

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.J.C.P. 191

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Juvenile Court Procedure 191 to provide a written advisement to juveniles of their right to challenge a juvenile court hearing officer's recommendation of an adjudication of delinquency for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **May 31, 2019**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court Procedural Rules Committee,

Judge Jennifer R. Sletvold, Chair

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

REPORT

Proposed Amendment of Pa.R.J.C.P. 191

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rule of Juvenile Court Procedure 191 to provide a written advisement to juveniles of their right to challenge a juvenile court hearing officer's recommendation of an adjudication of delinquency. The catalyst for this proposal was the Committee's review of a local form used for a similar purpose.

Currently, Rule 191(B)(1) requires a juvenile court hearing officer to advise a juvenile of the right to challenge a recommendation for an adjudication of delinquency pursuant to Rule 192. The Committee believed the advisement should be in writing using "plain language" intended to be more easily understood by a juvenile. This approach is consistent with the written information provided to a juvenile advising of post-dispositional rights. See Pa.R.J.C.P. 191(B)(2); Pa.R.J.C.P. 512(C). Accordingly, the Committee proposes a new paragraph (E) to contain an example of such an advisement. The requirement of this written advisement is only intended when there is a recommendation for an adjudication of delinquency; it is not intended for other types of recommendations.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

RULE 191. JUVENILE COURT HEARING OFFICER'S FINDINGS AND RECOMMENDATION TO THE JUDGE

A. **Announcement of Findings and Recommendation.** At the conclusion of the hearing, the juvenile court hearing officer shall announce in open court on the record, the juvenile court hearing officer's findings and recommendation to the judge.

B. **Delinquency Recommendation.** If a recommendation includes an adjudication of delinquency:

- 1) the juvenile shall be advised of the right to challenge the recommendation pursuant to Rule 192, as set forth in paragraph (E); and
- 2) a colloquy and inquiry of post-dispositional rights shall be conducted pursuant to Rule 512(C).

C. **Submission of Papers and Contents of Recommendation.** Within one business day, the juvenile court hearing officer shall submit a summary of the recommendation to the juvenile court judge. If requested, a copy of the summary shall be given to the juvenile's attorney, the juvenile, if unrepresented, the attorney for the Commonwealth, and the juvenile probation officer. The summary shall specifically state a recommendation to the judge.

D. **Judicial Action.** The judge shall by order:

- 1) accept the recommendation;
- 2) reject the recommendation and issue an order with a different disposition;
- 3) send the recommendation back to the juvenile court hearing officer for more specific findings; or
- 4) schedule a rehearing under Rule 192 within seven days.

E. Advisement of Right to Challenge Recommendation. The hearing officer shall advise the juvenile of the right to challenge the hearing officer's recommendation substantially in the following form:

**RIGHT TO CHALLENGE RECOMMENDATION
OF HEARING OFFICER**

In re _____ : _____ JD

(Juvenile)

:
:
:
:
:

Delinquent Act(s):

ADVISEMENT

- 1) You can disagree with the hearing officer's recommendation. You can ask for a new hearing before a judge. If you want a new hearing, you must request a new hearing in writing within three days from today and say why you want a new hearing.**

- 2) You have the right to have a lawyer help you file your request. If your lawyer (who is helping you today) cannot or will not file the request for you, the court will appoint a new lawyer to help you.**

- 3) Here's what could happen if you ask for a new hearing:**
 - a) the court can deny your request for a new hearing within seven days after you ask for a new hearing; or**

 - b) the court can give you a new hearing within seven days after you ask for a new hearing.**

Comment

The juvenile court may promulgate a form for juvenile court hearing officers to use. The summary of the recommendation may take the form of a court order to be adopted by the court.

The requirements of paragraph (B) are intended to ensure the juvenile is advised of the right to challenge the juvenile court hearing officer's recommendation and post-dispositional rights in the event the judge accepts the recommendation. If a party challenges the juvenile court hearing officer's decision, the copy of the summary may be used as an attachment in a motion for a rehearing in front of the judge.

The juvenile court hearing officer's decision is subject to approval of the judge. When the judge, in rejecting the juvenile court hearing officer's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the juvenile court hearing officer's findings and enter a new finding or disposition without

a rehearing if there is no modification of factual determinations. See *In re Perry*, 459 A.2d 789 (Pa. Super. 1983). The juvenile waives the right to complain of double jeopardy if the Commonwealth requests a rehearing before the judge. See *In re Stephens*, 419 A.2d 1244 (Pa. Super. 1980).

Nothing in this rule prohibits the court from modifying conclusions of law made by the juvenile court hearing officer.

The form contained in paragraph (E) is intended to advise juveniles in writing of their right to challenge the recommendation of delinquency adjudication by a juvenile court hearing officer pursuant to Rule 192 by requesting a rehearing before a juvenile court judge. This form is in addition to the form contained in Rule 512(C) advising a juvenile of post-dispositional rights.

Official Note: Rule 191 adopted April 1, 2005, effective April 1, 2006. Amended April 6, 2017, effective September 1, 2017. Amended May 4, 2018, effective July 1, 2018.

Amended _____, 2019, effective _____, 2019.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 191 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 191 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017). Final Report explaining the amendments to Rule 191 published with the Court's Order at **48 Pa.B. 2939 (May 19, 2018)**. **Final Report explaining the amendments to Rule 191 published with the Court's Order at Pa.B. (_____, 2019).**