

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
PRESIDENT JUDGE GENERAL COURT REGULATION NO. 2002-01

In Re: Adoption of Family Division Rules 1702, 1703, 1704 and 1705

ORDER

AND NOW, this 30th day of July, 2002, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 16, 2002 to adopt Philadelphia Family Division Dependency Rules 1702, 1703, 1704, and 1705, IT IS HEREBY ORDERED that Philadelphia Family Division Dependency Rules 1702, 1703, 1704, and 1705 are adopted, as attached, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

This General Court Regulation shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau, and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

/s/Frederica A. Massiah-Jackson

FREDERICA A. MASSIAH-JACKSON
PRESIDENT JUDGE,
COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY

Adoption of Philadelphia Family Court Dependency Rules

Rule 1702 Training for Lawyers Seeking Appointment to the Dependent List

A lawyer seeking to receive appointments in dependency proceedings shall complete one (1) introductory training of not less than six (6) hours in the field of dependency law and practice, and one (1) Courtroom Observation Program of not less than three hours. In addition, each year lawyers must complete not less than three (3) hours of Continuing Legal Education in the field of dependency law and practice, or related topics in order to maintain their eligibility to receive appointments.

Adopted by the Board of Judges of the Court of Common Pleas on May 16, 2002. Effective September 16, 2002.

Rule 1703 Eligibility of Lawyers for Dependency Court List

A. List of Qualified Lawyers

The Supervisor of Dependent Court Operations will maintain a list of lawyers who are qualified for appointment in dependency cases.

B. Selection of Lawyers

Each lawyer who desires appointment in dependent cases must complete and submit to the Office of the Administrative Judge of the Family Court (hereinafter "OAJFC"):

1. A questionnaire; and
2. A certification that the lawyer has completed his or her required training.

The OAJFC will periodically, and not less than four (4) times per year, review all questionnaires and certifications submitted and will designate to the Supervisor of Dependent Court Operations those lawyers who are qualified to receive appointments.

C. Rotation of Appointments

1. Appointments shall ordinarily be made by the Supervisor of Dependent Court Operations, on a fair and equitable basis among lawyers who meet the qualifications set forth herein.
2. The list of eligible lawyers will be updated regularly by the OAJFC and forwarded to the judges assigned to Dependent Court cases.

D. Standards for the Appointment of Counsel in Dependency Cases

A lawyer may be appointed counsel only if that lawyer:

1. Has been admitted to the Bar of the Pennsylvania Supreme Court;
2. Has completed at least one (1) introductory training of not less than six hours in the field of dependency law and practice., and one (1) Courtroom Observation Program of not less than three (3) hours, which is certified by the judge observed;
3. Has within the last year completed at least one (1) Continuing Legal Education program of not less than three (3) hours in the field of dependency law and practice, or related topics;
4. Is familiar with the Pennsylvania Juvenile Act, the Philadelphia Court of Common Pleas Juvenile Court Rules, and other relevant law and regulations;
5. Is reasonably available to accept appointment and maintain representation until discharged by the Court; and
6. Is approved by the Office of the Administrative Judge of Family Court

E. Lawyers Sanctions

1. In an individual proceeding, any party to a proceeding may request that the Trial Judge remove a lawyer from that case where the lawyer fails to substantially comply with the requirements of the rules herein or with the Rules of Professional Conduct. If the Trial Judge determines that the removal of the lawyer is warranted, the Judge shall forward such determination and the reasons therefor, in writing, to the OAJFC, and shall immediately appoint new counsel.
2. The Supervisor of Dependent Court Operations will identify to the OAJFC any lawyer who, though qualified, consistently refuses to accept appointment.
3. The Supervisor of Dependent Court Operations shall receive and forward immediately to the OAJFC complaints regarding Court appointed counsel. The OAJFC shall review and investigate, or assign a person or persons to review and investigate all complaints received. Complaints shall be investigated and disposed of (i.e., dismissal or appropriate sanctions of the lawyer) within thirty (30) days of receipt of the complaint.
4. The Administrative Judge of Family Court reserves the right to suspend or remove for cause any lawyer from the list of eligible lawyers.

Adopted by the Board of Judges of the Court of Common Pleas on May 16, 2002. Effective September 16, 2002.

Rule 1704 Practice in Dependent Court Proceedings

All lawyers representing parties in Dependent Court proceedings shall have the following powers and duties, except where otherwise limited by law or rule of Court:

- A. The lawyer shall review and be given timely access to relevant Court records; reports relevant to the case; reports of examination of the parents or other custodial of the child made pursuant to the proceeding; and medical, psychological and school records as permitted by law.
- B. The lawyer shall attend all Court hearings and reviews, and in person or by representative, participate in telephone conferences and attend Family Service Plan (FSP) meetings regarding the client's case.
- C. The lawyer or lawyer's representative shall meet with the client as soon as possible following appointment, and thereafter on a regular basis.
- D. The lawyer shall notify other parties and representatives of the appointment and commence zealous advocacy on behalf of the client immediately upon receipt of the appointment.
- E. The lawyer shall interview potential witnesses, review relevant documents, and conduct such further independent investigation as may be necessary to ascertain the facts of the case.
- F. The lawyer shall serve appropriate subpoenas, prepare appropriate exhibits, obtain relevant and appropriate expert opinions when indicated, and conduct such further preparation for trial as may be necessary to protect the client's interests.
- G. The lawyer shall examine and cross-examine witnesses and present evidence, request the Court to enter clear and specific orders for the provision of services, treatment, evaluation, assessment and protection, as appropriate to the representation. The lawyer shall participate in the proceedings to the degree necessary to represent his or her client, including the filing of motions, responses, objections and appeals at all appropriate stages of the proceedings.

Adopted by the Board of Judges of the Court of Common Pleas on May 16, 2002. Effective September 16, 2002.

Rule 1705 Fees and Costs

- A. Court-appointed lawyers shall be fairly compensated for representation in Dependent Court proceedings.
- B. Counsel for indigent parties may make a motion to the Administrative Judge of Family Court to request independent expert or investigative services. The motion must be in writing. If the motion is granted, the Court shall pay reasonable expenses for the ordered services.

The motion must set forth a specific and concise theory as to the purpose and necessity of the service requested and what outcome would be accomplished by the provision of these services.

The Court shall grant motions which show that the issues to be addressed by the expert are in controversy in the case; that a second opinion is needed to counter an expert opinion obtained by the Department of Human Services; or that additional investigative work is needed beyond what counsel may reasonably do on his or her own.

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Commentary to Rules 1702 through 1705

The Court seeks to ensure the provision of competent and effective counsel in Dependent Court for Philadelphia parents and children. These rules arise from the belief that Dependent Court work is a sensitive and important practice in which lawyers are entrusted with the protection of the fundamental rights of parents and children. Members of the dependency bar participate in decisions that will critically affect a family's future and may expose a parent to criminal liability. Untrained or ineffective parents' lawyers may risk full termination of their clients' parental rights and the loss of their children forever. Unskilled child advocates may fail to adequately protect a child from further abuse or may relegate a child to a life of foster care adrift. Quality advocacy can protect children and preserve families. Ineffective lawyering may have devastating consequences for children and families.

These rules recognize the interdisciplinary nature of Dependent Court work. The problems that families bring to Court are not strictly legal problems; to be effective, lawyers must be conversant with many fields. Medical, psychological and social work practice are integral to dependency work, as these disciplines provide information about child abuse and neglect, the treatment of substance abuse, family dysfunction, child development, and many other relevant topics.

Dependent Court practitioners should be competent in the following areas:

- a. Relevant federal and state laws, agency regulations, Court decisions and Court rules;*
- b. Use of expert witnesses and scientific and medical evidence, including but not limited to, psychiatric and pathological evidence;*
- c. Child development, needs and abilities;*
- d. Family dynamics and dysfunction, including cultural aspects of families and the use of kinship care;*
- e. Substance abuse and rehabilitation/treatment programs and resources;*
- f. Public benefits including Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), adoption assistance, kinship foster care subsidy, medical assistance and managed care;*

g. Information on accessible child welfare, family preservation, medical, educational and mental health resources, including placement, evaluation/diagnostic, and treatment services; and other services which may constitute reasonable efforts to preserve and/or reunify families; and

h. risk assessment and case plans.