

# Dispositional Review Hearing Reference Guide for Juvenile Court Judges/Hearing Officers

## Purposes of the Juvenile Act

42 Pa.C.S. §6301(b)

**(b) Purposes.**--This Chapter shall be interpreted and construed as to effectuate the following purposes:

- (1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unit of the family cannot be maintained.
- (1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.
- (2) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.
- (3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from the parents only when necessary for his welfare, safety or health or in the interests of public safety, by doing all of the following:
  - (i) employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child; and
  - (ii) imposing confinement only if necessary and for the minimum amount of time that is consistent with the purposes under paragraphs (1), (1.1), and (2).
- (4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

## Pre-Dispositional Review Hearing Considerations/Best Practices

Judges should oversee and approve courtroom security procedures to ensure that the environment is safe and secure for all participants.

Judges should meet with juvenile justice system stakeholders to establish court-appropriate clothing expectations during juvenile court proceedings.

Judges are courteous and respectful to all hearing participants.

Judges should be knowledgeable about the dispositions and services available to the juvenile court and should visit residential and community-based programs to which juveniles are committed or referred.

Public defenders should be fully trained in juvenile court matters, meet with juveniles prior to hearings, and are prepared for all hearings.

Judges should be aware of issues pertaining to trauma in the courtroom, and should control courtroom activities such as noise, movement, and food.

Service providers are represented by individuals who have first-hand knowledge of each juvenile appearing for a dispositional review hearing.

**Use of Restraints on the Juvenile<sup>1</sup>:** Restraints shall be removed prior to the commencement of a proceeding unless the court determines on the record, after providing the juvenile an opportunity to be heard, that they are necessary to prevent:

1. Physical harm to the juvenile or another person;
2. Disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or
3. The juvenile, evidenced by an escape history or other relevant factors, from fleeing the courtroom.

## **Requirements Prior to the Commencement of the Dispositional Review Hearing**

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**Dispositional Review Hearing<sup>2</sup>:** The Court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

1. In all cases, the court shall conduct dispositional review hearings at least every six months.
2. In all cases, the juvenile shall appear in person at least once a year.
3. The Court may schedule a review hearing at any time.
  - Judges should conduct dispositional review hearings as frequently as necessary to ensure that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

**Advanced Communication Technology:** A court may utilize advanced communication technology pursuant to Pa.R.J.C.P. 129 for a juvenile or witness unless good cause is shown otherwise.<sup>3</sup>

### **Authority of Juvenile Court Hearing Officer<sup>4</sup>**

- A. Cases to be heard by Juvenile Court Hearing Officer. A Juvenile Court Hearing Officer shall have the authority to preside over only the following:
1. Detention hearings, detention review hearings, or shelter-care hearings
  2. Discovery, pre-adjudicatory, or preliminary proceedings for misdemeanors;
  3. Any hearing in which the petition alleges only misdemeanors;
  4. Uncontested dispositional review hearings and uncontested probation revocation hearings.
- B. No Authority. A Juvenile Court Hearing Officer shall not have the authority to:

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<sup>1</sup> Pa.R.J.C.P. 139

<sup>2</sup> Pa.R.J.C.P. 610(A)

<sup>3</sup> Pa. R.J.C.P. 610(C)

<sup>4</sup> Pa. R.J.C.P. 187(A)

1. Conduct transfer hearings pursuant to Rule 394;
2. Issue warrants; and
3. Hear requests for writs of *habeus corpus*.

C. Right to hearing before judge. Prior to the commencement of any proceeding, the master shall inform the juvenile, the juvenile's guardian(s), if present, the juvenile's attorney, and the attorney for the Commonwealth that the juvenile and the Commonwealth have a right to have the matter heard by a judge. If the juvenile or the Commonwealth objects to having the matter heard by the juvenile court hearing officer, the case shall proceed before the judge.

## **Dispositional Review Hearing**

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The proper identification of each case, purpose of the hearing, and introductions of individuals present in the courtroom should be announced at the beginning of each dispositional review hearing.

Parents / legal guardians should be present at dispositional review hearings. If they are not present, the Court should inquire as to why they are not present.

The victim has a right to be present<sup>5</sup> at the dispositional review hearing. However, the Court has discretion to maintain confidentiality of mental health, medical, or juvenile institutional documents or juvenile probation reports.<sup>6</sup>

Written aftercare plans are developed and made available to all parties.

Both juvenile probation officers and service providers are held accountable for case planning and service delivery, and are made subject to cross-examination.

Juvenile probation officers provide written reports to the Court regarding goals, progress, expectations, and, in cases where a juvenile is in out-of-home placement, plans for return home.

Service providers provide comprehensive written reports to the Court that include summaries regarding any medications, discipline, home passes, and treatment remaining.

- Judges should understand the effects of medication
- If an issue regarding medication is raised by counsel or is of concern to the judge, the court should engage expert assistance to address the issue on an appropriate record.

At each hearing, judges should ask at least a basic set of questions for the juvenile probation officer, service provider staff, the juvenile and the juvenile's parent/guardian in order to assess progress on achieving established goals, the quality of services and the aftercare plan.

**Service Providers:** Judges should ask service providers questions about the following: education/vocational training; opportunities for restitution; positive social activities; "mixing" of populations; frequency and type of parental involvement; incident reports filed with the Department of

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<sup>5</sup> Pa.R.J.C.P. 132 and 11 P.S. §11.201 *et seq.*

<sup>6</sup> 42 Pa.C.S. §6336(f)

Human Services; how interventions target the specific criminogenic needs that have been identified by the Youth Level of Service (YLS) risk/needs assessment instrument; how the strengths of juveniles and families are built upon; home pass policies/procedures; use of restrains/child safety issues; aftercare/transition planning; the typical daily schedule of activities; services to address trauma, when applicable; history of staff turnover; medication practices/protocols; existence and relevancy of any “level” system; the type/frequency of counseling, and the credentials and supervision of counselors.

**Juvenile Probation Officers:** With respect to reviews of probation supervision, judges should ask the probation officer to describe progress made in achieving expectations set forth in the case plan; how interventions target the specific criminogenic needs that have been identified by the Youth Level of Service (YLS) risk/needs assessment instrument; how the strengths of juveniles and families are built upon; the extent to which graduated responses (rewards/sanctions) have been utilized; whether there is adequate family structure/support for the child; and who is helpful/harmful in the child’s life.

#### **Education:**

- The juvenile probation officer should be responsible for collecting information necessary to evaluate the appropriateness of the child’s education.
- Parents should provide any documentation necessary to ensure the child is receiving an appropriate education.
- If it is determined that the child is in need of an educational decision-maker, the Court should appoint an educational decision-maker pursuant to Pa. R.J.C.P. 147.

#### **Shared Case Responsibility:**

- The same judge should preside over hearings pertaining to dependency and delinquency matters regarding a child and family.
- Hearings should be combined, whenever possible.
- Judges should require the presence of both children and youth caseworkers and juvenile probation officers at hearings involving shared cases.

### **Matters to be considered by the Court**

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Matters that should be considered by the Court at dispositional review hearings include, but not be limited to:

1. Whether the disposition continues to provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community.
2. Whether an out-of-home placement continues to be the least restrictive type of placement that is consistent with the protection of the public and best suited to the juvenile’s treatment, supervision, rehabilitation and welfare.
3. Whether any evaluations, tests, counseling or treatments are necessary.
4. The juvenile’s physical and mental health, including any physical emotional or intellectual disabilities, if any. If parental consent cannot be obtained, the Court should order any necessary evaluation and treatment.

## **Change in Dispositional Order**

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**Change in Dispositional Order**<sup>7</sup>: Whenever there is a request for a change in the dispositional order, other than a motion to revoke probation as provided in Rule 612, notice and an opportunity to be heard shall be given to the parties and the victim.

1. The juvenile may be detained pending a court hearing.
  2. A detention hearing shall be held within seventy-two hours of the juvenile's detention, if detained.
  3. The juvenile shall be given a statement of reasons for the discharge from a placement facility or request for change in the dispositional order.
  4. A review hearing shall be held within twenty days of the discharge from the placement facility or request for change in the dispositional order
- Prior to ordering a change in the dispositional order, the Court must give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses<sup>8</sup>.

## **Colloquy and Inquiry of Post-Dispositional Rights**

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A colloquy and inquiry of post dispositional rights shall be conducted when a juvenile is aggrieved by a change in the dispositional order.<sup>9</sup>

## **Concluding the Dispositional Review Hearing**

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At the conclusion of the dispositional review hearing, the Court should summarize the proceeding for the juvenile, his guardian(s), the victim(s), and other hearing participants; confirm what just occurred; explain any next steps and relevant timelines; and inform and ensure that the juvenile understands any expectations prior to the next hearing.

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<sup>7</sup> Pa. R.J.C.P. 610(B)

<sup>8</sup> See Victims' Bill of Rights, 18 P.S. §11.201 *et seq.*

<sup>9</sup> Pa.R.J.C.P. 610(D)