

**STARK COUNTY FAMILY COURT**

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**RULES OF COURT**

**RULE DR 9 - GENERAL**

9.01 Name of Division

The Domestic Relations and Juvenile Court may be severally identified as the Court of Common Pleas of Stark County, Ohio, by adding hereto:

1. Family Court Division
2. Division of Domestic Relations

3. Juvenile Division
4. Divisions of Domestic Relations and Juvenile

9.02 The *Ohio Rules of Civil Procedure* or the *Ohio Rules of Juvenile Procedure* shall apply in all actions where applicable.

## **RULE DR 10 - COSTS**

10.01 A deposit shall be required to secure court costs in all Domestic Relations cases.

10.02 Waiver of Deposit: Waiver of Costs

The Court may, by endorsement on the pleading, waive the deposit for costs, upon good cause shown and upon the filing with the Clerk of an affidavit, identifying assets and earnings of the party, together with a statement that counsel has received no fees. In such case, said deposit shall be made prior to the hearing upon the merits of such cause unless the Court determines that trial without costs is necessary in the interest of substantial justice.

10.03 Amended Petitions for Dissolution of Marriage

Upon the filing of an amended petition for dissolution of marriage in a divorce or legal separation action, there shall be deposited with the Clerk the requisite court deposits as upon the filing of a petition for dissolution of marriage.

10.04 Court Deposits applied

Upon final judgment, the Clerk of Courts is authorized and directed to forthwith apply the deposit for costs to the costs in the case, regardless of the party against whom costs are assessed.

The Clerk shall thereupon assess the costs against the proper party, and notify and bill such party, reimbursing the court costs depositor upon receipt of such costs.

## **RULE DR 11 - SERVICE AND NOTICE**

11.01 If the residence of a Defendant in an action for divorce, annulment, or legal separation is unknown, or if the Defendant is not a resident of this State or is a resident of this State but absent from this State, notice of the pendency of the action shall be given by publication as provided by rule 4.4(A) of the *Ohio Rules of Civil Procedure*.

If publication is made by posting and mail as authorized by rule 4.4(A)(2), where the plaintiff is proceeding *in forma pauperis*, such posting shall be made in a conspicuous place in Stark County Courthouse, 115 Central Plaza, North, Canton, Ohio 44702, the

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Stark County Office Building, 110 Central Plaza, South, Canton, Ohio 44702, the Stark County Board of Elections, 201 3<sup>rd</sup> Street, N.E., Canton, Ohio 44702, and the Canton City Hall, 218 Cleveland Avenue, South, Canton, Ohio 44702.

11.02 When a complaint for divorce is filed, the attorney shall supply the Clerk with the appropriate number of copies for service.

If personal service by the sheriff is requested, the attorney shall provide the original plus one copy of the complaint and the original plus two copies of any other pleadings to be served.

If service by certified mail is requested, the attorney shall provide the Clerk with the original plus one copy of the complaint and any other pleadings.

### **Appointment of Process Servers**

11.03 Process Server (one-time appointment).

If a party desires personal service to be made by special process server pursuant to Civil Rule 4.1, that party must file with the Clerk of Courts an entry appointing a process server. The following must be stated in the entry of appointment:

1. The name of the person to be appointed as process server;
2. That the person to be appointed as process server is 18 years of age or older;
3. That the person to be appointed as process server is not a party or counsel for a party in the action.

11.04 Process server (continuing appointment).

A person may apply to be designated as a “standing process server” for cases filed in this court by filing an application supported by an affidavit setting forth the following information:

1. The name, address and telephone number of the applicant;
2. That the applicant is 18 years of age or older;
3. That the applicant agrees not to attempt service of process in any case in which the applicant is a party, counsel for a party, or related to a party by blood or marriage;
4. That the applicant agrees to follow the requirements of Civil Rules 4 through 4.6 and any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases.

### **Recording order of appointment.**

The applicant requesting designation shall also submit an order captioned "In re: the appointment of (name of applicant) as standing process server" and stating as follows:

"It appearing to the Court that the following applicant has complied with the provisions of Local Rule 11.04, (name of applicant) is hereby designated as a standing process server authorized to make service of process in all cases filed in this Court, to serve until further order of this Court."

The Clerk of Courts shall record such appointment on the Court's general docket and shall retain the original application and judgment entry. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such an order as satisfying the requirements of Civil Rule 4.1(B) for designation by the Court of a person to make service of process.

### **RULE DR 12 - PLEADINGS AND FILING REQUIREMENTS**

Attorneys are required to include their attorney registration number issued by the Supreme Court of Ohio on all documents filed within any Division.

12.01 In any complaint or counterclaim filed in the Family Division of the Court, it shall be an affirmative duty to identify all children conceived or born to the wife during marriage. Non-disclosure of such information shall be construed as an affirmative representation of non-parenthood; which if untrue, shall constitute a fraud upon the Court and for which the Court may make any appropriate order.

12.02 It is necessary for each of the parties to a divorce, legal separation, dissolution or annulment proceeding to have made full and complete disclosure of their financial status prior to the date of any hearings. The Clerk of Courts shall not accept for filing, any divorce, legal separation, petition for dissolution, annulment or counterclaim which does not include signed, sworn, current financial statements of the parties. A copy of the financial statement shall be delivered to opposing counsel prior to the hearing.

If unemancipated children are involved, the Clerk of Courts shall not accept for filing, any divorce, legal separation, dissolution, paternity, custody complaint or motion or child support action which does not include a signed, sworn, Uniform Child Custody Jurisdiction and Enforcement Act (U.C.C.J.E.A.) form and an application for IV-D services provided by CSEA. A completed child support worksheet must also accompany petitions for dissolution of marriage with unemancipated children. All of the

required forms are provided on the Court's website at [www.familycourt.co.stark.oh.us](http://www.familycourt.co.stark.oh.us).

Rule 12.03 There is an affirmative duty to update financial statements through amendment prior to any court hearing. If the information originally filed remains current, the initial filing will suffice.

Rule 12.04 All parents filing divorce, dissolution, legal separation or complaints for custody which involve minor children shall attend an educational seminar for parents as ordered by the court. Non-compliance by a parent who enters no appearance and does not contest the action shall not delay the issuance of the final entry. Contempt may be commenced by the Court against the non-compliant party. Sanctions may include suspension of parenting time, dismissal, a jail sentence and/or fine and court costs.

Attendance at the parenting classes may also be required by order of the court in connection with motions for post-decree relief concerning allocation of parental rights or parenting time with minor children.

### **PARENT EDUCATION WORKSHOP**

Following the filing in the juvenile division of a complaint or a motion to modify the allocation of parental rights and responsibilities, including visitation, both parents, movants, and/or legal custodians in custody or parenting time actions involving minor children shall attend and complete the educational workshop, "Working Together for Kids: Communication and Parenting Skills for Never Married Parents". A notice advising the parents, movants, and/or legal custodians of the educational workshop will be issued to the particular parties involved in the action. Those parties shall then be responsible for attending and successfully completing the educational workshop. No final order or hearing shall issue or be scheduled in any case until there has first been compliance with this rule; provided, however, that noncompliance with this rule by a party who fails to enter an appearance, following proper service, shall not delay the issuance of a final order. Failure of a nonresidential parent or movant to complete the educational workshop may result in the dismissal of their complaint or motion, or the court may take other action deemed appropriate. Upon written application of any party and for good cause shown, the Court may waive or alter the requirement set forth within this rule. Parties living out of county or out of state may, with leave of court, fulfill the requirements of this rule by completing a similar workshop available in their locale and then providing this court with a dated copy of the certificate of completion. The court may, when it appears to be in the best interest of the child(ren), order additional parenting education for any individual involved in the pending matter. Upon successful completion of the educational workshop, a certificate of completion will be prepared for each participant and filed with the Clerk of Courts. Once the certificate of completion is filed with the Clerk of Courts, a party does not have to repeat the educational workshop, unless specifically ordered by the court in a future action concerning the allocation of parental rights and responsibilities, parenting time, or companionship issues.

12.05 All motions, memoranda contra and replies shall be filed and titled in the following manner:

1. Motion:  
Motion of (Plf/Dft) (Party Name)  
(To/For) (Type of Motion)
2. Memorandum Contra:  
Memorandum Contra of (Plf/Dft) (Party Name)  
To (Plf/Def) (Party Name)
3. Reply:  
Reply to (Plf/Dft) (Party Name)  
To (Plf/Dft) (Party Name)  
Memorandum Contra to Motion Filed (Date of Motion)

12.06 All judgment entries submitted by counsel should be titled as follows:

1. State the reason for the entry; or
2. Relate the entry to the motion decided and the date of decision;
3. Indicate whether or not it is a final entry; and
4. If it is a final decree of divorce, legal separation, dissolution, or shared parenting adopt the separation agreement and/or shared parenting plan previously filed, unless either or both have been amended, then attach the amended separation agreement and /or amended shared parenting plan to the final decree.

For Example:

**FINAL JUDGMENT ENTRY SUSTAINING PLAINTIFF BROWN'S MOTION FOR MODIFICATION FILED JUNE 8, 2000**

12.07 Temporary Restraining Order

Upon motion, the court may issue temporary restraining orders upon the filing of a divorce complaint, legal separation complaint, counterclaim or answer. The suggested form for a standard restraining order is:

**IN THE COURT OF COMMON PLEAS  
DOMESTIC RELATIONS DIVISION**

**STARK COUNTY, OHIO**

_____	)	<b>CASE NO.</b> _____
<b>Plaintiff</b>	)	<b>JUDGE</b> _____
<b>vs.</b>	)	<b>RESTRAINING ORDER</b>
_____	)	
<b>Defendant</b>	)	

Upon motion, supported by affidavit, and for good cause shown, it is hereby **ORDERED** that during the pendency of this action:

1. Each party is restrained from directly or indirectly harassing, annoying, interfering with, harassing by telephone, assaulting, or doing bodily harm to the other party at the residence, place of employment or elsewhere.
2. Each party is restrained from selling, damaging, destroying, removing, encumbering, disposing of, lessening the value of, or in some manner secreting the assets of the parties, or the assets of either party, including, but not limited to, real estate, household furniture and furnishing, personal items or automobiles.
3. Each party is restrained from directly or indirectly changing beneficiaries, making loans on, terminating or otherwise closing out or reducing any pension plan, retirement account or life insurance policy, including benefits and values, on the life of either party or the child(ren) thereof.
4. Each party is restrained from withdrawing, spending, encumbering, or disposing of funds deposited in any financial institution, including, but not limited to, investment accounts, bank accounts, money markets, credit unions, pension plans, certificates of deposit or savings bonds.
5. Each party is restrained from directly or indirectly causing the hospitalization and/or medical, dental or any other insurance, including, but not limited to, automobile insurance previously in effect for the benefit of either party or the child(ren) thereof to be terminated or lessened as to benefits or value.
6. Each party is restrained from contracting upon the parties' joint credit or the other party's separate credit in some manner, including, but not limited to, any lease.

7. If this action involves minor children of the parties, each party is restrained from removing said minor child(ren) from the jurisdiction of the court, school of enrollment or concealing the exact whereabouts of said minor child(ren).

8. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. No bond or hearing will be required for the issuance of this restraining order.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Judge/Magistrate

**RULE DR 13 - DOMESTIC RELATIONS CASE MANAGEMENT PLAN**

The Court hereby establishes the following plan for the filing, assignment, and hearing of matters in the Domestic Relations Division. The time frame established for each phase is to be followed as closely as possible with the primary goal to move each case as expeditiously as possible (refer to Rule DR 13.04 for continuances). It is the responsibility of each party to be prepared in advance of any scheduled hearing. The Court may at any time refer a case for mediation or arbitration in order to seek a timely and equitable resolution of the case. The inability of the Court to meet these guidelines shall not be grounds for the dismissal of a case.

Schedule of events by the type of case - scheduling starts with the date of filing the complaint and continues sequentially.

Divorce

- |                |                      |
|----------------|----------------------|
| 1 - 21 days    | Temporary Hearing    |
| 1 - 6 months   | Call of the Docket   |
| 6 months       | Pre-trial            |
| 6 - 12 months  | Trial if no children |
| 10 - 18 months | Trial with children  |

Dissolution

4 - 6 weeks           Hearing

Motions

1 - 2 weeks           Temporary or initial hearing

1 - 2 months         Pre-trial

2 - 6 months         Trial

Change of Custody

1 - 2 weeks           Temporary hearing

2 - 4 months         Pre-trial

6 - 9 months         Trial

13.01 Divorce

- (A) Upon the filing of a complaint for divorce, legal separation, or annulment, the assignment commissioner shall assign the case for a date and time certain for a pre-trial hearing which shall be approximately six (6) months from the date of filing.

The assignment commissioner shall also assign the case for a date and time certain for a status call. That date shall be one (1) to six (6) months from the filing of the complaint. Only cases that are going forward uncontested shall appear in Court on the status call date and those cases shall be heard on that date.

If service is not perfected until after the status call date, any matters not advanced on the docket by motion, shall be heard on the pre-trial date. If service has not been perfected by twenty-eight (28) days prior to the date of the pre-trial, the case may be dismissed.

- (B) All complaints shall contain the following notice provision after the operative, factual paragraphs and before the request for service:

Notice of Hearing

If no answer is filed to this complaint or if the parties have entered into a written separation agreement, this matter will be heard as an uncontested trial on the \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M. (This hearing will be a pre-trial if an answer has been filed by the defendant and the parties have not reached an agreement. Otherwise, this matter will be the final hearing. Both parties shall be present at the pre-trial).

- (C) The judge or chief magistrate shall have the authority to schedule the final trial of a case in front of a magistrate. That decision will be made at the pre-trial hearing.

- (D) Failure to Answer. A divorce or legal separation case shall be deemed to be uncontested unless an answer, motion or stipulation for leave to plead, is filed within twenty-eight (28) days after completion of service. When such a case has been set down for final hearing as an uncontested case, the defendant may not introduce evidence on his behalf except by leave of court for good cause shown.
- (E) Trial or hearing date.
  - (1) Pursuant to Ohio Rule of Civil Procedure 75(J) no action for divorce, annulment, or legal separation may be heard and decided until the expiration of forty two (42) days after service of process or twenty eight (28) days after the service of a counterclaim which may be designated a cross-complaint, unless the plaintiff files a written waiver of such twenty eight (28) day period.
  - (2) Pursuant to O.R.C. 3105.64, in the case of a dissolution of marriage, the hearing shall be not less than thirty (30) days nor more than ninety (90) days after the filing of the petition for dissolution of marriage.
- (F) Any case coming before the court as an uncontested trial because the defendant has failed to file an answer, may not be heard by the court, unless a proposed judgment entry is submitted to the Court at the time of the trial.

### 13.02 Dissolution

Upon the filing of a petition for dissolution, the Assignment Commissioner shall immediately assign a date which is approximately six (6) weeks from the date of filing.

### 13.03 Motions

When a motion for a temporary order, modification of a prior order or contempt is filed, the Domestic Relations Assignment Commissioner shall immediately assign a hearing date within the parameters issued by the Court.

### 13.04 Pre-trial Conference

- (A) For the purpose of this rule, pre-trial shall mean a court supervised conference, chiefly designed to produce an amicable settlement.

The term "party" or "parties" used hereinafter shall mean the party or parties to the action and/or his or her attorney or attorneys of record.

- (B) A pre-trial conference shall be held at a date and time certain in all contested

cases [approximately six (6) months from filing]. Said date and time shall be assigned to all cases when a complaint for legal separation, divorce or annulment is filed. All parties, except those joined for the sole purpose of being enjoined from releasing assets during the pendency of the case, and their counsel shall appear at the pre-trial. Any application for continuance of the conference shall be made by written motion to the judge assigned to the case.

Failure to appear at the pre-trial hearing may result in sanctions, including, but not limited to, payment of attorney fees to the adverse party.

In the event that neither the defendant nor his/her attorney appears for the pre-trial, the court, at plaintiff's request, may hear evidence and decide the case on the pre-trial date.

If neither the plaintiff nor his/her attorney appear at the pre-trial and no counterclaim has been filed, the court may dismiss the action.

- (C) All discovery shall be completed no later than thirty (30) days prior to the scheduled pre-trial date, unless otherwise permitted by leave of Court.
- (D) At the pre-trial conferences, the following shall be considered:
  - 1. Settlement of the case;
  - 2. Agreement upon and simplification of the issues;
  - 3. The number of witnesses to approximate length of trial;
  - 4. Establishment of a trial date;
  - 5. Any other matters as may aid in the disposition of the case.
- (E) At the conclusion of the pre-trial conference, a pre-trial order shall set the matter for a date and time certain for trial. That order shall be given to each counsel or to any party not represented by counsel and shall be filed with the Clerk.

#### **RULE DR 14 - CONDUCT OF HEARING AND TRIALS**

14.01 All trials and hearings authorized by Ohio Revised Code Sections 2151.23, 3113.31 and Chapter 3105, may be heard by the judge of this division to whom the case has been assigned, by one of the judges of the Common Pleas Court of Stark County, by a visiting judge, or by any magistrate appointed by this Court.

14.02 Order of Reference pursuant to Rule 40 of the Ohio Rules of Juvenile

Procedure, Rule 53 of the *Ohio Rules of Civil Procedure*, Rule 14 of the Ohio Traffic Rules, and Section 2151.16 of the Ohio Revised Code:

The Stark County Family Court shall appoint magistrates who are attorneys at law admitted to practice in Ohio. A magistrate may hear:

1. Any pre-trial or post-judgment motion in any case before the Court;
2. The trial of any case before the Court which will not be tried to a jury;
3. The trial of any case before the Court that will be tried to a jury, provided that unanimous written consent is given by the parties;
4. The magistrate shall be invested with general powers to regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the magistrate's duties.

14.03 Pursuant to Rule of Superintendence, No. 11, of the Ohio Supreme Court, tape or digital recordings will be made of all hearings in this Court. Recordings of hearings shall be preserved for a minimum of three (3) years. (Transcripts are addressed in L.R. 7.08 for all divisions).

14.04 All judgment entries in divorce, legal separation and annulment cases shall be submitted to the Court by counsel not later than fourteen (14) days after a decision is rendered. If such judgment entries are not submitted, upon notice of such failure to the parties or their counsel by ordinary mail to the last known address of the parties and/or counsel, the Court may either dismiss the case or order the Clerk to enter a judgment in accordance with the decision rendered by the Court.

14.05 Continuance or Advancement

All requests of continuances must:

1. Be in writing;
2. State the reason for the request;
3. Contain a space for insertion of the new date for the hearing;
4. Contain the filing date of the present case;
5. If the request for continuance is being made due to a conflict with another case, contain the case name, case number, type of case (civil or criminal),

judge's and county's name where it is to be heard, and when the conflicting case was assigned for trial;

6. Contain an affirmation that opposing counsel was contacted and does/does not have an objection to the continuance;
7. Contain specific language as to the type of proceeding being continued i.e. final divorce, motion for temporary orders, etc.

No case will be heard on its merits without regular assignment. For good cause shown, the Court, through separate court order, may grant leave to hear a case on a date other than that regularly assigned. If any case, after publication in a regular assignment schedule, is continued for any reason, that case may be thereafter assigned without publication upon notice to counsel of record or the adverse party, if not represented by counsel.

## **RULE DR 15 - MOTIONS**

15.01 Motions requiring a hearing shall be assigned for hearing by the Assignment Commissioner at the time of filing (see Rule DR13). No case will be heard at a time other than as scheduled in Rule DR 13 without the approval of the assigned judge or magistrate.

15.02 Motions filed which do not request hearings are to be copied directly to the assigned judge's office for rulings. Failure to provide copies to the judge may result in delayed rulings.

15.03 All motions for support and/or legal separation, temporary or modification, must be accompanied by a signed, sworn, current financial statement, a copy of which shall be filed and served on the opposing party. Any motion filed without the required financial statement furnished by the Court is subject to immediate dismissal. The financial statement form required is provided on the Court's website at: [www.familycourt.co.stark.oh.us](http://www.familycourt.co.stark.oh.us). On modifications, pages 1 and 3, dealing with income and expenses, are the only two pages which must be filled out).

In any action wherein children are involved, for temporary child support filed, completed child support guideline worksheets must be presented to the magistrate or judge at the start of the hearing by the party requesting the child support. (The party against whom the motion is brought must cooperate and provide, upon request, financial information to the movant prior to the time of hearing.) In regard to motions for modification of child support filed, the movant must file and serve a completed child support guideline worksheet on the other party as soon as obtained, through good faith efforts, but no later than immediately preceding the scheduled time of the hearing. Completed child support guideline worksheet means that financial information must be provided for both

parties, and in regard to modifications the information must be supported by appropriate documentation. Child care costs must be supported by actual proof of payments made.

#### 15.04 Failure to Appear

- (A) When a motion is called for hearing and neither party appears without notifying the court, the motion is subject to dismissal.
- (B) When a motion is called for hearing and either of the parties fails to appear without having notified the Court, the Court may either dismiss the motion or grant an order after hearing.

#### 15.05 Contempt

- (A) The party filing any contempt action shall file therewith an affidavit which shall set forth the claimed reason for the contempt and shall identify the specific court order the contemnor has allegedly violated by identifying the filing date of the order and the specific paragraph, article or section where the order may be found. A copy of the court order the contemnor has violated shall be attached to the affidavit. If the claim is a failure of payment of support the affidavit shall include the amount of delinquency claimed. In the event the claim is for failure to pay medical expenses, the affidavit shall include the amount of such medical expenses. The party against whom the contempt action has been filed shall be served with a copy of the affidavit along with the motion for an order in contempt.
- (B) Contempt Arrest. When a party is taken into custody pursuant to an order, other than upon execution of sentence, he/she shall be brought before the Court as soon thereafter as possible; provided, if he/she is released on bond, he/she shall appear as directed by the Court to answer the charges.

15.06 Pre-trial Orders. Following the hearing of any motion filed in this Court, the magistrate may enter orders without judicial approval in pre-trial proceedings under Civil Rule 16, in discovery proceedings under Civil Rule 26 to 37, temporary restraining orders under Civil Rule 75(H), in hearings under Civil Rule 75(M) and other orders as necessary to regulate the proceedings. Such orders will be prepared and signed on a form issued by the Court and identified as a "Magistrate's Order" in the caption. The order will then be filed with the Clerk of Courts and served upon all parties or their attorneys. It shall not be necessary for counsel for either of the parties to prepare or submit a judgment entry setting forth such order, although counsel for either party may prepare and cause such order to be approved and filed if counsel for either party shall determine that such formal judgment entry ought to be filed.

15.07 Referred Matters. Following the hearing of any action referred by the Court to a magistrate which are not matters in which the magistrate is permitted to enter orders without judicial approval, the magistrate shall prepare, sign and file a magistrate's decision of the referred matter with the Clerk of Courts who shall serve copies on all the parties or their attorneys. It shall not be necessary for counsel for either of the parties to prepare or submit a judgment entry setting forth such decision, although counsel for either party shall determine that such formal judgment entry ought to be filed. In the event that a party intends to file an appeal of the Court's decision, that party shall cause to be prepared and signed a formal judgment entry in conformity with the original handwritten entry.

15.08 The following procedure shall be applicable to all motions filed in this Court which are initially continued for the formal presentation of evidence (trial).

- (A) After being assigned, such evidentiary hearings on pending motions will be continued only for good cause shown and only by the magistrate or judge to whom such evidentiary hearing has been assigned.
- (B) If a continuance of said hearing is granted from a date and time certain, the evidentiary hearing on said motion will be set at such time as will be determined by the magistrate or judge to whom such motion has been assigned.
- (C) Movant must comply with the affidavit requirement in Court Rule DR 15.02, Court Rule DR 15.04, and Court Rule DR 16.02 in contempt and modification of allocation of parental rights. Failure to comply may result in dismissal.
- (D) After an evidentiary hearing date on a pending motion has been set for a date and time certain, unless a continuance is approved by the judge or magistrate to whom such hearing has been assigned, the motion shall either go forward, be settled, or be dismissed by the Court.

## **RULE DR 16 - ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES**

16.01 In all cases involving parental rights of children, compliance with the Uniform Child Custody Jurisdiction and Enforcement Act (U.C.C.J.E.A.) is mandatory. Failure to comply can have serious consequences for the parties and counsel. The Court will hear no case involving parental rights without evidence of compliance with this Act.

16.02 Attached to a motion for modification of allocation of parental rights shall be an affidavit of the moving party reciting facts sufficient to establish a *prima facie* case for granting the requested relief. The Court may summarily dismiss the motion or make other appropriate orders including investigation, pre-trial, interim placement of children, visitation, and support pending the hearing on the motion. Such interim orders may be made upon statements of counsel, the affidavits supplied, and a parental rights

investigation, if any.

### 16.03 Procedure upon Motions for Modification of Allocation of Parental Rights

(A) Parent Coordination, a parenting evaluation or a psychological evaluation may be required in contested parental rights cases. The Court may sign any appropriate order requiring the examination and cooperation of the parties and their children.

(B) Assignment - The Assignment Commissioner may assign the case for oral hearing following the receipt of notice that the written evaluation has been received by the moving party's attorney and a copy mailed to the adverse attorney. Such evaluation will be delivered at the oral hearing.

(C) Oral Hearing - The Court or Magistrate will conduct the oral hearing as a pre-trial. If the affidavit is insufficient, the Court may dismiss the motion or grant a continuance for the purpose of correcting the deficiency. If testimony is necessary, the case will then be assigned for trial.

### 16.04 Parenting Time Schedule

If the court order or decree indicates that the court schedule is the order for parenting time, then the order of the Court is the following:

**STARK COUNTY FAMILY COURT  
PARENTING TIME SCHEDULE  
EXHIBIT "A"**

WEEKENDS:

Beginning on (a specific date) \_\_\_\_\_, every other weekend from Friday night at 6:00 p.m. to Sunday night at 6:00 p.m.

MIDWEEK:

In addition, the child(ren) shall spend a minimum of one week day parenting time as follows:

For a child not yet in mandatory education, 5 p.m. to 7:30 p.m.

For a child in grades Kindergarten - 8<sup>th</sup> Grade, 5 p.m. to 8 p.m.

For a high school student, 5 p.m. to 9 p.m.

If there is more than one child, the hour of return shall be the hour for the youngest child. If the parents cannot agree on a day, the day for the midweek parenting time is Wednesday. If a child is in a child care arrangement, the nonresidential parent may not pick up the child from the caretaker without the prior permission of the residential

parent, preferably in writing.

DAYS OF SPECIAL MEANING:

Mother's Day shall always be spent with the mother; Father's Day shall always be spent with the father, regardless of which parent is entitled to the weekend. If the parties cannot agree on times, the time is 10 am to 7 pm. Then the children shall spend the rest of the weekend with the parent who normally has that weekend.

The child's birthday shall always be spent with the mother in the even-numbered years, and shall always be spent with the father in the odd-numbered years. The nonresidential parent must provide one week's notice of his or her intent to have parenting time for a birthday. If the parties cannot agree, the time is 10 am to 8 pm, for a child not in school on the birthday, and 5 pm to 8 pm for a child in school on his birthday. The other parent can celebrate on another date. The child's birthday is to be spent with the designated parent, even if the other parent is entitled to weekend, midweek, holiday or vacation with the child. Brothers and sisters will attend the birthday event.

Other days of special meaning, such as religious holidays, Martin Luther King Day, etc., should be discussed and written into the court order.

HOLIDAYS:

Parents may wish to change by agreement a holiday at least one week in advance in order to observe family or religious traditions. If not changed by agreement, holiday times are as follows:

Holiday	Even-numbered Years	Odd-numbered Years	As agreed, or	End time
Easter	Father	Mother	Sun., 10 am -	7 pm
Memorial Day	Mother	Father	Sun 7 pm -	Mon @ 8 pm
July 4 <sup>th</sup>	Father	Mother	7/4, 9 am -	7/5 @ 9am
Labor Day	Mother	Father	Sun., 7 pm -	Mon @ 8 pm
Thanksgiving	Father	Mother	Thurs., 9 am -	Fri @ 9 am
Christmas Eve	Mother	Father	12/23, 9 pm -	12/24 @ 10pm
Christmas Day	Father	Mother	12/24, 10 pm -	12/25 @ 9pm
New Yrs Eve/Day	Mother	Father	12/31, 5 pm -	1/1 @ 9 pm
Martin L King	Father	Mother	Sun., 6 pm -	Mon @ 6 pm

A holiday that falls on a weekend shall be spent with the parent who is designated to have the children for that holiday, and the other parent shall have the children for the

rest of the weekend. This time does not have to be made up.

VACATIONS:

\_\_\_\_\_ weeks of parenting time each year are to be arranged by the nonresidential parent with not less than sixty (60) days advance notice. The nonresidential parent's choice of vacation has priority over the residential parent's choice, unless the residential parent's vacation is an annual mandatory shutdown of the place of employment, or unless the residential parent is required by an employer to give more than sixty days notice of intent to take a vacation and the nonresidential parent has no similar requirement. Likewise, the residential parent must give the other parent not less than sixty days advance notice of vacations or special plans for the child to avoid planning conflicts.

Summer school necessary for the child to pass to the next grade must be attended. Extended parenting time (vacation) may be scheduled by either parent during a mandatory summer school period, but the child must attend all classes.

Each parent must provide the other parent with destination, times of arrival and departure, and method of travel if the vacation will be outside the parent's community.

Vacation parenting time must be exercised in minimum periods of one week, and the nonresidential parent has the right to determine whether to exercise vacation in periods of two, three, four or five weeks.

Alternate weekends which normally would be spent with the residential parent, which fall during the nonresidential parent's vacation must be given to the residential parent, or made up at another time. Alternate weekends which normally would be spent with the nonresidential parent and that fall during the residential parent's vacation must be given to the nonresidential parent to be made up at another time.

The residence of the child is not to be moved from the State of Ohio without first obtaining a modified parenting time order from the Family Court.

A parent late more than thirty minutes shall forfeit that visitation unless the nonresidential notified the residential at least one hour prior thereto.

Parenting time does not mean picking the children up and then leaving them with someone else, except short periods with relatives.

These orders will be modified by the Court if there is good cause shown for such change.

IT IS ORDERED, ADJUDGED AND DECREED that the parties abide by these orders in the best interest of the children. Failure of either party to abide by these orders could result in a finding of contempt. This includes the orders that require the residential parent to have the children prepared for parenting time as well as the orders that require the nonresidential parent to take the children for parenting time on the ordered days.

#### 16.05 Supervised Parenting Time Services

If the court order, decree, or judgment entry indicates that one of the parties is to receive supervised parenting time through an agency provider and the case is not a dependency, neglect or abuse case, then the court order requiring the agency supervised parenting time shall last for a period of ninety (90) days. Absent further court order or agreement of the parties, at the end of ninety (90) day period, the agency supervised parenting time order shall revert to unsupervised parenting time pursuant to Rule DR 16.04 unless a motion to review or extend the supervised parenting time is filed prior to the ninety (90) day time frame. The court in its original order requiring the supervised parenting time shall set forth a date that the order reverts to the unsupervised parenting time.

### **RULE DR 17 - GUARDIAN AD LITEM**

17.01 General provisions and definitions that apply to both Divisions of this Court.

(A) Definition:

Guardians ad litem are advocates for the child/ren. When an attorney is appointed as a guardian ad litem and not as an attorney for the child/ren, the guardian ad litem will advocate for the best interest of the child.

(B) Mandatory Training:

In order to be appointed as a guardian ad litem in the Stark County Court of Common Pleas, Family Division, the individual must attend a guardian ad litem training seminar provided and approved by the Supreme Court of Ohio. In order to be added to the list of court approved guardians ad litem, an individual must contact the proper court personnel and show proof of attendance at the seminar mentioned.

17.02 Guardian Ad Litem Appointed in Juvenile Delinquency, Unruly or Dependent/Neglect/ Abuse Cases:

(A) Minimum Duties:

1. A guardian ad litem shall perform the following duties:
  - (a) Meet with the child/ren at least once before the dispositional hearing, or state in his or her report why this is unnecessary or impracticable.
  - (b) Observe the child interact with each parent and or custodian, or state why this is impracticable or unnecessary in his or her report.
  - (c) The guardian ad litem shall submit to the Court Intake Department a written report with the court and send a copy to the parties' counsel no later than seven (7) days prior to the dispositional hearing unless otherwise directed by the Court. The written report shall be maintained in the Intake Family File.
  
2. A guardian ad litem may request of the Court for good cause shown, that the Court order the parties to submit to physical evaluation, psychological or psychiatric evaluation or parenting evaluations. The request must be timely made and the Court shall afford the parties a reasonable opportunity to respond. When the Court orders that an evaluation be done, it shall determine the party responsible for the payment of the charges for same. The Court may apportion the charges for such evaluation between the parties and may tax the charges as costs, as may appear appropriate.

(B) Access to Records:

In all cases wherein a guardian ad litem is appointed to represent the best interest of a child, orders will issue allowing the guardian ad litem to have access to and make copies of records and reports, as provided herein:

1. Upon representation of the order allowing access and such identification as may be reasonably required by the person, agency or office from whom the information is sought, the guardian ad litem shall be allowed to review and copy all records related to the medical, dental, psychiatric, psychological, social or legal matters of the child.
2. The person, agency or office from which the information is sought will not reveal referral sources except as provided in OAC 5101.

(C) Confidentiality of Records and Conversations:

The report of the guardian ad litem should be distributed to the attorneys in the case. The attorney may then discuss the contents of this report, as well as, allow the client to read said report. The conversations that the guardian ad litem

has with the parties and children are not confidential in nature other than as restricted by the Attorney Code of Professional Responsibility. The guardian may petition the assigned judge to restrict distribution of the report for good cause.

(D) Fees:

Attorneys appointed by the court in a juvenile case, shall charge and be paid in accordance with guidelines established by the State of Ohio Public Defender's Office. The guardian may apply to the assigned judge for requests of extraordinary fees.

17.03 Guardians Ad Litem in Domestic Relations Cases and Juvenile Custody Cases:

(A) Minimum Duties:

A guardian ad litem shall perform the following duties:

Interview each parent separately or state in the report why this is impractical or unnecessary.

Interview the child/ren separately or state in the report why this is impractical or unnecessary.

Contact any mental health providers involved in the case.

Contact the child/ren's school if there is one.

Participate in all pre-trials. Unless specifically ordered by the court or agreed to by the parties the guardian ad litem shall not participate in any hearing or trial. Exception: In juvenile matters the guardian ad litem is a party pursuant to Juvenile Rule 2(Y) and therefore the guardian ad litem can participate in any hearing or trial.

Unless otherwise directed by the Court, the report of the guardian ad litem is to be filed with the Clerk of Courts at least seven (7) days prior to the pretrial hearing and is a matter of record in the case.

The report of the guardian ad litem should be distributed to the attorneys in the case. The attorney may then discuss the contents of this report, as well as allow the client to read said report. The conversations that the guardian ad litem has with the parties and children are not confidential in nature other than as restricted by the Attorney Code of Professional Responsibility . The guardian may petition the assigned judge to restrict distribution of the report for good cause.

(B) Access to Records:

In all cases wherein a guardian ad litem is appointed to represent the best interest of a child, orders will issue allowing the guardian ad litem to have access to and make copies of records and reports, as provided herein.

1. Upon representation of the order allowing access and such identification as may be reasonably required by the person, agency or office from whom the information is sought, the guardian ad litem shall be allowed to review and copy all records related to the medical, dental, psychiatric, psychological, social or legal matters of the child.

2. The person, agency or office from which the information is sought will not reveal referral sources except as provided in OAC 5101.

(C) Confidentiality of Reports and Conversations:

Unless otherwise directed by the court, the report of the guardian ad litem is to be filed with the Clerk of Courts and is a matter of record in the case.

The report of the guardian ad litem should be distributed to the attorneys in the case. The attorney may then discuss the contents of this report, as well as allow the client to read said report. The conversations that the guardian ad litem has with the parties and children are not confidential in nature other than as restricted by the Attorney Code of Professional Responsibility. The guardian may petition the assigned judge to restrict distribution of the report for good cause.

(D) Fees:

At the time of the appointment of the guardian ad litem to the case when the parties are paying the fees of the guardian ad litem, the judgment entry will include the following:

1. Provisions for an initial deposit of fees with the appointed guardian ad litem; and
2. The portion of fees to be paid by each party.

The Court will enforce payment of reasonable fees on a case by case basis including but not limited to the following factors:

1. An itemized fee statement submitted by the guardian ad litem;

2. Actual services performed by said guardian ad litem; and
3. The hourly fee of the guardian ad litem.

**RULE DR 18 - CHILD SUPPORT ENFORCEMENT AGENCY (including orders which modify prior orders)**

18.01 When a court order is filed that requires one or both of the parties to pay child and/or spousal support and those payments are to be made through the Child Support Enforcement Agency (CSEA), a Personal Identifier Form is to be filed with the Clerk of Courts and CSEA and said entry shall contain the following information:

(A) Complete name and address of plaintiff and defendant; date of birth of plaintiff and defendant; Social Security number for plaintiff and defendant; drivers license number for plaintiff and defendant; employer's name and address for plaintiff and defendant; pay period for plaintiff and defendant, i.e., weekly/bi-weekly; health insurance carrier name and address for each party; health insurance policy number for each party; the amount of the payment plus processing fees (2%); if there is an arrearage, the amount and how much is to be paid upon same; and the effective date of the order.

(B) In paternity, criminal non-support, and dependent, unruly, and neglected children cases, the name, and birth dates of all the children should appear in the entry together with that information required under Subsection A above.

(C) A date certain when the support order shall commence.

(D) The Personal Identifier Form is confidential and shall be kept separate from the case file. Sup. Rule 45(D)(2).

18.02 When payment is made by check or money order, the case number shall appear on said instrument, or if paying in cash, payor shall inform CSEA of the case number.

18.03 When a child and/or spousal support order is modified or a change of custody is granted, the movant's counsel shall file a time-stamped copy with CSEA through the Clerk of Courts. The Clerk shall not accept filings of such orders without being provided a CSEA copy.

18.04 The Court is authorized by statute, and will, order employers to withhold support orders and forward the proper amount to the CSEA for distribution. It is recognized that the orders of this Court do not always correspond to the employee pay periods and therefore, this Court authorizes the subject employer to convert the support order into an annual amount and thereafter apportion the annual amount over the number of pay periods in each calendar year, withholding and forwarding the amount withheld each

pay period.

All child support payments shall be made payable to one central source for processing:

Ohio Child Support Payment Central  
P.O. Box 182394  
Columbus, OH 43218

Payments may be made by electronic fund transfer, check or money order to Ohio Child Support Payment Central. Include name of the parties, Social Security number, case number and the support enforcement tracking system (SETS) number on all payments to avoid processing delays. Cash payments will be processed at the Stark County Child Support Enforcement Agency.

### **RULE DR 19 - JUVENILE CASE MANAGEMENT PLAN**

The Court hereby establishes the following plan for the filing, assignment, and hearing of matters in the Juvenile Division. The time frame established for each phase is to be followed as closely as possible with the primary goal to move each case as expeditiously as possible (refer to Rule DR 13.04 for continuances). It is the responsibility of each party to be prepared in advance of any scheduled hearing. The Court may at any time refer the case for informal processing, per Juvenile Rule 9, or for mediation in order to seek a timely and equitable resolution of the case. The inability of the Court to meet these guidelines shall not be grounds for the dismissal of a case.

Schedule of events by the type of case - scheduling starts with the date of filing the complaint and continues sequentially.

#### Delinquency and Unruly

<i>When detained</i>	Shelter care or detention
24 hours	Detention hearing
1-3 days	Arraignment hearing
15 days	Trial
30-45 days	Disposition

#### *When released to parents' custody*

4-6 weeks	Arraignment and disposition if charge admitted
6-8 weeks	Pre-trial
8-12 weeks	Trial and disposition

#### Dependency, Neglect or Abuse

72 hours	Shelter Care or no contact order hearing
1-30 days	Adjudicatory hearing

30-90 days	Disposition hearing
5-6 months	Administrative review hearing
11 months	Extension request filed
12 months	Case closed if no extension filed

Adult cases

24 hours	Bond hearing if necessary
1-7 days	Arraignment if in jail
3 weeks	Trial if in jail
4-6 weeks	Arraignment if released
8-12 weeks	Trial if before judge
4-6 months	Trial if by jury

Juvenile Traffic Offenders

3-4 weeks	Arraignment or waiver of hearing
5-8 weeks	Trial and disposition

19.01 Waiver of Trial for First Time Juvenile Traffic Offenders

Pursuant to Rules 1,2,9(a), 22 and 29(F)(2)(A) of Ohio Rules of Juvenile Procedure adopted by the Supreme Court of Ohio and to protect the public interest and to substitute therefore a program of care and rehabilitation for juvenile traffic offenders, the Juvenile Court hereby establishes by this rule a procedure for the waiver of appearance and entry of plea of admission in writing and the acceptance of pre-determined disposition for certain juvenile traffic offenders.

Upon the filing of a uniform complaint, if it appears:

1. That the alleged offender is a juvenile between the ages of 14 and 18 years at the time of the offense;
2. That this is the first traffic offense for the offender;
3. That the offense is minor, i.e., a violation involving the assessment of two or less points by the Bureau of Motor Vehicles;
4. That the offense is a speeding violation alleging a speed of less than 20 miles per hour above the speed limit;
5. That the offense does not allege operating a vehicle without an operator's license or operating without proper safety equipment; passing a school

- bus, or speeding in a school zone;
6. That the offense does not involve a traffic accident;
  7. That the citing officer has not indicated on the fact of the Uniform Traffic Citation that a court appearance is necessary;
  8. And the citation alleges an offense that may be processed by a traffic violation bureau;
  9. The Clerk may enclose with the notice of hearing, a summons advising the alleged offender and his parents, guardian, or custodian of the procedure for executing waiver of appearance in court, the entry of a plea of admission in writing, notice of financial responsibility laws of Ohio, and the possible disposition of the proceeding.

Upon appearance of child and parent, guardian, or custodian before the Clerk, if said child enters an admission in writing to the allegations of the complaint and is able to present proof of financial responsibility required by O.R.C. §4509, a fine in the amount of fifty dollars (\$50) and court costs is imposed. In addition, points will be assessed by the Ohio Bureau of Motor Vehicles on the juvenile's driving record.

The waiver shall constitute an admission to the traffic violation and a waiver of the juvenile's rights to trial before the court, to cross-examine witnesses who appear against him, to subpoena witnesses on his behalf, to remain silent, and to representation of counsel.

If the child is unable to provide appropriate proof of financial responsibility, the child is ineligible to participate in this waiver procedure, and must appear before the Court for hearing and disposition.

If the child and parents, guardian, or custodian avail themselves of this waiver privilege, they must do so in strict compliance with the written instructions and this rule.

#### 19.02 Determination of When a Case is Closed

Although it is clear that the jurisdiction of the Juvenile Court is continuing until the age of eighteen (18) for any child found to be within this jurisdiction, it is necessary that the Court and particularly, the Clerk, determine which actions are pending and which have been concluded or terminated. The Clerk of Courts is authorized and directed to consider in addition to those closed by court order, the following cases as also being closed:

1. Complaints for custody where a temporary order of custody has been granted.

2. Delinquency, unruly, dependent, neglected, or abuse cases where no orders have been made within six (6) months.

## **RULE DR 20 - CIVIL PROTECTION ORDERS**

20.01 The Domestic Relations Clerk of Court for Stark County shall distribute upon request forms and instruction packets for use in civil protection order proceedings under 3113.31 of the Ohio Revised Code. The packet includes forms and instructions promulgated by the Court which are substantially similar to Forms 10.01-A through 10.01-D set forth in the Rules of Superintendence for the Courts of Ohio (Sup. R 10.01) and which are identified as Forms 10.01-A through 10.01-J.

20.02 An action for a Civil Protection Order pursuant to Section 3113.31 of the Revised Code shall be commenced by filing a petition form that is substantially similar to Form 10.01-D.

20.03 In every case in which the Court issues or approves an ex parte civil protection order, a full hearing civil protection order, or a consent agreement pursuant to section 3113.31 of the Revised Code, the Court shall be provided, as applicable, with a proposed order which is substantially similar to Forms 10.01-H through 10.01-J.

20.04 Every ex parte civil protection order, full hearing civil protection order and consent agreement presented to the Court for approval must include a cover sheet that is substantially similar to Form 10.01-G.

Every ex parte civil protection order, full hearing civil protection order, consent agreement, order for continuance or order to modify a civil protection order must include Form 10-A which is the Protection Order Notice to NCIC set forth by Sup. R. 10. Petitioners shall be required to supply identifying information on Form 10-A including names, addresses, Social Security numbers, dates of birth, physical description, vehicle information and a list of all protected persons. The Clerk of Courts shall cause Form 10-A to be sent to the Stark County Sheriff's Office which will enter this information into the NCIC.

## **RULE DR 21 MEDIATION**

21.01 Commencement

(A) Actions for Divorce, Annulment, or Legal Separation

At anytime after service of summons in any action for divorce, annulment, or legal separation, the Court may, upon its own motion or motion of either or both parties, order the parties to participate in mediation screening and mediation.

(B) Post-decree Motions to Reallocate Parental Rights and Responsibilities or Motions for Contempt for Denial of Parenting Time

Upon the filing of a motion to modify or otherwise address parental rights and responsibilities or upon filing a motion for contempt for denial of parenting time, the court may, upon its own motion or motion of either or both parties, order the parties to participate in mediation screening and mediation.

(C) Voluntary Mediation

Mediation services will also provide voluntary mediation screening to parties wishing to mediate without the need for pending litigation.

(D) Mediation Prohibited

Mediation is prohibited as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant a protection order; in determining the terms and conditions of a protection order; and in determining the penalty for violation of a protection order.

In cases, other than those addressing domestic violence cases or protection orders, if the mediation screener determines that mediation between the parties is not appropriate under the circumstances, the mediation screener shall issue a report, within five (5) business days following the mediation screening, informing the parties or their respective counsel that they have been screened out of mediation, and setting a date certain for the next hearing. In such circumstance, the court may consider and order alternative services including, but not limited to, psychological examinations, counseling and appointment of a guardian ad litem, property evaluations or any other appropriate community resource, which may aid the parties in reaching a settlement.

(F) Mediation Appropriate

If the mediation screener determines that mediation is appropriate for the parties and the parties agree to or are ordered to mediate, then the parties shall participate in mediation with a court approved mediator. Each party shall then immediately attend an orientation prior to their first mediation session. The orientation will set forth the manner in which the mediation will be conducted as well as the scope of the mediation.

The first mediation session shall occur within twenty (20) days following the parties' completion of orientation. Additional mediation sessions may be convened from time to time until all issues are settled in a manner acceptable to the parties or until the mediator determines that continued sessions would not be productive. Except by court order, no mediation shall extend more than sixty (60) days following the

parties' completion of orientation. Within seven (7) days of the conclusion of mediation, the mediator shall reduce any mediated agreement to writing on the required form; prepare a "Mediation Outcome Report" on the required form; send copies of the agreement and the report to the parties and their counsel; and send a copy of the "Mediation Outcome Report" to the Stark County Family Court Family Liaison Specialist. The "Mediation Outcome Report" shall be filed with the Court and shall state only the result of the mediation process. Any agreement reached in mediation shall not be binding upon the parties until reviewed and approved by their respective counsel and the Court.

## 21.02 Procedure for Mediation

### (A) Attendance and Participation

Each party shall attend the mediation session in person, unless otherwise directed by the mediator. Each party shall be prepared to negotiate an agreement as to any or all issues. A party is entitled to have their respective counsel present for the mediation sessions. To ensure prompt resolution of any issues in dispute, the mediator shall have the duty and authority to set the time for all mediation sessions, including private (shuttle) meetings between the mediator and each party, provided that a party may object to meeting with the mediator without counsel present. The mediator shall have the authority to establish a deadline for the parties to act upon a proposed settlement as long as the deadline does not fall outside of the time guidelines set by this rule or order of the Court. The mediator shall control all procedural aspects of the mediation not otherwise agreed to by the parties or set by the court. If an agreement is reached, the mediator shall inform each party the agreement has no binding effect until it is adopted by the Court, and that either party may withdraw from the agreement prior to the court's approval of the agreement.

### B. Confidentiality

All mediation proceedings are confidential settlement negotiations. With the exception of the mediation screening report, the "Mediation Outcome Report", and any signed mediated agreement, all matters occurring within mediation shall be kept confidential from the Court. The disclosure by a party of privileged information to the mediator, other party, support person(s), or counsel during mediation shall not constitute a waiver or otherwise adversely affect the privileged nature of the information.

All individuals involved in mediation screening and mediation shall preserve the confidentiality of negotiations, of all written materials utilized in the process, of all information obtained in the process, and of all agreements, unless disclosure is required due to mandatory reporting of an incident involving abuse, neglect or dependency of a child. No mediation screener or mediator shall be subpoenaed, called

to testify, or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the dispute mediated with the exception of a case involving the duty to report an incident involving the abuse, neglect or dependency of a child.

C. Immunity

Mediation screeners and mediators shall be immune from claims arising out of acts or omissions incident to his or her service as a Court appointee to the fullest extent as provided by law.

21.03 Additional Provisions When Mediating in Special Circumstances

A. Mediation regarding: Allocation of Parental Rights and Responsibilities or Parenting Time with a Child; or Delinquency or Status Offense Cases

When mediating any of the above issues, if violence or fear of violence is alleged, suspected, or present, mediation shall *not* proceed unless the mediator has specialized training set forth in Section 21.04 of this rule and *all* the following conditions are satisfied:

1. The person who is or may be the victim of domestic violence is fully informed about the mediation process and his or her *right to decline mediation*;
2. The person who is or may be the victim of domestic violence has the option to have a *support person* present at all sessions;
3. The parties have the ability to mediate without fear of coercion or control;
4. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and that person, if indigent, is given referrals to legal counsel and other community support services;
5. Procedures are in place for issuing written findings of fact, as required by O.R.C. §3109.052, to allow for the referral of certain cases to mediation.

B. Mediation regarding: Child Abuse, Neglect or Dependency Issues

Mediation shall *not* proceed in child abuse, neglect, or dependency cases unless the mediator has specialized training set forth in Sections 21.04 and 21.05 of this rule and *all* of the following conditions are satisfied:

1. The Department of Job and Family Service attorney, caseworker, parties

and their respective counsel agree that mediation is appropriate under the facts and circumstances of the particular case and the Court approves of the referral to mediation;

2. The Court shall notify all parties and nonparty participants of the time, place and location of the mediation. Such notification to a party shall occur pursuant to Civil Rule of Procedure 5 or, if a nonparty participant, by sending the individual a notice by regular US mail;

3. All parties shall attend mediation with counsel, if any, unless a party provides a written waiver of counsel's attendance. The written waiver must contain a notice in bold print that the waiver may be withdrawn at any time.

#### 21.04 Qualification and Training for Domestic Relations and Juvenile Mediators

Any mediator to whom the court makes referrals for the mediation of: Allocation of parental rights and responsibilities; parenting time with minor children; or abuse, neglect, and dependency cases shall satisfy *all* of the following:

(A) Possess a bachelor's degree, or equivalent educational experience as is satisfactory to the Court, and at least two years of professional experience with families. "Professional experience with families" includes counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the Court;

(B) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court;

(C) After completing the training required by Section 21.04(b) of this rule, complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution;

(D) Complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the dispute Resolution Section in accordance with standards established by the Supreme Court Advisory committee on Dispute Resolution;

(E) Comply with Model Standards of Practice for Family and Divorce Mediation as adopted by the American Bar Association, Association of Family and Conciliation Courts and the Association for Conflict Resolution.

#### 21.05 Qualification and Training for Mediating Cases Involving Abuse, Neglect or

## Dependency Issues

Any mediator to whom the court makes referrals for the mediation of abuse, neglect and dependency cases shall, in addition to satisfying all qualification and training requirements set forth in Section 21.04 of this rule, satisfy both of the following:

- (A) Possess significant experience in mediating family disputes as determined by the Court;
- (B) Complete at least thirty-two hours of specialized child protection mediation training either through a formal training session or through a mentoring program approved by the Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.

## 21.06 Registration of Mediators

- (A) The Clerk of Court shall establish and maintain a register of qualified mediators. The register of qualified mediators shall be maintained in a location accessible for public viewing upon request. Anyone wishing to be included on the register must fill out the Local Form "Verification of Qualification and Training to Act as a Mediator" and receive approval from all three judges of the Stark County Family Court.
- (B) Any mediator may be removed from the register of mediators at the mediator's request or at the direction of all three judges of the Stark County Family Court in their discretion. If removed at the mediator's request, the mediator may later request to be added to the register by submitting a new verification form and receiving approval from all three judges of the Stark County Family Court. Upon receipt of the request and approval by the Court, the Clerk shall add the qualified mediator to the register.

## 21.07 Mediation Fees

Mediation services shall be ordered at hourly fees, which are consistent with an approved sliding scale. The Court may apportion the costs of mediation between the parties based upon their ability to pay. Absent court order or written agreement of the parties to the contrary, the parties shall equally pay the cost of mediation. No mediator may charge a fee for court ordered mediation greater than the fee provided by the approved sliding scale, unless agreed to otherwise by the parties.