel

If a designated trial counsel has such a number of cases assigned for trial in the courts as to cause undue delay in the disposition of such cases, the Administrative Judge may summon such trial attorney, who persistently requests continuances and extensions, to warn the attorney of the possibility of sanctions and to encourage the attorney to make necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may properly be imposed by the Administrative Judge on the number of cases

22. WITHDRAWAL OR SUBSTITUTION OF COUNSEL

A. Withdrawal

After entering an appearance as counsel, no attorney shall be relieved of responsibility unless:

1. Counsel timely files a written motion stating the grounds for withdrawing from the case, together with certification that counsel has notified the client of all

subsequent hearing dates and the necessity for attendance at same, and notified both the client and opposing counsel of the motion;

2. The motion is submitted to the Court along with a proposed entry containing the client's most recent mailing address and the name and address of any new counsel, if known;
3. The motion is scheduled for hearing, unless otherwise waived by the Court;
4. The Court grants the motion.

B. Permission to Withdraw

Permission to withdraw may not be granted once the matter has been scheduled for contested trial, absent compelling circumstances.

C. Substitution of Counsel of Record

Any attorney entering a case on behalf of a party who has had previous representation in the action shall do so by written notice of substitution filed with the Clerk of Courts. The notice shall contain the attorney's name, address, phone number, fax number, business e-mail address and Supreme Court Registration Number.

23. WAIVERABLE CASES

Waiver by Mail – The court permits waivers by mail in the following cases:

1. Seat Belt – driver;
2. Seat Belt – passenger;
3. Out of State residents who are cited within this state;
4. Tobacco waivers;
5. In all cases a waiver is issued to the parent/juvenile and a hearing date is assigned if the waiver is not signed and paid through the mail..

24. PUBLIC AND MEDIA ACCESS

- A. Sup. R. 12, R.C. 2151.35, and Juv. R. 27 shall govern public and media access to juvenile proceedings.
- B. A request for access must be submitted before the proceeding to the judicial officer conducting the hearing.
- C. A party may request that a proceeding be closed to the public and media by making a motion before the hearing setting forth with particularity the reasons for closure.
- D. All requests and motions shall be in writing unless otherwise permitted by the court.
- E. Hearings on motions for closure shall be held immediately prior to the proceeding for which closure is sought.
- F. An *in camera* inspection may be conducted to determine whether the closure hearing itself should be closed. Counsel for the parties, the press, and the public may be present and participate. Persons present at the *in camera* inspection are prohibited under penalty of contempt from disseminating any information determined by the court to be excluded from public disclosure.
- G. The court shall consider the following factors when determining whether to close a proceeding to the public and media:
 - 1. Whether there exists a reasonable and substantial basis for believing that public access could harm the child or endanger the fairness of the proceeding;
 - 2. Whether the potential for harm outweighs the benefits of public access; and
 - 3. Whether there are reasonable alternatives to closure.
- H. The court shall grant unrestricted access unless a closure hearing is held and the court makes findings that support closure or restriction, or unless otherwise restricted by law.

25. JURY USE AND MANAGEMENT PLAN

(THE FOLLOWING IS PROPOSED PURSUANT TO THE RULE OF THE SUPREME COURT OF OHIO REQUIRING A PLAN UTILIZING THE OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS AS A GUIDELINE.)

STANDARD 1. Opportunity for Service

- A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Lorain County.

STANDARD 2. Jury Source List

- A. The names of potential jurors should be drawn from a jury source list complied from one or more regularly maintained lists of persons residing in the court jurisdiction.
- B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

STANDARD 3. Random Selection Procedures

- A. The jury source list from Board of Elections shall be printed out on address labels, which shall be cut into individual names and addresses. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or

automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.

B. Random selection procedures should be employed in:

1. Selecting persons to be summoned for jury service;
2. Assigning prospective jurors to panels; and
3. Calling prospective jurors for voir dire.

C. Departures from the principle of random selections are appropriate only to comply with lawful exceptions.

1. To exclude persons ineligible for service in accordance with Standard 4;
2. To excuse or defer prospective jurors in accordance with Standard 6;
3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

STANDARD 4. Eligibility for Jury Service

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;
- D. Are not able to communicate in the English Language; or
- E. Have been convicted of felony and have not had civil rights restored.

STANDARD 5. Term of and Availability for Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

B. A term of service of three weeks.

C. Persons should not be required to maintain a status of availability for jury service longer than three weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

STANDARD 6. Exemption, Excuse, and Deferral

A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.

B. Eligible persons who are summoned may be excused from jury service if:

1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or specifically authorized court official.

A. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

B. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

STANDARD 7. Voir Dire

A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purposes of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

F. Rules on Voir Dire

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstances.
5. Questions are to be asked collectively of the entire panel whenever possible.

STANDARD 8. Removal from Jury Panel for Cause

A. If the judge determines during the voir dire process that any individual is unable or unwilling to hear particular case at issue fairly and impartially, that individual should be removed from the panel. Such determination may be made on motion of counsel or by the judge.

STANDARD 9. Peremptory Challenges

- A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.
- B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between the parties on the same side, the court may allow each conflicting party up to three peremptory challenges.
- D. In criminal cases, the number of peremptory challenges should not exceed:
 - 1. Six for each side when a death sentence may be imposed upon conviction;
 - 2. Four each side when a sentence of imprisonment (state institution) may imposed upon conviction; or
 - 3. Three for each side in all other prosecutions. On additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.
- E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.
- F. At all times rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil Rules and the Ohio Criminal Rules that are presently adopted or adopted in the future by The Supreme Court of Ohio and applicable statutory authority.

STANDARD 10. Administration of the Jury System

A. The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

B. All procedures concerning jury selection and service and should be governed by Ohio Rules of Court.

STANDARD 11. Notification and Summoning Procedures

A. The notice summoning a person to jury service and questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;
2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
3. Delivered by ordinary mail.

B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;
2. Providing basic background information ordinarily sought during voir dire examination; and
3. Efficiently managing the jury system.

D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

STANDARD 12. Monitoring the Jury System

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- A. The representatives and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The costs-effectiveness of the jury management system.

STANDARD 13. Juror Use

- A. Courts should employ the services of prospective jurors so as to achieve optimum use with minimum of inconvenience to jurors.
- B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both.
- C. Courts should coordinate jury management and calendar management to make effective use of jurors.

STANDARD 14. Jury Facilities

- A. Courts should provide an adequate and suitable environment for jurors.
- B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors should be accommodated in a pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

E. To extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

STANDARD 15. Juror Compensation

- A. Persons called for jury service should receive a reasonable fee for their service and expenses.
- B. Such fees should be paid promptly.
- C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

STANDARD 16. Juror Orientation and Instruction

- A. Orientation programs should be:

- 1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
 - 2. Presented in a uniform and efficient manner using a combination of written, oral and audio-visual materials as determined by the Court to which the juror is assigned.

- B. Courts should provide some form of orientation or instructions to persons called for jury service:

- 1. Upon initial contact prior to service;
 - 2. Upon first appearance at the court; and
 - 3. Upon reporting to a courtroom for voir dire.

- C. The trial judge should:

- 1. Give preliminary instructions to all prospective jurors.

2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
 3. Prior to commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
 4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
 5. Recognize utilization of written instructions is preferable.
 6. Before dismissing a jury at the conclusion of a case:
 - a. Release the jurors from their duty of confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Either advise them that they are discharged from service or specify where they must report; and
 - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and give the opportunity to be heard.

STANDARD 17. Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform to existing Ohio laws and as may be amended in the future.

STANDARD 18. Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during the deliberations in accordance with Standard 16C.
- C. The deliberation room should conform to the recommendations set forth in Standard 14C.
- D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

STANDARD 19. Sequestration of Jurors.

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- D. Standard procedures should be promulgated to:
- E. Achieve the purposes of sequestration; and
- F. Minimize the inconvenience and discomfort of the sequestered juror.

G. Training shall be provided to personnel who escort and assist jurors during sequestration.

26. SPECIALIZED DOCKETS

(A) Establishment of a Family Drug Court Docket, a Juvenile Drug Court Docket and a Juvenile Mental Health Court Docket— The Domestic Relations Court seeks to establish ongoing specialized docket services according to the requirements set forth in Sup.R 36.20 through 36.29.

1. Lorain County Family Drug Court was developed to address Domestic Relations Court cases involving adjudications of abuse, neglect and/or dependency; with the primary issue preventing effective parenting being alcohol and/or drug problems. The Family Drug Court team consists of representatives from the Domestic Relations Court Judge and Magistrate, the Drug Court Coordinator, Drug Court Case Manager, Lorain County Children Services (LCCS), Lorain County Alcohol and Drug Abuse Services (LCADA), the Elyria YWCA, the individual Drug/Alcohol counselor, Nord Center (mental health) counselor, Faith House and Voices for Children. The Family Drug Court Judge and team meet weekly to staff the Family Drug Court cases prior to weekly court hearings with the participants. The Team advocates, supports, reports compliance and non-compliance, submits plans and requests interventions and sanctions. The Court monitors compliance, reviews plans, addresses participants, affords participants an opportunity to be heard and issues and enforces court orders. The goal of the Lorain County Family Drug Court is to expedite the reunification of children with their parents in abuse, neglect and dependency cases by eliminating their drug/alcohol use, or to expedite permanency in placement for children whose parents are unable or unwilling to maintain sobriety and

comply with court orders. The goal is to have participants completing the program in 9-12 months with reunification expected within that time. The objectives are: to provide and intensive program through the corroboration of Team members to address sobriety, housing, parenting, financial and children issues with regular oversight, case management, and court attention for cases in which compliance with case plan orders has been problematic; to ensure a comprehensive approach to assist parents in maintaining sobriety and addressing case plan issues and compliance with court orders and to provide regular contact with the court to effectuate case plan goals, provide intervention, enforce court orders and provide sanctions in a timely and effective manner.

2. The Mental Health Court is a specialized docket targeting youth with serious mental health concerns. The specialized Mental Health Court docket focuses on improving the youth's behavioral and emotional functioning, strengthens the family's ability to care for the child in the home and assists the youth in achieving stability in school and in the community. The collaborative efforts of the Judge and the Court, treatment providers, and the families assist in the therapeutic impact of the services and assist in reducing the risk of out of home placement or more severe Court sanctions. Through the frequent and intense contact with the Court, the goal of the Mental Health Court is to improve compliance with treatment and medication, thus decreasing the youth's symptomology that led to delinquent conduct.

3. The Juvenile Drug Court was developed in 2000 to address youth who are adjudicated delinquent and are substance dependent. Participants must engage in drug and alcohol treatment, demonstrate stability in their educational program, engage in positive activities in the community, and achieve sobriety with the assistance of intensive treatment and supervision. The treatment team, which consists of The Lorain County Domestic Relations Court Judge and Magistrate, clinician from The Nord Center, Program Coordinator, Case Manager/Community Control Officer, Community Resources Officer, and the Court's drug and alcohol assessor meet weekly to discuss each participant. Following the treatment team meeting, a status review hearing is conducted in which the participant and their parent/guardian is addressed by the Court. The goal of Juvenile Drug Court is for the participant to maintain their sobriety and have no further criminal behavior.

(B) Placement in the Family Drug Court Docket, the Juvenile Drug Court Docket or the Juvenile Mental Health Court Docket are outlined as:

1. Specific criteria to enter the Family Drug Court was collaboratively developed, reviewed and agreed upon by all relevant parties at the inception of the program in 2000. However, those criteria will be reviewed periodically by the Advisory Committee. The specialized docket judge has discretion to decide admission into the program. The written legal and clinical eligibility criteria do not create a right to enter the specialized docket. There are no specific legal criteria associated with entering the Family Drug Court program in terms of criminal court involvement. Clients may have either an official filing of Abuse, Neglect or Dependence by the Lorain County Prosecutor's Office on behalf of Lorain County Children Service or they may be referred as an Unofficial (In-

Home) by the particular caseworker assigned. The Family Drug Court Coordinator, the Lorain County Children Services Caseworker or the Director of Women's Treatment at LCADA may meet with the potential participant initially, however, it is the Family Drug Court Coordinator or the FDC Case Manager who will collect information on their use history, their child(ren), their housing plan, their legal involvement, etc. The Coordinator will also meet face-to-face with the participant to review the program components, provide them with a copy of the participant handbook and sign all necessary documents to enter the program.

2. Candidates for the Juvenile Mental Health Court must have delinquency charges in the Lorain County Juvenile Court system. Youth charged with sex crimes (excluding public indecency), and minor misdemeanors may not be considered for the program. The client must admit commission of the offense and acknowledge having a mental illness that needs treatment. A juvenile that would benefit from court-monitored treatment is included in the program as a condition of their probation. The terms of the adjudication and the rules of probation will be included when considering the development of the written treatment plan, safety plan, home and school rules. The written treatment plan also becomes a condition of probation. There are three Clinical eligibility criteria: The person must have an "*Axis I*" diagnosis that is consistent with a severe and persistent mental illness. These diagnoses included, but are not limited to, the following diagnostic categories:

- a. Schizophrenia
- b. Mood disorders
- c. Obsessive Compulsive Disorder

d. Post Traumatic Stress Disorder

e. Dissociative Disorder

The person must be competent and “stable enough” to understand and comply with the program requirements; and the person must not pose an unacceptable risk to program staff, family, or community. Individuals with “*Axis 2*” personality disorders may also be considered for inclusion. Clients may be considered if they also have a primary “*Axis 1*” diagnosis AND it is determined by the treatment team staff that traits of the personality disorder are unlikely to interfere with the individual’s ability to participate meaningfully in the Juvenile Mental Health Court program.

3. The Juvenile Drug Court program accepts youth who are in the post-adjudication, pre-disposition process. Candidates should not have an extensive Court history, been adjudicated delinquent of Felony I level offenses, or aggravated violent crimes. All program admissions are approved by the Lorain County Prosecutor’s Office prior to entering the program. The Prosecutor’s Office reviews the presenting charges, consults with victims, and considers any other information pertinent to the offense(s) prior to approval. The approval from the Prosecutor’s Office is mandatory, due to the charges being dismissed upon successful completion of the program. The clinical eligibility criteria are as follows:

- The youth must meet the criteria for DSM-V diagnosis of Substance Use Disorder.
- The youth cannot have a primary diagnosis of any major mental health disorders.

- The youth must be competent to understand and retain treatment and comply with program requirements.
- The person must not pose an unacceptable risk to program staff, family, or the community.

The following conditions must also be met:

- The juvenile must be amenable to treatment and acknowledge a willingness to take medication, if prescribed.
- The supports and services needed by the individual must be available.
- The individual must be willing to participate in the program, as entrance into the Juvenile Drug Court program is voluntary.

Although the youth may meet the legal and clinical criteria for admission, that does not create a right to enter the program. Ultimately, the Juvenile Drug Court Judge has the discretion to decide admission to the program. Although participation is voluntary, once the youth is admitted to the program, they are subject to the Court's orders.

(C) Case Assignment in Multi-judge Courts — There are three judges assigned to the specialized dockets in Lorain County. Judge Sherry L. Glass is the presiding Judge for the Family Drug Court. Judge Frank J. Janik is the presiding Judge for the Juvenile Drug Court. Judge Lisa I. Swenski is the presiding Judge for the Mental Health Court. Cases are re-assigned to the presiding Judge's docket once the decision has been made to officially accept the participant into the Specialized Docket. Should a case be unsuccessfully terminated from the Family Drug Court Docket, the case will return to the originating court for further disposition.

Should a case be unsuccessfully terminated from the Mental Health Court Docket, the presiding Judge will determine at which point the case will be returned to the originally assigned Judge. The Juvenile Drug Court Judge will maintain the case on their docket for purposes of disposition in the event of termination.

(D) The Family Drug Court Docket, the Juvenile Drug Court Docket and the Juvenile Mental Health Court Docket have Case Management components assigned to the programming.

1. The Family Drug Court: Once the Judge has determined the participant is a valid candidate for the specialized docket program, the participant will be invited to observe the Court proceedings during a regularly scheduled court docket. The participant will be addressed by the Judge or Magistrate about the program, be given a generalized outline of the program components and the expectations of the program. The participant is advised to schedule an appointment with the Family Drug Court Coordinator if interested in learning more or signing up for the program. At the time of the meeting, the potential participant is required to sign a release of information form to provide for communication about confidential information, participation and progress in treatment, and compliance with program requirements. Participants are provided with a Participation Agreement, Program Description and Participant Handbook which are incorporated by reference as if fully rewritten herein. Clients are explained the guidelines for program compliance and noncompliance, including criteria for termination.

2. Juvenile Mental Health Court: Once the judge determines that the potential participant is to be offered program entry, the potential participant is offered admission into the

program. Participants are then placed in appropriate treatment services and programs and under reporting supervision to monitor compliance with court requirements as soon as possible. The typical time from referral to entering the Mental Health Court is typically 14-21 days. Participants and their parent/guardian are provided with a Participation Agreement, Program Description and Participant Handbook which are incorporated by reference as if fully rewritten herein. During the first court appearance, the Mental Health Court judge provides an explanation to the participant and the parent/legal guardian of the responses to compliance and noncompliance, including the criteria for termination.

3. Juvenile Drug Court: Once a juvenile is accepted into the program, they will be provided the Program Description, Participant Handbook and sign the Participant Agreement, which are incorporated by reference as if fully rewritten herein. All of the rules, expectations, criteria for successful completion, and criteria for termination are fully explained to the participant and their parent(s)/guardian(s) prior to their admission to the program. Court supervision will begin immediately and the participant and their parent(s)/guardian(s) will attend the next status hearing. An intake appointment will be scheduled for a treatment assessment promptly, after which the participant can begin attending drug and alcohol treatment.

(E) Termination from the Family Drug Court Docket, Juvenile Drug Court Docket and the Juvenile Mental Health Court Docket are as follows:

1. Family Drug Court: In order to meet completion criteria, participants must have successfully completed the 5 Phase system of the Family Drug Court program and have completed all Family Drug Court goals and expectations. Participants will be provided with the written completion criteria. Participants will have also addressed/completed the following:

- Successful completion of Aftercare programming through AoD treatment provider
- Compliance with LCADA treatment plan (having met 2 or more of the following: obtained safe and stable housing, adequate employment or having educational needs met, no new arrests, utilizing functional recovery support network, improved family relationships and implementation of relapse prevention strategies)
- No positive drug screens in the past 4-6 months
- Compliance with the LCCS case plan requirements (successful completion of AOD treatment; successful completion of other services – MH/DV – reunification plan to be executed; legal issues addressed; negative drug screens; living in sober housing; having maintained children in the home; financial stability/employment)
- Attend review hearings with Judge every 8 weeks as requested unless excused
- Participation in graduation ceremony
- Maintain employment or active involvement in GED/educational programming
- Secure and maintain stable housing
- Financially meeting the needs of the child(ren)
- In regards to mental health, participant will be able to recognize symptoms of increased stress, anxiety and depression, regularly use strategies/tools to reduce

- impact of stress without prompting, begin to use independent mental health plan and complete assignments without reminders and prompts
- Displayed responsibility for his/her behavior and a change in thinking, attitudes and beliefs.

The judge has discretion to determine when the participant will successfully complete the program. The process for determining when a participant has successfully completed the program includes:

- How the participant is nominated for successful completion
- Treatment team review of compliant behavior and accomplishments
- Treatment team recommendation
- Judicial decision that participant successfully completed specialized docket
- Award of a certificate
- Graduation ceremony

Cases may meet unsuccessful termination criteria for any reason at the discretion of the Court. Other possible grounds may include:

- Failure to appear for hearing
- Failure to consistently maintain sobriety
- Failure to comply with treatment plan and make progress in treatment
- Refusal to acknowledge drug/alcohol dependency
- Failure to meet other Case Plan objectives (as outlined by the AoD treatment plan and/or the Lorain County Children Services case plan)

Participants may receive a neutral discharge from the Family Drug Court for reasons that may be out of their control, at the discretion of the Court. Participants who had serious medical or mental health reasons for not being able to complete the program or who had an agreed change in their Lorain County Children Services filing status may be considered as neutral discharges from the program.

Clients, with unofficial cases, who are terminated from the program, will have their case plans with Lorain County Children Services proceed as to their protocols. Clients, with official court cases, who are terminated from the program, will have their cases reviewed by the Caseworker, Casework Supervisor and/or the Assistant Prosecuting Attorney assigned to the case, to determine if additional court hearings are to be set to address the termination and/or determine if filing for a change in custody or placement of the minor child(ren) should occur. The specialized docket judge has discretion in determining termination from the specialized docket.

2. Juvenile Mental Health Court: Participants are successful in the Mental Health Court program when they have been able to:

- Maintain employment or active involvement in volunteer services
- Be compliant with less intensive mental health services and/or substance abuse services
- Avoid incurring new delinquent charges filed within last 6-12 months.
- Engage in positive peer and group activities
- Be compliant with the treatment plan and all terms of probation
- Attend review hearings with Judge, as requested unless excused

- Participate in a graduation ceremony

The judge has discretion to determine when the participant will successfully complete the program. Cases may meet unsuccessful termination criteria for any reason at the discretion of the Court. Other possible grounds may include:

- Failure to appear for hearing
- Failure to consistently maintain sobriety
- Failure to comply with treatment plan and make progress in treatment
- Refusal to acknowledge mental illness and needs for services
- Failure to meet other Case Plan objectives (as outlined by a dual-diagnosis treatment plan)

Participants may receive a neutral discharge from the Mental Health Court for reasons that may be out of their control, at the discretion of the Court. Participants who had serious medical or substance abuse impairments which result in reasons for not being able to complete the program may be considered as neutral discharges from the program. The Mental Health Court judge has discretion in determining termination from the specialized docket.

Terminations occur at the Status Review hearings and the case is set for disposition before the Specialized Docket Judge or the originating Judge (at the discretion of the Specialized Docket Judge). Examples of dispositional orders after unsuccessful termination include:

- Commitment to the Lorain County Detention Home

- Commitment to the Ohio Department of Youth Services
 - Placement at Stepping Stone Residential Center/Pathways Group Home
 - Placement on General Community Control or in the Community Intervention Program
 - Loss of future eligibility for Mental Health Court
3. The Juvenile Drug Court: Participants in Juvenile Drug Court have successfully completed the program when they have met the following requirements:
- Demonstrated period of abstinence from alcohol and drugs, evidenced by submitting negative alcohol and drug screens, a minimum of 90 days prior to completion
 - Attended sober support meetings
 - Active member in a sober support group
 - Displayed a change in thinking, attitude, and beliefs
 - Successfully completed treatment or programming
 - Maintained consistent employment
 - Demonstrated ability to identify and eliminate criminal thinking patterns
 - Completion of treatment
 - Relapse prevention plan established
 - Regular sober support attendance
 - Completed Juvenile Drug Court program requirements, including community service
 - Completed vocational or education program

- Restitution obligations fulfilled
- Displayed responsibility for his/her behavior
- Demonstrated stability in the community

The process for determining when a participant has successfully completed the program includes:

- Treatment team review of compliant behavior and accomplishments
- Treatment team recommendation
- Judicial decision that participant successfully completed Juvenile Drug Court
- Award of a certificate
- Dismissal of the case
- Graduation ceremony

There are two types of termination criteria: unsuccessful and neutral discharge. Termination criteria are developed by the Advisory Committee; however the Judge has discretion in determining termination from Juvenile Drug Court.

Unsuccessful Termination-

Actions that may lead to termination include:

- Ongoing noncompliance with treatment or resistance to treatment
- New serious criminal convictions
- A serious specialized docket infraction or series of infractions

Terminations occur at the Status Review hearings and the case is set for disposition before the Specialized Docket Judge. Examples of dispositional orders after unsuccessful termination include:

- Commitment to the Lorain County Detention Home
- Commitment to the Ohio Department of Youth Services
- Placement at Stepping Stone Residential Center/Pathways Group Home
- Loss of future eligibility for Juvenile Drug Court or any other Specialized Docket

Neutral Discharge-

Actions that may lead to neutral discharge include:

- A serious medical condition
- Serious mental health condition
- Death
- Other factors that may keep the participant from meeting the requirements for successful completion.

(Effective 8-27-13)

27. USE OF RESTRAINTS DURING JUVENILE COURT PROCEEDINGS

Pursuant to Ohio Supreme Court Rule of Superintendence 5.01, the Lorain County Domestic Relations Court adopts this Rule regarding use of restraints during court hearings:

- A. Juveniles appearing before the Court shall be free of physical restraints during Court proceedings unless exigent circumstances exist. During transportation and while being escorted to a courtroom, a juvenile shall remain in restraints. If the juvenile becomes

disruptive any time during a hearing, restraints shall be applied in order to maintain the safety of the juvenile, court personnel and the public. A return to restraints will be noted on the record.

1. Exigent circumstances shall be determined by the Judge or Magistrate before whom the juvenile is appearing, on the record, per the following criteria, both of which must be found:
 - a. There is no less restrictive alternative to the use of physical restraint that will prevent flight or physical harm to the juvenile or another person, including but not limited to, the presence of court personnel, law enforcement officers or bailiffs; and
 - b. The necessity of the use of physical restraints is demonstrated to the satisfaction of the Judge or Magistrate by the presence of either of the following factors:
 1. The juvenile represents a current and significant threat to the safety of the juvenile's self or other person in the courtroom; OR
 2. There is a significant risk the juvenile will flee the courtroom.
- B. The Court shall provide the juvenile or any other party, as defined by 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.
- C. Any restraint ordered herein shall be the least restrictive necessary to meet the risk requiring the restraint. Any restraint shall not unnecessarily restrict the movement of the juvenile's hands.

(Effective 09-01-16)

28. APPOINTED COUNSEL

A. Appointed Counsel List

1. **Inclusion on the Appointment list.** Any attorney in good standing with the Ohio Supreme Court may apply to be included on the appointment list. In order to be considered for inclusion on the appointment list, counsel shall submit:
 - a. A completed application, which may be obtained from and shall be submitted to the Court Administrator's Office, and shall be signed by the applicant;
 - b. A current resume indicating the attorney's training and experience in successfully handling Juvenile Court cases;
 - c. Verification that, if a new attorney, the applicant has attended the new attorney training CLE (as required by the Ohio Supreme Court);
 - d. Verification that the applicant has complied with all of the continuing education requirements of the Ohio Supreme Court;
 - e. Documentation of Juvenile Court and/or criminal cases and training necessary to determine compliance with the minimum qualifications and training required to handle cases pursuant to the provisions of OAC 120-1-10, or if already on the list, to be approved to handle more serious cases.
 - f. Proof of professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct.
 - g. Applications shall be updated every year by December 31st, to remain on the appointed counsel list.
 - h. Attorneys are under an ongoing obligation to notify the court of changes to their status and contact information.
 - i. Proof of ability to meet with appointed clients in Lorain County.

2. **The Application Process.** Court Administration shall review all applications submitted for inclusion on the appointment list. After review of the pending applications, and after seeking additional information or documentation to evaluate qualifications when necessary, Court Administration will either approve or disapprove each applicant for inclusion on the appointed counsel list, specifying at what level of representation the Applicant is to be listed based on the qualifications submitted. The applicant will be notified accordingly. Should the Applicant disagree with Court Administration's decision, s/he may seek clarification or appeal the same.
 - a. **Clarification:** In the event the Applicant seeks clarification of the decision, the Applicant may contact the Court Administrator by email, telephone or in person.

B. Appointment of Counsel

1. **Appointment of Counsel for Indigent Parties.** Appointment of counsel shall be made on a sequential, rotating basis from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the person to be appointed. On rare occasion it may be in the interest of justice for the court to deviate from a sequential rotation to select an individual attorney whose expertise or experience is particularly well suited to a given case or client.

Appointed counsel is expected to perform the work for which they have been appointed; should appointed counsel be unavailable for a scheduled hearing, attorney should first attempt to seek a continuance. In the event counsel is unavoidably unavailable for a procedural hearing that will not impact a client's substantive rights,

the attorney may seek approval of the Court, if practicable, for substitute counsel to cover the hearing. In that instance, substitute counsel must also be qualified and approved to be on the appointment list. In no instance may counsel be substituted for any hearing that affects a client's substantive rights, including but not limited to pleas, motion hearings, trials, speedy trial waivers, or sentencing without prior court and client approval.

Appointment of an attorney to a case is not appointment of the attorney's firm or associate; each attorney must apply for inclusion on the list and may only handle cases at the level for which they are qualified.

Court administration shall maintain a record of how many cases each attorney has been appointed to and how many cases have been declined and the reason therefore.

C. Removal of Appointed Counsel

1. **Removal from the Appointment list.** Counsel may be removed from the appointment list for the following conduct:
 - a. Failure to comply with the Code of Professional Responsibility; the Ohio Rules of Juvenile Procedure; the Ohio Public Defender Commission's Attorney Qualifications to Represent an Indigent Client; the Rules of Practice of the Court; or the violation of any statute or administrative code or rule regarding the representation of clients.
 - b. Regular and repeated refusals to accept appointments.
 - c. Regular and repeated failure to follow the billing procedures.

- d. Repetitive unprofessional behavior such as lack of preparation, tardiness, failure to timely meet with clients, or failure to properly prepare for proceedings, or disrespectful treatment of clients or others involved in the case.
 - e. Repeated conflicts with clients necessitating the appointment of other counsel.
 - f. Repeatedly accepting fees for representation of a client that are inadequate and then seeking court appointment for the remainder of the case.
 - g. Repeatedly accepting an appointment but sending other counsel to appear on behalf of the indigent client.
 - h. Having a case reversed by the Court of Appeals for ineffective assistance of counsel.
 - i. Repeatedly seeking to withdraw, without cause, prior to completion of the case.
 - j. Failure to timely file necessary paperwork.
 - k. Repeated utilization of substitute counsel.
 - l. Any similar action or inaction that jeopardizes high quality representation of the person to whom counsel was appointed to represent.
2. **Removal from the Appointment list.** Upon notification of any of the listed reasons, an attorney may be removed by the Administrative Judge.

Any attorney removed from the appointment list may apply for reinstatement after complying with any required remedial action or waiting period specified, providing the attorney completes the application process anew.

3. Remedial Action. Court Administration may require remedial action of an attorney in lieu of removal and may require remedial action before an attorney may seek reinstatement to the appointment list after removal. Remedial action may include:

- a. Attendance at a specific training program for attorneys;
- b. The assignment of a mentor;
- c. A reduction in the degree of severity of cases for which the attorney can receive appointments;
- d. Sitting as second chair/assistant trial counsel in cooperation with regularly retained or assigned counsel; or
- e. Substance abuse or mental health counseling as recommended by appropriate professionals.

4. Appeal. Should Applicant wish to appeal a decision regarding inclusion on, or removal from the appointment list or the level of representation qualification, s/he shall file a written notice and brief detailing the basis for appeal with the Court Administrator's office within seven (7) days of the date of notice of action appealing from. Said appeal shall be heard and determined by a panel of the three Judges, who shall make a determination by majority vote. Applicant will be notified of the decision within 30 days. Said decision will be final.

5. Mentors. The Court may designate as mentors those attorneys on the appointment list who have significant skill, experience, and who have consistently exhibited high quality representation of clients. New attorneys and those needing remedial assistance may be assigned a mentor as a requirement for inclusion on the

appointment list either from those attorneys designated by the Court or through LCBA's mentor program. The mentor is responsible for providing assistance, guidance, and tutelage to the attorney assigned.

(Amended 9/14/18)

29. Parenting Coordination

A. Definitions

1. Domestic Abuse – a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.
2. Domestic Violence – has the same meaning as in R.C. 3113.31(A)(1).
3. Parenting Coordination – means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. “Parenting Coordination” is not mediation subject to R.C. Chapter 2710, R.C. 3109.052, or Sup.R. 16, nor arbitration subject to R.C. Chapter 2711 or Sup.R. 15.
4. Parenting Coordinator – means an individual appointed by the Court to conduct parenting coordination.

B. Purpose

1. This rule allows for the resolution of disputes related to parental rights and responsibilities or companionship time orders outside of Court.

C. Scope

1. The Court may appoint a parenting coordinator upon the filing of a parental rights and responsibilities or companionship time order.

D. Limitations of Parenting Coordinator

1. A parenting coordinator may not determine the following:
 - a. Whether to grant, modify, or terminate a protection order;
 - b. The terms and conditions of a protection order;
 - c. The penalty for violation of a protection order
 - d. Changes in the designation of the primary residential parent or legal guardian;
 - e. Changes in the primary placement of a child.

E. Parenting Coordinator Qualifications, Continuing Education, Reporting

1. The Court may appoint an individual as a parenting coordinator who has all of the following qualifications:
 - a. A master's degree or higher, a law degree, or education and experience satisfactory to the Court;
 - b. At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;
 - c. Has completed the following training approved by the Dispute Resolution Section of the Supreme Court of Ohio:
 1. At least twelve hours of basic mediation training;
 2. At least forty hours of specialized family or divorce mediation training;
 3. At least fourteen hours of specialized training in domestic abuse and dispute resolution;

4. At least twelve hours of specialized training in parenting coordination.

2. Continuing Education

- a. To maintain eligibility for appointment, a parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children that has been approved by the Dispute Resolution Section of the Supreme Court of Ohio.
- b. On or before January 1st of each year, a parenting coordinator shall report to the Court a list of all continuing education training completed during the previous year, including the sponsor, title, date, and location of each training. A parenting coordinator shall not be eligible for appointment until this requirement is satisfied. The parenting coordinator shall complete three hours of continuing education for each calendar year of deficiency.

3. Reporting

- a. A parenting coordinator shall submit to the Court Administrator's office:
 1. A resume documenting compliance with continuing education requirements; and
 2. An updated resume in the event of any substantive changes; and
 3. Notification of any changes to name, address, and telephone number and, if available, electronic mail address.

F. Appointment

1. The Court may order parenting coordination, sua sponte or upon written or oral motion by one or both of the parties, when one or more of the following factors are present:
 - a. The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need assistance;

- b. There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
- c. The parties have a child whose parenting time schedule requires frequent adjustments, specified in an Order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- d. The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an Order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- e. One or both of the parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on, or to make adjustments in their parenting time schedule without assistance, even when minor in nature;
- f. Any other factor as determined by the Court.

2. Parenting Coordinator Appointment Order

- a. The appointment order shall set forth all of the following:
 - 1. The name, business address and business telephone number of the parenting coordinator;
 - 2. The specific powers and duties of the parenting coordinator;
 - 3. The term of the appointment;
 - 4. The scope of confidentiality;

5. The fees and expenses to be charged for the services of the parenting coordinator;
 6. The parties' responsibility for the payment of fees and expenses for services rendered by the parenting coordinator;
 7. The parenting coordinator has the right to suspend all services until payment of any unpaid balances;
 8. The terms and conditions of parenting coordination;
 9. Any other provisions specifically agreed to by the parties not in conflict with the definition of parenting coordination as set forth in this rule.
3. Selection of Parenting Coordinator for Appointment
 - a. The parenting coordinator may be selected using one of the following methods:
 1. By the Court randomly, from the Court's roster of parenting coordinators; or
 2. By the Court based on the type of case, and the qualifications and caseload of the parenting coordinator; or
 3. By agreement of the parties, from the Court's roster of parenting coordinators; or
 4. By any other method approved by the Court.
 4. Prohibited Parenting Coordinator Appointments
 - a. The Court shall not appoint a parenting coordinator who does not possess the qualifications required by this rule, or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate, guardian ad litem, custody evaluator, therapist,

consultant, coach, or other mental health provider to any family member, or attorney of either party. Parties may not waive this prohibition.

5. Appointment of Mediator as Parenting Coordinator
 - a. With written consent of the parties, the individual who served as a mediator for the parties may be appointed as the parenting coordinator.
6. Termination or Modification of Parenting Coordinator Appointment
 - a. Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.
7. Parenting Coordinator Responsibilities
 - a. Ability to Perform Duties
 1. A parenting coordinator shall report in writing to the Court Administrator any factor that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.
 - b. Compliance with Appointment Order
 1. A parenting coordinator shall comply with the requirements of, and act in accordance with the appointment order issued by the Court.
 - c. Independence, Objectivity, and Impartiality
 1. A parenting coordinator shall maintain independence, objectivity, and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.
 - d. Conflicts of Interest
 1. A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with

parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

2. Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the Court Administrator and the parties in writing of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court through the Court Administrator.

e. Ex parte Communications

1. A parenting coordinator shall not have ex parte communications with the Court regarding substantive matters or issues on the merits of the case.

f. Legal Advice

1. A parenting coordinator shall not offer legal advice.

g. Parenting Coordination Agreements, Reports, and Decisions

1. Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.
2. The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be promptly filed with the Court and include all of the following:

- a. Case caption, including the case number;
 - b. Date of the decision;
 - c. The decision of the parenting coordinator;
 - d. Facts of the dispute and facts upon which the decision is based;
 - e. Reasons supporting the decision;
 - f. The manner in which the decision was provided to the parties;
 - g. Any other necessary information.
3. A party may file written objections to a parenting coordinator's decision with the Court and serve all other parties to the action within fourteen days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action, not later than ten days after the first objections are filed. The party filing the initial objections shall obtain a hearing date and a ruling shall be issued by a Judge or Magistrate within thirty days of the last objection filed.
4. Upon request of the Court, the parenting coordinator shall prepare a written report including, but not limited to, all of the following:
 - a. Dates of parenting coordination sessions;
 - b. Whether the parenting coordination sessions occurred or were terminated;
 - c. Requests to reschedule a parenting coordination session, including the name of the requestor and whether the request was approved;
 - d. Whether an agreement was reached on some, all, or none of the issues;
 - e. Who was in attendance at each session;

- f. The date and time of future parenting coordination sessions;
- g. Whether any decisions were written, and if so, the dates.

8. Parenting Coordination Procedures

- a. Screening for and Disclosure of Domestic Abuse and Domestic Violence
 - 1. All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.
 - 2. All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.
 - 3. When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, a parenting coordinator shall do each of the following:
 - a. Fully inform the person who is, or may be the victim of domestic violence about the parenting coordination process and the option to have a support person present at parenting coordination sessions;
 - b. Have procedures in place to provide for the safety of all persons involved in the parenting coordination process;
 - c. Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.
- b. Disclosure of Abuse, Neglect, and Harm

1. A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

c. Attendance and Participation

1. The parties shall contact and meet with the parenting coordinator within thirty days of the appointment order. Parties shall attend parenting coordination sessions as requested by the parenting coordinator. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.
2. A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

d. Referrals to Support Services

1. A parenting coordinator shall provide information regarding referrals to other resources as appropriate.

e. Parenting Coordinator Evaluations

1. A parenting coordinator shall provide parties with the parenting coordinator evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment. The evaluation form shall be completed by the parties and submitted to the Court Administrator.

2. The Court Administrator shall complete a review of the parenting coordinators on the Court's roster in January of each year.

f. Complaint of Parenting Coordinator Misconduct

1. A party to a case in which a parenting coordinator has been appointed may file a complaint regarding misconduct of the parenting coordinator within one year from the termination of the appointment. Dissatisfaction with the decisions of the parenting coordinator does not constitute misconduct.

2. The complaint shall be submitted to the office of the Court Administrator, and include all of the following:

- a. The case caption and case number;
- b. The name of the parenting coordinator;
- c. The name and contact information for the person making the complaint;
- d. The nature of any alleged misconduct or violation;
- e. The date the alleged misconduct or violation occurred.

3. The Court Administrator shall provide a copy of the complaint to the parenting coordinator;

4. The parenting coordinator has fourteen days from the date of receipt of the complaint to respond in writing to the office of the Court Administrator.

5. The Court designee shall conduct an investigation into the allegations and shall issue a response.

g. Fees

1. A parenting coordinator shall be paid an hourly rate, as agreed to by the parties and the parenting coordinator. If the Court determines that the

parties are indigent, some of the fees associated with the parenting coordinator may be waived. The parenting coordinator has the right to suspend all services until payment of any unpaid balances.

9. Confidentiality and Privilege

- a. Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

10. Public Access

- a. The files maintained by the parenting coordinator but not filed with the Clerk of Court or submitted to the Court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

11. Model Standards

- a. The Court and a parenting coordinator shall comply with the “Guidelines for Parenting Coordination” developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the “Guidelines for Parenting Coordination” and this rule, this rule shall control.

12. Court Reporting Requirements

- a. On or before February 1st of each year, the Court shall file with the Dispute Resolution Section of the Supreme Court of Ohio all of the following:

1. A copy of this rule;
2. A copy of the Court's current roster of parenting coordinators;
3. A copy of each new or updated resume received by the Court from a parenting coordinator during the previous year;
4. A copy of each list of continuing education training received by the Court from each parenting coordinator.

13. Sanctions

- a. The Court may impose sanctions for any violation of this rule which may include, but is not limited to, attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the Court.

(Effective: April 1, 2017)

30. USE OF ELECTRONICALLY PRODUCED TICKET

A. Authorization

Traffic tickets produced by computer or other electronic means may be filed in lieu of the Ohio Uniform Traffic Ticket, provided that the computer generated or electronic ticket conforms in all substantive respects, including layout and content to the Ohio Uniform Traffic Ticket. The provisions of Ohio Traffic Rule 3(B) relative to the color, weight of paper, and method of binding shall not be applicable to a ticket that is produced by computer or other electronic means.

B. Issuance

If a traffic ticket produced by a computer or other electronic means is issued at the scene of the alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket as required by Ohio Traffic Rule 3(E). A law enforcement

officer who files a ticket electronically shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other traffic tickets issued pursuant to the Ohio Traffic Rules.

(Effective: October 8, 2014)

31. TRUANCY COMPLAINT FILING PROCESS

All Complaints regarding school attendance against a Juvenile and/or Parent/Guardian/Custodian filed with the Lorain County Juvenile Clerk's Office shall comply with Ohio Revised Code 3321.16.

A. A Complaint packet is required, which can be obtained from the Lorain County Juvenile Clerk's Office, Room 110, of the Lorain County Justice Center, 225 Court Street, Elyria OH 44035 and/or the Lorain County Domestic Relations Court website www.loraincounty.com/domesticrelations/ under "Forms," and must include all of the following information:

1. A completed Lorain County Juvenile Court Complaint Checklist, which includes:
 - a. The names, title/position, address, and telephone number of all members of the Absence Intervention Team;
 - b. The name, title/position, address, and telephone number of the person who made the three or more meaningful, good faith attempts to secure the participation of the parent/guardian/custodian or designee in the Absence Intervention Team, and a description of the attempts that were made;
 - c. Whether or not Lorain County Children Services (LCCS) was contacted upon failure of the parent/guardian/custodian and/or designee to respond to the meaningful, good faith attempts to secure participation in the Absence Intervention Team;

- d. How, when, and by whom the Absence Intervention Plan was delivered to the parent/guardian/custodian;
 - e. The Attendance Officer, who is a member of the Absence Intervention Team, and any other individual(s) to be notified and present for all court appearances.
2. A Lorain County Juvenile Court Information Sheet;
 3. An accurate and legible notarized and signed, sworn Complaint;
 4. Supporting documentation of how the prerequisite requirements were met (or documentation demonstrating the school is exempt from such requirements), including:
 - a. A copy of the absence warning letter issued to the parent/guardian/custodian when the student met the threshold of excessive absenteeism;
 - b. An accurate and legible copy of the juvenile's present year-to-date attendance record showing the date and number of hours of absences without legitimate excuse;
 - c. A full, dated copy of the Absence Intervention Plan, including any updates;
 - d. A narrative detailing any participation and/or progress that was made by the student prior to the complaint being filed;
- B. The Complaint packet shall be delivered to the Juvenile Clerk's Office, Room 110 of the Lorain County Justice Center, 225 Court Street, Elyria OH 44035 in **triplicate**—original copy to be filed with the Court, one copy to be forwarded to the Lorain County Prosecutor's Office, and one copy to be time stamped and returned to the Complainant upon filing. Failure to provide the required copies will result in copying costs being incurred.

- C. Filing an incomplete Complaint and/or failing to provide the required documentation as set forth above can result in the Complaint being dismissed as void *ab initio* for failing to demonstrate compliance with statutory requirements.
- D. Upon the filing of an official juvenile complaint, the Court will schedule a Preliminary Conference as an alternative to adjudication and will consider formal action on the complaint as a matter of last resort. Any information divulged by the Juvenile and/or Parent/Guardian/ Custodian during the Preliminary Conference process will not be admissible if formal action is taken on the complaint(s).
- E. When an adult complaint is filed jointly with a juvenile complaint, no formal action will be commenced on the adult complaint until the preliminary conference process is completed.

F. **Definitions:**

- 1. Absence Intervention Plan-pursuant to ORC 3321.191(C)(2)(a), a plan created by the Absence Intervention Team in an effort to reduce or eliminate further absences. Each intervention plan shall vary based on the individual needs of the student, but the plan shall state that the attendance officer shall file a complaint not later than sixty-one days after the date the plan was implemented, if the child has refused to participate in, or failed to make satisfactory progress on, the intervention plan or an alternative to adjudication.
- 2. Absence Intervention Team- pursuant to ORC 3321.191(C)(2)(a)-(c), a group assembled to develop an absence intervention plan for a particular student in an effort to reduce or eliminate further absences. The Team shall be composed of members based on the needs of each individual student, but must include:
 - a. A representative from the child's school district or school

- b. Another representative from child's school district or school who knows the child
 - c. Child's parent/guardian/custodian or designee, GAL, or temporary custodian
 - d. May also include school psychologist, counselor, or social worker, or a representative from a public or nonprofit agency designed to assist students and families in reducing absences
- 3. Attendance Record-a list that delineates the date and hours of attendance and absences each day, and whether each absence was with or without legitimate excuse.
- 4. Complaint-an accurate, legible, notarized and signed filing alleging that a juvenile and/or a parent/guardian/ custodian has violated Ohio's school attendance laws; to be submitted with the Lorain County Juvenile Court Complaint Checklist packet, completed in full, available from the Juvenile Clerk's Office.
- 5. Legitimate Excuses-
 - a. ORC 2151.011(B)(22)
 - 1. the child in question has enrolled in and is attending another public or nonpublic school in this or another state;
 - 2. the child in question is excused from attendance at school by the superintendent for any of the reasons specified in section 3321.04 of the Revised Code;
 - a. child's bodily or mental condition does not permit attendance and provision is made for appropriate instruction of child;
 - b. home instruction ;

- c. a child over 14 years old may be excused from attendance for a future limited period for the purpose of performing necessary work directly and exclusively for the child's parents or legal guardians;
 - 3. the child in question has received an age and schooling certificate in accordance with ORC 3331.01.
- b. Ohio Administrative Code 3301-69-02
- 1. Illness of child
 - 2. Illness in family necessitating presence of child
 - 3. Quarantine of home
 - 4. Death of relative (limited to 3 days)
 - 5. Medical or dental appointment
 - 6. Observance of religious holiday
 - 7. College visitation
 - 8. Emergency or other circumstances in which the judgment of the superintendent of schools constitutes a good and sufficient cause for absence from school
6. Meaningful, Good Faith Attempts-more than one method designed to effectuate actual notice to parent/guardian/custodian. Examples: personal delivery, leaving notice at residence in a conspicuous place, certified mail, regular mail, email, telephone call, and/or emergency contact.
7. Narrative-a written account of events, in sequence, detailing all action taken.
8. Participate-to take part in, to be involved in or to actively be a part of the Absence Intervention Plan and/or the Preliminary Conference Process.

9. Satisfactory Progress-sufficient gradual betterment with regard to attendance and/or other goals to fulfill the intervention process and result in the matter being diverted from Juvenile Court.
 - a. Progress-a forward or onward movement (as to an objective or to a goal);
gradual betterment.
 - b. Satisfactory-*adequate*→*sufficient*→*enough to meet the needs of a situation or a proposed end. Enough to fulfill the intervention process and result in the matter being diverted away from Juvenile Court.*
10. Substantial Progress-an abundance of gradual betterment with regard to attendance and/or other goals.
 - a. Progress-a forward or onward movement (as to an objective or to a goal);
gradual betterment.
 - b. Substantial-*ample*→*generously sufficient to satisfy a requirement or need*→*generously means marked by abundance or ample proportions.*

(Effective: January 22, 2018)

Approved as October 25, 2022.



Sherry L. Glass, Judge



Frank J. Janik, Judge



Lisa I. Swenski, Judge