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## **Chapter 1 – General Court Information**

### **Rule 1.1 – General**

The Common Pleas Court of Preble County, Ohio, Juvenile Division, (“Court”) hereby promulgates and adopts the following rules of practice effective December 31, 2022. These rules conform to the Ohio Rules of Juvenile Procedure (Juv.R.) and the Rules of Superintendence for the Courts of Ohio (Sup.R.) and provide for the efficient and expeditious management of business before the Court with due regard to local practices and requirements. These rules shall supersede all previous rules and amendments. However, these rules are not meant to supersede the Rules of Superintendence or the Ohio Rules of Juvenile Procedure. Any previously ordered local rules of practice that conflict with the following rules shall be rendered void and of no force and effect. These rules shall be known as the “Local Rules of Practice of the Preble County Common Pleas Court, Juvenile Division.” These rules may be cited as “Loc. Juv. R. \_\_\_\_.” The Judge or Magistrate presiding over a matter may permit exception from a rule upon specific request and/or for good cause shown.

### **Rule 1.2 – Hours of Court Sessions**

The sessions of the Court generally shall be daily Monday through Friday from 8:00 a.m. to 4:00 p.m. The Court shall be in session at such other times and hours as the Judge shall prescribe to meet special situations or conditions. The Court will be closed for national holidays, the day after Thanksgiving, and at other times as the Judge shall prescribe.

### **Rule 1.3 – Addresses and Telephone Numbers**

Common Pleas Court of Preble County, Ohio, Juvenile Division  
Courthouse, Second Floor  
101 East Main Street  
Eaton, OH 45320  
Telephone: 937-456-8136  
Facsimile: 937-456-5803

Juvenile Probation/ADAPT  
116 East Main Street  
Eaton, OH 45320  
Telephone: 937-456-2085  
Facsimile: 937-456-3602

Juvenile ADR/CASA  
116 East Main Street, Suite B  
Eaton, OH 45320  
Telephone: 937-456-2085  
Facsimile: 937-456-2966

## **Rule 1.4 – Court Security**

All persons entering the Preble County Courthouse must enter through the Main Street entrance and will be subject to security screening. Screenings will occur for each visit to the Preble County Courthouse regardless of the purpose or the hour. Any Security Plan previously submitted to the Supreme Court of Ohio, or as hereafter amended, is to be maintained as confidential and is not available as a public record.

## **Rule 1.5 – Court Attire**

All persons must dress in proper attire when entering a courtroom. No attorney, party or witness shall be permitted to appear in the courtroom or offer testimony while dressed inappropriately. It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in Court.

## **Rule 1.6 – Conduct in Court**

Persons committing any violation of proper conduct may be removed from any courtroom, waiting area, Clerk area, Probation office, ADR Office, TASC office or any other location by Court and/or security personnel charged with the enforcement of this rule and may be subject to being found in contempt of Court.

Food, beverages and the use of cell phones and other electronic transmission devices are prohibited in the Courtrooms and other areas of the Court unless advance permission is given.

## **Rule 1.7 – Photographing, Recording and Broadcasting of Court Proceedings**

Public access to hearings shall be governed by the Ohio Revised Code (O.R.C.) and the Superintendence Rules (Sup. R.). Juvenile proceedings represent a unique and sensitive area of the law. Public exposure and media attention can further complicate both the treatment and process of holding youth accountable for their actions. Requests for permission to broadcast, televise, record, or photograph in the courtroom shall be made in writing to the assigned Judge or Magistrate as far in advance as reasonably practical, but in no event later than three hours prior to the court session unless otherwise permitted by the Judge or Magistrate.

## **Rule 1.8 – Special Needs/ Compliance with ADA/ Interpreter Services**

Requests for reasonable accommodations and services for individuals with disabilities, special needs or the need for an interpreter shall be made to the Court Administrator by calling 937-456-8136 at least seven (7) business days prior to any scheduled hearing or other matter where the accommodations or services are required.

If the accommodations, services or interpreter is no longer required, or the hearing or other matter has been continued or cancelled, the requesting party must IMMEDIATELY inform the Court Administrator.

## **Chapter 2 – Pleadings and Motions**

### **Rule 2.1 – Format**

All pleadings and documents offered for filing with the Court, other than original documents attached or offered as exhibits, shall be offered for filing without folders or covers and the first page of the filings shall have a 2.5” unobstructed space at the top for the Clerk to place a file stamp. All subsequent pages shall indicate the names of the case/parties, name of the document, case number and page number. All pleadings and documents shall be one-sided and on 8/5” x 11” paper and must be legibly typewritten or printed.

### **Rule 2.2 – Caption**

Except as otherwise stated, any pleading(s) submitted to this Court shall be in accordance with the Ohio Civil Rules. The caption of the pleading(s) shall set out the applicable Court and identify the parties to the litigation as Plaintiff vs. Defendant and should set forth each party’s address and date of birth. Except as otherwise stated, the caption shall not refer to the parties as “in re Jane Doe.” The above provision shall not apply to delinquency, unruly, dependency, neglect and abuse cases.

### **Rule 2.3 – Paternity Complaints**

The Clerk shall not accept any complaints other than those filed by the Child Support Enforcement Agency, that request the determination of the existence of non-existence of a parent and child relationship unless the Complaint is accompanied by a “IV-D Application” as shown in Appendix A (see attached). The application shall be prepared by the attorney or the party filing the complaint. The Court will accept an attorney certification that a IV-D Application has been sent to the Preble County Child Support Enforcement Agency in lieu of attaching it to the Complaint.

### **Rule 2.4 - Motion Requirements**

All motions that are accompanied by a brief or memorandum that cites relevant authority must have the relevant authority attached.

All motions shall be accompanied by a proposed judgment entry.

### **Rule 2.5 – Certificate of Service**

Every pleading, motion, brief, memorandum, or argument in writing filed with the Court shall be served upon all opposing counsel, guardian ad litem, if one is appointed, and upon all parties not represented by counsel. Except as provided for by law, proof of service, in writing, shall be attached to the pleading, motion, brief, memorandum, or argument in writing. No paper

delivered to the Court without a certificate of service shall be considered by the Judge or Magistrate.

Where copies of pleadings, motions, briefs, memoranda and other papers have been placed in the appropriate attorney's "box" in the Court office, and the certificate of service reflects such action, it shall be deemed by the Court as delivery to counsel pursuant to the requirements of the Ohio Rules of Civil Procedure.

All assignment notices generated by the Court shall be placed in the "box" of the appropriate attorney in the Court office. If counsel has no such "box," the assignment notices shall be deposited with the U.S. Postal Service, postage prepaid. If a party or counsel wants a file-stamped copy of a document filed by that party or counsel to be returned by the Clerk, that party or counsel must provide an addressed, postage prepaid envelope for that purpose. The Clerk shall note on the docket of the case the type of service completed using language such as "*Judgment Entry filed. Parties served.*"

## **Rule 2.6 – Service, Juv. R. 16**

Each new filing shall contain a praecipe describing the method of service requested. The options for service are as follows:

- a. Certified mail. Certified mail shall be performed by the Clerk when requested. The costs associated with certified mail shall be assessed as court costs. A party requesting certified mail should allow at least thirty (30) days for perfection of service. If the mail is returned due to an incorrect address, the requesting party or his attorney will be notified by the Clerk. If the certified mail service is returned "unclaimed," the Clerk will automatically resend the pleading by regular mail without notifying the requesting party. The costs for regular mail service will not be assessed.
- b. Personal service by the Preble County Sheriff's Office. When personal service by the Preble County Sheriff's Office is requested, the Clerk shall ensure the pleadings are delivered expeditiously to the Sheriff's Office for service. Once the service is perfected and the return received by the Court, the costs listed on the return will be assessed to the requesting party as court costs. If service cannot be made, the Clerk shall notify the requesting party or his attorney as soon as notification is received from the Sheriff's Office. This option can only be used to serve residents of Preble County.
- c. Service by publication. If service by publication is requested, the requesting party must file an affidavit with the Court indicating that service cannot be made because the residence of the person is unknown to the affiant and cannot be ascertained with reasonable diligence and shall set forth the last known address of the party to be served. Service by publication can be effectuated by newspaper publication or by posting and mail.
  - a. Service by newspaper publication shall be made by publishing notice in The Register-Herald newspaper. A deposit of \$175.00 shall be paid by the

requesting party prior to the notice being made. Once the affidavit is filed and the deposit paid, the Clerk shall ensure the required documents are delivered to The Register-Herald for publication. Any party requesting service under this option should ensure they leave enough time for all steps to be completed and for the notice to appear in the newspaper at least seven (7) days prior to the hearing. Costs for the publication shall be assessed to the requesting party as costs.

b. Service by posting and mail shall be made by posting notice at the Preble County Courthouse and at the Preble County Department of Job and Family Services. The Notice shall contain the name and address of the Court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. The notice shall also contain a summary statement of the object of the complaint and shall notify the person to be served that the person is required to appear at the time and place stated. The notice shall be posted for not less than seven (7) consecutive days. The time stated shall not be less than seven (7) days after the date of posting. The Clerk also shall cause the summons and accompanying pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served. The Clerk shall obtain a certificate of mailing from the U.S. Postal Service. If the Clerk is notified of a corrected or forwarding address of the party to be served within the seven (7) day period that notice is posted pursuant to this rule, the Clerk shall cause the summons and accompanying pleadings to be mailed to the corrected or forwarding address. The Clerk shall note the name, address, and date of each mailing in the docket. After the seven (7) days of posting, the Clerk shall note on the docket where and when notice was posted. Service shall be complete upon the entry of the posting. The requesting party shall be assessed a \$30.00 court cost for posting and mail under this option.

## **Rule 2.7 – Service of Subpoenas**

Any party wishing to subpoena witnesses shall prepare the subpoena in accordance with Civil Rule 45 and deliver same to the Clerk no later than three (3) days after receipt of notice of hearing, or ten (10) days prior to the hearing, whichever date comes later. It is the responsibility of the requesting party to ensure that there is sufficient time for service to be effectuated and to inquire as to whether additional fees shall be deposited for the service of the same and/or witness fees.

## **Rule 2.8 – Motions for Continuance**

Continuance requests shall be made in accordance with Juv.R. 23 and Sup.R. 41. The decision to grant or deny a continuance is discretionary and it should not be assumed that the Court will grant the motion automatically. A motion to continue due to conflicting court hearing dates must be filed at least seven (7) days before the scheduled hearing date and must contain the

assignment notice of the conflicting hearing date from the other court. All motions to continue shall state on the face of the motion that the opposing party has been notified (or what efforts were made to notify the opposing party) and shall state the position of the opposing party to said continuance request. Said motion will most likely:

1. Not be granted if a hearing date was set in this Court prior to another court designating a hearing date for the same time.
2. Be granted where a hearing date was set in this Court after another court had set a hearing for the same date.

The Court shall not grant continuances because a hearing previously scheduled in this Court conflicts with the scheduled appearance of the attorney in another case when that conflict was apparent when the attorney took the case. The aforementioned provision shall not apply to any hearing dates conflicting with another hearing that is set in the appellate courts, the federal district courts or the Ohio Supreme Court.

No continuances for child support related cases shall be granted, nor shall requests for early release from incarceration be granted unless there is verification of the child support enforcement agency's position on the continuance or request for early release. If the motion cites new employment, proof of that employment must be attached.

### **Rule 2.9 – Motions to Compel Discovery**

Absent extraordinary circumstances, the last date for any party to seek the involvement of the Court in the discovery process by way of motion seeking a ruling, an order, sanctions, or other Court action shall be thirty (30) days after the discovery cutoff date.

Voluntary, mutually agreed-upon discovery for the purpose of the perpetuation of trial testimony by video recording or otherwise may continue after the discovery cutoff date in a manner that does not delay any other event on the case schedule.

### **Rule 2.10 Preparation of Entries**

Every non-oral motion filed with the Court shall be accompanied by a proposed judgment entry suitable for use if the motion is granted. A party opposing a motion may provide the Court with a proposed judgment entry. The Court may also direct a party to prepare an entry. A party directed by the Court to prepare an entry shall do so as directed by the Court within fourteen (14) days from the hearing date. All submitted entries must include a listing of all attorneys and unrepresented parties who are to receive a copy of the docketed entry from the Clerk.

## **Chapter 3 – Filing**

### **Rule 3.1 – Filing Fees**

No new or reactivated action or proceeding for custody, parenting time or support shall be accepted by the Clerk for filing unless the appropriate deposit has been paid and all prior past

due costs have been paid. Upon termination of the case, if costs remain unpaid, appropriate orders will be imposed to collect the costs. Except as otherwise provided by law, the deposit shall be in accordance with a schedule of costs. The schedule of costs is subject to change and any question regarding the schedule of costs should be directed to the Clerk. At the termination of any case, the Clerk shall not refund an overpayment or any balance remaining from a deposit that is \$5.00 or less, unless a written request for the refund is made within fourteen (14) days after the termination of the case.

Final judgment entries shall contain a provision for payment of costs as ordered by the Court. The Clerk shall apply the deposit for costs in the case, regardless of the party against whom the costs are assessed.

If the party initiating the action or proceeding is unable to pay, the party shall file an affidavit detailing the reasons for the inability to post the required costs deposit. The Judge or Magistrate shall determine whether or not to accept the filing without prepayment of costs or with prepayment of a reduced cost. Said acceptance only alleviates the need for prepayment of costs. The party filing the action remains responsible for payment of costs at the end of the proceeding.

### **Rule 3.2 – Copies of Pleadings and Motions**

For all complaints, pleadings and motions, the Clerk requires that the original be filed plus one copy for each party being served. Copies of all correspondence addressed to the Court by any party or counsel shall be mailed or furnished to all counsel or parties in the case and the correspondence to the Court shall disclose to whom copies were furnished. Correspondence not in compliance with this rule shall be disregarded by the Court.

### **Rule 3.3 – Facsimile or Electronic Filing**

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

#### **A. Definitions**

1. “Facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.
2. “Source document” means the document transmitted to the Court by facsimile machine/system.
3. “Effective original document” means the facsimile copy of the source document received by the Clerk and maintained as the original document in the Court’s file.

#### **B. Procedure**

1. Pleadings and other documents may be filed with the Clerk by facsimile transmission to 937-456-5803.

2. A document filed by facsimile shall be accepted as the effective original document.
3. The original document and cover sheet filed by facsimile shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.
4. Facsimile filings shall not exceed ten (10) pages in length, excluding the cover sheet.
5. Facsimile filings shall not additionally be mailed or hand delivered to the Court for filing if transmitted directly through the facsimile equipment.
6. The Clerk may, but need not, acknowledge receipt of a facsimile transmission.
7. The risks of transmitting a document by facsimile to the Clerk shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk.

#### C. Cover Page

1. The person filing a document by facsimile shall also provide a cover page containing the following information:
  - a. The title of the case;
  - b. The case number;
  - c. The title of the document being filed;
  - d. The date of the transmission;
  - e. The transmitting facsimile number;
  - f. The number of pages included in the transmission, including the cover page;
  - g. The name, address, telephone number, facsimile number, Supreme Court registration number, if applicable, and e-mail address of the person filing the document, if available.
2. If a document is sent by facsimile to the Clerk without the cover page information listed above, the Clerk may, at his/her discretion:
  - a. Enter the document in the case docket and file the document; or

- b. Deposit the document in a file of failed facsimiled documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the Clerk.

#### D. Signature

A party who wishes to file a signed source document by facsimile shall either:

1. Facsimile a copy of the signed source document; or
2. Facsimile a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.

#### E. Time of Filing

Subject to the provisions of these rules, all documents sent by facsimile and received by the Clerk shall be considered filed with the Clerk as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the facsimile transmission. However, the fax machine will be available to receive facsimile transmission of documents twenty-four (24) hours per day seven (7) days per week, including holidays.

#### F. Copies to Serve

The party filing documents by facsimile shall not transmit copies by facsimile to the Clerk for service upon other parties but shall provide service directly upon all necessary parties.

#### G. Applicability

This rule applies to cases involving all areas of the Court’s jurisdiction, with the exception of cases filed pursuant R.C. 2151.85 regarding judicial bypass. In such cases, no documents shall be filed by facsimile transmission.

The following documents may not be sent by facsimile transmission to the Clerk for filing:

- a. an Ex-Parte motion for emergency custody;
- b. any document in whole or part under seal;
- c. original complaints;
- d. final judgment entries;
- e. pleadings pursuant to an appeal;
- f. filings requiring a deposit;

g. any document in excess of ten (10) pages (including supporting materials, but excluding the cover sheet).

H. This provision applies to electronic/email filings as well.

### **Rule 3.4 - Juvenile Sex Offender Registration and Notification**

The Preble County Prosecutor's Office shall note on the face of every complaint when a child is subject to the provisions of the Juvenile Sex Offender Registration and Notification Law, as defined by Chapters 2152 and 2950 of the Ohio Revised Code.

### **Rule 3.5 – Delinquency Complaints**

The Clerk shall not accept for filing any complaint that alleges a child to be delinquent unless upon the face of said complaint there is a designation of the degree of the crime if committed by an adult. If the crime would be a misdemeanor if committed by an adult it may be designated by an "M." If the crime would be a felony if committed by an adult the degree of felony shall be included on the complaint. A felony of the first degree shall be designated "F-1;" a felony of the second degree shall be designated "F-2;" a felony of the third degree shall be designated "F-3;" a felony of the fourth degree shall be designated "F-4;" and a felony of the fifth degree shall be designated "F-5." The prosecutor (or movant) shall have the responsibility of notifying any victim when applicable.

### **Rule 3.6 – Post Judgment Relief**

Post decree motions shall contain the exact language of the original order sought to be changed, the change requested, and a complete and accurate statement of the movant's reasons and/or basis for change, as well as a citation to pertinent Ohio Revised Code Sections. Failure to supply this information may result in the motion being dismissed.

All motions to invoke the continuing jurisdiction of the Court in all post-paternity matters and other matters relating thereto, such as parental rights and responsibilities, shall be made by written motion filed in the original action. Said motions shall be accompanied by instructions to the Clerk for service of notice on all parties as set forth in Civ. R. 4 through 4.6, incl., by the movant.

Service and notice shall be made to all parties individually. Notice to an attorney is not proper service on a party. Courtesy copies to opposing counsel are appropriate if the party has reason to believe that prior counsel is still representing the other party.

In all motions of modification of support, the modification shall be effective as of the date of filing of the request for the modification, unless otherwise directed by the Court or required by statute. If either party acts in a manner to prolong or delay the proceedings, the Court may, in its discretion, assign a different effective date, including the date of notice of a request for

administrative hearing. All modifications or terminations of child support based on the emancipation of a child shall be effective on the date of such occurrence.

### **Rule 3.7 – Citations for Contempt**

A. Since contempt actions are controlled by Chapter 2705 of the Ohio Revised Code, any motion requesting a citation in contempt shall:

1. Specifically state the basis for the contempt citation, including the alleged contemnor's conduct and the order alleged to have been violated.
2. Contain notice of hearing and after filing shall be submitted to the Clerk for scheduling.
3. Include the following language:

FAILURE TO APPEAR MAY RESULT IN THE ISSUANCE OF AN ORDER OF ARREST AND IN THE ISSUANCE OF AN ORDER FOR PAYMENT OF SUPPORT BY WITHHOLDING AN AMOUNT FROM YOUR PERSONAL EARNINGS OR BY WITHHOLDING OR DEDUCTION OF AN AMOUNT FROM SOME OTHER ASSET YOU MAY OWN.

YOU HAVE THE RIGHT TO COUNSEL AND IF YOU BELIEVE YOU ARE INDIGENT YOU MAY APPLY FOR COURT APPOINTED COUNSEL WITHIN THREE (3) BUSINESS DAYS AFTER YOUR RECEIPT OF THIS SUMMONS.

THE COURT MAY REFUSE TO GRANT A CONTINUANCE AT THE TIME OF THE HEARING FOR THE PURPOSE OF YOUR OBTAINING COUNSEL, IF YOU FAIL TO MAKE A GOOD FAITH EFFORT TO RETAIN COUNSEL PRIOR TO THE HEARING.

IF YOU ARE FOUND GUILTY OF CONTEMPT, THE COURT MAY IMPOSE ANY OF THE FOLLOWING PENALTIES (Ohio Revised Code Section 2705.05(A):

- 1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$250.00, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN 30 DAYS IN JAIL, OR BOTH;
- 2) FOR A SECOND OFFENSE, A FINE OF NOT MORE THAN \$500.00, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN 60 DAYS IN JAIL, OR BOTH;
- 3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE THAN \$1,000.00, A DEFINITE TERM OF IMPRISONMENT OF NOT MORE THAN 90 DAYS IN JAIL, OR BOTH.

B. Notice of such motion and of the hearing thereon shall be served upon the subject party pursuant to the rules of service of summons contained in Civ R. 4 through Civ. R. 4.6, incl., and the responsibility for initiating such service shall be on the movant.

C. Any finding in contempt on the part of a party will include an assessment of costs and may include an award of reasonable attorney's fees and costs. Unless proper evidence is presented justifying a higher fee award, the Court will not award attorney's fees in excess of \$250.00.

## **Chapter 4 – Case Management/Practice and Procedure**

### **Rule 4.1 – Purpose**

This Court has promulgated several rules to ensure the readiness of cases for pretrial and trial and to maintain and improve the timely disposition of cases. Particular attention should be given to these rules as they relate to the calculation of time (Rule 4.3), Court Security, Court Attire, Conduct in Court, Photographing, Recording and Broadcasting of Proceedings and Special Needs/Compliance with ADA/Interpreter Services (Rules 1.4 – 1.8), Pleadings and Motions (Chapter 2), Filing (Chapter 3), Case Management/Practice and Procedure (Chapter 4), Appointments/Evaluations/Mediation (Chapter 8), Admission of Out-of-State Attorneys (Rule 9.2), Withdrawal of Counsel (Rule 9.3), and others regarding specific situations.

These rules, which may be amended and/or supplemented from time to time as deemed necessary by the Judge or Magistrate, are intended to enable just and efficient resolution of cases, to reduce delay in the consideration of cases by the Court and to ensure the readiness of cases for pretrial, hearings, trial and/or other proceedings that are required by the Court. Whenever possible cases will be resolved in the shortest amount of time. The deadlines set by the Ohio Rules of Superintendence shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules. The time frame established for each phase is to be followed as closely as possible, however it is understood that there will be exceptions to the time schedule. Any case that cannot have a disposition within the parameters is to have an application and entry specifying why and how much additional time is needed and agreed to unless it is due to an emergency.

### **Rule 4.2 – Magistrates**

A. A magistrate shall be appointed to hear all matters not otherwise acted upon by the Judge of the Juvenile Division, including without limitation, delinquency, unruly, traffic, abuse, neglect, dependency, allocation of parental rights and responsibilities, parenting time enforcement and modification, child support enforcement and modification, UIFSA, Juvenile CPOs, and determination of parentage matters and any other matters as referred by the Judge of the Juvenile Division. A Magistrate, acting in these matters, shall have all powers set forth in Juv. R. 40.

B. Paternity, custody and other matters relating thereto may be heard by a Magistrate appointed by this Court. Objections to the decision of the Magistrate shall be in accordance with Juv. R. 40. Any party wishing to respond to objections filed in their case shall do so within fourteen (14)

days of the filing of the objections. A reply to a response may be filed within seven (7) days of the filing of the response.

C. A decision of the Magistrate shall be made pursuant to Juv. R. 40, unless an agreement or other pleading in the case provides for a waiver of decision. If a waiver is made, the entry shall state: *“By stipulation, this Judgment Entry constitutes the decision of the Magistrate required by Juvenile Rule 40 (E), and the parties hereby waive any objections thereto, and waive service of a separate Magistrate’s decision.”*

D. The merits of any objections relating to factual findings, without other evidence contained in the record, will not be considered unless a transcript is filed with the Court within a period designated by the Court.

E. The time for filing objections may be extended upon the written request of either party, only if said request is made during the initial objection or appeal period. This extension will automatically extend any response time by the same period.

F. Objections may be ruled upon by the Court without a formal hearing.

G. Attorneys are required to prepare a Judgment Entry based upon the Magistrate’s Decision or upon the Court’s Order on objections.

H. All judgment Entries for cases being handled by the Magistrate must first be approved by the Magistrate before being submitted to the Judge.

### **Rule 4.3 – Time, Juv. R. 18**

A. Time: computation. In computing any period of time prescribed or allowed, the date from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a legal holiday. Such extension of time includes, but is not limited to, probable cause, shelter care, and detention hearings. Except in the case of probable cause, shelter care, and detention hearings when the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in computation.

B. Time: enlargement. When an act is required or allowed to be performed at or within a specified time, the Court for cause shown may at any time in its discretion 1) with or without motion or notice, order the period enlarged if application therefore is made before expiration of the period originally prescribed or of that period as extended by a previous order, or 2) upon motion permit the act to be done after expiration of the specified period if the failure to act on time was the result of excusable neglect or would result in injustice to a party, but the Court may not extend the time for taking any action under Rule 7(F)(1), Rule 22(F), Rule 29(A) and Rule 29(F)(2)(B), except to the extent and under the conditions stated in them.

C. Time: unaffected by expiration of term. The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of Court. The expiration of a term of Court in no way affects the power of a Court to do any act in a juvenile proceeding.

D. Time: for motions; affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing therefor, shall be served not later than seven (7) days before the time specified for the hearing unless a different period is fixed by rule or order of the Court. For cause shown such an order may be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not less than one (1) day before the hearing unless the Court permits them to be served at a later time.

E. Time: additional time after service by mail. Whenever a party has the right or is required to do an act within a prescribed period after the service of a notice or other paper upon the person and the notice or other paper is served upon the person by mail, three (3) days shall be added to the prescribed period. This division does not apply to service of summons.

#### **Rule 4.4 – Attorney Decorum**

Counsel for all parties shall be present and before the Court at the assigned hearing time. If counsel is not present in Court at the assigned hearing time, the case may commence without counsel, may be continued, or may be dismissed, as the Court shall decide is appropriate. If counsel is going to be late for a hearing, counsel must make a reasonable effort to notify the Judge or Magistrate as soon as is practical in order to explain the reason for his or her lateness. Repeated lateness or absences may result in fines and/or in the removal of counsel from the appointment of cases in the Court.

#### **Rule 4.5 – Jury**

A. The defendant in a proceeding charged with violating O.R.C. 2919.24 shall be tried by the Court unless said party demands a jury trial. Such a demand must be in writing and filed with the Clerk not less than thirty (30) days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this rule is a complete waiver of the right thereto.

B. This Court hereby adopts the procedure of the Preble County Common Pleas Court, General Division, and the use of automated data processing for the selection of prospective jurors. The Court further adopts and incorporates the Ohio Trial Court Jury Use and Management Standards, as amended from time to time, and which are maintained in the office of the administrative judge.

C. Voir Dire shall be conducted in conformity with the direction of the assigned Judge. During Voir Dire, counsel may have the use of prospective juror information sheets that have been distributed and collected by the Court. The forms shall be returned to the Court at the conclusion of the trial.

## **Rule 4.6 – Ex Parte Order Practice**

- A. Unless an emergency situation exists, as determined by the Court, based upon supporting affidavits, no ex-parte orders will issue, except reciprocal, mutual restraining orders for which no affidavits are necessary.
- B. Requests for Temporary Orders shall be set for hearing at the Court’s earliest convenience. A continuance may be granted to either party for good cause shown.
- C. Notice of hearing shall be served with the pleadings pursuant to the Civil Rules.
- D. After filing of a Paternity or Custody Complaint and prior to any temporary orders being issued, except for parenting time periods, neither party shall relocate the minor children from the children’s home, school district, or the jurisdiction of the Court. The purpose of this rule is to avoid unnecessary disruption of the home and school environment of the children.

## **Rule 4.7 – Temporary Restraining Orders**

All parties to actions in the Court may be subject to reciprocal, mutual restraining orders from the date service of summons is completed. This order shall be strictly complied with under penalty of contempt of Court. Use of the following language is suggested:

- A. Each party is hereby enjoined and restrained from doing, attempting to do, or threatening to do any act of injuring, maltreating, vilifying, molesting, or harassing the adverse party, their attorney, family members, employer, or any of the child(ren) of the parties.
- B. Each party is hereby enjoined from removing any child(ren) who is/are subject to the jurisdiction of the Court in this matter from the jurisdiction of the Court without first obtaining consent, in writing, from the other party or the Court.
- C. Except for parenting time periods, neither party shall relocate the minor child(ren) from the child’s home, school district, or the jurisdiction of the Court. The purpose of this rule is to not disrupt the home and school environment of the child(ren) any more than necessary.

## **Rule 4.8 – Complaints/Motions, Hearings and Pre-Trials in cases other than Abuse, Neglect and Dependency**

- A. No contested Complaints or Motions shall be set for hearing on the merits until such matter has been set for pre-trial unless a pre-trial is deemed unnecessary by the Court.

B. Any requests for Psychological Evaluations, the appointment of a Guardian Ad Litem (GAL), etc., must be made no later than the time of the first scheduled Pre-trial, unless leave to file said request is granted by the Court.

C. A final Pre-trial will be scheduled within thirty (30) days prior to the date set for final hearing. At that Pre-trial parties shall notify the Court of the need for any special equipment for the trial including but not limited to audio or video equipment.

D. Immediately before the Final Hearing begins, the parties shall provide the Court with the following:

- a. An index of exhibits;
- b. Pre-marked and divided exhibits. Plaintiff shall use numbers and defendant shall use letters;
- c. A list of the names and addresses of all witnesses;
- d. A copy of any stipulations reached prior to the final hearing date.

Failure to comply with the provisions of this order may result in the exclusion of exhibits and/or testimony at the Final Hearing.

E. Any paternity complaint for which service has not been perfected within six (6) months of filing is subject to dismissal after notice to the movant thereof.

F. If a new/original complaint or motion is filed with the Court and is accompanied by an agreed order, the new complaint or motion must contain all the requirements generally required with such pleadings. The agreement contained in the new filing must be filed as a PROPOSED AGREED ORDER. All such new/original complaints or motions are required to have a hearing before a proposed agreed order will be adopted. If adopted, the Court will have counsel or a party prepare an Entry adopting the proposed agreed order.

#### **Rule 4.9 – Rules to Expedite Competency Proceedings**

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

A. Upon the request for a competency hearing, the Court shall schedule a hearing on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

B. Upon conclusion of each hearing, the Court shall provide written notice or oral notice on the record to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian or custodian, of the date, time and place of the next scheduled hearing. Mailed notice shall not be required for any party or other

individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

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

## **Chapter 5 – Child Restraint**

### **Rule 5.01.1- Use of Restraints on Children**

A. Use of restraints, including, but not limited to handcuffs, chains, or shackles shall not be used on a juvenile during a court proceeding unless both of the following apply:

1. The necessity of restraints is demonstrated to the satisfaction of the Judge or Magistrate by the presence of one or more of the following factors:

- a. The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom; or
- b. There is a significant risk that the child will flee the courtroom; and

2. The Court determines that there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of Court personnel, law enforcement officers, or bailiffs.

B. When used, restraints should allow the juvenile limited movement of the hands to read and handle documents and writings necessary to the hearing unless there is a demonstrated need for more restricted movement.

C. In no circumstances does this rule limit the ability of law enforcement, security personnel or other Court staff from restraining a juvenile if necessary, to ensure the courtroom is properly functioning and/or to maintain the safety and security of the Court facilities.

## **Chapter 6 – Court Records**

### **Rule 6.1 – Court Files**

The inspection of Court records shall be governed by Juv. R. 32, Sup. R. 44 through 47, and O.R.C. 2151.14. Court files, both open and closed, shall not be removed from the Clerk, unless written Court authorization has been given or unless a file is being taken directly to or from the Court or Clerk.

Copies of case documents can be obtained from the Clerk for \$.25 per page for 1-50 pages and \$.10 per page for 51 pages and greater. A certified copy shall be charged at the rate of \$2.00. Court records that are not case documents are not public records and may not be obtained from the Clerk.

## **Rule 6.2 – Court Recordings**

The Court records all hearings electronically. Electronic recordings are the official record. Electronic recordings, audio tapes, and any stenographer notes shall be maintained by the Court for three (3) years from the date of the particular recording. Any interested party or non-party desiring to preserve the record beyond that period must make arrangements with the appropriate Court personnel to have the record transcribed or designated for permanent storage.

## **Rule 6.3 – Transcripts**

As to recorded proceedings as prepared by official Court reporters of the Court, the following fees shall apply:

When a party or counsel in an action pending in this Court requests, or when ordered by the Court, any portions of oral hearings reported in stenotype or preserved by digital recording, fees shall be fixed at the rate of Three Dollars and 50/100 (\$3.50) per page for an original and twenty-five cents (\$.25) per page per copy. A deposit approximate to the Clerk's estimate for completion of the transcript shall be made at the time of the request. The Clerk shall prepare a Notice to the Court which shall be sent to all parties upon completion of the transcript.

Hearings ordered to be transcribed from any digital recordings shall be transcribed only by official Court reporters of the Court.

## **Rule 6.4 – Court Records Management and Retention**

This Court adopts the retention schedule for administrative records and judicial records contained in Rule 26.01 and 26.03 of the Rules of Superintendence for the Courts of Ohio.

# **Chapter 7 – Judgment Entries**

## **Rule 7.1 – Judgment Entries in Paternity Matters**

A. All judgment entries in this Court in paternity matters or other matters relating thereto

shall contain the approval of the judgment entry by signature of both parties and/or their attorneys and a recommendation and approval of such judgment entry by the Magistrate. In addition thereto such judgment entry shall recite the waiver of findings of fact and conclusions of law by the Magistrate, when appropriate.

- B. Judgment entries shall dispose of all matters prayed for in the proceedings including, costs, interest, and attorney fees, if applicable.
- C. Judgment entries which initiate child support shall include or have attached thereto:
  - 1. The Orders, as applicable, which are contained in Section 3121.01 *et seq.* of the Ohio Revised Code.
  - 2. Requirements contained in Section 3121.28, 3121.51, 3121.52 and 3121.53 of the Ohio Revised Code, including the provisions that all support orders shall be in monthly support obligation for all children of the parties, rather than a weekly per child order.
- D. Judgment entries that involve parenting time shall utilize the parenting time schedule contained in Appendix C (and such shall be attached to the entry) absent a stipulation otherwise by the parties or a Court determination that such an order would not be in the best interests of the child(ren).
- E. In all matters involving children, the requisite order regarding health insurance coverage shall be a part of the final order.
  - 1. Extraordinary non-covered medical, dental, psychological or similar expenses shall be deemed to be any expense in excess of \$100.00 per year, per child, and shall be divided between the parties according to their support percentages as shown on the most recent child support worksheet or as determined by the Court. The year referred to herein is the calendar year, not the anniversary of the date of the Order.
  - 2. All entries shall contain the following language pertaining to the payment of uninsured medical, dental, psychological, or similar expenses:

“The parties shall exchange proof of any expenses incurred for uninsured medical, dental, orthodontic, optical and psychological expenses on a quarterly basis. Said exchanges shall take place on the 1<sup>st</sup> day of March, June, September, and December of each year. Any amount due to the other party shall be paid within thirty (30) days of the exchange. Any motion to enforce the provisions of this paragraph will be entertained by the Court only if the motion is filed within one (1) year of the date upon which the expense was incurred.”
  - 3. If an obligor is ordered to make a Monthly Cash Medical Support Payment, that amount shall not be taxed at two percent (2%) processing fee by the Child Support

Enforcement Agency. Any amounts paid by obligor as Cash Medical Support shall be credited against his/her proportion of extraordinary non-covered expenses as set forth above.

- F. Counsel for the party in whose favor a judgment is rendered, or who is directed to do so by the court, shall, within five (5) days thereafter, unless further time be given by the Court, prepare and submit a judgment entry to opposing counsel who shall approve or reject same within five (5) days after its receipt. All objections to such proposed judgment entry shall be in writing and may be answered in writing. If an agreement of the parties is placed on the record, the Court will approve a Judgment Entry which contains said agreement even if a party or attorney fails to approve the Judgment Entry. Failure to timely submit a judgment entry may result in sanctions being imposed by the Court, including but not limited to the dismissal of the pending matter or an award of attorney fees related to the preparation of the judgment entry by opposing counsel. In all cases, the judgment entry must be filed within fourteen (14) days of the hearing.

## **Chapter 8 – Appointments/Evaluations**

### **Rule 8.1 – Psychological Evaluations**

- A. If any party wishes to have any minor child(ren) who are involved in a dispute as to the allocation for parental rights and responsibilities evaluated by a psychologist or psychiatrist for the purpose of testimony at a Court hearing he/she must obtain the consent of the Court prior to such evaluation.
- B. In no event will an expert be permitted to testify regarding such an evaluation if the above procedure is not followed.
- C. The Court may order psychological evaluations of the entire family at any time during a contested matter, upon the request of any party or upon the Court's own motion. The Motion for psychological evaluations should include a recommendation as to who will perform the evaluation. The reports from the psychological evaluations will be made available to counsel for the parties and the GAL if one has been appointed, unless good cause is found which would justify restriction of access to said evaluations, and the parties will have the opportunity to depose or subpoena the evaluator to the hearing. By requesting the evaluation, the party or parties consent(s) to the Court considering the Court ordered psychological reports, even if the evaluator is not called upon to testify.
- D. Unless otherwise agreed by the parties or ordered by the Court, the costs associated with a psychological evaluation will be assessed against the party requesting the evaluation. If the Court, upon its own motion, orders psychological evaluations, the costs associated with a psychological evaluation, unless otherwise ordered, will be assessed equally between the parties.

### **Rule 8.2 - Motions for the Appointment of Guardians Ad Litem**

Upon the filing of a written or oral motion for the appointment of a Guardian Ad Litem (GAL) the movant shall, in addition to any other deposit that may be required by the Court, make a deposit of \$750.00 and shall additionally file a proposed Order Appointing Guardian Ad Litem as contained in Appendix D. Should a mutual request for a GAL be made, each party shall be responsible for depositing \$250.00 toward said GAL fees. The Court may reallocate the payment of GAL fees at any point in the proceeding(s). There will be no appointment of GAL made until the entire \$500.00 is received by the Court.

### **Rule 8.3 – Role of Guardians Ad Litem**

A. The Guardian ad Litem’s role is to conduct an investigation that complies with Sup. R. 48 as to the character, family relations, and past conduct of the parties and children involved in a pending action and to be an advocate for the best interest of the minor child or children in the paternity, allocation of parental rights and responsibilities matter in which appointed. This will require the Guardian ad Litem to establish a relationship with the children and to investigate the facts of the case as they relate to the children. The Guardian ad Litem’s role does not include conducting discovery for the attorney or parties in the case or making the final decision in a case.

B. The Court may appoint a volunteer or an attorney as a Guardian ad Litem. Prior to appointment as a Guardian ad Litem, the appointee must have completed training related to a Guardian ad Litem's function and duties. Attorneys must have completed not less than six hours of training approved by the Supreme Court of Ohio, and volunteers must have completed training prescribed by the National CASA or Ohio CASA/GAL Association or otherwise approved by the Court. Each volunteer and attorney must meet ongoing educational requirements prescribed by the appropriate governing body.

C. A Guardian ad Litem may be appointed by the Court as an investigative “friend of the Court” upon the Court’s own motion or upon the motion of any party. In furtherance of the Guardian ad Litem’s duties, the Guardian ad Litem shall have access to all information relating to the case that is subject to discovery by the parties and related to the children's care. At the direction of the Court, the Guardian ad Litem may be present during any in camera interview of the minor children.

D. Upon written request by a volunteer Guardian ad Litem, with notice to the parties, the Court may appoint an attorney to assist the Guardian ad Litem in the Court proceedings. If the children are joined as parties to the action, the Court may appoint an attorney to represent the children. The Guardian ad Litem is authorized to file motions to continue scheduled hearings and to file motions related to the immediate needs of the children, and other documents as directed by the Court, and shall serve all such documents on all parties to the action.

E. The Guardian ad Litem is not required to submit any preliminary reports in writing. At least seven (7) days prior to the final hearing in a pending action, or as otherwise directed by the Court, the Guardian ad Litem shall submit to the Court a written report of the investigation, including the extent and nature of the investigation and the recommendation(s) relating to the allocation of parental rights and responsibilities, with the basis for such recommendation as it relates to the children’s best interests. The Court shall notify the parties of the availability of the Guardian ad Litem report for review at the Court. At the conclusion of all evidence and as part

of the hearing process, the Guardian ad Litem shall orally submit any amended or supplemental recommendations based upon facts submitted at hearing. The Court may grant additional time to the Guardian ad Litem for further investigation based upon testimony or evidence submitted at hearing and request a written recommendation from the Guardian ad Litem. The report of the Guardian ad Litem shall be made a part of the record as a Court exhibit in a contested proceeding.

F. The Guardian ad Litem shall attend all Court proceedings unless excused by the Court. The Guardian ad Litem may, and should, request to be excused from a proceeding in which his/her input will not be necessary. The parties should refrain from asking, and the Guardian ad Litem should refrain from giving, an opinion prior to the review of all the facts in the case. The Court will consider the Guardian ad Litem's opinion and recommendation as a fact in its determination of the issues before it, but the Court will make the final determination based upon all the evidence presented in the case and pursuant to applicable Ohio law.

G. The Guardian ad Litem shall be served with all pleadings, motions, and other documents filed in the case after the appointment of the Guardian ad Litem and until such time as the Guardian ad Litem is discharged by the Court. All judgment entries, whether by consent or otherwise and relating to the allocation of parental rights and responsibilities, submitted to the Court for approval shall include an approval line for the Guardian ad Litem's signature and be submitted to the Guardian ad Litem for approval or objection.

H. The attorney Guardian ad Litem shall submit a fee and expense statement to the Court within a reasonable period of time following the final hearing in the matter. The Court shall review all requests for fees to determine if the requests are reasonable.

I. Upon application, and for good cause, the Court may waive the required court costs deposit when the appointment of a Guardian ad Litem is requested.

J. All motions, judgment entries, notices of hearing, and correspondence to be served on a volunteer Guardian ad Litem shall be served on the Guardian ad Litem at his/her address of record. All Guardians Ad Litem must provide counsel and the parties a means by which they may contact the Guardian ad Litem. Further, attorneys should not disclose the home address or telephone number of a volunteer Guardian ad Litem to their clients unless specifically authorized by the volunteer Guardian ad Litem appointed to that case.

K. All Guardians Ad Litem, either attorney or volunteer, shall be in full compliance with Rule 48 of the Rules of Superintendence for the Courts of Ohio.

## **Rule 8.4 – Rule Governing Appointments**

Court appointed attorneys and Guardians Ad Litem shall be selected from a list kept by the Court Administrator. Attorneys and Guardians Ad litem shall be selected on a rotating basis taking into account the complexity and seriousness of each case and each attorney's qualifications and experience. The list shall be reviewed quarterly to ensure equitable distribution of appointments. The fee schedule shall be in accordance with that set by the Preble County Commissioners. To

be placed on the list, an attorney should contact the Court Administrator and provide a resume containing his or her experience and a listing of the types of cases that the attorney is willing to handle.

In order to be considered and approved for, and to maintain placement of the Court's appointment list (Attorney and GAL), attorneys must be in good standing with the Supreme Court of Ohio, must inform the Court of any prior disciplinary complaints against the attorney which resulted in sanctions, maintain a working telephone number with staff or working service to be able to respond to calls from the Court or client, maintain professional liability insurance, and must report any change in their status, address or telephone number.

### **Rule 8.5 - Local Custody Evaluator Rule**

Pursuant to Rule 91.02 of the Rules of Superintendence, the Court Administrator shall be the designated person to receive comments and/or complaints (via hard copy or electronic communication) regarding the performance of any custody evaluator appointed by the Court. The Court Administrator shall provide a copy of the communication to the evaluator and a judicial officer within three business days. The Court shall then give prompt attention to the matter within seven days and any disposition regarding the communication shall be communicated back to the person making the initial communication immediately by the Court Administrator. The Court Administrator shall keep a file of all such communications (including any dispositions) so long as the evaluator performs services for the Court.

## **Chapter 9 – Miscellaneous**

### **Rule 9.1 – Sealing/Expungement**

- A. The Clerk of this Court shall not accept a filing fee for any Application for Sealing or Expungement of Record.
- B. At the age of 23 or beyond, the court may, upon its own motion, seal and expunge any court record so long as the matter is paid in full and the person is no longer the subject of any court actions. This rule does not apply to the following charges: any felony, murder, aggravated murder, rape, gross sexual imposition, sexual battery or other sexually oriented offense, domestic violence, contributing, animal cruelty, or charge related to the driving of a motor vehicle while under the influence of alcohol or illegal intoxicant.

### **Rule 9.2 – Admission of Out-of-State Attorneys**

Requests for admission by out-of-state attorneys shall be governed by Rule XII of the Rules for the Government of the Bar. The request shall be accompanied by a certificate in writing that the out-of-state attorney has familiarized himself or herself with the Local Rules of Preble County and will familiarize himself or herself with the appropriate Ohio rules of Criminal, Civil, or

Juvenile Procedure, the Ohio Rules of Evidence and the Ohio Code of Professional Responsibility. The request shall also indicate that the out-of-state attorney has found an attorney licensed to practice law in Ohio to act as his or her sponsor and the sponsoring attorney shall provide written notice of his or her sponsorship to the Court and shall certify the out-of-state attorney's compliance with this rule and the Rules for the Government of the Bar. The sponsoring attorney shall be co-counsel with the attorney admitted *pro hac vice*.

### **Rule 9.3 – Withdrawal of Counsel**

- A. It is contemplated that counsel who have entered an appearance in the case will remain in the case until it is concluded.
- B. Counsel for any party may be permitted to withdraw from an action:
  - 1) Upon written motion with an entry and appearance of substitute counsel; or
  - 2) Upon written motion showing good cause, with the consent of the Court, after notice by certified mail, or regular mail with certificate of mailing if certified mail is returned or unclaimed, to the client.
- C. Except for extraordinary circumstances, no attorney shall be permitted to withdraw from a case later than thirty (30) days prior to trial or prior to a dispositive hearing or motion.

## **Chapters 10 - 15 Reserved**

### **Chapter 16 – Mediation**

The Court adopts Rule 1.12 of the Preble County Civil Rules in the Common Pleas Court (Preble Civ. R.) to effectuate mediation in the Juvenile Division. Pursuant to Rule 16.21 of the Rules of Superintendence, Preble Civ. R. 1.12 and the following rules encompass the Local Mediation Rules.

#### **Rule 16.1 – Purpose**

To promote greater efficiency and to facilitate the earliest possible resolution in Preble County Court of Common Pleas, Juvenile Division cases, mediation services have been established. The Court adopts and incorporates by reference the provisions of the “Ohio Uniform Mediation Act” under R.C. Chapter 2710.

#### **Rule 16.2 - Scope**

At any time and in any action under the jurisdiction of the Preble County Court of Common Pleas, Juvenile Division, mediation services may be chosen as an appropriate method of resolution. The following actions shall be exempted from mediation, however:

- A. Cases in which one party has been convicted of, or plead guilty to, a violation of O.R.C. 2919.25 (domestic violence) or when a civil protection order (O.R.C. 2919.26; 2919.27; 3113.31) is in effect;
- B. Cases in which the physical distance between the parties is so great it is not feasible for them to participate in mediation sessions either in person or by telephone as determined by the court mediator;
- C. Cases in which one of the parties is mentally ill;
- D. In emergency circumstances requiring an immediate hearing by a judicial officer, or
- E. Cases in which the parties have achieved an executed Agreed Judgment Entry.

### **Rule 16.3 – Confidentiality/Privilege**

- 1. All mediation communications related to or made during the mediation process are subject to and governed by the “Ohio Uniform Mediation Act,” the Rules of Evidence and any other pertinent judicial rule(s).
- 2. In furtherance of the confidentiality set forth in this rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written “Agreement to Mediate” prior to the mediation session.

### **Rule 16.4 – Mediation in Abuse, Neglect and Dependency Cases**

Pursuant to Rule 16.21(B)(2) of the Rules of Superintendence, mediation in child abuse, neglect, or dependency cases shall include all provisions outlined above and shall proceed only if the mediation has specialized training and utilizes procedures that will:

- 1. Ensure that parties who are not represented by counsel attend mediation only if they have waived the right to counsel in open court, and that parties represented by counsel attend mediation without counsel only where the right to have counsel present at the mediation has been specifically waived. Waivers can be rescinded at any time.
- 2. Provide for the selection and referral of a case to mediation at any point after the case is filed.
- 3. Notify the parties and non-party participants of the mediation.

### **Rule 16.5 – Case Selection/Procedure**

#### **A. Referral Process**

A case in the Juvenile Division may be referred to mediation services in the following manner:

- 1. For formal proceedings in the Juvenile Division, the Court may order parties to participate in the mediation process;
- 2. For formal proceedings in the Juvenile Division, upon written or oral motion to the Court, the Court may order parties to participate in the mediation process;
- 3. For informal cases in the Juvenile Division, a referral to mediation services may be made by Court personnel.

4. The Court administrator shall refer litigants to resources to obtain legal counsel and/or Victim-Witness services upon request.

**B. Notice**

The mediation shall be communicated via a “Notice of Scheduled Mediation” Magistrate’s Decision or Judgment Entry which shall, at a minimum, indicate the date, time, place and contact information for the mediation.

**C. Stay of Proceedings**

All remaining Court orders shall remain in effect. No Order is stayed or suspended during the mediation process except by written Court Order.

**D. Conclusion of Mediation**

At the conclusion of the mediation and in compliance with O.R.C. 2710.06, the Court shall be informed by the mediator of the following:

1. The attendance of the parties at the scheduled mediation sessions(s);
2. If an agreement was reached on all or some of the issues;
3. If no agreement was reached;
4. Any future scheduled mediation dates;
5. Any additional information the parties mutually agree they wish to be disclosed to the Court.